

The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, JULY 10, 2019
Selectmen's Meeting Room, Falmouth Town Hall, 7:00 p.m.

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

Absent: Maurie Harlow-Hawkes

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

VOTE MINUTES

6/12/2019

Mr. Patton: Move to accept the minutes as written.

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved. One abstention, Robbins.

REQUESTS FOR A CONTINUANCE UNDER A NOTICE OF INTENT

Paul & Gretchen dePoo, 12 Seabrook Drive, Falmouth, MA- For permission to install new patio, kitchenette, fire pit, retaining walls and install mitigation plantings.

Mr. Lynch: The applicant has requested a continuance until July 17, 2019.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until July 17, 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: We have not received a DEP number and they have requested a continuance until July 17, 2019.

Ms. Gladfelter: The landscape plan is very tiny. I would like a bigger plan.

Ms. McKay: I'll have Jeremiah come up with a bigger plan.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until July 17, 2019.

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

REQUEST FOR CONTINUANCE TO AMEND EXISTING ORDER OF CONDITIONS

Bruno Gallinelli, Faggio, L.P., 117 Surf Drive, Falmouth, MA- For permission to amend DEP #25-4322 by rearranging approved concrete patio and replacing existing gravel driveway with pavers. Ms. McKay: The applicant has requested a continuance until August 21, 2019.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until August 21, 2019.

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

REQUESTS FOR DETERMINATION OF APPLICABILITY

Lynne Falkenburg, 38 Drift Road, Falmouth, MA- For permission to conduct ordinary maintenance by hand placing stone within voids in existing riprap and seeking local approval for Chapter 91 purposes.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under ocean, coastal beach, coastal dune, coastal bank, flood zone VE20. The existing stone rip rap requires general maintenance to fill in voids created over the years. All work to be done by hand. No machines on the beach. The riprap is under review by DEP Waterways to determine whether a Chapter 91 license is needed. This RDA also requests local approval for Chapter 91 purposes. Historical aerials prove walls existence since before the 1950's. 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.

4 Foster Road, LLC, 4 Foster Road, East Falmouth, MA- For permission to install Title 5 septic system, demolish existing shed and construct a detached garage with new driveway access.

Mr. Lynch: Jurisdiction: within flood zone AE 12. All work to be done outside of resource areas and buffer zones. Proposed work is to remove the existing shed and replace it with a detached garage. It will be built according to the State Building Code and flood regulations. Pump, fill and abandon existing failed cesspool. Install Title 5 septic with tank, D-box and leach field. A new driveway will provide access to the garage. The engineer discussed project with DPW and received approval for driveway location. The driveway is required to be seashell or gravel; not paved. All work to be performed within the existing lawn area. There is minimal vegetation disturbance due to lack of maintenance around shed. 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, 451 Wild Harbor Road, Falmouth, MA- For permission to rebuild a new single family dwelling with all structures located outside of the 100' resource area buffer. Mr. Lynch: Jurisdiction: within 100 feet of coastal bank. All work to be done outside of resource areas and buffer zones. This RDA was submitted because the Limit of Work extends 5-ft into the 100-ft buffer zone to

a coastal bank. No new structure will be located in the buffer zone or the flood zone. There is an NOI being developed for invasive management on the coastal bank. 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. Bird: How do you rebuild something new?

Mr. Lynch: The building has already been torn down and they will now will rebuild.

Mr. Mathews: Unanimous, so moved.

Judith R. Berg, 344 Pinecrest Beach Drive, East Falmouth, MA- For permission to install mitigation and restoration plantings per Order of Conditions for DEP #25-3679.

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under waterbodies, inland bank, Zone 2 water supply. The DEP #25-3679 OOC has expired and the planting work is incomplete. A site visit was conducted to review the compliance of the project. None of the plantings had been installed, a large patio was constructed and several other modifications to the structure that were not approved. Holmes & McGrath has worked to calculate the increase in impervious surface and have added the appropriate mitigation plantings. This application is for authorization to install the mitigation and restoration plantings. The plant list contains winterberry, arrowwood, lowbush blueberry, sweet pepperbush and shadbush. There is a fixed dock on the property that was not approved. The dock has since been removed by the owner. Once the plantings are installed, the applicant will request a hearing for the COC so that the Commission can review the project and make a decision. 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: I take it that this is a case that their OOC has run out?

