

# Staff Report

Date: April 30, 2020  
To: Conservation Commission  
From: Whitney McClees, Conservation Agent  
Subject: **Discussion**

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## EPA Request for Proposed Bylaw Change

- Dave Patterson submitted the following request:

EPA is currently conducting a Five-Year Review of the New Bedford Harbor Superfund Site to assess the ongoing accomplishments of the remedy and to identify any potential issues that may impact the protectiveness of the selected remedy for the Harbor. One remedy component discussed in the last Five-Year Review done in 2015 was the remedy's requirement that "long term institutional controls are developed for remediated shoreline areas to protect against development that is inconsistent with cleanup standards for each area." As part of this effort to date, in 2017 EPA worked with the City of New Bedford to have an amendment added to the City's Wetlands Ordinance (see attached) that requires applicants filing notices with the New Bedford Conservation Commission for proposed work within regulated coastal wetland resource areas within the Superfund Site to provide a copy of the notice to EPA also. The purpose of providing notice to EPA was so the Agency could review the proposed work and coordinate with the applicant in case the proposed work might conflict with the Harbor remedy (such as installing residential docks in areas of the Lower Harbor cleaned up to commercial/industrial levels). EPA established e-mailbox for applicants to send their notices to and, to date, the system has worked successfully in New Bedford.

EPA would like to coordinate with the Town of Fairhaven to have the following underlined text amended into Fairhaven's Wetlands Bylaw (Chapter 192), as follows:

### **§ 192-3. Exceptions.**

B. The permit and application required by this chapter shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that:

- (1) The work is to be performed by or has been ordered to be performed by an agency of the Commonwealth of Massachusetts or a political subdivision thereof.
- (2) Advance notice, oral or written, has been given to the Commission or its agent prior to commencement of work or within twenty-four (24) hours after commencement.
- (3) For work any work proposed to the north of the eastern terminus of the hurricane barrier, and within one hundred (100) feet of a coastal wetland resource area protected under the Massachusetts Wetlands Protection Act and corresponding regulations, notice shall also be provided to the United States Environmental Protection Agency (EPA), which is implementing the cleanup of the New Bedford Harbor Superfund Site.
- (4) The Commission or its agent certifies the work as an emergency project.
- (5) The work is performed only for the time and place so certified for the limited purposes necessary to abate the emergency.

(6) Within twenty-one (21) days of commencement of an emergency project a permit application shall be filed with the Conservation Commission for review as provided by this chapter.

**§ 192-5. Notice and hearings.**

A. At the time any person files an application or request for determination with the Conservation Commission, he/she shall give written notice thereof, by certified mail or hand delivery to all abutters according to the most recent records of the Assessors, including those across a traveled way, a body of water or a town line. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined by abutters. When a person requesting a determination is other than the owner or a person acting on behalf of the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner(s) as well as the person making the request. For any work proposed to the north of the eastern terminus of the hurricane barrier, and within one hundred (100) feet of a coastal wetland resource area protected under the Massachusetts Wetlands Protection Act and corresponding regulations, notice shall also be provided to the United States Environmental Protection Agency, which is implementing the cleanup of the New Bedford Harbor Superfund Site. The notice to EPA shall enclose a copy of the application or request, with plans.

# Staff Report

Date: April 30, 2020

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **46 Torrington Road – Request for Certificate of Compliance – DEP# 023-1255**

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## DOCUMENTS REVIEWED

- Request for Certificate of Compliance and as-built plan
- Order of Conditions dated July 17, 2017
- Notice of Intent and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)

## RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage
- Bordering Vegetated Wetland
- Barrier Beach
- Coastal Dune
- Buffer Zone

## PERFORMANCE STANDARDS

- **LSCSF General Provisions:** 10.24(1) “If the issuing authority determines that a resource area is significant to an interest identified in [the Act]...,the issuing authority shall impose such conditions as are necessary to contribute to the protection of such interests.”
- **Bordering Vegetated Wetland:** 10.55(4)
  - (a) work in a Bordering Vegetated Wetland shall not destroy or otherwise impair any portion of the BVW
  - (b) The ConCom may permit the loss of up to 5000 square feet of BVW when said area is replaced IF:
    1. The area is equal;
    2. The ground water and surface elevation are approximately equal;
    3. The overall horizontal configuration and location are similar;
    4. There is an unrestricted hydraulic connection to the same water body or waterway;
    5. It is in the same general area of the water body;
    6. At least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons; and
    7. The replacement area is provided in a manner which is consistent with all other regs in 310 CMR 10.00.
  - (c) The ConCom may permit the loss of a portion of BVW when;
    1. Said portion has a surface area less than 500 square feet;

2. Said portion extends in a distinct linear configuration ("finger-like") into adjacent uplands; and
  3. In the judgment of the issuing authority it is not reasonable to scale down, redesign or otherwise change the proposal.
- (d) No project may be permitted which will have any adverse effect on specified habitat sites of rare species
- (e) No work shall destroy or otherwise impair any Area of Critical Environmental Concern
- **Barrier Beach:** 10.29  
(3) ...310 CMR 10.27(3) through (6) (coastal beaches) and 10.28(3) through (5) (coastal dunes) shall apply to the coastal beaches and all coastal dunes which make up a barrier beach.
  - **Coastal Dune:** 10.28  
(3) Any alteration of, or structure on, a coastal dune or within 100 feet of a coastal dune shall not have an adverse effect on the coastal dune by:
    - (a) affecting the ability of waves to remove sand from the dune;
    - (b) disturbing the vegetative cover so as to destabilize the dune;
    - (c) causing any modification of the dune form that would increase the potential for storm of flood damage;
    - (d) interfering with the landward or lateral movement of the dune;
    - (e) causing removal of sand from the dune artificially; or
    - (f) interfering with mapped or otherwise identified bird nesting habitat.
  - **Coastal Beach:** 10.27  
(3) Any project on a coastal beach...shall not have an adverse effect by increasing erosion, decreasing the volume or changing the form of any such coastal beach or an adjacent or downdrift coastal beach.  
(5) Beach nourishment with clean sediment of a grain size compatible with that on the existing beach may be permitted.
  - **Buffer Zone General Provisions:** 10.53(1) "For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work."

## PROJECT SUMMARY

- The Notice of Intent was submitted for the following work:
  - Construct an elevated boardwalk (3-4' wide by 477' long) to provide pedestrian access from the existing single-family dwelling, through a wetland system, to the beach.
  - The walkway will begin 11 feet up-gradient of easterly edge of the wetland and terminate on the coastal dune
  - A helical pile support system will be used

## COMMENTS

- The Order of Conditions was issued July 17, 2017 with 5 special conditions.
- One of the special conditions was noted to be an ongoing condition.
  - Applicant may maintain 18" on each side of the walkway.

- Based on the submitted as-built, it appears the boardwalk was constructed in substantial compliance with the Order of Conditions. I have not yet performed a site visit. I will do so prior to Monday's meeting.

## **RECOMMENDATION**

- Provided I do not notice anything amiss when I perform a site visit, I recommend issuing a Certificate of Compliance for Complete Certification with one Ongoing Condition for SE 023-1255, 46 Torrington Road.

# Staff Report

Date: April 30, 2020

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **Billy's Way and Treasure Bay Lane – Notice of Intent – DEP# 023-1316, Fairhaven CON 023-136**

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## DOCUMENTS REVIEWED

- Notice of Intent and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)

## RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage
- Coastal Beach
- Coastal Dune
- Buffer Zone

## PERFORMANCE STANDARDS

- **LCSF General Provisions:** 10.24(1) "If the issuing authority determines that a resource area is significant to an interest identified in [the Act]...,the issuing authority shall impose such conditions as are necessary to contribute to the protection of such interests."
- **Coastal Beach:** 10.27
  - (3) Any project on a coastal beach...shall not have an adverse effect by increasing erosion, decreasing the volume or changing the form of any such coastal beach or an adjacent or downdrift coastal beach.
  - (5) Beach nourishment with clean sediment of a grain size compatible with that on the existing beach may be permitted.
- **Coastal Dune:** 10.28
  - (3) Any alteration of, or structure on, a coastal dune or within 100 feet of a coastal dune shall not have an adverse effect on the coastal dune by:
    - (a) affecting the ability of waves to remove sand from the dune;
    - (b) disturbing the vegetative cover so as to destabilize the dune;
    - (c) causing any modification of the dune form that would increase the potential for storm of flood damage;
    - (d) interfering with the landward or lateral movement of the dune;
    - (e) causing removal of sand from the dune artificially; or
    - (f) interfering with mapped or otherwise identified bird nesting habitat.

- **Buffer Zone General Provisions:** 10.53(1) “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”

## PROJECT SUMMARY

- The project proposes to improve Billy’s Way from the intersection of Sconticut Neck Road westerly approximately 450 feet to the end with the installation of roadway pavement, curbing, and a closed drainage system that connects to the existing outfall pipe off Reservation Road.
- The topography of Billy’s Way slopes downward to the west end toward Fairhaven Harbor.
- Currently, Billy’s Way does not have a conventional closed drainage system and stormwater flows down the gravel roadway to the end and then flows into the Harbor. During major rainfall events, the end of the road overflows onto the adjacent property and coastal beach, causing erosion and deposition.
- The proposed work includes:
  - The road would be graded and paved to a uniform 22-foot width with bituminous asphalt to the back of the cape cod berm on both sides and to the closed drainage system at the end of Billy’s Way.
  - The proposed drainage system for Billy’s Way will treat and convey stormwater and connect to an existing drainage system and 18-inch outfall pipe on Reservation Road. The system will involve the addition of catch basins and piping. The proposed catch basins would be constructed with four-foot deep sumps for trapping of debris and sediment into the system and the outlets will be fitted with hoods to trap and contain floating debris and oils. Stormwater flowing into the catch basins on Billy’s Way will receive additional treatment from storm filter inserts containing a 3-stage filter system that removes hydrocarbons, sediments, and other organics and exceeds 80% sediment removal efficiency. A built-in bypass prevents flooding or ponding during high-flow events.

## COMMENTS

- A signed and stamped stormwater checklist has been provided. It appears the project substantially meets the Massachusetts Stormwater Standards.
  - The only thing I didn’t see as part of the filing is a Long-Term Pollution Prevention Plan.
- The project seems to provide for better treatment of stormwater runoff than existing conditions, even though it does increase impervious surface in the area. The stormwater would be directed into treatment systems rather than running directly onto the beach and dune untreated.
- The plans include erosion control at the bottom of Billy’s Way and along a portion of Treasure Bay Lane, protecting the adjacent coastal beach and coastal dune.
  - Currently, only straw filter tube is proposed. For a project with this much soil disturbance, a combination of straw filter tube and silt fence would be more effective.
- There is a note on the plans regarding vegetation:

- Existing vegetation shall be protected and only that clearing and grubbing absolutely necessary to the proposed construction shall be performed. All disturbed areas shall be restored to their original condition and contour, unless otherwise indicated on the plans.
- Any vegetation removed that is not grass should be replaced in kind with native vegetation.

## RECOMMENDATION

- I recommending closing the public hearing for SE 023-1316, CON 023-136, Billy's Way and Treasure Bay Lane and issuing an Order of Conditions for the plans dated March 17, 2020 with the following recommended conditions:

Approve plan dated March 17, 2020

### A. General Conditions

1. ACC-1
2. With respect to all conditions except\_\_\_\_\_, the Conservation Commission designates the Conservation Agent as its agent with full powers to act on its behalf in administering and enforcing this Order.
3. REC-1
4. REC-2
5. ADD-1
6. ADD-2
7. ADD-4b
8. ADD-4c
9. ADD-5
10. STO-4
11. STO-5
12. LOW-2. Where there is no erosion and sedimentation barrier, the right of way shall be considered the limit of work.

### B. Prior to Construction

13. CAP-3
14. REC-3
15. DER-1
16. PCC-3
17. EMC-1
18. PCC-1
19. SIL-6
20. SIL-7
21. SIL-9
22. SIL-10

### C. During Construction

23. Any vegetation removed that is not grass shall be replaced in-kind with native vegetation. Type of vegetation to be planted shall be submitted to the Commission or its Agent for review and approval prior to planting.
24. STO-1
25. STO-3
26. MAC-3
27. MAC-7

28. All equipment shall be inspected regularly for leaks. Any leaking hydraulic lines, cylinders, or any other components shall be fixed immediately.

