

Conservation Commission

Minutes

February 5, 2024

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1. **Chairman's Welcome and Media Notification:** Jay Simmons opened the meeting at 6:07pm. Mr. Simmons read the protocol for Zoom meetings and open Public Meeting Law.

Mr. Simmons advised that the meeting was being conducted remotely, pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted in person and via remote means, in accordance with applicable law. This means that members of the public body as well as members of the public may access this meeting in person, or via virtual means. It is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of the public. MGL, Ch. 30A, § 20(f) requires anyone that intends to record any portions of a public meeting, either by audio or video, or both, to notify the Chair at the beginning of the meeting.

2. **Quorum/Attendance:** Jay Simmons, Karen Isherwood, Caroline Hawthorne, Jacob Galary, Ronnie Medina, Andrew Saunders

Absent: Anthony Couto & Jake Galary (not in attendance for roll call but signed in later in the meeting)

3. Approval of the meeting minutes for January 8, 2024

Karen Isherwood made a motion to approve the January 8, 2024 meeting minutes. The motion was seconded by Andrew Saunders and passed (5-0).

4. Continuances requested in advance

- a. CON 023-372: 29 Silver Shell Beach Drive, Map 41, Lot 53 (April)
- b. SE 023-1421, CON 023-361: 2 Bayside Street, Map 42, Lot 34 (March)
- c. SE 023-14__, CON 023-371: 217 Alden Road, Map 36, Lot 085 (March)
- d. SE 023-1385, CON 023-279: 27 Silver Shell Beach Drive, Map 41, Lot 54

5. Requests for Certificates of Compliance

- a. SE 023-1407, CON 023-337: 23 Goulart Memorial Drive, Map 42, Lot 22B

Karen Isherwood made a motion to issue a complete Certificate of Compliance under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw for SE 023-1407, CON 023-337: 23 Goulart Memorial Drive, Map 42, Lot 22B with the following ongoing conditions: CHM-2 & DER-4, as listed in the Order of Conditions. The motion was seconded by Andrew Saunders and passed (5-0).

6. **Public Hearings** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and/or the Code of the Town of Fairhaven Chapter 192, Wetlands:

Request for Amended Order of Conditions

a. SE 023-1369, CON 023-255: 10 Diamond Street, Map 29, Lots 046 & 72

Amended Order of Conditions filed by Ruby & Jaime Medeiros to shift the previously approved paved driveway in closer proximity to the dwelling (depicted on revised plan). Work to take place in Land Subject to Coastal Storm Flowage (LSCSF) and the 100-foot Buffer Zone to Coastal Beach at Assessor's Map 29, Lots 046 & 72.

(12:00) Bob Field of Field Engineering represented the applicant; he expressed being open to all concerns.

Karen Isherwood stated that the revised plan does not show pavement all the way to the house and it also depicts a second stone driveway. She requested plantings as mitigation for the additional driveway.

Bob Field stated the applicant wanted the driveway adjacent to the house. They are proposing to connect the house and garage, but will not be increasing impervious surface.

Karen Isherwood made a motion to continue SE 023-1369, CON 023-255: 10 Diamond Street, Map 29, Lots 046 & 72 to the March 4, 2024 meeting at the applicant's request. The motion was seconded by Andrew Saunders and passed (5-0).

Requests for Determination of Applicability

b. CON 023-387: 251 Sconticut Neck Road, Map 29, Lot 32

Request for Determination of Applicability filed by Robert Faria for an after-the-fact shed within FEMA Flood Zone AE (EL.16') located at Assessor's Map 29, Lot 32.

(26:00) Jay Simmons & Karen Isherwood believe this project should come before the Commission as a Notice of Intent.

Karen Isherwood made a motion to close the public hearing for CON 023-387: 251 Sconticut Neck Road, Map 29, Lot 32 and issue a Positive Determination 1, 3, 4 & 5, under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw. The motion was seconded by Caroline Hawthorne and passed (5-0).

Notices of Intent

c. SE 023-1438, CON 023-393: 685 Sconticut Neck Road, Map 42, Lot 14B

Notice of Intent filed by Steven Koczera to replace existing deck (8'x12') with new 14'x16' deck on 12, 8" sono-tubes, with staircases and add a 25'x28' foundation in driveway and add garage (25'x28') with breakaway walls within FEMA Flood Zone (El.17' & El.19') at Assessor's Map 42, Lot 14B.

(32:00) Karen Isherwood would like the applicant to sign the 21-day waiver.

Karen Isherwood made a motion to close the public hearing for SE 023-1438, CON 023-393: 685 Sconticut Neck Road, Map 42, Lot 14B and accept the revised NOI dated January 23, 2024 and plan titled Site Plan for Deck & Garage dated February 2, 2024 and issue an Order of Conditions outlined in Attachment A, contingent on approval by the Chair and Vice Chair before the order is issued. The motion was seconded by Caroline Hawthorne and passed (5-0).

d. SE 023-1391, CON 023-291: Bridge Street, Map 36, Lot 15J

Notice of Intent filed by Fairhaven Properties, LLC to redevelop the site into a two-building self-storage facility. Development includes landscaping, as well as stormwater and utility infrastructure improvements. A portion of the proposed work is located within 100 feet of a wetland resource area, previously delineated and approved under an Order of Resource Area Determination (ORAD), issued in January 2022. Work located at Assessor's Map 36, Lot 15J.

SE 023-1391, CON 023-291: Bridge Street, Map 36, Lot 15J to be continued to the March 4, 2024 meeting.

e. SE 023-1410, CON 023-347: Bonney Street, Assessor's Map 28B, Lots 488 & 489

Notice of Intent filed by David Menard to construct a single-family residence, sewer and water connections and associated site work located within the 100-year flood plain (F.E.M.A. Zone VE, El.16') and partially within the Buffer Zone of Bordering Vegetated Wetlands (BVW) located at Assessor's Map 28B, Lots 488 & 489.

SE 023-1410, CON 023-347: Bonney Street, Assessor's Map 28B, Lots 488 & 489 continued the March 4, 2024 meeting.

f. SE 023-1423, CON 023-364: Bridge Street, Map 30A, Lots 87 & 87A

Notice of Intent filed by Carricorp Industries, Ltd. proposing a 5,850-sf commercial style building. A driveway and parking lot with approximately 34 parking spaces to service the proposed building. Stormwater from all proposed paved areas will be collected by deep sump catch basins sent to a subsurface infiltration system. Other proposed utilities include municipal water and sewer and an enclosed dumpster with pad. Work to take place within 100 feet of a wetland resource area at Assessor's Map 30A, Lots 87 & 87A.

(50:00) Andrew Saunders abstained.

Karen Isherwood made a motion to continue SE 023-1423, CON 023-364: Bridge Street, Map 30A, Lots 87 & 87A to the March 4, 2024 meeting for lack of a representative. The motion was seconded by Caroline Hawthorne and passed (5-0).

g. SE 023-1429, CON 023-377: 270 Sconticut Neck Road, Map 29A, Lots 101 & 96

Notice of Intent filed by Alexander & Jean Easterday to modify an elevated walkway over the Salt Marsh from house to Coastal Dune and beach, located within the 100-year flood plain at Assessor's Map 29A, Lots 101 & 96.

Karen Isherwood made a motion to close the public hearing for SE 023-1429, CON 023-377: 270 Sconticut Neck Road, Map 29A, Lots 101 & 96 approving the plan titled "Plan of Site & Elevated Walkway" with the revised date of January 17, 2024 and issue an Order of Conditions outlined in the revised Attachment A dated February 5, 2024 under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw. The motion was seconded by Andrew Saunders and passed (5-0).

h. SE 023-1432, CON 023-380: 18 Almond Street, Map 43B, Lot 12

Notice of Intent filed by Jeffrey White to install a concrete pad within the 100-foot Buffer Zone to the Coastal Bank, Salt Marsh, Coastal Beach, and Land Subject to Coastal Storm Flowage (LSCSF), and FEMA Flood Zone VE, (El. 16' & 17'), located at Assessor's Map 43B, Lot 12.

SE 023-1432, CON 023-380: 18 Almond Street, Map 43B, Lot 12 to be continued to the March 4, 2024 meeting.

i. SE 023-1434, CON 023-388: 127 Balsam Street, Map 43A, Lots 96 & 98

Notice of Intent filed by Lauren O'Brien to remove existing deck & patio, renovate existing residence, construct new addition & deck on flood zone compliant foundation, and associated site work located within the 100-year coastal flood plain at Assessor's Map 43A, Lots 96 & 98.

(60:00) Representative, Rick Charon, discussed changes since the last meeting.

Karen Isherwood made a motion to continue SE 023-1434, CON 023-388: 127 Balsam Street, Map 43A, Lots 96 & 98 to the March 4, 2024 meeting at the applicant's request. The motion was seconded by Andrew Saunders and passed (5-0).

j. SE 023-1437, CON 023-389: 1 Crow Island, Map 44, Lot 1

Notice of Intent filed by Dave Ellis & Melissa Cruz requesting to repair the existing failed on-site sewage disposal system servicing the single-family dwelling. The existing system will be abandoned, and a new system including a 1,500-gallon septic tank, distribution box, and Infiltrator Quick4 Plus Standard Leaching Chambers in a bed formation will be installed. The work being proposed fall within 100' feet from the top of a Coastal Bank. The system is proposed to be about 30' from the top of the Coastal Bank and is sited in similar area as existing located at Assessor's Map 44, Lot 1.

(1:13) Christopher Gilbert of Farland Corp. discussed all plan revisions.

Applicants, Melissa Cruz & Dave Ellis agreed to sign the 21-day waiver.

Karen Isherwood made a motion to close the public hearing for SE 023-1437, CON 023-389: 1 Crow Island, Map 44, Lot 1 approving the plan titled "Subsurface Sewage Disposal System" dated February 1, 2024 and issue an Order of Conditions outlined in Attachment A, contingent upon the review and approval of the Chair and Vice Chair before the order is issued under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw. The motion was seconded by Andrew Saunders and passed (5-0).

k. SE 023-1436, CON 023-390: 6 Emerson Avenue, Map 29A, Lots 119-122

An after-the-fact Notice of Intent filed by Natalie Reis for the construction of 12'x16' breezeway between the house and garage, an outdoor shower (approximately 70' from the limit of Coastal Beach and in Land Subject to Coastal Storm Flowage (LSCSF), capping the existing stonewall, an outdoor fireplace, a 36'x15' flagstone patio area with new walkways to beach, artificial turf area, regrading, and a gravel driveway larger than proposed on original plan. Work to take place within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 16'), and work has occurred in Coastal Beach, Barrier Beach, and possibly the Marsh, located at Assessor's Map 29A, Lots 119-122.

(1:25) Representative, Attorney James Marsh asked for quotes received from potential peer reviewers.

Karen Isherwood made a motion to continue SE 023-1436, CON 023-390: 6 Emerson Avenue, Map 29A, Lots 119-122 to the March 4, 2024 meeting at the applicant's request. The motion was seconded by Andrew Saunders (5-0).

I. SE 023-1395, CON 023-319: 1 Island View Road, Map 43, Lot 201

Notice of Intent filed by Peter Armanetti to construct a single-family dwelling with associated gravel driveway, grading and utilities. Work to take place within 100 feet of a Bordering Vegetated Wetland (BVW), and borders Land Subject to Flooding - FEMA Flood Zone VE (El.18 & 19') at Assessor's Map 43, Lot 201.

Jake Galary signed in at 7:38pm.

(1:30) Attorney James Marsh represented the applicant.

Stevie Carvalho of Farland Corp. presented a summary of the project.

Action: Agent or representative to report on comments received from CZM or the DEP at the next meeting.

Bruce Webb stated this filing was withdrawn from MEPA review.

Action: Mr. Webb will follow up with DEP for an official letter clarifying local versus state review.

(1:48) Commission deliberation regarding peer review.

(2:07) Kathleen Nelson of 15 Nakata Avenue wanted the Commission to acknowledge flooding and storm surge concerns; she would like to see engineering or stormwater plans.

James Moraux of 46 Alder Street stated concerns with any filling of the area and how it will affect draining; currently water flows north and any storm floods the area. The east house in particular will impact water drainage.

Stevie Carvalho stated the homes will be built on piles. There will be slight elevation and an increase in grading (1 foot to 1.5 in some areas).

May Kate Maura of 15 Nakata Avenue stated the letter she received did not state any filling in the wetlands; expressed concerns about the building.

Action: Karen Isherwood would like the agent to speak with the Circuit Rider at DEP regarding these concerns & to ensure this filing is being reviewed.

Katie Medeiros of 27 Nakata Avenue expressed concerns with flooding and does not believe any vegetation should be removed.

Paul Starkey of 53 Nakata Avenue inquired if the homes will serve as rental properties?

Anthony Couto signed in at approximately 8:30pm; he agreed to review and sign a Mullin's Rule Certification Form.

Karen Isherwood made a motion to continue SE 023-1395, CON 023-319: 1 Island View Road, Map 43, Lot 201 to the March 4, 2024 meeting at the applicant's request. The motion was seconded by Jake Galary and passed (7-0).

m. SE 023-1396, CON 023-320: 2 Island View Road, Map 43, Lot 201

Notice of Intent filed by Peter Armanetti to construct a single-family dwelling with associated gravel driveway, grading and utilities. Work to take place within 100 feet of a Bordering Vegetated Wetland (BVW), and borders Land Subject to Flooding - FEMA Flood Zone (El.18 & 19') at Assessor's Map 43, Lot 201.

Karen Isherwood made a motion to continue SE 023-1396, CON 023-320: 2 Island View Road, Map 43, Lot 201 to the March 4, 2024 meeting at the applicant's request. The motion was seconded by Jake Galary and passed (7-0).

n. SE 023-1435, CON 023-391: 689 Sconticut Neck Road, Map 42, Lot 14A.

Notice of Intent filed by Michael Perez to remodel the existing 3-season room, replace 3-porch footings and propose new footings to support the new deck. Work located within FEMA Flood Zone (El.17' & El.19') at Assessor's Map 42, Lot 14A.

(2:43) Bob Field represented the applicant and stated the project was originally for an addition and deck construction. During the site visit an additional driveway was discovered; he will revise and resubmit plan to capture the limit of work.

Karen Isherwood made a motion to continue SE 023-1435, CON 023-391: 689 Sconticut Neck Road, Map 42, Lot 14A to the March 4, 2024 meeting at the applicant's request. The motion was seconded by Andrew Saunders and passed (6-0, 1 abstention).

o. SE 023-1440, CON 023-394: 833 Sconticut Neck Road, Map 42, Lot 15N

Notice of Intent filed by Nazem & Kathleen Abdalla to construct a 4-bedroom single family house in compliance with the requirements of FEMA and Mass Building Code for construction within a Velocity Zone. The house will be located within Flood Zone VE (El.17) and work to take place within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El.17, 19 & 20), and a Bordering Vegetated Wetland (BVW) in the southerly and easterly portion at Assessor's Map 42, Lot 15N.

(2:57) Dave Davignon of Schneider, Davignon & Leone presented a summary on the project.

Cameron Larson of Environmental Consulting & Restoration, LLC. examined the hydrology on the site. He witnessed surface and ground water only during the growing season; not indicative of a wetland. The delineation was conducted in June.

Dave Davignon added that the state requires a soil evaluator to review septic systems before installation.

Karen Isherwood made motion to continue SE 023-1440, CON 023-394: 833 Sconticut Neck Road, Map 42, Lot 15N to the March 4, 2024 meeting at the applicant's request. The motion was seconded by Ronnie Medina and passed (7-0).

p. SE 023-1439, CON 023-395: 831 Sconticut Neck Road, Map 42, Lot 15M

Notice of Intent filed by A.M.K. Trust c/o Nazem & Kathleen Abdalla to construct a 4-bedroom single family house in compliance with the requirements of FEMA and Mass Building Code for construction within a Velocity Zone. The house will be located within Flood Zone VE (El.17') and Land Subject to Coastal Storm Flowage (LSCSF) at Assessor's Map 42, Lot 15M.

(3:21) Representative, Dave Davignon presented a summary of the project.

Bruce Webb asked about differences in soil infiltration; the two sites are unique.

Karen Isherwood made a motion to continue SE 023-1439, CON 023-395: 831 Sconticut Neck Road, Map 42, Lot 15M to the March 4, 2024 meeting at the applicant's request. The motion was seconded by Jake Galary and passed (7-0).

q. SE 023-1441, CON 023-396: 16 Balsam Street, Map 43C, Lot 33

Notice of Intent filed by McCloud Pacheco Trust c/o Lawrence & Shannon Pereira to remove the existing multi-level vertical concrete seawall. The new rip-rap boulders will be set on a 12" minimum bedding of 4"x 6" trap rock. The entire site falls within Land Subject to Coastal Storm Flowage (LSCSF) and FEMA Flood Zones VE (El.17, 18 & 23'). The site also contains Coastal Bank, Coastal Beach, and Land Under Ocean at Assessor's Map 43C, Lot 33.

(3:36) Dave Davignon represented the applicants and presented the project. There were no concerns or comments from MA Division of Marine Fisheries.

Mr. Davignon stated the direct abutter to the north Mr. & Mrs. Belcher expressed their approval.

Stephen Bowling of 20 Balsam Street spoke in favor of the project.

Karen Isherwood made a motion to close the public hearing for SE 023-1441, CON 023-396: 16 Balsam Street, Map 43C, Lot 33 approving the plan titled "Seawall Reconstruction" dated January 11, 2024 and issue an Order of Conditions outlined in Attachment A, contingent upon review and approval by the Chair and Vice Chair before the order is issued. The motion was seconded by Andrew Saunders and passed (7-0).

7. Violations/Enforcement Orders/Cease and Desist Notices

a. 4 Jeannette Street, Map 34A, Lot 062D: Ratify Enforcement Order

Action: The agent will amend a draft for the Enforcement Order.

b. EO 023-022: 344-346 New Boston Road, Map 40, Lots 023B & 023C: Agent to provide an update on restoration efforts

Action: Jay Simmons requested the agent send a letter to DEP requesting the state take over the responsibility of this violation.

c. 29 Nakata Avenue, Map 43, Lot 119: Unpermitted work on seawall and patio

The agent has received a site plan; will discuss at the next meeting.

d. 293 Mill Road, Map 39, Lot 022C: Outstanding restoration plan

The agent recommended this property be placed on the March 4th agenda.

8. General Business

a. Next scheduled site visits: February 20, 2024

Commission members had conflicts for this date.

b. Next Scheduled Public Hearing Date: March 4, 2024

c. Discuss educational opportunities/trainings

Commission members to complete Conflict of Interest training

9. Any other business that may properly come before the Commission not reasonably anticipated 48 hours in advance of the meeting.

10. Motion to adjourn

Caroline Hawthorne made a motion to adjourn at 10:18pm. The motion was seconded by seconded by Andrew Saunders and passed (7-0).

Jay Simmons, Chair

Fairhaven Conservation Commission

Posted by the Town Clerk: www.fairhaven-ma.gov