Mr. Lynch: Yes.

Mr. Mathews: Unanimous, so moved.

CONTINUED REQUEST FOR A DETERMINATION OF APPLICABILITY

Gary Moskowitz, 177 Coonamessett Circle, East Falmouth, MA- For permission to vista prune according to FWR 10.18(10)(b).

Mr. Lynch: Jurisdiction: within 100-ft resource area buffer to land under water bodies, freshwater BVW, inland bank. Staff had a site visit with arborist Stephen Buckoff of Seaside Arborists. The property received a vista prune permit in 2005. The vista window needs to be maintained and cleaned up. One dead, leaning oak can be removed. A site visit is to be conducted after the initial vista prune. 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

The following 3 hearings will be discussed and voted as one.

Denisa & Sheldon Wagner, 46 Gosnold Road, Woods Hole, MA- For permission to reconstruct existing storm damaged seawall into a sloped rip-rap and install mitigation plantings.

Ms. McKay: No comment at this time.

David Martin (D.H. Martin Engineering) presented abutter's cards. There are 3 individual site plans on one plan. All three properties have seawalls on Buzzards Bay. Two winters ago the walls were destroyed by the first of three winter storms. The walls are beyond repair. We will reconstruct the walls. There will be a temporary road on the top of the wall. We will disassemble each wall in order, reconstruct each one and then go off site.

Mr. Lynch: I met with Dave on Monday on site and have no questions.

Ms. McKay: What about the plantings plans?

Bill Armstrong (Landscape Architect) We will take the invasives (Vines, Ragosa Rose, etc.) out and replant with native species. There will be a number of trees going in.

Ms. McKay: On #54 there is a lot of shrub material coming out. Will they be replanting with beach grass?

Mr. Armstrong: Yes, they want it to be natural with a little bit of lawn.

Ms. McKay: It is heavily vegetated and overgrown now.

Mr. Robbins: It will be replaced with beach grass.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Ms. Gladfelter: Do they need a Chapter 91 license?

Mr. Martin: No. We are moving back from mean high water. # 54 will become a new coastal beach.

Ms. Gladfelter: Will the middle property keep those rocks?

Mr. Martin: They want to keep the rocks for protection. We need to construct the wall and see what makes sense. We might tuck them in a little. I don't want them to hit the new construction in a storm.

Mr. Robbins: Will you use an excavator or crane?

Mr. Martin: An excavator.

Mr. Robbins: There certainly is serious damage down there.

Mr. Martin: It's been challenging getting everyone on board. We hope to get it built before fall.

Mr. Patton: No questions or comments.

Mr. Walsh: What is the difference between the old and new cross-sections?

Mr. Martin: The new one is significantly better. The structures that are there were built vertical. Vertical walls get hit harder. A sloped wall absorbs the energy from the water. The more a sloped wall gets hit, the stronger it gets.

Mr. Gurnee: You will be working on top of the wall. Some of the wall will get lowered for a road. Will the sloped wall be in the same place as the vertical wall? Will it be back further toward the house? How will they do the work?

Mr. Martin: It's extremely tight to be sure. The stones will be handled one by one.

Mr. Gurnee: Will you stay on top of the hill?

Mr. Martin: The wall is lowered and spread out. The wall gets built as you work your way out. You can't go back.

Mr. Gurnee: What about the big boulders in the water?

Mr. Martin: We're not planning to do any work on the beach. We will leave them there. We will remove wall debris on the beach.

Ms. Gladfelter: It's amazing what Mother Nature can do.

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

Ms. Gladfelter: **Second.**

Mr. Bird: Are we considering three different OOC's?

Mr. Mathews: Yes.

Donna Debraun: What will this change do to our property? I hope it won't cause erosion to our property.

Mr. Martin: I met on site with some of the neighbors. The wall will taper into the natural grade and it will be a smooth transition. The new work will be an improvement for the adjoining properties.

Mr. Gurnee: Are you replacing the wall on the easternmost property?

Mr. Martin: Yes. On the center property the first third of the wall has been undermined. We hoped to save the rest of the wall but it's a hollow tube.

Damien Cooper (lives across from the middle property) Will the seaward side of the wall go further onto the beach? The corner of the wall will be shifted. Will that have an impact on the shifting of the sand? Will the trees and shrubs you're planting obscure our view?

Mr. Martin: The location of the wall will be the same. Our goal is to keep the wall where it is now. The return is a portion of the structure that is buried in the ground – not an exposed wall. The planting plan is thorough and detailed. The trees will be small.

Ms. Gladfelter: Will you get rid of the invasives in front of the house?

Mr. Armstrong: Yes and where it's disturbed, we will replace with native species. There are big trees to cut down and the new trees will be smaller. They will grow over the years. The new plants will be smaller than what is there now.

Mr. Martin: It is very unlikely they will put in a large tree. Trees there become stunted because of the winds, salt spray, etc. Harsh conditions are contrary to planting large trees. We have to do the best we can to replace the trees in-kind.

Mr. Mathews called for the vote.

Mr. Mathews: **Unanimous, so moved.**

Robin Ackroyd, 50 Gosnold Road, Woods Hole, MA- For permission to reconstruct existing storm damaged seawall into a sloped rip-rap and install mitigation plantings.

See above

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

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

Maya Burger & Christian Jaggi, 54 Gosnold Road, Woods Hole, MA- For permission to reconstruct existing storm damaged seawall into a sloped rip-rap and install mitigation plantings.

See above

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

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

Town of Falmouth (c/o Chuck Martinsen), Within Eel River Estuary, East Falmouth, MA- For permission to obtain permits for three growing areas with the intent of allowing Falmouth residents to operate at the sites.

Ms. McKay: No comment at this time.

Peter Johnson-Staub (Assistant Town Manager) In order to lower nitrogen levels we are endeavoring to minimize alternatives to sewerage by increasing aquaculture. This is the first program and we hope to expand on them in the future. This is the also the first one in an estuary. It is important for recreational shellfish diggers and commercial shellfishermen. We have identified general areas and are drilling down and looking at sites in a more detailed way. There will be no conflict to boating, etc. There has been a lot of public input. We started with a working group to develop an evaluation mechanism. A Shellfish Advisory Committee was formed.

Ms. McKay: FYI – there is no DEP Number yet so the hearing must be continued.

Chuck Martinsen (Deputy Director of Marine Environmental Services and Shellfish Constable)

presented abutter's cards. We have looked at alternatives to sewerage. Shellfish is one opportunity that could help a small percentage. We have had meetings with homeowners and regulatory boards. A draft aquaculture plan was developed. Town Meeting passed an article for the draft plan. There is now a full-time Shellfish Advisory Committee. Targeting nitrogen removal is a direct result of working with the Water Quality Management Committee. Eel River East was chosen because it is an open growing shellfish area. It also has areas devoid of a significant crop. Three sites in the river were chosen because of their soft mucky bottoms. They are the trial sites. We invested some time in a very comprehensive shellfish survey. There are 432 sample cores for the complete survey which comes to 172.8-cu.ft of sampled substrate. There are sites 1 A and B and site C. There is a 50-ft breezeway for boats to go in and out of the area. From a platform a core is plunged down into sediment. It is a 16" core. 48 locations were sampled and 9 mature quahogs, some stout razor clams and coastal mud shrimp were found. The bags will be secured in rows on the farms. They will be anchored in place. Mr. Martinsen went over the sleeving system. They are not to be planted prior to March 1st and must be removed by January 1st. There must be a storm plan. There will be no shellfish activity on the shores of Washburn Island. Growers are required to grow a certain amount of shellfish. There is a "weight in" and "weight out" process. The Town will provide some items at a fee to assist in the growing process and guidance for perspective growers.

Mr. Martinsen: Did you see DMF's letter from yesterday?

Mr. Martinsen: Yes.

Ms. McKay: I have met with Chuck a few times and had a mini-presentation the other day.

Mr. Lynch: No questions or comments.

Mr. Gurnee: Will the sleeves stay in?

Mr. Martinsen: I'd like to leave them – they can be on the bottom. The only reason they float is because of the ball on the top. They will go to the bottom when the ball is removed.

Mr. Gurnee: Will they be sitting on the bottom?

Mr. Martinsen: Yes.

Mr. Walsh: This has been well thought out and you have addressed my concerns. What color is the float or ball?

Mr. Martinsen: Yellow per State law.

Mr. Walsh: If the project is discontinued will the hardware be removed?

Mr. Martinsen: Yes. It will be addressed in the license.

Mr. Patton: Thank you for the presentation. How far away will the platform be from Washburn?

Mr. Martinsen: Roughly 75-yds.

Mr. Robbins: No questions or comments.

Mr. Mathews: This has been very informative.

Ms. Gladfelter: You're measuring weight in and weight out. Are you doing any upstream/downstream nutrient measurement?

Tom Duncan (Water Quality Management Committee) For nitrogen removal we have been careful to use shellfish grown in Falmouth and we have a very good idea of what's going on. Brian Howes has been doing upstream/downstream measurements for a few years. We do need to know weight and gross mass. We get about 25 oysters every season.

Ms. Gladfelter: You measure in and out – that's good.

Mr. Duncan: We are doing the best work that's being done in this field.

Mr. Martinsen: With Dr. Howes - 3 things are happening. There are amazing photos of what it looks like up and downstream. The clarity of water is great.

Mr. O'Brien: This is an exciting project.

Mr. Bird: It's a good project

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until July 31, 2019 for a DEP number.

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

Paul & Gretchen dePoo, 12 Seabrook Drive, Falmouth, MA- For permission to install new patio, kitchenette, fire pit, retaining walls and install mitigation plantings.
The hearing is continued until July 17, 2019.

Anthony Newman, Sr., Trustee, 45 Childs River Road, East Falmouth, MA- For permission to install new pool, apron, fence, and all associated clearing, excavating, grading, filling and landscaping.

Ms. McKay: No comment at this time.

Jack Landers-Cauley (JLC Engineering) presented abutter's cards. The lot is 30,000+-sq.ft in size. There are a series of decks on the house. The riprap wall defines the top of the coastal bank. There is a shoreline, walkway and dock. There is only one location for a pool and it is in an area of mulch and cultivated plantings. Staff's mitigation requirements are different from mine. The pool will be 25-ft from the road layout and 10-ft from the property line. It is 100-ft from the pool to the top of the riprap. It is compliant with the resource areas and buffers. I took the area that was not altered – 158-sq.ft and felt that the mitigation should be 2 to 1. I talked to staff and they have a different opinion. I'd like to talk to them about that.

Ms. McKay: We have to talk about mitigation and we will continue the hearing so that you can meet with staff. Do you have to go to Zoning for this?

Mr. Landers-Cauley: No, because it's 25-ft from the road.

Ms. McKay: How many trees are being removed?

Mr. Landers-Cauley: Two American Holly trees.

Ms. McKay: I think I counted a few more trees.

Mr. Landers-Cauley: We may modify the pool.

Ms. McKay: You can't construct a pool on a slope. You will have to cut into the slope. Will you need a retaining wall?

Mr. Landers-Cauley: Yes, I'll have to cut but less than 30".

Ms. McKay: Put that on the plan.

Mr. Landers-Cauley: Okay.

Ms. McKay: If you reconfigure the pool you have to know where the retaining wall is going. Are you going in the main driveway and coming around the house?

Mr. Landers-Cauley: We may be going in two ways. It may be a concrete truck with a pumping unit or a pool contractor who may use a gunite system.

Ms. McKay: The construction access is through natural vegetation on the plan.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Walsh: No questions or comments.

Mr. Gurnee: No questions or comments.

Ms. Gladfelter: If you have a lawn that's pervious and put in a pool that is impervious, you have to have mitigation. This has been consistent since 2008. I'd like to see a revised plan.

Mr. O'Brien: Is there going to be a stone wall?

Mr. Landers-Cauley: There is an existing wall there.

Mr. Bird: It's unfortunate that the mitigation question wasn't figured out ahead of time.

Mr. Landers-Cauley: We couldn't get together.

Ms. McKay: Our schedules couldn't get together.

Ms. Gladfelter: At the request of the applicant's representative I move to continue the hearing until July 31, 2019.

Mr. Patton: Second.

Mr. Mathews: Unanimous, so moved.

David & Mary Katherine Cary, 60 Siders Lane, Falmouth, MA- For permission to construct two additions, attached garage, new driveway, install Title 5 septic system, planting mitigation plantings and all associated excavating, grading and landscaping.

Ms. McKay: No comment at this time.

Tom Bunker (BSS Design) presented abutter's cards. Resource areas include: Siders Pond, land under water body, BVW, upland area in flood zone AE elevation 13, flood zone X on top of the coastal bank, setbacks 50-ft. from a BVW, 75-ft from the A zone of the pond. There is an A zone of the coastal bank of 50-ft. Half of the house is less than 100-ft from the coastal bank. There are two cesspools and we will update that. We will crush them and fill them. The additions to the house are not closer to the resource area. The corner of the garage comes a little closer to the resource area. Most of the addition is outside of the resource area buffers. The septic system is further away from the resource areas. There will be catch basins and a drainage ditch for the driveway. There is an increase of 224-sqft in zone B so 2 to 1 mitigation is required. The overgrown area of invasives is staying as is. The mitigation is beginning at the top of the coastal bank.

Ms. McKay: I went to the site and have no questions. How will you protect the mitigation from the bittersweet?

Mr. Bunker: They will have to have a little mowed path between them.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Ms. Gladfelter: This is an improvement.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Walsh: This is a definite improvement. Will you remove any trees?

Mr. Bunker: No.

Mr. Gurnee: No questions or comments.

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

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

CONTINUED HEARINGS UNDER A NOTICE OF INTENT

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 July 17, 2019.

REQUESTS TO AMEND THE ORDER OF CONDITIONS

James Devellis, 22 Dusty Miller Road, Falmouth, MA- For permission to replace existing wooden deck with a masonry terrace and install native shrubs.

Ms. McKay:

Tom Bunker (BSS Design) presented abutter's cards. The house is under construction. The landscape architect sent this plan. The wooden deck will be allowed to remain and be re-built. There is now an interlocking block retaining wall in this location. The deck will go back toward the lawn area and not toward the coastal bank. It will be smaller than the existing deck. 110-sq.ft more shrubs will be added. The new masonry deck is 240-sq.ft. There is a net reduction of 67-sq.ft in impervious surface. We will reconfigure the pool and pool terrace. It will be a little bit away from the resource area. The permitted pool has an increase of 17 sq.ft in zone B. We have increased the amount of native shrubs. The pool fence is on the 29th contour. All work will be done by hand.

There will be a temporary disturbance.

Ms. McKay: I have no problem with the terrace. You need to revise the net zero of impervious surface because you have more impervious surface. I'd like to see the fence closer to the pool and not cutting through the A zone buffer. It's a fairly large site. Fences are usually closer to the pool structure and not wrapping around the area.

Mr. Bunker: Okay.

Mr. Mathews: What is the grade?

Mr. Bunker: It's 34 in the lawn and drops down to 30.

Mr. Mathews: That may help you with the fence.

Mr. Gurnee: No questions or comments.

Mr. Walsh: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Robbins: What material is the pool fence?

Mr. Bunker: It's a chain link fence.

Ms. Gladfelter: No questions or comments.

Mr. Bird: The pool fence should be shrunk and confined to the area around the pool and the terrace.

Mr. O'Brien: You can meet the requirement for the fence.