29. DEB-1

30. DEB-5

31. BLD-3

32. BLD-4

33. EMC-2

34. SIL-3

35. SIL-4

36. SIL-8

37. LOW-3

38. WAS-2

39. WAT-3

D. After Construction/In Perpetuity

40. REV-1

41. RES-4

42. COC-1

43. COC-2

Perpetual Conditions

*The below conditions do not expire upon completion of the project.*

44. SW-2

E. Stormwater Management

45. SW-1

46. SW-3

47. SW-5

48. SW-6

49. SW-7

50. SW-9

# Staff Report

Date: April 30, 2020

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **Farmfield Street and Harbor View Avenue – Notice of Intent – DEP# 023-1317, Fairhaven CON 023-137**

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## DOCUMENTS REVIEWED

- Notice of Intent and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)

## RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage
- Coastal Beach
- Coastal Dune
- Buffer Zone

## PERFORMANCE STANDARDS

- **LCSF General Provisions:** 10.24(1) “If the issuing authority determines that a resource area is significant to an interest identified in [the Act]...,the issuing authority shall impose such conditions as are necessary to contribute to the protection of such interests.”
- **Coastal Beach:** 10.27
  - (3) Any project on a coastal beach...shall not have an adverse effect by increasing erosion, decreasing the volume or changing the form of any such coastal beach or an adjacent or downdrift coastal beach.
  - (5) Beach nourishment with clean sediment of a grain size compatible with that on the existing beach may be permitted.
- **Coastal Dune:** 10.28
  - (3) Any alteration of, or structure on, a coastal dune or within 100 feet of a coastal dune shall not have an adverse effect on the coastal dune by:
    - (a) affecting the ability of waves to remove sand from the dune;
    - (b) disturbing the vegetative cover so as to destabilize the dune;
    - (c) causing any modification of the dune form that would increase the potential for storm of flood damage;
    - (d) interfering with the landward or lateral movement of the dune;
    - (e) causing removal of sand from the dune artificially; or
    - (f) interfering with mapped or otherwise identified bird nesting habitat.

- **Buffer Zone General Provisions:** 10.53(1) “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”

## PROJECT SUMMARY

- The project proposed to improve Farmfield Street and Harbor View Avenue from the intersection of Turner Ave and Farmfield Street to the intersection of Carlton Avenue and Harbor View Avenue by installing a closed drainage system and connecting to the existing outfall pipe off Harbor View Avenue, paving and adding a berm to the end of Farmfield Street and replacing the existing 2” galvanized water main.
- Currently, the existing infrastructure includes a 22-foot paved road width on Farmfield Street to the intersection of Stetson Avenue. Beyond Stetson Avenue, Farmfield Street becomes a 20-foot wide gravel road. The roadway infrastructure includes sewer, water, surface drainage, natural gas, and overhead utilities. The existing 2” galvanized steel water main is undersized, aged, and frequent breaks are causing concern for the water department.
- The section of Farmfield Street and Harbor View Avenue does not currently have a conventional closed drainage system and stormwater flows along the road and gutters of Farmfield Street and Harbor View Avenue to a drainage swale located at the end of Farmfield Street, which then flows along a pathway into Buzzards Bay. During major rainfall events, the roadway often floods and overflows to adjoining properties and erodes the coastal beach.
- The proposed work includes:
  - Farmfield Street will be graded and paved to the intersection of Harbor View Avenue where washouts occur. A cape cod style curb and grassed berm along the shoulder is proposed in front of 1 Stetson Avenue to direct stormwater away and into the closed drainage system. The existing pathway at the end of Farmfield Street will remain as overflow behind the proposed catch basin. A small portion of Harbor View Avenue will be paved and the rest will be left as gravel and graded to ensure proper drainage patterns to the proposed closed drainage system.
  - The proposed drainage system will treat and convey stormwater and connect to an existing manhole and discharge pipe at the south end of Harbor View Avenue. The proposed catch basins are constructed with four-foot deep sumps for trapping debris and sediment into the system and the outlets will be fitted with hoods to trap and contain floating debris and oils. Stormwater flowing into the catch basins on Farmfield Street will receive additional treatment from storm filter inserts containing a 3-stage filter system that removes hydrocarbons, sediments, and other organics and exceeds 80% sediment removal efficiency. A built-in bypass prevents flooding or ponding during high-flow events.
  - The water main will be replaced and a hydrant will be installed near Carlton Avenue.

## COMMENTS

- A signed and stamped stormwater checklist has been provided. It appears the project substantially meets the Massachusetts Stormwater Standards.
  - The only thing I didn't see as part of the filing is a Long-Term Pollution Prevention Plan.
- The project seems to provide for better treatment of stormwater runoff than existing conditions, even though it does increase impervious surface in the area. The stormwater would be directed into treatment systems rather than running directly onto the beach untreated.
- The plans include erosion control along Harbor View Avenue and along a portion of Farmfield Street, protecting the adjacent coastal beach and coastal dune.
  - Currently, only straw filter tube is proposed. For a project with this much soil disturbance, a combination of straw filter tube and silt fence would be more effective.
- There is a note on the plans regarding vegetation:
  - Existing vegetation shall be protected and only that clearing and grubbing absolutely necessary to the proposed construction shall be performed. All disturbed areas shall be restored to their original condition and contour, unless otherwise indicated on the plans.
- Any vegetation removed that is not grass should be replaced in kind with native vegetation.

## RECOMMENDATION

- I recommending closing the public hearing for SE 023-1317, CON 023-137, Farmfield Street and Harbor View Avenue and issuing an Order of Conditions for the plans dated April 28, 2020 with the following recommended conditions:

Approve plan dated April 28, 2020

### A. General Conditions

1. ACC-1
2. With respect to all conditions except\_\_\_\_\_, the Conservation Commission designates the Conservation Agent as its agent with full powers to act on its behalf in administering and enforcing this Order.
3. REC-1
4. REC-2
5. ADD-1
6. ADD-2
7. ADD-4b
8. ADD-4c
9. ADD-5
10. STO-4
11. STO-5
12. LOW-2. Where there is no erosion and sedimentation barrier, the right of way shall be considered the limit of work.

### B. Prior to Construction

13. CAP-3
14. REC-3
15. DER-1
16. PCC-3
17. EMC-1

18. PCC-1
  19. SIL-6
  20. SIL-7
  21. SIL-9
  22. SIL-10
- C. During Construction
23. Any vegetation removed that is not grass shall be replaced in-kind with native vegetation. Type of vegetation to be planted shall be submitted to the Commission or its Agent for review and approval prior to planting.
  24. STO-1
  25. STO-3
  26. MAC-3
  27. MAC-7
  28. All equipment shall be inspected regularly for leaks. Any leaking hydraulic lines, cylinders, or any other components shall be fixed immediately.
  29. DEB-1
  30. DEB-5
  31. BLD-3
  32. BLD-4
  33. EMC-2
  34. SIL-3
  35. SIL-4
  36. SIL-8
  37. LOW-3
  38. WAS-2
  39. WAT-3
- D. After Construction/In Perpetuity
40. REV-1
  41. RES-4
  42. COC-1
  43. COC-2
- Perpetual Conditions  
*The below conditions do not expire upon completion of the project.*
44. SW-2
- E. Stormwater Management
45. SW-1
  46. SW-3
  47. SW-5
  48. SW-6
  49. SW-7
  50. SW-9

# Staff Report

Date: April 30, 2020  
To: Conservation Commission  
From: Whitney McClees, Conservation Agent  
Subject: **29 Shore Drive – Potential Violation**

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## DOCUMENTS REVIEWED

- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)

## RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage
- Coastal Beach
- Coastal Bank
- Coastal Dune
- Buffer Zone

## PERFORMANCE STANDARDS

- **LSCSF General Provisions:** 10.24(1) “If the issuing authority determines that a resource area is significant to an interest identified in [the Act]...,the issuing authority shall impose such conditions as are necessary to contribute to the protection of such interests.”
- **Coastal Beach:** 10.27  
(3) Any project on a coastal beach...shall not have an adverse effect by increasing erosion, decreasing the volume or changing the form of any such coastal beach or an adjacent or downdrift coastal beach.  
(5) Beach nourishment with clean sediment of a grain size compatible with that on the existing beach may be permitted.
- **Coastal Bank:** 10.30(4) Any project on a coastal bank or within 100 feet landward of the top of a coastal bank...shall not have an adverse effect due to wave action on the movement of sediment from the coastal bank to coastal beaches or land subject to tidal action.
- **Coastal Dune:** 10.28  
(3) Any alteration of, or structure on, a coastal dune or within 100 feet of a coastal dune shall not have an adverse effect on the coastal dune by:
  - (a) affecting the ability of waves to remove sand from the dune;
  - (b) disturbing the vegetative cover so as to destabilize the dune;
  - (c) causing any modification of the dune form that would increase the potential for storm of flood damage;
  - (d) interfering with the landward or lateral movement of the dune;
  - (e) causing removal of sand from the dune artificially; or

(f) interfering with mapped or otherwise identified bird nesting habitat.

- **Buffer Zone General Provisions:** 10.53(1) “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”

## PROJECT SUMMARY

- Construction of an addition to an existing single-family house without a permit

## COMMENTS

- Letter sent to the property owner requesting attendance at 5/4 meeting to explain work that has occurred.
- Addition is already complete and is located entirely within the Velocity Flood Zone and well within the 100-foot buffer zones to Coastal Beach, Coastal Dune, and Coastal Bank.
- Likely does not comply with FEMA Standards or State Building Code for construction in a flood zone.
- Commission will need to determine if an Enforcement Order is needed or if it can be addressed as a violation with agreement from the property owner.

## RECOMMENDATION

- My recommendations are as follows:
  - No further work shall occur until such time a permit is issued from the Conservation Commission
  - File an after-the-fact Notice of Intent, but concerns of the Building Inspector should be addressed first

# Staff Report

Date: April 30, 2020  
To: Conservation Commission  
From: Whitney McClees, Conservation Agent  
Subject: **86-88 Middle Street – Violation**

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## DOCUMENTS REVIEWED

- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)
- Request for extension on filing timeline

## RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage

## PERFORMANCE STANDARDS

- **LSCSF General Provisions:** 10.24(1) “If the issuing authority determines that a resource area is significant to an interest identified in [the Act]...,the issuing authority shall impose such conditions as are necessary to contribute to the protection of such interests.”

## PROJECT SUMMARY

- N/A

## COMMENTS

- An after-the-fact Notice of Intent was due to be filed by May 1, 2020. Patrick Carr, A1 Crane, submitted the following letter on April 26, 2020:

It is with great regret that I am to inform you of recent actions that the Town of Fairhaven has chosen to pursue against A1 Crane Company's daily operations at 86-88 Middle Street. The Town of Fairhaven has ordered a notice of Cease and Desist against A1 Crane Company in regards to potential zoning violations. I can't even imagine nor can I predict when these issues will be resolved or more important, how I am even able to absorb the potential exorbitant Attorney's fees defending my business and livelihood. If the Town of Fairhaven is successful, it will put A1 Crane Company out of business. It is beyond comprehension that the Town of Fairhaven would choose to pursue this course of action, during a historical, never before seen pandemic, that has literally put small businesses at a halt, not only in the State of Massachusetts, but, across America and around the world.

So, once again, I am requesting that we move for another extension to file an after-the-fact Notice of Intent for the work in the rear of the property. Thank you for your consideration in this matter.

## RECOMMENDATION

- I will defer to the Commission on their recommendation.

# Staff Report

Date: April 30, 2020  
To: Conservation Commission  
From: Whitney McClees, Conservation Agent  
Subject: **General Business**

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## **Bills**

- \$67.98 to Staples for office supplies
- \$105.00 to the Bristol County Registry of Deeds for recording fee for the certificate of vote
- \$152.00 to Monaghan Printing Company, Inc. for Conservation Commission envelopes