

Conservation Commission
Minutes
Monday July 8, 2019 at 6:30 p.m.
Banquet Room, Town Hall
40 Center Street, Fairhaven Ma 02719

- 1.** Chairman Mr. Simmons opened the meeting at 6:30p.m and notified the public that the meeting was being televised and recorded.
- 2. Quorum/Attendance** Dan Doyle, Ed Dorschied, Amy DeSalvatore, Nick Carrigg, Jay Simmons, Geoff Haworth and Nick Sylvia were all present.
The Conservation Agent, Whitney McClees, was also present.
- 3. Approval of Minutes** of the meetings of May 20, June 3, and June 17, 2019

Dan Doyle made a motion to approve the meeting minutes of May 20, 2019, seconded by Ed Dorschied, this motion passed with six members in favor and Mr. Haworth in abstention (6-0-1).

Dan Doyle made a motion to approve the meeting minutes of June 03, 2019, seconded by Nick Sylvia, this motion passed with five members in favor and Mr. Haworth and Ms. DeSalvatore in abstention (5-0-2).

Dan Doyle made a motion to approve the meeting minutes of June 17, 2019, seconded by Geoff Haworth, this motion passed unanimously.

4. Requests for Extensions

a) CON 023-072: Sconticut Neck Road, Assessors Map 29, Lot 1C (SE 023-1239)

Cutting of overgrown vegetation for the purposes of performing Land Surveying, specifically, to obtain topography and locate stone walls and pertinent site features. Said clearing will be performed with a track-brush cutting machine. No grubbing of the root systems is proposed. All cutting will occur within upland areas with the exception of the access paths.

Whitney McClees explained that she did a site visit and noted that some cutting had been done and that the work for another Order of Conditions on the same property will begin soon.

Geoff Haworth made a motion for extension until August 2022, seconded by Dan Doyle. This motion passed unanimously.

5. Requests for Certificates of Compliance

a) CON-19-067: 15 Diamond Street (SE 023-315)

Construction of an 8' x 12' wood deck on the front of house in Land Subject to Coastal Storm Flowage/Zone VE.

Whitney McClees explained that the deck was built in 1990 and had no issues otherwise.

Geoff Haworth made a motion to issue a Certificate of Compliance for CON-19-067: 15 Diamond Street (SE 023-315), seconded by Dan Doyle, this motion passed unanimously.

b) CON-19-068: 12 Howland Road (SE 023-778)

Construction of a bulk oil transport truck offloading and storage facility at an existing manufacturing facility in Riverfront Area.

Ryan DaPonte, Engineer was present

Whitney McClees explained that she did a site visit, and everything was built except the silt trap. She noticed some puddling of water in the spill containment area and some siltation in the stormwater feature that may need continuing monitoring.

Amy DeSalvatore questioned the monitoring.

Mr. DaPonte explained that the silt trap and monitoring are two separate issues and explained the management system and the cause of pooling.

Geoff Haworth made a motion to issue a Certificate of Compliance for CON-19-068: 12 Howland Road (SE 023-778) Seconded by Ed Dorschied, this motion passed with six members in favor and one member Ms. DeSalvatore in opposition (6-1-0).

c) CON-19-025: 5 Almond Street (SE 023-1285)

Expansion of existing front deck on single-family residence.

Whitney McClees explained that this agenda item should be combined with violations for timing purposes. In compliance with building permit and exactly how it supposed to be built.

Geoff Haworth made a motion to issue a Certificate of Compliance for CON-19-025: 5 Almond Street (SE 023-1285) Seconded by Nick Sylvia, this motion passed unanimously.

Geoff Haworth took Item 8. d) 5 Almond Street out of order.

Whitney McClees explained that in November an EO was issued and a spring follow-up was warranted for which she did a site visit in June. Vegetation seems to be growing back and as long as the growth continues there are no issues or action at this time.

Geoff Haworth made a motion to continue to allow growth and revisit in Fall, seconded by Ed Dorschied, this motion passed unanimously.

6. Request from Buzzards Bay Coalition for Amendment of the Shaw Farm Conservation Restriction

Allen Decker was present and provided documents to the board. He explained that he was looking to amend the Shaw Farm Conservation Restriction due to the fact the Fairhaven ConCom is a co-holder of the Conservation Restriction. He would like to add four acres and looking for acknowledgement from ConCom.

Geoff Haworth made a motion to acknowledge the request from BBC for amendment of the Shaw Farm Conservation Restriction. Seconded by Ed Dorschied, this motion passed unanimously.

7. Continued Public Hearings

a) CON-19-037: 497 Sconticut Neck Road

Notice of Intent filed by Martha Tichon for the removal of a horse paddock encroaching on Bordering Vegetated Wetland and the creation of a new paddock in an upland area at the property located at 497 Sconticut Neck Road, Assessors Map 29, Lot 28B. Work to take place within the Buffer Zone to Bordering Vegetated Wetland.

Brandon Faneuf was present and provided the board with an update on the location of the 31,000 sq. ft horse paddock. He also addressed the application of planting plan for paddock area.

Whitney McClees explained that the new plan addressed all concerns of the peer reviewer and explained that the peer reviewer felt that the project is now able to be permitted with an order of conditions.

Geoff Haworth questioned debris pile.

Brandon Faneuf explained how the debris will be removed and that the grading will be restored to original grade.

Amy DeSalvatore questioned height of berm.

Geoff Haworth made a motion to approve the plans dated May 22, 2019 for CON-19-037: 497 Sconticut Neck Road with the Order of Conditions as listed on the staff report dated June 17, 2019 with the following change: under perpetual conditions #4, move the debris piles as noted on the plans dated May 22, 2019 outside the 100-foot buffer zone. At no point now or in the future shall these debris piles move closer to the wetland or impact the wetland and this shall be included as a continuing condition in perpetuity on the Certificate of Compliance. Seconded by Dan Doyle, this motion passed unanimously.

Geoff Haworth made a motion to take Item 8. a) 40 Wapatma Lane out of order, seconded by Amy DeSalvatore, this motion passed unanimously.

Geoff Haworth made a motion to take Item 8. b) Town Beach out of order, seconded by Amy DeSalvatore, this motion passed unanimously.

40 Wapatma Lane: Whitney McClees explained that the horse paddock has direct access to wetland and a potential vernal pool and that some dumping in the buffer zone had been noted.

Jay Simmons explained that we witnessed a front-end loader on the property and has photos.

Discussion ensued.

Brandon Faneuf explained that he would like to do a site visit with agent.

Jay Simmons agreed and stated he would like to go to site visit as well.

Geoff Haworth made a motion to do a site visit with board members, agent and Mr. Faneuf for 40 Wapatma Lane, seconded by Ed Dorschied this motion passed unanimously.

Town Beach: Whitney McClees explained that it was tough to see where damage is due to long lasting depressions. It appeared the depression the vehicle got stuck in was a historical depression, making it difficult to discern damage.

Jay Simmons indicated that he felt that no further action was needed at this time.

Discussion regarding the fines that need to be paid to Conservation Commission.

Geoff Haworth made a motion to keep the violation on agenda until fines are paid, seconded by Ed Dorschied, this motion passed unanimously.

b) CON-19-029: 200 Mill Road

Notice of Intent filed by Paul Downey, Mill Bridge Holdings LLC, for the construction of a 72-space parking expansion within the 100-foot buffer zone to a Bordering Vegetated Wetland at the property located at 200 Mill Road, Assessors Map 36, Lot 11A.

Jay Simmons noted that a request to continue to August 12, 2019 had been made.

Geoff Haworth made a motion to continue the hearing to August 12, 2019. Seconded by Ed Dorschied. This motion passes unanimously.

c) CON-19-050: 46 Sconticut Neck Road

Notice of Intent filed by Joshua Alves, Alexander Grey Development LLC, for the

construction of an 8-house subdivision, roadway, stormwater facility, and utilities and for wetland mitigation of historical impacts at the property located at 46 Sconticut Neck Road, Assessors Map 28, Lot 24. Work to take place within Bordering Vegetated Wetland and Buffer Zone to Bordering Vegetated Wetland.

Josh Alves was present

Arsen Hambardzumian from NESRA Engineering was present and explained the concept of 8 house subdivison.

Mr. Hambardzumian explained that all issues were addressed at last meeting and documents were submitted.

Discussion regarding the peer review comments as well as Planning assessment.

Geoff Haworth made a motion to continue CON-19-050: 46 Sconticut Neck Road until August 12, 2019 at the applicant's request, Seconded by Ed Dorschied. This motion passed unanimously.

d) CON-19-051: Hiller Avenue & Timothy Street, Assessors Map 28C, Lots 71 and 71A
Notice of Intent filed by Robert Roderiques for the construction of paved roadways and stormwater management systems and the installation of utilities including the placement of fill for the aforementioned work for a proposed 16-lot subdivision at the property located at Assessors Map 28C, Lots 71 and 71A. Work to take place within the Buffer Zone to Bordering Vegetated Wetland.

Jay Simmons explained that the applicant has requested to continue to July 29, 2019.

Geoff Haworth made a motion to continue CON-19-051: Hiller Avenue & Timothy Street, Assessors Map 28C, Lots 71 and 71A, until July 29, 2019 at the request of the applicant. Seconded by Ed Dorschied. This motion passed unanimously.

New Public Hearings

e) CON-19-064: 27 Alder Street

Request for Determination of Applicability filed by Christine Smith for the installation of three 12-inch sonotubes in a flood zone area only at the property located at 27 Alder Street, Assessors Map 43A, Lot 70. Work to take place within Land Subject to Coastal Storm Flowage/Zone VE.

Christine Smith was present and explained concept of project.

Discussion regarding plan ensued.

Geoff Haworth made a motion for a Negative 2 determination for CON-19-064: 27 Alder Street, Seconded by Ed Dorschied. This motion passed unanimously.

f) CON-19-065: 1 Alcobia Drive

Request for Determination of Applicability filed by Richard J. McCarthy for the removal of hurricane/storm-downed trees, dying/dead trees, broken/dying limbs and branches extending over the roofline, stumps to remain, the placement of a stockade fence adjacent to the south border, and a gate at the property located at 1 Alcobia Drive, Assessors Map 42, Lots 66, 67, and 68. Work to take place in Buffer Zone to Salt Marsh and Land Subject to Coastal Storm Flowage/Zone VE.

Richard McCarthy was present and explained that he didn't have the green cards at this time.

Mr. Haworth explained that the he couldn't open up the hearing until abutters are notified. Geoff Haworth made a motion to table CON-19-065: 1 Alcobia Drive, Seconded by Ed Dorschied. This motion passed unanimously.

g) CON 023-069: Farmfield Street (Assessors Map 4, Lot 106)

Request for Determination of Applicability filed by Andrew Blicharz, Eversource Energy Service Co., for the excavation of approximately 30 cubic yards in a 500-square-foot area of the former Harbor View Substation site for remediation at the property located on Farmfield Street, Assessors Map 4, Lot 106. Work to take place in Land Subject to Coastal Storm Flowage/Zone VE and Buffer Zone to Bordering Vegetated Wetland.

Green cards were given to agent at this time.

Steve Ivas Wetland Scientist was present and explained the need for the excavation of the soil which is to remove the PCB's from the soil.

Greg McBryan was present and explained the location of the fence. Which was former substation.

Discussion regarding securing objects in the flood zone.

Discussion regarding loose vegetation.

Mr. McBryan explained that the hole will be secured if need be.

Ms. McClees explained that once contaminants are removed it must be replaced with natural clean soil.

Mr. McBryan explained why he rejects the soil replacement
Discussion ensued.

Geoff Haworth made a motion for a Negative 3 Determination for CON 023-069: Farmfield Street with the following conditions: PCC-1, SIL-2, the same number of cubic yards of soil removed will be replaced with clean soil. Seconded by Ed Dorschied, this motion passed unanimously,

h) CON 023-070: 3 Ellis Place

Request for Determination of Applicability filed by Nawal Robitaille to demolish the existing cottage and stabilize the disturbed areas with screened loam and seed at the property located at 3 Ellis Place, Assessors Map 2, Lots 9 and 192. Work to take place in Land Subject to Coastal Storm Flowage/Zone VE and Buffer Zone to Coastal Beach and Coastal Dune.

Dave Davignon was present and explained concept of plan. He gave the green cards to agent.

Mr. Davignon explained that he filed and Request for Determination to remove cottage built in 1991 which has been condemned. He explained the proposed silt fence and its location. Jay Simmons expressed concerns about debris.

Discussion ensued.

Geoff Haworth made a motion for a Negative 3 Determination for CON 023-070: 3 Ellis Place with the following conditions: LOW-2, REV-1, No motorized/construction equipment is to enter or cross a resource area at any time, Any loam and seed used for this project shall not introduce any foreign object or species. Seconded by Ed Dorschied, this motion passed unanimously.

i) CON-19-062: 20 Balsam Street

Notice of Intent filed by Stephen B. Bowling and Judith Nielsen to raze the existing house and to construct a new flood-zone compliant home within FEMA Zone VE-18, plus associated site work and utilities at the property located at 20 Balsam Street, Assessors Map 43C, Lot 31. Work to take place within Land Subject to Coastal Storm Flowage and in Buffer Zone to Coastal Bank and Buffer Zone to Coastal Beach.

Rick Charon from Charon Engineering was present and explained the concept of the plan. He explained that the new home will replace the old home that was built in the 1950's.

Jay Simmons questioned grading.

Mr. Sharon explained that existing grade is 11ft and 6 inches of fill.

Jay Simmons questioned the variances for the property.

Ms. McClees explained that most of the work is outside buffer zone.

Discussion regarding impervious surfaces and the driveway.

Steve Bowling, Owner explained that he will have 1 large propane tank

Abutter explained why he was in favor of project.

Mr. Charon explained that the grass is currently used for parking/driveway.

Discussion regarding concerns of asphalt driveway.

Discussion regarding plantings.

Geoff Haworth made a motion to close the public hearing and issue an Order of Conditions for the plan dated May 23, 2019 for CON-19-062: 20 Balsam Street and with the conditions as laid out in the staff report dated July 5, 2019. Seconded by Ed Dorschied, this motion passed with six members in favor and one member Ms. DeSalvatore in abstention.

j) CON-19-066: 6 Emerson Avenue

Notice of Intent filed by Natalie Reis for the installation of a garage, stamped patio, and concrete driveway at the property located at 6 Emerson Avenue, Assessors Map 29A, Lot 119. Work to take place within Land Subject to Coastal Storm Flowage/Zone VE and Buffer Zone to Coastal Beach.

Natalie Reis was present and provided an explanation of the concept of the plan as well as the green cards.

Ms. Reis explained that the patio would be concrete and there would be a garage with black top driveway.

Jay Simmons questioned the access road.

Ms. Reis explained that it was on Torrington Street.

Discussion regarding breakaway walls and elevations

Whitney McClees explained that it needed to comply with building code

Mr. Simmons explained that he recommends that she speak with building inspector.

Mr. Haworth expressed concerns with breakaway walls instead of columns.

Discussion regarding accessory structures not able to be larger than primary structures.

Ms. McClees explained that project was in Buffer Zone to a wetland system on a neighboring property.

Discussion regarding other possible material for driveway.

Geoff Haworth made a motion to continue CON-19-066: 6 Emerson Avenue at the applicant's request to July 29, 2019, seconded by Ed Dorschied, this motion passed unanimously.

k) CON-19-055: 25 Abbey Street

Notice of Intent filed by Agostinho Pinto for the razing of the existing dwelling and garage and construction of a new flood zone-compliant single-family dwelling at the property located at 25 Abbey Street, Assessors Map 6, Lot 102. Work to take place in Land Subject to Coastal Storm Flowage/Zone VE and Buffer Zone to Bordering Vegetated Wetland.

Agostinho Pinto was present and explained that he didn't have green cards .

Mr. Haworth explained that the public hearing cannot be opened without the notification of the abutters.

Geoff Haworth made a motion to continue 25 Abbey Street at the request of the applicant to July 29, 2019. Seconded by Ed Dorschied, this motion passed unanimously.

Mr. Simmons and Mr. Dorschied recused themselves at this time and took a seat in the audience as abutters.

Geoff Haworth assumed role of Chair.

l) CON 023-071: 3 North Street (SE 023-1273)

Request for an Amended Order of Conditions (DEP File No. SE 023-1273) filed by Lee and Elizett Miguel to add an upper retaining wall, mulch beds, and an arborvitae shrub row, to reconfigure the previously approved steps, and to replace two trees at the property located at 3 North Street, Assessors Map 13, Lot 4. Work to take place in Buffer Zone to Bordering Vegetated Wetland.

Steve Gioiosa was present and provided the board with an update regarding the project. He explained why he was looking for an amendment of the order of conditions. He explained that the grading will change as well as other minor modifications. Mr. Gioiosa explained the reasoning behind the reorientation of the steps.

Discussion regarding the replacement of the tree

Discussion regarding the reestablishment of the terrace area.

Abutter, Jay Simmons explained that this was an approvable project.

Discussion regarding the silt fence outside the limit of work

Geoff Haworth made a motion to approve the Amended Order of Conditions for CON 023-071: 3 North Street (SE 023-1273), plans dated June 3, 2019, all conditions from Order of Conditions dated November 7, 2018 will remain in full force and effect, remove the silt fencing outside the limit of work, the precast block steps will be changed to granite, with the conditions as listed in the staff report dated July 5, 2019. Seconded by Nick Carrigg, this motion passed with four members in favor and one member Ms. DeSalvatore in abstention

Geoff Haworth brought up a violation that he noted at his site visit today that didn't meet the 48-hour rule to make it onto the agenda.

Discussion of mowing the buffer zone and salt marsh on the adjacent lot owned by the applicant above.

Mr. Haworth indicated that no mowing of that area should be occurring, no dumping of debris, no storage in that area, and no silt fence in that area. The Commission indicated their agreement. Mr. Gioiosa indicated that he would communicate that to his client.

Jay Simmons resumed as Chair and Ed Dorschied resumed as a member.

8. Violations/Enforcement Orders/Cease and Desist Notices:

c) 62R/64 Manhattan Ave – check in the spring to see if vegetation has grown back
Board agreed to leave on agenda and continue to monitor through growing season.

e) Sconticut Neck Road/Nobska Avenue (Assessors Map 43, Lots 193-195)

Jay Simmons recommended DEP guidance on this matter.

Discussion regarding vegetation that was stripped in property

Discussion ensued.

Unrelated discussion ensued about 88 Fort Street regarding filling of loam and seed.

9. General Business:

a) Payment/Approval of Bills

Staples- \$105.95

Geoff Haworth made a motion to pay \$105.95 to Staples, seconded by Nick Carrigg, this motion passed unanimously.

Reimbursement of Agent for MACC for \$55.00

Geoff Haworth made a motion to pay \$55.00 to Agent, seconded by Nick Carrigg, this motion passed unanimously.

Peer reviewer 497 Sconticut Neck Road 1,800.30 and remainder to be refunded \$108.70

Geoff Haworth made a motion to pay 1,800.30 and remainder to be refunded \$108.70 for peer reviewer seconded by Nick Carrigg, this motion passed unanimously.

Forestry Suppliers for \$218.61

Geoff Haworth made a motion to pay\$218.61 to Forestry Suppliers, seconded by Dan Doyle this motion passed unanimously.

Neighborhood News for \$210.00

Geoff Haworth made a motion to pay \$210.00 to Neighborhood News , seconded by Nick Carrigg, this motion passed unanimously

b) Isolated Vegetated Wetland Discussion

Whitney McClees explained that the owner's backyard is an isolated wetland with no habitats and no functions so the Wetland Protection Act doesn't apply but bylaw does.

Discussion regarding site visit

Jay Simmons recommended asking DEP for guidance

Other Business

Whitney McClees indicated to the Commission that the property owner of 9 Goulart Memorial Drive would like to schedule a site visit with the Commission.

Geoff Haworth made a motion remove 1 Alcobia Drive from the table, seconded by Dan Doyle, this motion passed unanimously.

Geoff Haworth made a motion to continue 1 Alcobia Drive to July 29, 2019. Seconded by Dan Doyle. This motion passed unanimously.

Geoff Haworth made a motion to adjourn meeting at 9:35 p.m. seconded by Nick Carrigg, this motion passed unanimously.

Respectfully Submitted,
Shallyn Rodriguez