Ms. Gladfelter: We can require something between the mitigation plantings and the lawn. Does the building code require a chain link fence?

Mr. Bunker: They require one that cannot be climbed.

Ms. McKay: It could be a stockade fence.

Ms. Gladfelter: Delineate the mitigation plantings around the terrace and then come back in.

Mr. Bunker: If you condition it to be on the upland side we could close the hearing.

Ms. McKay: The mitigation could be along the old limit of work line. You might want to look into changing the mitigation area. There is not an easy way to condition it. I would want a revised plan.

Ms. Gladfelter: At the request of the applicant's representative I move to continue the hearing until July 17, 2019.

Mr. Walsh: Second

Mr. Bird: It's important to get your client on board with the fence.

Mr. Bunker: Yes.

Mr. Mathews: Unanimous, so moved.

CONTINUED REQUEST TO AMEND THE EXISTING ORDER OF CONDITIONS

Bruno Gallinelli, Faggio, L.P., 117 Surf Drive, Falmouth, MA- For permission to amend DEP #25-4322 by rearranging approved concrete patio and replacing existing gravel driveway with pavers. The hearing is continued until August 21, 2019.

CONTINUED HEARING UNDER AN ENFORCEMENT ORDER

David Howe, Lot 479 Vineyard Street, Falmouth, MA- For altering a coastal beach which is resource area that is under the protection of the *Wetland Protection Act 310 CMR 10.27 and Falmouth Wetland Regulations 10.27*.

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

Ms. McKay: The Board sent a letter to Mr. Howe that gave him until today to come to a meeting. He was to cease all activities per the OOC. As you can see from the letter we received from him today, he is not agreeable to that. He wants us to retract our June 13th letter. The Board hasn't voted an enforcement order yet. We wanted to give him an opportunity to address the Board. We still have the issue of his removing the cobble at the beach and covering up the dune..

Mr. Mathews: Do we have a beach profile?

Ms. McKay: No.

Ms. Gladfelter: It's his responsibility to do that, not yours.

Mr. Mathews: What would we send an enforcement order for?

Ms. McKay: To cease using the sorting machine? He's created a plateau. There is no gentle slope. At this point some of the issues are resolved. But we don't have a copy of the beach profile in the file. The OOC allowed him to rake the beach – but he's altering the volume and form of the beach. I don't think we envisioned the type of machine he is using. This one is specifically sorting the cobble out. It is sorting out the cobble and changing the form of the beach. The OOC expires in March of next year. I think the Board is on solid ground.

Ms. Gladfelter: There are two resources in play: the form of the beach and the beach grass has been buried by sand. The dune itself is affected.

Ms. McKay: There are also a number of issues raised by the abutter that we can't confirm. There will be a lot of things at compliance time that will be discussed.

Mr. Bird: If there is an open OOC we have the right to go on the property. What is the issue?

Ms. McKay: The property owner is very aggressive.

Mr. Bird: We have to exert that right. It's part of the enforcement order. The other thing that concerns me is the raking. The Condition was to clear a little wrack out of the way, not to change the profile. He is violating the intent of the Order and that is grounds for an enforcement order. Not giving us a beach profile is another reason. If they can produce one okay – but if the profile is changed that is another ground for an enforcement order.

Ms. McKay: I don't feel comfortable going to the property.

Mr. Bird: He's wrong. You should consult with Town Counsel.

Mr. O'Brien: I agree we have the right to go on the property but I am not comfortable with putting staff in position to go down there without the police. You can't go down there alone.

Ms. McKay: I didn't want to inflame the situation.

Ms. Gladfelter: People have certain feelings about their private property, but if you choose to come before this Board to get a permit, then you have to let us go on the property.

Mr. O'Brien: Last week I stood on his neighbor's beach (with permission) and could see that Howe's beach is completely different from the rest of the beach.

Mr. Mathews: I was hoping when he got the last letter he would let us look at the beach. He has had two opportunities. Now we have to issue something totally specific.

Ms. Gladfelter: We need a "before" beach profile and an "after" beach profile.

Ms. McKay: I can prepare an enforcement order to be reviewed at our meeting on the 31st so you're comfortable. Some issues have been resolved, but not all. When we receive an alleged complaint staff reaches out to the property owner, meet on site and if there is a violation sometimes handle it on the staff level. If it's a large problem it goes before the Board. The problem is the dune, the beach and the profile.

Mr. Patton: This seems so repetitive. We talked about the same things at the June 12th meeting.

Mr. Mathews: We are just trying to get Mr. Howe to work with us.

Ms. Gladfelter: Move to have staff prepare an enforcement order re lot 479 Vineyard St. to be reviewed at the July 31, 2019 meeting.

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

OTHER BUSINESS

Approve Nemasket Enforcement Order Plan

Ms. McKay: Tom provided a plan too late to review. It will be reviewed next week. They are looking for fine white sand. I worked with Tom three times to review the plan. He should keep the

plan where it was before.

Ms. Gladfelter: Move to continue the Nemasket Enforcement Order discussion until July 17, 2019.

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

Approve installation of signs on Conservation property

Ms. McKay: Signs were given to us by Greg Berman, i.e. do not place dinghies on salt marshes, etc. We will put the signs in various areas. The Board of Selectmen is concerned about how people will react. The signs are big. They are looking at implementing dingy storage areas. The Town may install dingy racks. People will have a sticker that is assigned to their mooring. This may be accomplished by next summer. This will help to protect resource areas. Dinghies are being stored on marshes that are eroding away. This is a big problem along Great Bay.

Mr. Bird: Move to continue this discussion until July 31, 2019.

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

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

The Board of Health created a pesticide group. Mark agreed to be part of it, but can't attend the meeting next week. We would like to have a staff presence there.

Mr. Bird agreed to attend the meeting on July 16th.

Ms. Gladfelter: The Association to Preserve Cape Cod is having field trips on restoration and next Tuesday I will lead them on a tour of the Coonamessett restoration. I would be happy to take various groups to the Coonamessett River on a Saturday.

Mr. Robbins: That should be advertised in the paper.

VOTE ORDER OF CONDITIONS

Ronald Simons, 14 Ridge Road, North Falmouth, MA (7/17/19)

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

Ms. McKay: This is the modification to the existing house. The issue was the use of the old buried road or driveway for the mitigation. They have to show another area for mitigation if the pavers do not work.

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

Mr. Walsh: Second.

Mr. Mathews: Unanimous, so moved.

Michael McGourty, 6, 10, 14 Cypress Street, Falmouth, MA (7/17/19)

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

Ms. McKay: This is the drainage improvements that are a good thing. I have no concerns from a WPA issue on the design. The neighbor disagreement has been solved. Town Counsel said that it only has to be recorded on the deeds of 6, 10 and 14 Cypress St.

Mr. O'Brien: They are only paving as far as the buffer.

Ms. McKay: They must get rid of the tree house.

Mr. Mathews: The neighbors are okay because it is not being recorded on their property.

Ms. McKay: I believe it is still in land court.

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

Mr. Walsh: Second.

Mr. Mathews: Unanimous, so moved.

College Light Opera Company, Inc., 54 Chapoquoit Road, West Falmouth, MA (7/17/19)

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

Ms. McKay: This has been the biggest project for staff. It looks like a lot going on and they are losing a beautiful Beech tree. The de-watering is a concern but they are putting in monitoring wells. They will also install well heads while de-watering.

Mr. O'Brien: The float that grounds out at low tide is a concern.

Ms. McKay: We'll make sure that doesn't happen. This is not going before the Planning Board until August. There were some concerns about the habitat around the pond. We need to know how they are removing invasives.

Mr. O'Brien: We were told that the work would not impinge on what is around the pond. The denitrifying system worries me but it's better than the cesspools.

Mr. Patton: CLOC has a history of cutting down trees. The OOC has to make it plain that any cutting has to come before us first.

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

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

Ms. Gladfelter: Move to adjourn.

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

The meeting adjourned at 9:46 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary