The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, JANUARY 9, 2019
Selectmen’s Meeting Room, Falmouth Town Hall, 7:00 p.m.

Present:         Mary Schumacher, Chair
                 Jamie Mathews, Vice-Chair
                 Betsy Gladfelter
                 Courtney Bird
                 Steve Patton
                 Mark Gurnee, Alternate
                 Kevin O’Brien, Alternate
                 Peter Walsh, Alternate
                 Jennifer McKay, Administrator
                 Brendan Lynch, Agent

Absent:          Maurie Harlow-Hawkes, Kristin Alexander

Ms. Schumacher opened the meeting at 7:00 p.m.

VOTE MINUTES

12/19/2019

Mr. Mathews: Move to adopt the minutes as written.
Ms. Gladfelter: Second.
Ms. Schumacher: Unanimous, so moved.

12/21/2019

Ms. Gladfelter: Move to adopt the minutes as written.
Mr. O’Brien: Second.
Ms. Schumacher: Unanimous, so moved.

REQUEST FOR CONTINUANCE UNDER A CONTINUED NOTICE OF INTENT

Dana Rodin, Quissett Harbor Preservation Trust, Inc. (c/o Salt Pond Bird Sanctuaries, Inc.),
Quissett Harbor Road (Map 48-03-001B-003), Falmouth, MA – For permission to dismantle and
reconstruct two sections of revetment in same footprint and install 18-ft of fiber rolls on an eroding
section of coastal bank.
Ms. McKay: The applicant has requested a continuance until January 23, 2019.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until January 23,
2019.
Mr. Mathews: Second.
Ms. Schumacher: Unanimous, so moved.

REQUEST FOR A CONTINUANCE UNDER A NOTICE OF INTENT

Town of Falmouth (c/o Jim McLoughlin, DPW), 164 Turner Road, Falmouth, MA - For permission
Ms. McKay: The applicant has requested a continuance until January 30, 2019.

Mr. Bird: Second.

Ms. Schumacher: Unanimous, so moved.

Jay & Lea Decoteau, Trustees, 507 Central Avenue, East Falmouth, MA – For permission to replace an existing failing 36” pipe culvert under an existing bog road.

Ms. McKay: The applicant has requested a continuance until January 30, 2019.

Mr. Bird: Second.

Ms. Schumacher: Unanimous, so moved.

REQUSTES FOR DETERMINATION OF APPLICABILITY

Patricia & Bruce Stivaletta, 65 Deacons Avenue, Falmouth, MA – For permission to rebuild the existing licensed stone seawall and construct landscape walls and a turf parking area with all associated clearing, grading utilities and landscaping.

Ms. McKay: The applicant has requested a continuance until January 23, 2019.

Mr. Bird: Second.

Ms. Schumacher: Unanimous, so moved.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under ocean, land containing shellfish, coastal bank, salt marsh, flood zone VE 15/AE 15. The existing Chapter 91 license is from October 2010. (License plan #12871, Floats license #4863, dock license #5525). The existing dock/floats are compliant with the Chapter 91 plan accompanied with RDA application. 3 pilings are to replace one float. 1 piling is to replace the other float. Staff recommends a negative 2 (under the State and bylaw). Resource area boundaries are not confirmed by this RDA.

Mr. Mathews: Move to accept staff’s recommendation.

Mr. Bird: Second.

Ms. Schumacher: Unanimous, so moved.

Buzzards Bay National Estuary Program, MCZM (c/o Joe Costa), 301 Quaker Road, North Falmouth, MA- For permission to install an elevation marker, install 4-8 transect markers, conduct elevation and vegetation surveys 2-3 times per year, conduct crab population survey, install a temporary staff with sensors and to periodically document high tide elevations.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under waterbodies, salt marsh, coastal bank, BVW/freshwater wetland, and flood zone AE 15. All activities are within the town-owned parcel containing the Old Silver Beach dirt parking lot along the Herring Brook estuary and salt marsh. Buzzards Bay NEP is collaborating with the Buzzards Bay Coalition for a long-term study of salt marsh loss, sea level rise and habitat change around Buzzards Bay. Install a deep driven elevation marker (9/16” steel rod) to refusal. Install 4-8 one-inch diameter PVC pipes to define permanent transects. Conduct elevation and vegetation surveys up to 3 times/year for 2 years. Conduct crab population survey to quantify the presence of invasive species known to damage salt marshes. Install temporary rod in the tidal creek to document tidal elevation. Periodically document the elevations of the high tide line. Staff recommends a negative 2 (under the State and bylaw). Resource area boundaries are not confirmed by this RDA.

Mr. Bird: Move to accept staff’s recommendation.

Mr. Mathews: Second.
Ms. Schumacher: Unanimous, so moved.

**Louis Laskey, 25 Luciano Botelho Way, East Falmouth, MA** – For permission to remove a section of deck and construct a one story addition in its place.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to BVW/freshwater wetland, land under waterbodies, fresh water pond, inland bank. Remove 14x16 feet of deck and replace with a one-story addition to be built on sonatubes. The footprint is to be slightly less than the footprint of the removed deck. The addition will not move closer to the resource areas. The homeowner has consulted with staff multiple times before filing and has been compliant with requests. Staff recommends a negative 2 (under the State) and a negative 3 (under the bylaw). Resource area boundaries are not confirmed by this RDA.

Mr. Bird: Move to accept staff’s recommendation.

Mr. Matthews: Second.

Ms. Schumacher: Unanimous, so moved.

**Leonard Remia, 11 Avenue A, Falmouth, MA** – For permission to pump, fill and abandon existing septic system and upgrade to a Title 5 system.

Mr. Lynch: The applicant has requested a continuance until January 23, 2019.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until January 23, 2019.

Mr. Bird: Second.

Ms. Schumacher: Unanimous, so moved.

**Arthur Fraser, 446 Acapesket Road, East Falmouth, MA** – For permission to convert existing Interim Approval license to a 30-year Chapter 91 Waterways License.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under waterbodies, land containing shellfish, salt marsh, coastal bank, and flood zone AE 15. This application is being completed to convert the existing Interim Approval #8918 to a regular 30-yr Chapter 91 Waterways License. No work is proposed. The existing bulkhead is licensed and recently received compliance. The existing timber pier was built according to the Interim Approval plan. The Interim Approval was issued and recorded in October of 2001. Local approval is necessary to move forward with the Chapter 91 licensing. Staff recommends a negative 2 (under the State and bylaw). Resource area boundaries are not confirmed by this RDA.

Mr. Bird: Move to accept staff’s recommendation.

Mr. Matthews: Second.

Ms. Schumacher: Unanimous, so moved.

**Paul and Michele Prevett, 149 Allen Avenue, Falmouth, MA** - For permission to abandon existing septic system and install new Title V Sewage Disposal System.

Mr. Lynch: Jurisdiction: within flood zone AE 13. All proposed work is within the existing lawn area. The existing septic system will be abandoned according to Title 5 requirements. The existing stone patio is to be removed for the proposed sewer invert connection to the house and septic tank. The patio is to be rebuilt in-kind. A post construction site visit from staff is required. Two proposed drywells for the roof downspouts will be installed to control roof runoff and the basement sump pump. Staff recommends a negative 2 (under the State and a negative 3 (under the bylaw). Resource area boundaries are not confirmed by this RDA.

Mr. Bird: Move to accept staff’s recommendation.
Mr. Mathews: Second.
Ms. Schumacher: Unanimous, so moved.

**Thomas S. Crane 2001 Revocable Trust, Breuer-Crane Family Trust and Josephine de Give, 37 Hinckley Road, Woods Hole, MA** – For permission to maintain and repair the surface and grade of the right-of-way, prune vegetation and plant vegetation, repair all structures and buildings, repair and point up all seawall and retaining walls, including a large boulder that has been come out of the seawall, to repair, paint and oil the concrete and granite dock and floating docks and to maintain the grade of the beach.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to coastal bank, coastal dune, salt marsh, coastal beach, land under the ocean, land containing shellfish and flood zone VE 15/AE 13.

Mr. Crane has filed RDA’s for these properties since at least 2005 for vista pruning, building maintenance, seawall repairs, stone pier repairs and beach work. The only Conservation concern was in 2009 when a staff review of the project found a concrete apron built landward of the approved seawall repairs. After notification Mr. Crane abruptly had the apron removed and the area restored with sand and beach grass plantings. All of the other numerous activities, primarily for maintenance, have been followed as approved in prior RDA’s. Mr. Crane has worked closely with Conservation staff to stay within compliance of the RDA’s. Staff recommends a negative 2 (under the State and bylaw). Resource area boundaries are not confirmed by this RDA.

Mr. Bird: Move to accept staff’s recommendation.
Mr. Mathews: Second.
Ms. McKay: The Board has seen this many times. Staff met with Mr. Crane and reviewed the RDA multiple times in the past. It’s routine maintenance and has been done for years.
Ms. Schumacher: Unanimous, so moved.

**Thomas S. Crane 2001 Revocable Trust, 35 Juniper Point, Woods Hole, MA** – For permission to control invasive species and selectively pruning saplings.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under waterbodies, coastal beach, coastal bank, flood zone VE 13. Staff met on-site with Mr. Crane to review the proposed work. Mr. Crane has received several RDA’s in the past approved by the Commission with a negative determination to perform similar work in February 2006, August 2009 and September 2012. The most recent RDA has since expired and the applicant wishes to continue the scope of work laid out by past approvals. Mr. Crane has been diligent in following the approved narrative and has not performed excessive work. This specific RDA is to perform invasive species management on the coastal bank, plant native shrubs (from the Commission’s approved list) on any bare areas on the bank and selectively prune saplings (<3” DBH). Staff is to meet on-site before invasive management begins as well as to determine the native shrubs to be planted at the base of the bank. Any vista pruning will be done under a separate filing. Staff recommends a negative 2 (under the State and bylaw). Resource area boundaries are not confirmed by this RDA.

Mr. Bird: Move to accept staff’s recommendation.
Ms. Gladfelter: Second.
Ms. Schumacher: Unanimous, so moved.

Ms. Gladfelter: Move to table the following Notices of Intent and discuss Other Business
Mr. Mathews: Second.
Ms. Schumacher: Unanimous, so moved.
REQUESTS FOR HEARING UNDER NOTICE OF INTENT

Town of Falmouth (c/o Jim McLoughlin, DPW), 164 Turner Road, Falmouth, MA - For permission to replace an existing failing 36” pipe culvert under an existing bog road. The hearing is continued until January 30, 2019.

Michael O’Brien, 331 Edgewater Drive West, East Falmouth, MA – For permission to construct a vinyl sheet piling bulkhead to replace an existing failed timber bulkhead.

Ms. McKay: No comment at this time.

Michael Borselli (Falmouth Engineering) presented abutter’s cards. The project is to rebuild the existing bulkhead. Resource areas include Eel Pond, a coastal bank, salt marsh, land subject to coastal storm flowage, VE 14. The cross-section on the plan shows vinyl sheet piling with helical tiebacks. The new seawall may be slightly landward of existing wall. They will remove parts of the existing bulkhead in manageable sections and install the vinyl. Some notched-in stairs will also be installed. The access will be between the garage and home. A vibratory hammer will be used and the project will not impact any wetland resources.

Ms. McKay: There is an outdoor shower on a platform that must be mitigated for as we have no record of it. You will need to put it on the plan. This is an increase in impervious surface of the footprint. You will take out sections and replace them? Not worried about collapse?

Mr. Borselli: No. The area does slump down slightly but we’ll do just a couple of sections at a time. If it does seem unstable we will install the new one directly behind the old one and then remove the old one.

Ms. McKay: There will be a special condition re that. There are concrete steps in the grass that could act as an obstacle to putting in the wall. When you take a look at the shower, will you figure out what that is? A lot of it is covered will tall grass.

Mr. Borselli: I’ll look at it and have it removed.

Mr. Gurnee: There is no beach – just a sparsely vegetated salt marsh. What are the stairs for?

Mr. Borselli: To get to the lower level.

Mr. Gurnee: But the steps end up on the salt marsh. The rest of the process is good.

Mr. Walsh: Where are the steps going to be? Are they going back toward the house?

Mr. Borselli indicated where the steps will be. They just want access down to the area.

Mr. Patton: No questions or comments.

Mr. Mathews: Will you blend the new sheet pile to an existing timber?

Mr. Borselli: Yes, we want to make sure there are no joint leaks and we will put filter cloth in there.

Ms. Gladfelter: What are the stairs made of?

Mr. Borselli: Timber.

Ms. Gladfelter: Below the oaks it looks pretty wiped out. Should it have ground vegetation? It’s all clear below the trees. Please check on that.

Mr. O’Brien: You can see that there was vegetation there.

Mr. Borselli: I will look into that. If cleared I’ll talk to staff about a course of action.

Ms. Gladfelter: The oak trees are fine but there is no ground cover.

Ms. McKay: I will look into it also.

Mr. Bird: Reconstructing a wall and tearing the existing wall out means a lot of dislocation. You could just install it in front of the existing wall – but that means you would move it 10” seaward.

Mr. Borselli: There have been issues in the past re this. I talked to one of the potential installers and he said that if it seems unstable, they will put the new one in behind and then just cut the old one out.

Ms. Schumacher: Is the sea wall licensed?

Mr. Borselli presented a copy of the license to the Board.

Ms. McKay: Put the license numbers on the new plan.
Ms. Gladfelter: At the request of the applicant’s representative I move to continue the hearing until January 23, 2019.
Mr. Mathews: Second.
Ms. Schumacher: Unanimous, so moved.

Jay & Lea Decoteau, Trustees, 507 Central Avenue, East Falmouth, MA – For permission to rebuild the existing licensed stone seawall and construct landscape walls and a turf parking area with all associated clearing, grading utilities and landscaping.
The hearing is continued until January 23, 2019.

Clowes Easterly Limited Partnership, 146 Nobska Road, Woods Hole, MA – For permission to reconstruct the existing licensed timber pier.
Ms. McKay:
Tim Santos (Holmes & McGrath) presented colored plans. There is an existing licensed pier. There are two construction accesses, one of which is across neighboring properties and letters of agreement from the property owners are included in the application. The other access will be used to bring in the crane to drive the piles. There are currently 34 piles and they will be reduced to 16 – a reduction of 18. The length of the dock will be increased by 50-ft. The elevation of the decking will be increased by 21”.
Ms. McKay: The height of the pier is changing by how much?
Mr. Santos: 21 “
Ms. McKay: It’s not exactly what’s out there now.
Mr. Santos: It will be when re-constructed.
Ms. McKay: Why do you have to come in from the south? Can’t you just go over the wall?

Ben Carson (W.S. Schultz Company) It would be very difficult.
Ms. McKay: The machinery must be used during low tide and then taken out of there.
Mr. Carson: Yes. We’ll pull it up on the beach.
Ms. McKay: You must remove the equipment off the beach at night.
Mr. Carson: Only if we had to.
Ms. McKay: The Commission doesn’t like equipment stored overnight on a beach.
Mr. Carson: Then we’ll have to take it off.
Ms. McKay: Is there any way you can get the crane up and over that wall.
Mr. Carson: The homeowner is very protective of the wall.
Ms. Gladfelter: It’s not that far to the homeowner’s driveway.
Mr. Carson: It’s doable.
Mr. Bird: We will require that vegetable oil is used in the machinery.
Mr. Carson: Our equipment has it.
Mr. O’Brien: Is the new pier narrower than the existing one?
Mr. Santos: Yes, the initial 100-ft is 3-ft wide and the last section is 4-ft wide.
Mr. O’Brien: So the first hundred feet are narrower?
Mr. Santos: Yes. The dotted area is the licensed location of the original pier. It’s much smaller than what was licensed. It’s wider than what is being re-constructed.
Ms. Gladfelter: What do people intend to do with the dock?
Mr. Santos: It’s a swimming dock. No boats will be tied to it.
Ms. Gladfelter: Why has it disappeared rather than the pilings?
Mr. Carson: There are lots of piles with yokes across and stage planks as decking. It’s not well constructed.
Ms. Gladfelter: There will be a storm and this thing will scatter all over. It’s in a velocity zone.
Mr. Carson: Yes, with one of the neighbors docks we go back each year and replace some decking.
Mr. Mathews: No questions or comments.
Mr. Patton: There are other docks in disrepair in the area and there is decking down by the southern access.

Mr. Carson: They have been removing decking on this property during the winter typically.

Mr. Walsh: They are not requesting a mooring field or to have boats on it. If they decide they want a mooring field we would have to have a water depth number. The OOC will state that no boats can be moored on this dock.

Mr. Santos: I can’t agree to that without talking to my client. I would have to ask for a continuance for that.

Mr. Gurnee: It’s not very deep at the end.

Mr. Santos: It’s about 2 ½- ft. We have the soundings out there.

Mr. Gurnee: If the depth is lower than 3-ft they couldn’t have a boat out there.

Ms. Gladfelter: You have written permission from all neighbors?

Mr. Santos: Yes. I gave it to Jen.

Ms. Gladfelter: Do you need a new Chapter 91 license?

Mr. Santos: I don’t think so. It’s a decrease in size, so I don’t think we need a new one. I do need a DEP #.

Ms. Gladfelter: At the request of the applicant’s representative I move to continue the hearing until January 16, 2019.

Mr. Bird: Second.

Ms. Schumacher: Unanimous, so moved.

Charles & Wendy Crane, 26 Juniper Point Road, Woods Hole, MA – For permission to install and maintain a proposed fire hydrant and water service connection within Hinckley Road.

Ms. McKay: No comment at this time.

Tim Santos (Holmes & McGrath) presented colored plans and abutter’s cards. This project was before you in 2014 and an OOC issued. The client never followed through on this and the OOC has expired. All work will be done in the road layout by the Town of Falmouth.

Ms. McKay: No questions or comments.

Mr. Gurnee: No questions or comments.

Mr. Walsh: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Mathews: No questions or comments.

Ms. Gladfelter: No questions or comments.

Mr. O’Brien: No questions or comments.

Mr. Bird: No questions or comments.

Mr. Mathews: Move to close the hearing and take it under advisement.

Ms. Gladfelter: Second.

Ms. Schumacher: Unanimous, so moved.

CONTINUED HEARING UNDER A NOTICE OF INTENT

Robert & Emelie Irving, 358 Acapesket Road, East Falmouth, MA – For permission to construct a fixed pier.

Quorum: Mark, Peter, Steve, Jamie, Betsy, Mary, Kevin, Courtney

Ms. McKay: No comment at this time.

Michael Borselli (Falmouth Engineering) The Board members have a revised plan dated 12/28/2019. We changed the L at the end of the dock to a T and added more native plantings. We revised the profile of the dock per DMF regulations and elevated the ramp. We added a mooring
field at the end. Between the chain link fence and the bank we will install some plantings and they are on the note. The grass will be left in place.

Ms. McKay: Where is your pier profile on the new plan? Why does it say a minimum of 6-ft to the salt marsh and then 5-ft?

Mr. Borselli: It’s 6-ft from the salt marsh and then 5-ft for public access.

Mr. Gurnee: No questions or comments.

Mr. Walsh: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Mathews: No questions or comments.

Ms. Gladfelter: No questions or comments.

Mr. O’Brien: No questions or comments.

Mr. Bird: No questions or comments.

Ms. Gladfelter: Move to close the hearing and take it under advisement.

Mr. Bird: Second.

Ms. Schumacher: Unanimous, so moved.

Dana Rodin, Quissett Harbor Preservation Trust, Inc. (c/o Salt Pond Bird Sanctuaries, Inc.),
Quissett Harbor Road (Map 48-03-001B-003), Falmouth, MA – For permission to dismantle and reconstruct two sections of revetment in same footprint and install 18-ft of fiber rolls on an eroding section of coastal bank.

The hearing is continued until January 23, 2019.

OTHER BUSINESS

Joint Meeting – January 26, 2019

Ms. Schumacher: The joint meeting has been proposed by the Board of Selectmen and will include ConCom, ZBA, Planning Board, Water Quality and the Town Manager. It will be a discussion on upcoming major projects. After reading the preliminary agenda, I wasn’t sure what we could add to the meeting. I wrote to the Town Manager today and explained that as a regulatory body it’s hard to have anything general to say and I’m looking for feedback from you. What do other Board members think? Looking at the agenda – what do you suggest we could contribute?

Ms. Gladfelter: From what I see there are no items that we can present guidance on. But even if we hadn’t been asked to be a part of this, I probably would go to the meeting.

Mr. Bird: Looking at the agenda there is nothing that jumps out as a ConCom issue. As a matter of policy however, I think these joint meetings are valuable. The wastewater part makes it important for us to make a showing.

Ms. Schumacher: I asked if there is there some specific kind of input you’re looking for from us? I don’t think there is a presentation for us to make. He did mention that they are fleshing out the agenda – so we’ll see where that goes.

Mr. O’Brien: I agree with the Chair. It’s one thing to have input and another thing to have a mandatory attendance. If we had not been invited I would go anyway.

Ms. Schumacher: I think it creates the expectation that we’ll have something to say.

Ms. McKay: Are they still developing the agenda?

Ms. Schumacher: Yes.

Ms. McKay: We can continue this until the meeting on the 23rd when the agenda may be clearer.

Sam Patterson (Board of Selectmen) The Boards were invited that might have some input or action to take toward large scale projects. We wanted their input so that down the road there wouldn’t be an issue. We wanted to go forward with a better coordinated approach.

Ms. Gladfelter: There is a monthly meeting that goes over these things. I hope they would
approach the regulatory committees re these projects. We are lucky to have an administrator that is on top of these things, i.e. Ms. McKay.

Ms. Schumacher: I think in the case of large development projects most applicants are aware of conservation regulations – at least the State regulations.

Ms. Gladfelter: Move to table the Notices of Intent and open discussion.
Mr. Mathews: Second.
Ms. Schumacher: Unanimous, so moved.

Ms. Gladfelter: Move to adjourn.
Mr. Matthews: Second.
Ms. Schumacher: Unanimous, so moved.

The meeting adjourned at 8:15 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary