

## CONSERVATION COMMISSION

April 13, 2020

## Minutes

It was advised that the meeting was being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of COVID-19. The Governor's Order suspends the requirement of Open Meeting Law to have all meetings in a publicly accessible physical location.

For this meeting, the Conservation Commission convened by telephone and video conference via Zoom as posted on the Town's website identifying how the public may join. The meeting was recorded and televised live, and some attendees participated by phone and video conference.

The meeting was attended remotely by Jay Simmons, Gary Lavalette, Nick Sylvia, Amy DeSalvatore, and Geoff Haworth.

Present in the banquet room was member Daniel Doyle, along with Conservation Agent, Whitney McClees.

Mr. Simmons opened the meeting at 6:49p.m. due to the previous meeting running long.

**1. Present:** Chairperson, Jay Simmons, Geoff Haworth, Gary Lavalette, Nick Sylvia, and Amy DeSalvatore were all present remotely. Dan Doyle was present in person.

**2. Absent:** Nicholas Carrigg.

Ms. McClees read the Remote Access information in for the record.

**3. Minutes**

- a) Approve the minutes of March 23, 2020 – Geoff Haworth made a motion to approve the minutes and was seconded by Daniel Doyle. Motion approved unanimously by roll call vote (6-0-0).

**4. Action**

- b) Vote to Approve Electronic Signatures

Geoff Haworth made a motion to approve the use of electronic signatures and was seconded by Amy DeSalvatore. The motion passed unanimously.

- c) Vote to Re-Approve Amended Order of Conditions for Torrington Road, Map 29B, Lot 171

Ms. McClees explained the communication from the Registry of Deeds for electronic signatures.

Geoff Haworth made the motion to re-approve the Amended Order of Conditions as Ms. McClees stated in her staff report, seconded by Gary Lavalette. The motion passed unanimously by roll call vote (6-0-0).

- d) Vote to Re-Approve Order of Conditions for 6 Emerson Avenue

Geoff Haworth made a motion to re-approve the order of conditions for 6 Emerson Avenue as stated in Ms. McClees staff report and was seconded by Mr. Doyle. The motion passed unanimously by roll call vote (6-0-0).

**5. Certificates of Compliance:****e) SE 023-1254, CON 023-134: 185 Ebony Street**

Order of Conditions issued June 13, 2017 for razing the existing house and constructing a new single-family home within a VE flood zone.

Ms. McClees summarized the project stating The Order of Conditions was issued for the demolition of the existing house and the construction of a new single-family house in a VE-14 Flood Zone and the 100-foot buffer zone to Salt Marsh. Her recommendation was to issue the Certificate of Compliance SE 023-1254, CON 023-134, 185 Ebony Street.

Mr. Haworth made a motion to issue a certificate of compliance for complete certification and was seconded by Gary Lavalette. The motion passed unanimously by roll call vote (6-0-0).

**6. Public Hearings** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Code of the Town of Fairhaven Chapter 192, Wetlands:**Continued to Future Meeting****a. SE 023-1297, CON-19-051: Hiller Avenue & Timothy Street, Assessors Map 28C, Lots 71 and 71A – *continued to May 18***

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.

**b. SE 023-1296, CON-19-050: 46 Sconticut Neck Road – *continued to April 27***

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.

**New Notice of Intent****c. CON 023-133: 130 Ebony Street**

Notice of Intent filed under the Fairhaven Wetlands Bylaw only by John Hinds for the demolition of the existing cottage and construction of a new single-family home with rear deck and associated site work at the property located at 130 Ebony Street, Assessors Map 43A, Lots 235-237. Work to take place in buffer zone to Isolated Vegetated Wetland.

Mr. Simmons recused himself from this notice of intent but stayed on the phone line as a resident.

Resident owners, Mr. & Mrs. John Hinds were present remotely.

Ms. McClees reviewed the project per her Staff report dated April 8, 2020.

She stated the objective was to demolish the current 700 sq. foot cottage and build a 1600 sq. foot ranch house on an 8-foot above ground foundation with a deck. The applicant proposes to keep the vegetation in the rear of the property and fully landscape the non-wetland areas to lawn.

All construction trucks and materials will enter from Ebony Street, utilizing the existing driveway area. Any storage will only be in the buffer zone.

Mr. Hinds was present and stated the deck was staying toward lot 235.

Ms. DeSalvatore asked if the deck will be on sono-tubes, which the applicant, Mr. Hinds stated it would be. She also asked about the wetland line, to which Ms. McClees reviewed the wetland line on the screen for her.

Mr. Simmons stated that the plans are not being seen on public tv.

Ms. DeSalvatore asked if anyone has reviewed the drainage on the plans. She asked if the spouts would be running into the wetlands.

Ms. McClees stated the grading is not being touched and the grading looks like its running to the rear of the property.

Ms. McClees recommended the public hearing be closed and the Notice of Intent be issued with the conditions as outlined in her staff report dated April 8, 2020.

Mr. Haworth made a motion to close the public hearing and issue the Notice of Intent and the conditions listed in the staff report dated April 8, 2020 and was seconded by Daniel Doyle. The motion passed unanimously by roll call vote (5-0-0) with Mr. Simmons recused.

Mr. Simmons resumed his role as Chair of the Commission.

#### **Continued Notices of Intent**

d. SE 023-1299, CON 023-081: **Bridge Street, Assessors Map 36, Lot 15**

Notice of Intent filed by Craig Lutz, Carapace LLC for the construction of an auto dealership with ancillary paved parking on vacant lot at the property located at Bridge Street, Assessors Map 36, Lot 15. Work to take place in Bordering Vegetated Wetland.

Ms. McClees stated she received a continuance to April 27, 2020 per the applicant's request.

Mr. Haworth made a motion to continue the Bridge Street, Assessors Map 36, Lot 15 per the applicants request and was seconded by Gary Lavalette. The motion passed unanimously by roll call vote (6-0-0).

e. SE 023-1308, CON 023-095: **Huttleston Avenue, Assessors Map 31, Lots 115A & 117C**

Notice of Intent filed by Dana Lewis for the construction of four 3-unit residential buildings with ancillary earthwork and utilities, along with two storage buildings and a shed at the property located on Huttleston Avenue near Gellette Road, Assessors Map 31, Lots 115A and 117C. Work to take place in Buffer Zone to Bordering Vegetated Wetlands.

Ms. McClees stated she received a continuance to April 27, 2020 per the applicant's request.

Mr. Haworth made a motion to continue to April 27, 2020 per the applicants request and was seconded by Mr. Lavalette. The motion passed unanimously by roll call vote (6-0-0).

#### **6. Violations/Enforcement Orders/Cease and Desist Notices**

- f. 44 Torrington Road: revised restoration plan submitted
- g. Waybridge Road

Ms. McClees reviewed her summary from her staff report dated April 9, 2020. The restoration plan shall be in compliance with the Performance Standards for Bordering Vegetated Wetland (310 CMR 10.55(4)). Specifically, 310 CMR 10.55(4)(b)1, 2, and 6 require the area restored to be equal to that of the area disturbed, the groundwater and surface elevation of the restoration area shall be approximately equal to that of the pre-disturbed Bordering Vegetated Wetland, and at least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons, and prior to said vegetative reestablishment any exposed soil in the restoration area shall be temporarily stabilized to prevent erosion.

Ms. McClees stated that no fine has been paid as of yet.

Mr. Simmons stated he doesn't believe they should move forward without a payment.

Mr. Lavalette stated he didn't think they should continue on with the restoration plan until the fine was paid.

Mr. Haworth stated that he felt the applicant was 'ducking' the fine and that the Commission does have the right to fine him \$300.00 per day. He suggested that a letter being sent to the engineer, if that was the property owner's agent at this time, as well as the property owner.

Ms. McClees stated she spoke to the engineer last week and she made it clear to him that if the fine wasn't paid there would be continued fines appropriated against the applicant.

Ms. DeSalvatore stated she would like to see the restoration move forward, but she agrees the fines need to be addressed.

Mr. Haworth stated he would like to see an affirmative response from the property owner to pay the fine by April 27, 2020 or be charged additionally.

Bob Gray stated that his involvement is through the engineer only and does not speak to the applicant directly.

Peter Therrien is the engineer through Field Engineering. He stated that he has no information on the fine at this time and Bob Field is the contact with the applicant.

Mr. Simmons agreed we need to move forward with the restoration plan but that they need to address the fine as well.

Mr. Haworth made a motion to notify the property owner officially that he has until April 27, 2020 for an answer or fine to be paid or the Commission will take further action. Motion was seconded by Daniel Doyle. The motion passed unanimously by roll call vote (6-0-0).

Bob Gray stated he would like to talk about the four Evergreen Trees.

Mr. Simmons stated he would like Ms. McClees and Mr. Gray to work out those details.

## **7. General Business**

## a) Bills

Ms. McClees advised that \$15.00 Mass Conservation Commission for MACC for Jay Simmons handbook renewal was paid.

## b) Next Meeting: April 27, 2020 &amp; a meeting on May 4, 2020

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

In other business, Mr. Lavalette asked a question about A-1 Crane and if the owner is aware of the filing; whereas he understood it that A-1 Crane is the tenant.

Ms. McClees stated that there has not been a filing so she can't discuss and it's not on the agenda; but that all paperwork has to have the owner's signature.

Ms. DeSalvatore asked if the trees for Torrington Road also included Waybridge, to which Ms. McClees stated yes it did.

Mr. Haworth asked for a packet of information be sent to the Commission board members versus email because they might not be able to print them. Ms. McClees stated she would print copies for the Commission members and drop them off.

Geoff Haworth made a motion to adjourn and was seconded by Amy DeSalvatore. Motion passed unanimously at 8:00p.m. by roll call vote (6-0-0).

Respectively submitted,

Patricia A. Pacella

Recording Secretary