

The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, MAY 8, 2019
Selectmen's Meeting Room, Falmouth Town Hall, 7:00 p.m.

Present: Jamie Mathews, Acting Chair
Betsy Gladfelter
Maurie Harlow-Hawkes
Courtney Bird
Steve Patton
Mark Gurnee, Alternate
Kevin O'Brien, Alternate
Peter Walsh, Alternate
Jennifer McKay, Administrator
Brendan Lynch, Agent

Absent: Kristin Alexander

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

VOTE MINUTES

4/24/2019

Mr. Bird: Move to adopt the minutes as corrected.
Mr. Walsh: Second.
Mr. Mathews: Unanimous, so moved.

5/1/2019

Mr. Bird: Move to adopt the minutes as corrected.
Mr. Walsh: Second.
Mr. Mathews: Unanimous, so moved.

REQUESTS FOR A CONTINUANCE UNDER A NOTICE OF INTENT

Jennifer Linville, 91 Gunning Point Avenue, Falmouth, MA – For permission to perform invasive species management, install native plantings, create a foot path and modify existing deck.

Ms. McKay: The applicant has requested a continuance until May 22, 2019. A revised plan was dropped off yesterday.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until May 22, 2019.
Mr. Bird: Second.
Mr. Mathews: Unanimous, so moved.

Town of Falmouth (c/o DPW Engineering), 59 Town Hall Square, Falmouth, MA- For permission to expand the existing parking lot in the rear of the building.

Ms. McKay: The applicant has requested a continuance until May 22, 2019. We are working with DEP on some issues.

Mr. Bird: At the request of the applicant I move to continue the hearing until May 22, 2019.

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

REQUESTS FOR DETERMINATION OF APPLICABILITY

Chapoquoit Associates (c/o Todd Taylor), 0 Chapoquoit Road (Map 24 06 008 000), West Falmouth, MA– For permission to construct a 6’x8’ guard shack on Chapoquoit Road.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under waterbodies, coastal beach, coastal bank, flood zone VE 20. The proposed seasonal guard shack will be located just past the pillars on the northeast side of Chappy Road. It will not be a permanent structure. It is 6-ft by 8-ft and constructed on a trailer for portability. It will be placed on an existing area with no vegetation. Beach grass will be planted along the gravel adjacent to the shed. The new structure is within the velocity zone but it is under 200-sq.ft. Staff recommends a negative 2 (under the State and the bylaw). Resource area boundaries are not confirmed by this RDA.

Ms. Gladfelter: **Move to accept staff’s recommendation.**

Mr. Bird: **Second.**

Steve Ladd (132 Associate Road) I am opposed to this project.

Deb Shearer: I assume that rules in Velocity zone are being waived for this project. I am opposed to the project for the reasons that the rules are needed and there is no reason to waive them. We have gotten along without a guard shack for years. This will be within 50 feet of the water. They say that they can pick it up and move it, but it will destroy the dunes and dune grass. I see no necessity for a guard shack.

Dan Shearer: The place where this is going- at high tide it will be sprayed with water. It is too close to the water. In any major storm it will be under water. It’s a ridiculous idea.

Michael McGrath: The area where it will be is a crushed stone bed. It will be moved in an impending storm.

Ms. Gladfelter: Will it be there just in the summertime?

Todd Taylor: Yes, from May to October. He presented photos to the Board.

Mr. Shearer: The area that is cleared – was there a permit to clear the area?

Mr. Mathews called for the vote.

Mr. Mathews: **7 yes, 1 no (Gurnee) The motion is passed.**

Mr. O’Brien recused

Saconesset Hills Association (c/o Mary St. Jean), 0 Saconesset Road (Map 36 03 014 001), Falmouth, MA- For permission to repair existing beach access stairs.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under waterbodies, coastal beach, barrier beach, coastal dune, salt marsh, flood zone VE 20. The existing ramp and stairs extend from the parking lot, over the coastal dune and down an eroding bank with a landing on the beach. The existing footings have become exposed due to erosion. The railings have cracked and broken. The proposal is to set two new concrete footings and replace the steps/railings in-kind. No work is to be done on the eroding coastal bank. The only repairs to be made are over the existing beach. There will be a site visit by staff after the work is complete. Staff recommends a negative 2 (under the State and the bylaw). Resource area boundaries are not confirmed by this RDA.

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

Ms. Gladfelter: Second.

Ms. Shearer: Can you explain why you granted the waivers for the guard shack?

Ms. McKay: The major issue was the ability to remove the seasonal shack and that has been

satisfied.

Mr. Mathews: Unanimous, so moved.

Michael & Cynthia George, 98&102 Gansett Road, Falmouth, MA- For permission to reconstruct existing patio and stone retaining wall.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under ocean, coastal bank. The existing patio and structures are outside of the Velocity zone and the Falmouth Velocity zone. The patio straddles the property line of 98 Gansett Road. The property owner of 98 Gansett Road submitted a letter giving permission to perform work on their property. Both property owners are negotiating a land swap so that the patio will be entirely on the 102 Gansett Road property. The proposed work includes the reconstruction of the existing patio and retaining wall. There will be no increase in the footprint and the patio will be moved 3-ft landward of the existing patio. The patio is located in zone B of the coastal bank. No work will be performed in zone A. No mitigation plantings are required. Staff recommends a negative 2 (under the State and the bylaw). Resource area boundaries are not confirmed by this RDA.

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

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

Alcola Realty, LLC, (c/o Jonathan Katz), 451 Wild Harbor Road, Falmouth, MA- For permission to raze the existing structure and to pump and remove the existing septic system.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to coastal bank. The proposed project is to tear down the existing dwelling and pumping/removing/ the existing septic system. All work is proposed outside of the land subject to coastal storm flowage and the majority of work is outside of 100-ft buffer to the coastal bank. Less than 61-sq.ft of the dwelling is within zone B of the coastal bank. Erosion control consists of silt fencing and straw bales. The septic system is to be pumped and removed in accordance with Title 5 and the Falmouth Board of Health regulations. The applicant does intend to construct a house in the future that will be located entirely outside of the flood zone and buffer zones. If this is to change, the applicant will file an NOI. The applicant also intends to submit an NOI to perform vegetation management and restoration on the coastal bank in the future. Staff recommends a negative 2 (under the State and the bylaw). Resource area boundaries are not confirmed by this RDA.

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

Ms. Gladfelter: Second.

Ms. Gladfelter: Is the building being taken down?

Mr. Lynch: Yes and when the new structure is built it will be outside our jurisdiction.

Mr. Mathews: Unanimous, so moved.

Bridge Realty Trust, 34 Bridge Street, East Falmouth, MA- For permission to repair existing dock with new decking.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under ocean, land containing shellfish, salt marsh, coastal bank, flood zone VE 15/AE 12. The proposed project is to remove the splintering and broken wood decking and replace it with new decking of Non-CCA treated wood or composite material. All work is to be done by hand from the structure. The cutting will be performed in the upland. The old decking is to be removed and disposed off-site. The existing dock has a Chapter 91 License #1650. The existing dock matches the license plan from 1987. Staff recommends a negative 2 (under the State and the bylaw). Resource area boundaries are not confirmed by this RDA.

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

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

Eric & Tracy Groves, 30 Westwood, North Falmouth, MA 02556- For permission to construct a new deck, lawn area, access path, invasive species management and native plantings and all associated excavating, landscaping and planting.

Ms. McKay: No comment at this time.

Theresa Sprague (Blueflax Design) There will be minor construction in the outer buffer zone B. They will expand the deck on the west side of the house and attach it to the existing deck. We will create a small area of lawn – 800-sq.ft. We will plant out the rest of zone B to create a more robust buffer between the lawn and buffer zone A.

Ms. McKay: The revision date on the plan is 5/7 and it was revised to add the existing path to the existing conditions plan.

Ms. Sprague: Resource areas include: land under the ocean, land subject to coastal storm flowage, coastal bank. There will be 650-sq.ft of expansion and they are proposing to expand the proposed path. No trees will be removed in zone A. A double cedar in zone B and 1 cedar, an arborvitae and a double oak will be removed. It is a heavily wooded area. We will be removing honeysuckle and bittersweet. We will add 4 trees and install a 25 gallon plant. An eastern red cedar will be added. 78 shrubs will be added including bayberry and clethra. Low bush blueberry will be planted along the path. We will protect zone A with a split rail fence.

Ms. McKay: How much lawn will there be?

Ms. Sprague: 800-sq.ft.

Ms. McKay: About 400-sq.ft will be in the Velocity zone. The whole area is vegetated, so staff is okay with that.

Ms. Sprague: The hot tub will not be recessed. When it is installed in the future, it will be on top of the deck. Extra sonatubes will be added to the deck at that time.

Mr. Lynch: No questions or comments.

Mr. Bird: Why are the cedars being removed?

Ms. Sprague: To build the deck and for the lawn area to be established.

Mr. Bird: I think you should put them back.

Ms. Sprague: We are removing only the trees that are in the way. We will put smaller understory trees in another area and add another cedar tree. It's a very well vegetated area.

Mr. O'Brien: No questions or comments.

Ms. Harlow-Hawkes: You are taking out an arborvitae – that's okay. But why are you taking the cedar tree that is 10-ft away from the house and planting trees 12-ft away?

Ms. Sprague: The branches of the cedar tree are encroaching on the house. We will plant smaller trees 12-ft away for more of a screening purpose.

Ms. Harlow-Hawkes: What's the difference in caliper inches? The cedar is 10".

Ms. Sprague: The new ones are 1/2" but you're getting 4 trees back.

Ms. Harlow-Hawkes: This is in an A buffer. Will the invasive removal be by hand?

Ms. Sprague: Yes. It's a very minor job.

Ms. Gladfelter: I noticed that cedars have been chopped off about 8-ft high on the property.

Ms. McKay: The property owner has worked with Mark on a vista corridor for years. I don't remember the topped cedars.

Ms. Gladfelter: Please go and look. Work in a B zone requires an improvement to the buffer.

Mr. Sprague: There is limited space for planting because of the dense vegetation. Should we plant in an area of the lawn?

Ms. Gladfelter: You have to show an improvement.

Ms. Sprague: We are.

Mr. Patton: Am I correct that the applicant is not the property owner?

Ms. McKay: Yes, the property owner gave written permission for the applicant to apply for the NOI.

Mr. Walsh: Concerning the 8-ft tree topping – what are the Falmouth vista pruning regulations? How can cutting trees off at 8-ft be the best management practices?

Ms. Sprague: It can't. Under previous RDA's 3 vista corridors were allowed. At some point this vista corridor was abandoned and only 2 were allowed.

Ms. McKay: Pollarding a tree is definitely not best management practices.

Mr. Gurnee: Can we get the allowed vista corridors on the books?

Ms. McKay: I don't know the last time they did a vista corridor.

Ms. Sprague: We filed an RDA a few months ago for a vista corridor (October or November). Two were allowed in 2016.

Ms. McKay: Two will not be allowed in the future. Could you add the vista corridor to the plan?

Ms. Sprague: Yes. Any work on the vista corridor in the future has to come back to ConCom.

Ms. McKay: Mark has worked with the current owner in the past.

Ms. Sprague: There has been a long history of this being a managed vista corridor.

Mr. Mathews: Your single rail fence is not noted on your plan. How will you prevent the path from being overcut?

Ms. Sprague: We don't need fencing in the A zone. It will be protected because of the dense vegetation.

Ms. McKay: We can condition that prior to clearing the path the staff will walk the path with the contractor to make sure it is not overcut.

Mr. Gurnee: How much of the vegetation in zone A is invasive?

Ms. Sprague: 10% if that. There will be no open gaps.

Ms. Harlow-Hawkes: Put the fence close to the cedars.

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

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Unanimous, so moved.

CONTINUED HEARINGS UNDER A NOTICE OF INTENT

Peter & Dyann Wirth, 88 Gardiner Road, Woods Hole, Falmouth – For permission to reconstruct and maintain the existing concrete perimeter wall and gate, construct a patio, reconfigure existing driveway, landscaping and all associated excavating, grading, planting restoration and mitigation plantings.

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

Ms. McKay: No comment at this time.

Michael McGrath (Holmes & McGrath) presented 2 exhibits to the Board. Along with the revised plan I submitted a letter. One issue at the last hearing was the area between the front door and the wall and front yard. The yard has been replaced with crushed stone and the applicant would like to keep it. Without a lawn no fertilizer will be applied. We hope the Commission will allow the existing conditions. There will be a de minimus decrease in nitrogen. As for the kayak rack – there was lawn here before and the kayak has less impact on the resources. 500-sq.ft of planting is proposed that is more mitigation than required. We have added a dry well so there will be no discharge into the isolated fresh water wetland. Resource areas include an isolated wetland, land subject to coastal storm flowage, Velocity zone. I feel that we have answered all your questions.

Ms. McKay: What does sub-grade mean?

Mr. McGrath: We put down gravel or crushed stone.

Ms. McKay: The sub-grade is under the crushed stone. You're digging down 6-12 inches and then putting down the sub-grade. What is the soil like? How does it percolate?

Mr. McGrath: It's generally clay. I didn't do percolation tests.

Ms. McKay: Is this going to be impervious or pervious? The Board will have to deliberate that.

Mr. McGrath: Water will drain through this.

Ms. McKay: The regulations don't like impervious or pervious surfaces that do not allow for drainage. We're seeing these more and more. Does the Board want them to be mitigated for?

Mr. Lynch: No questions or comments.

Mr. Gurnee: No questions or comments.

Mr. Walsh: No questions or comments.

Mr. Patton: No questions or comments.

Ms. Gladfelter: Re the isolated vegetated wetland - where does that fall in our regulations? Does it need a buffer?

Ms. McKay: Yes - 50-ft.

Mr. Bird: I'm concerned. When you put the stone down and the loam on top, as the rain comes down and it percolates, it becomes impervious. Is it smart to put filter cloth on top of the stones and then the loam? It keeps the solids from going in there. Solids will fill up the area otherwise.

Mr. McGrath: I can create a layer that will filter out the top soil. I can add that.

Ms. Gladfelter: We will need a revised plan.

Mr. McGrath: I will bring you one with the coastal bank and the 50-ft off the edge of the wetland.

Ms. McKay: Put the buffer on the plan.

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

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

Jennifer Linville, 91 Gunning Point Avenue, Falmouth, MA – For permission to perform invasive species management, install native plantings, create a foot path and modify existing deck. The hearing is continued until May 22, 2019.

Town of Falmouth (c/o DPW Engineering), 59 Town Hall Square, Falmouth, MA- For permission to expand the existing parking lot in the rear of the building. The hearing is continued until May 22, 2019;.

REQUESTS TO EXTEND THE ORDER OF CONDITIONS

Blaklak Realty Trust (c/o Lisa Huffman), 7 Swing Lane, Falmouth, MA- For permission to extend DEP #25-4011 by one year.

Ms. McKay: The applicant has actually requested an eighteen month extension.

Mr. Bird: Why?

Ms. McKay: The pool hasn't been built yet and she needs additional time. Staff recommends an 18 month extension.

Ms. Gladfelter: Move to grant an eighteen month extension.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Unanimous, so moved.

VOTE ORDER OF CONDITIONS

Conor McLaughlin, Falmouth Pier 37 Inc., 88 & 110 Scranton Avenue, Falmouth, MA (5/8)

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

Ms. McKay: This is the building of the retaining wall and the creation of lawn for picnic space in the Inner Harbor. The wall will have glass panels on the top.

Ms. Harlow-Hawkes: Is this in the V zone?

Ms. McKay: No.

Ms. Gladfelter: I believe it's a kind of safety glass.

Ms. Harlow-Hawkes: Will there be straw bales? No irrigation is allowed. Should there be a finding that it is in a Marine District?

Mr. Lynch: Yes to the straw bales and no irrigation.

Ms. McKay: Yes to a finding re the Marine District.

Ms. Gladfelter: Does this project have to go through the Board of Selectmen for a permit because it's in a Marine District?

Ms. McKay: That's a good question. They may have to go to Zoning also. I will double-check with Tom if this has to go to Zoning and the Board of Selectmen.

Ms. Harlow-Hawkes: The applicant says no pedestrians allowed on the path.

Ms. McKay: They can't do that.

Ms. Gladfelter: They must maintain pedestrian access.

Mr. Mathews: The area is restricted to grass. If they want a change they must come back.

Mr. Walsh: Was the land court dispute decided?

Ms. McKay: Yes, the McLaughlin family owns it.

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

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

Ardith Wieworka, 14 McKinley Drive, East Falmouth, MA (5/8)

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

Ms. McKay: This is the proposed addition with plantings along the concrete wall. They will redo the steps. There was a question about the block wall itself.

Mr. Lynch: They will come back to us if they want to repair it.

Ms. McKay: The plantings are to be moved 10-ft away from the structure. We need a revised plan.

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

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

Mr. Mathews: Mr. Patton would like the moment of silence for Mary Schumacher added to the April 24th minutes.

Ms. Harlow-Hawkes: Move to adjourn.

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

The meeting adjourned at 8:15 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary

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