

The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, MARCH 18, 2020, 7:00 P.M.

In accordance with the Governor’s Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2019 novel Coronavirus outbreak emergency, **the March 18, 2020 public meeting of the Falmouth Conservation Commission shall be physically closed to the public to avoid group congregation.**

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Falmouth Community Television.
2. Real-time public comment can be addressed to the Commission utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.
 - a. Zoom Login instructions:
 - i. Browse to the following web address: <https://zoom.us/j/949421385>
 - ii. For mobile devices (tablets and phones), please go to either ‘Google Play’ or the iOS ‘App Store’ [iPhones and iPads] and download the free program ‘ZOOM’. Then click the ‘join a meeting’ link and type in ‘949 421 385’. If you have not registered with Zoom you will be asked for your name and an e-mail address.
3. Applicants, their representatives and individuals with enforcement matters before the Commission may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Commission may contact the Conservation Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to the Conservation Department at concom@falmouthma.gov so that they may be displayed for remote public access viewing.

Present: Jamie Mathews, Chair
 Russell Robbins, Vice-Chair
 Betsy Gladfelter
 Maurie Harlow-Hawkes
 Courtney Bird
 Mark Gurnee
 Kevin O’Brien, Alternate
 Peter Walsh, Alternate
 Jennifer Lincoln, Administrator
 Kevin Newton, Agent

Absent: Steve Patton

Also present: Irie Mullen, Associate Town Counsel, Peter Johnson Staub, Frank Duffy,
 Town Counsel

Mr. Mathews opened the meeting at 7:00 p.m.

Executive session:

Kasok v. Conservation Commission, discuss pending litigation

Mr. Robbins: Move to table the Executive Session until the end of the regular meeting.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

VOTE MINUTES

3/4/2020

Mr. Robbins: Move to adopt the minutes as corrected.

Mr. Bird: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

REQUESTS FOR A CONTINUANCE UNDER A DETERMINATION OF APPLICABILITY

Blake Hunter, 9 Gardiner Road, Woods Hole, Falmouth, MA- For permission to replace two existing decks and stairs with a small increase in footprint and to install mitigation plantings.

Ms. Lincoln: The applicant has requested a continuance until April 1, 2020.

Ms. Gladfelter: At the request of the applicant I moved to continue the hearing until April 1, 2020.

Mr. Bird: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

27 Carey Lane LLC, 27 Carey Lane, Falmouth, MA- For permission to relocate an existing free-standing field stone wall.

Ms. Lincoln: The applicant has requested a continuance until April 8, 2020.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until April 8, 2020.

Mr. Bird: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

Edward MacNeil, 36 Drift Road, West Falmouth, MA- For permission to permit an existing 4' x 8' concrete pad and fuel tank.

Ms. Lincoln: The applicant has requested a continuance until April 1, 2020.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until April 1, 2020.

Ms. Gladfelter: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

Heather and Thomas Mahoney, 2 Elysian Avenue, Falmouth, MA- For permission to construct and maintain a front porch and to install a native tree.

Ms. Lincoln: The applicant has requested a continuance until April 8, 2020.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until April 8, 2020.

Ms. Gladfelter: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

REQUESTS FOR A CONTINUANCE UNDER A NOTICE OF INTENT

Scott Carpenter (GM), THO of Massachusetts (Safe Harbors Marina), 36 & 42 Fiddler's Cove, North Falmouth, MA- For permission to install four finger floats and a connector float to the existing float system and to install two new piles to support the new floats.

Ms. Lincoln: The applicant has requested a continuance until April 8, 2020.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing April 8, 2020.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

Bayridge Realty, LLC, 127 Shorewood Drive, East Falmouth, MA- For permission to demolish and remove an existing single-family dwelling and to construct a new single-family dwelling, patio, Title 5 sewage disposal system, reconfigure the driveway, relocate a shed, install utilities and mitigation plantings, and all associated clearing, grading, and landscaping.

Ms. Lincoln: The applicant has requested a continuance the hearing until April 8, 2020.

Mr. Robbins: At the request of the applicant I move to continue the hearing until April 8, 2020.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

Robert J. & Natalie Culgin, 133 Fay Road, Falmouth, MA- For permission to raze the existing structures and construct a new single-family dwelling and driveway, install fill, install mitigation plantings, and all associated clearing, grading, and landscaping.

Ms. Lincoln: The applicant has requested a continuance until April 1, 2020.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until April 1, 2020.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

Terrance J. & Margaret N. Forster, 37 Beccles Road, Falmouth, MA- For permission to construct a timber stairway and landings with hand rails on a coastal bank.

Ms. Lincoln: The applicant has requested a continuance until April 1, 2020.

Mr. Bird: At the request of the applicant I move to continue the hearing until April 1, 2020.

Ms. Gladfelter: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

Kevin M. Arnstein, 31 Cataumet Street, Falmouth, MA- For permission to raze the existing single-family dwelling and construct a new single-family dwelling, driveway, mounded septic system and associated concrete wall, and to install mitigation plantings and all associated clearing, grading, and

landscaping.

Ms. Lincoln: The applicant has requested a continuance until April 8, 2020.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until April 8, 2020.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

Brian & Doris Cameron, 92 Indian Ridge Road, Falmouth, MA- For permission to raze an existing single-family dwelling and to construct a new single-family dwelling, upgrade to a Title 5 septic system, install mitigation trees, and all associated clearing, grading, and landscaping.

Ms. Lincoln: The applicant has requested a continuance until April 1, 2020.

Mr. Bird: At the request of the applicant I move to continue the hearing until April 1, 2020.

Ms. Gladfelter: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

Michael Herzig, 8 Nichols Road, Falmouth, MA- For permission to construct a detached garage, expand a cantilevered deck, install mitigation plantings, and all associated clearing, grading, and landscaping.

Ms. Lincoln: The applicant has requested a continuance until April 8, 2020.

Mr. Bird: At the request of the applicant I move to continue the hearing until April 8, 2020.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

Cape House 11 LLC, 207, 217, and 223 Meadow Neck Road, East Falmouth, MA- For permission to enhance and reconstruct an existing coastal engineered structure and to extend the structure along the shoreline.

Mr. Lincoln: The applicant has requested a continuance until April 1, 2020.

Mr. Bird: At the request of the applicant I move to continue the hearing until April 1, 2020.

Ms. Gladfelter: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

REQUEST FOR A CONTINUANCE TO EXTEND THE EXISTING ORDER OF CONDITIONS

Karen & David Howe, Lot 479, 0 Vineyard Street, E. Falmouth, MA (DEP# 25-4265) – Request a one year extension.

Ms. Lincoln: The applicant has requested a continuance until April 8, 2020.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until April 8, 2020.

Ms. Gladfelter: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

VOTE ORDER OF CONDITIONS

Falmouth Holdings Corporation, 278 Scranton Avenue, Falmouth, MA (3/18/20)

Quorum: Courtney, Kevin, Betsy, Jamie, Russ

Ms. Lincoln: This is the bulkhead and travel lines reconstruction.

Mr. Robbins: Weren't we waiting for something from Mike McGrath? Something about storm water?

Ms. Gladfelter: I asked if they needed a permit for the discharge of untreated storm water. There should be a finding that they have that design and a Condition that any permit from DEP, if necessary, be obtained before construction begins. We have to have a letter that shows that.

Ms. Lincoln: Mr. McGrath did send something in on his program to protect the catch basins.

Mr. Mathews: Is that separate from the storm water?

Ms. Lincoln: It contributes to storm water.

Mr. Mathews: Does that satisfy you Betsy?

Ms. Gladfelter: Not really. Basically the water went into shell and sand drains at periodic places along the bulkhead.

Ms. Lincoln: Okay.

Ms. Gladfelter: It's a pretty straightforward project. They are just putting sheeting in behind the old bulkhead – just like we're seeing all along the Inner Harbor. There are time of year restrictions, etc. but Jen has that in the record.

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

Mr. Robbins: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Bird, aye; O'Brien, aye; Mathews, aye. Unanimous, so moved.

Racing Beach Association, Inc., 0 Racing Beach Avenue, Parcel 012 000, Falmouth, MA (3/18/20)

Quorum: Courtney, Kevin, Betsy, Jamie, Russ

Mr. Mathews: This is the pipe under the roadway.

Ms. Lincoln: Right. The applicant had to come back for an amendment if they found that they needed to replace the pipe under the road. They are going to sleeve it. George Botelho gave us a brief presentation on the technique.

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

Mr. Robbins: Second.

Mr. Mathews: Robbins, aye; Gladfelter, aye; Bird, aye; O'Brien, aye; Mathews, aye. Unanimous, so moved.

Mr. Mathews: Should we vote to untable the Executive Session?

Ms. Lincoln: First Irie Mullin will talk to us about signing documents going forward.

Irie Mullin, Associate Town Counsel: Given our unique circumstances in this remote participation meeting and it looks as if we will be using this method going forward for a substantial period of time, I am recommending that the Commission consider taking a vote to authorize the Conservation Administrator to physically sign decisions and Orders of Conditions on behalf of the Commission. This will obviate the need for members to come into the building to physically sign documents during the closure of Town Hall to the public.

Mr. Bird: Move to authorize the Conservation Administrator to physically sign decisions and Orders of Conditions on behalf of the Commission until the situation is over.

Ms. Harlow-Hawkes: **Second.**

Ms. Gladfelter: This is so Jen can sign any legal documents that we would normally sign?

Mr. Mathews: Correct – until the situation is over.

Mr. Gurnee: Presumably Jen will sign in numerous places, each one with a handwritten name of the person for whom she is signing so we know we have the right quorum on each signing.

Ms. Gladfelter: No. These don't need a quorum. They only have to have 4 signatures.

Mr. Mathews: What if a quorum applies?

Ms. Lincoln: Mark, I will double check with Irie and if that is what I need to do, then this is what I will do.

Attorney Mullin: I am recommending that Jen sign a version of each specific name that is to go on and so it would say "Jamie Mathews here signed by Jennifer Lincoln".

Ms. Gladfelter: Who signs those has nothing to do with what the vote was.

Mr. Bird: That's right – it's ministerial responsibility.

Ms. Gladfelter: Jen can practice everyone's name.

Mr. Mathews called for the vote.

Mr. Mathews: **Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.**

Ms. Gladfelter: Move to go into Executive Session to discuss pending legislation.

Ms. Harlow-Hawkes: **Second.**

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

Ms. Lincoln: The attendees must leave the quorum and stop the recording.

Mr. Mathews: Thank you to everyone. If you have any issues you can share them with Greg (IT). It seemed to work well.

Ms. Gladfelter: Move to adjourn.

Ms. Harlow-Hawkes: **Second.**

Mr. Mathews: Robbins, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; O'Brien, aye; Walsh, aye; Gurnee, aye; Mathews, aye. Unanimous, so moved.

The meeting adjourned at 7:37 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary