

The FALMOUTH CONSERVATION COMMISSION  
**MEETING MINUTES - WEDNESDAY, FEBRUARY 13, 2019**  
Selectmen's Meeting Room, Falmouth Town Hall, 7:00 p.m.

Present: Mary Schumacher, Chair  
Jamie Mathews, Vice-Chair  
Betsy Gladfelter  
Maurie Harlow-Hawkes  
Courtney Bird  
Steve Patton  
Kevin O'Brien, Alternate  
Peter Walsh, Alternate  
Brendan Lynch, Agent

Absent: Jennifer McKay, Administrator, Mark Gurnee, Alternate, Kristin Alexander

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

**REQUESTS FOR A CONTINUANCE FOR DETERMINATION OF APPLICABILITY**

P&B Realty Trust, 47 Gunning Point Avenue, Falmouth, MA – For permission to license an existing stone riprap seawall and existing stone groin.

Mr. Lynch: The applicant has requested a continuance until February 27, 2019.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until February 27, 2019.

Ms. Gladfelter: Second.

Ms. Schumacher: Unanimous, so moved.

**REQUESTS FOR A CONTINUANCE UNDER A NOTICE OF INTENT**

Patrick & Phyllis McDevitt, 5 North Chop Lane, East Falmouth, MA – For permission to reconstruct existing stone riprap and incorporate new granite steps within riprap.<sup>2</sup>

Mr. Lynch: The applicant has requested a continuance until February 27, 2019.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until February 27, 2019.

Ms. Gladfelter: Second.

Ms. Schumacher: Unanimous, so moved.

**REQUESTS FOR DETERMINATION OF APPLICABILITY**

P&B Realty Trust, 47 Gunning Point Avenue, Falmouth, MA – For permission to license an existing stone riprap seawall and existing stone groin.

The hearing is continued until February 27, 2019.

Gerard & Margaret Robinson, 290 Acapesket Road, East Falmouth, MA – For permission to license an existing stone riprap seawall and existing timber pier.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to salt marsh, coastal bank,

BVW/freshwater wetland, land under waterbodies, land under salt pond, land under the ocean, land

containing shellfish and in land subject to coastal storm flowage (flood zone AE 15). No work is proposed. The applicant wishes to license the existing stone riprap and timber pier under Chapter 91. Aerial photographs were submitted that show structures were present in 1975. The house was built in 1958. The property received an RDA in 2006 to repair the existing riprap. Staff met with representatives from Holmes & McGrath to discuss this RDA. Staff is comfortable with granting local approval so the applicant can proceed with Chapter 91 licensing. Staff recommends a negative 2 (under the State and the bylaw). Resource areas are not confirmed by this RDA.

Ms. Harlow-Hawkes: Move to accept staff's recommendation.

Ms. Gladfelter: Second.

Ms. Schumacher: Unanimous, so moved.

Peter Byerly, Beacon Architectural Associates, 350 Quaker Road, North Falmouth, MA – For permission to construct an 8'x11' electrical utility room adjacent to main entrance, new underground electrical conduit and new manhole cover.

Mr. Lynch: Jurisdiction: within Land Subject to Coastal Storm Flowage (flood zone AE 15). All work is to be done in previously disturbed LSCSF at Sea Crest Hotel consisting of planting bed with small (<2" diameter) trees. Staff has spoken with the landscaper for Sea Crest and have already approved replanting in the general area. The new structure will be 8'x11' along with two sets of wooden access stairs. The total size will be 10'x19'. It is to be built on four concrete risers and the first floor elevation is to be 16.4' (1-ft above flood zone). The roof will be pitched towards a gravel strip to allow storm water to travel towards the lawn and infiltrate. There will be the installation of an underground conduit, a J Box structure and manhole within an existing duct bank that is 15' south of the proposed structure. A trench that is 2-3' deep and 2-3' wide will be excavated for the electrical conduit to connect to the existing conduit. It is to be backfilled and the excess sediment is to be removed offsite. All disturbed areas are to be backfilled to grade and restored to pre-existing conditions. The applicant proposes to provide before and after site photographs at the Conservation Commission's request. Erosion control is to be implemented around the soil stockpiles. Catch basins are to be protected from sediment inflow. Staff recommends a negative 2 (under the State and the bylaw). Resource areas are not confirmed by this RDA.

Ms. Harlow-Hawkes: Move to accept staff's recommendation.

Ms. Gladfelter: Second.

Ms. Schumacher: Unanimous, so moved.

## **REQUESTS FOR HEARINGS UNDER NOTICE OF INTENT**

Patrick & Phyllis McDevitt, 5 North Chop Lane, East Falmouth, MA – For permission to reconstruct existing stone riprap and incorporate new granite steps within riprap. The hearing is continued until February 27, 2019.

Ralph & Tricia Dipisa, Trustees, 94 Westwood Road, Falmouth, MA – For permission to raze and rebuild the existing single family house to include new walkways, deck, terrace, front entry porch, AC unites, generator, driveway, parking, rinse station, beach access, and all associated excavation, grading, landscaping and utilities.

Mr. Lynch: No comment at this time.

Jeff Ryther (BSS Design) presented abutter's cards. The new house is basically the same size. It will have 5 bedrooms and a 2 car garage. Resource areas include 50-ft A and B buffers, rocky intertidal shore, land under the ocean, 50-ft offset to A zone off the back of the existing house. The house is to be moved back 50-ft and a terrace will be added. There will be two leach fields for the

septic system because of the slow perc rate. There will be six dry wells for storm water.

Mr. Bird: No questions or comments.

Mr. O'Brien: Three oak trees are coming down. Any thought of moving the driveway and saving at least two of the trees?

Mr. Ryther: We are proposing a lot of mitigation but nothing is required. There will be a patch of shrubs and a native tree is to be planted.

Mr. O'Brien: There would be a better outlet to Shoreway Street if the driveway was moved down a little and they wouldn't have to take down the oaks.

Mr. Ryther: It is out of your jurisdiction.

Ms. Gladfelter: It's true that it's out of our jurisdiction, but it would be good if you looked into it and tried to save the oaks.

Mr. O'Brien: Especially if they plan to have screening on the Westwood side. It would be easier to get out onto Shoreway Street.

Leo Frido (builder) One tree may be able to be kept. We can look at moving the driveway. The oaks are not in great shape.

Mr. O'Brien: The pines don't look too good either. But a little finagling might save the oaks.

Mr. Frido: The one in the driveway we can probably meander around.

Ms. Harlow-Hawkes: Because of the slow perc rate you should probably check the design of the dry wells and perc rate them.

Mr. Ryther: We are putting them a little deeper in the ground.

Ms. Harlow-Hawkes: Run some water in there and see the perc rate. In looking at the aerials I can see that the deck was never that big. Since your moving the house back it's a moot point however. The stairs are not on the plan.

Mr. Ryther: Something happened in the plotting of this. They are there but it's hard to see them.

Ms. Harlow-Hawkes: If they are not on the plan when you go to compliance it's a problem. Is the irrigation staying?

Mr. Frido: It would be nice in the front yard, but maybe not.

Ms. Gladfelter: No questions or comments.

Mr. Mathews: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Walsh: Did you check the mitigation calculations?

Mr. Lynch: Yes. It was a typo error and everything checks out.

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

Ms. Harlow-Hawkes: Second.

Ms. Schumacher: Unanimous, so moved.

Susan Morse, 206 Quissett Avenue, Woods Hole, MA – For permission to place a cobble berm along approximately 75' of Coastal Bank.

Mr. Lynch: No comment at this time.

Michael Borselli (Falmouth Engineering) presented abutter's cards. Included in the application there is a report from Jim O'Connor supporting the methodology we are presenting. There are reports from Jeffrey Williams and John Ramsey that were also submitted in a previous application that also support it. In 2011 the applicant asked permission to stabilize the area. The OOC allowed cobble nourishment in one area and adjacent to it a fiber roll installation was allowed. Since then there have been numerous storms that have damaged the fiber rolls but the three storms last March impacted the fiber roll array and it couldn't withstand the wave action. We are proposing more of the cobble in this location. The same system would be in place next to the existing cobbles.

Ironically it is the same compatible grain size as the beach. It would extend the cobble to the fiber roll failure. The construction access will off the driveway. We will re-vegetate the area when the project is complete. It's a good solution.

Mr. Lynch: Did the fiber rolls fail all at once or was it a gradual failure?

Mr. Borselli: Over the past few years it was becoming ragged and the sand had eroded. In March the storms just inundated the area and the rolls were moving around.

Mr. Lynch: Jen and I talked about it. Jen doesn't want to see cobble and would prefer more fiber rolls. But she said that it is up to the Board to decide.

Mr. Walsh: No questions or comments.

Mr. Patton: This is an example of two different methods – one that succeeded and one that failed. The cobbles are natural looking. It's a good solution.

Jim O'Connor: The cobble is 6" to 12" in size. Research with cobble has been done on the west coast with good results. It is compatible with the beach in front of it. There is percolation through the cobble. The cobble moves landward during storms. It absorbs the weight of the waves. During storms sand moves seaward and cobble moves landward. It's very mobile. It is an innovative approach and one that is supported by the Williams and Ramsey reports. It's a perfect environment for cobbles.

Mr. Mathews: How long has the cobble been in place?

Mr. Borselli: It was part of the project in 2011.

Ms. Gladfelter: I have no problem with the cobble. It's a high energy environment. It won't keep it from eroding in a major storm but will provide adequate protection.

Ms. Harlow-Hawkes: You state that it's not going to move on page A5 and on A6 you state that it's rapidly re-shaped.

Mr. Borselli: It might settle and shift. In 10 years it may be slumping and they may have to nourish it with more cobble.

Ms. Harlow-Hawkes: My concern is with the salt marsh. Salt marshes don't like rocks on top of them. I've seen waves pull cobbles out. They do move. If it slumps it's very close to the salt marsh.

Mr. Borselli: The salt marsh was much bigger in 2006. The tip of the salt marsh is starting to die. It's fairly small. I don't think it will have an impact on it. I don't think cobbles will cause it to die.

Mr. O'Connor: Nobody can predict nature. Are there any cobbles in the salt marsh now?

Ms. Harlow-Hawkes: No.

Mr. O'Connor: I can't say if some may get on the salt marsh. I don't see natural cobble right next to it in the salt marsh now. It should have very little impact on the salt marsh.

Ms. Harlow-Hawkes: When was the house built?

Mr. Borselli: In the 70's.

Mr. O'Brien: I'm curious about the difference in the rock that existed in the first effort. Is there much of a difference between that and the cobble you put in last time?

Mr. Borselli: The original stone revetment in the front is much larger.

Mr. Bird: The cobble approach is good for this situation. It's consistent with the site.

Ms. Harlow-Hawke: Only one tree is to be taken down?

Mr. Borselli: We were hoping we could get permission to take it down. Hamilton Tree said we might trim the top, but we'd like to take it down.

Ms. Harlow-Hawkes: Will you flush cut it and leave the stump?

Mr. Borselli: Yes.

Ms. Schumacher: I read the summary and the two opinions make sense to me.

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

Mr. O'Brien: Second.

Ms. Schumacher: Unanimous, so moved.

## **CONTINUED HEARING UNDER A NOTICE OF INTENT**

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.

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

Michael Borselli (Falmouth Engineering) The hearing was continued because the owners installed a rinse station without a permit. It is no closer to the resource areas. Mitigation is required. There will be 120-sq.ft of plantings at the top of the sheet piling wall. Most likely it will be bayberry.

Staff seemed to think that was reasonable. The understory of the tree was mowed but the applicant said it was poison ivy. It will no longer be mowed and will be planted with bayberry.

Ms. Gladfelter: No questions or comments.

Mr. O'Brien: No questions or comments.

Mr. Bird: No questions or comments.

Mr. Mathews: Was the license added to the record?

Mr. Borselli: It was submitted with the NOI application.

Mr. Patton: No questions or comments.

Mr. Walsh: Is there another set of stairs?

Mr. Borselli: There are no stairs currently. The proposed stairs are to get to the lower level.

Ms. Gladfelter: Since you brought up the stairs – would the owner move the stairs to where there is not a salt marsh? Then there would be no damage to the salt marsh.

Mr. Borselli: That's a reasonable request. Can you make it a condition? I'll send in a revised plan.

Ms. Gladfelter: Yes. They could be moved to the south and the mitigation can be planted further back.

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

Mr. Patton: Second.

Ms. Schumacher: Unanimous, so moved.

## **CONTINUED REQUEST TO AMEND EXISTING ORDER OF CONDITIONS**

Ryan Rapazky, 12 Turtle Pond Road, Falmouth, MA – For permission to install an 8'x12' shed and install additional mitigation plantings.

Mr. Lynch: No comment at this time.

Michael Borselli (Falmouth Engineering) presented abutter's cards. The property owner did work previously approved over the old driveway and put in steps to the front of the house. The property fronts on Turtle Pond Road. Turtle Pond is on the other side of the road and there is also a BVW. The shed will be located outside the A zone in the B zone. Mitigation is required for the project and other things were also done, i.e. – steps from the driveway up the grass are longer than proposed, the shed and the cement steps to the front door. I readjusted the mitigation calculations for the shed and changes discovered when we did the as-built plan. 518-sq.ft of mitigation will be planted in a sliver of the A zone that is 50-ft from the no disturbance zone of the BVW. Actually 628-sq.ft will be planted. We hope to work that out with staff.

Mr. Walsh: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Mathews: No questions or comments.

Ms. Gladfelter: No questions or comments.

Ms. Harlow-Hawkes: If your client puts in steps to the shed, you'll have to mitigate for that.

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.

Ms. Harlow-Hawkes: Second.

Ms. Schumacher: Unanimous, so moved.

## **CONTINUED REQUEST FOR EXTENSION OF ORDER OF CONDITIONS**

Ryan Rapazky, 12 Turtle Pond Road, Falmouth, MA – For permission to extend DEP #25-4187 by one year.

Mr. Lynch: Staff recommends a one-year extension.

Ms. Gladfelter: Move to grant a one-year extension.

Mr. Bird: Second.

Ms. Schumacher: Unanimous, so moved.

Ms. Schumacher and Ms. Harlow-Hawkes left the meeting. Mr. Mathews took over the meeting.

## **VOTE ORDER OF CONDITIONS**

Jay & Lea Decoteau, Trustees, 507 Central Avenue, East Falmouth, MA (2/27/19)

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

Mr. Lynch: This is the plantings along the base of wall. Should the area to the left be allowed to re-grow or should it be planted?

Ms. Gladfelter: Wetland plants should come up if it is not mown. They could either plant the area or put in a fence.

Mr. Lynch: In a previous RDA there were two storm blown cedars removed and they forgot to replace them.

Mr. Bird: We can condition that they will be replanted. What are the caliper inches?

Ms. Gladfelter: It is an area of harsh conditions so the plants should not be too big.

Mr. Lynch: There should be a finding that the reinforced parking lot can't be used as impervious surface in the future.

Mr. Patton: No questions or comments.

Mr. Walsh: There should be planting in the salt marsh area.

Ms. Gladfelter: Move to adopt the Order of Conditions as discussed.

Mr. Bird: Second.

Mr. Mathews: 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 (2/27/19)

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

Mr. Lynch: This is the Knob. If there is no eel grass in the survey they don't have to do a survey on the bank end. The survey is to be approved by staff. Do you want independent project oversight?

Ms. Gladfelter: No. The Engineering Department will also take a look at the project.

Mr. Lynch: There will be a pre-construction meeting with staff. The protocol is to be submitted by Woods Hole Group.

Ms. Gladfelter: It has already been added to the record.

Mr. Bird: Move to adopt the Order of Conditions as discussed.

Mr. Walsh: Second.

Mr. Mathews: Unanimous, so moved.

Merlin & Susan Ladd, 28 Rivers Edge Road, Falmouth, MA (2/27/19)

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

Mr. Lynch: This is the vista pruning to be done per our regulations.

Mr. Bird: Move to adopt the Order of Conditions as discussed.

Mr. Walsh: Second.

Mr. Mathews: Unanimous, so moved.

Mr. Bird: Move to adjourn.

Mr. Patton: Second.

Mr. Mathews: Unanimous, so moved.

The meeting adjourned at 8:06 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary

*Board will consider any matters not reasonably anticipated by the Chair.*