

The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, JANUARY 29, 2020
Selectmen's Meeting Room, Falmouth Town Hall, 7:00 p.m.

Present: Jamie Mathews, Chair
Betsy Gladfelter
Maurie Harlow-Hawkes
Courtney Bird
Steve Patton
Peter Walsh, Alternate
Kevin O'Brien, Alternate
Jennifer Lincoln, Administrator
Kevin Newton, Agent

Absent: Russell Robbins, Vice-Chair, Mark Gurnee

Mr. Mathews opened the meeting at 7:00 p.m.
Mr. Mathews called Kevin and Peter up to the quorum.

OTHER BUSINESS

Review and vote Conservation Restriction for Woods Hole Rd, Map/Parcel 50 02 000 000F
Alan Decker (Director of Land Protection Program for the Buzzards Bay Coalition) We have the opportunity to protect about a 30 ½ acre parcel that spans between Woods Hole Road and Quisset Avenue. It is outlined in red on the plan. It is a forested parcel donated to the Coalition and we own it. We are partnering with the 300 Committee to put a Conservation Restriction (CR) over the property to ensure its permanence as conservation land. The document has been circulated and you have had time to look at it. We have reserved rights trying to hold onto the property and in support of our use of it: supporting our educational programming as well as the opportunity to have environmental research on the property and to make it accessible to visitors with express permission from us. Amenities we hope to have on the property are walking paths, trails and other elements that will enhance a visitor's experience on the property, boardwalks if necessary, bog board (although the property is almost mostly entirely upland). We are reserving the ability to have a driveway that will run from Woods Hole Road back to the adjoining property you see on the first map which is outlined in yellow. This is a property that we also own and has a residential structure on it that we're going to use as some office space and potentially as rental space with a tenant. Right behind the Coalition parcel you'll see a yellow barn structure that we use for meetings, community meetings and such. This driveway will provide safe access from Woods Hole Road out to the property. There will be a parking lot developed – a gravel lot – for 20 vehicles for use of the facility. On the second map the vast majority of the property is designated by Natural Heritage as habitat for rare species. The third map just gives you context as to where the property is located and in context with the other protected property. The Conservation Commission holds a property across Woods Hole Road and we have a joint CR on a couple of other properties with the 300 Committee across Quisset Avenue. We are seeking your support tonight for our part in protecting this property with the 300 Committee through the signing of a Municipal Certification which speaks to the Conservation Commission's values that are being protected, including the rare habitat community. Almost 1100-ft of Quisset Avenue frontage will remain as it is today as will 700-ft of frontage on Woods Hole Road, except for the driveway which will remain as it is today.

Ms. Lincoln: Can you point out where the driveway is going to be?

Mr. Decker pointed out the access point and where the parking lot will be. Permitting is already in process for the driveway which will be put in sometime between March and May and we're up and running at the beginning of the summer.

Ms. Lincoln (to Mr. Mathews) We did receive a request from Falmouth Engineering that is going to design the driveway. They are required to get a letter from the Planning Board and ConCom on the presence of wetlands and whatever permits they need. Mark and Kevin walked the area of the proposed driveway and there are no wetlands in that area. We have a plan of the driveway in the office.

Mr. Mathews: Do they need a State permit?

Ms. Lincoln: Not for the wetland but for a curb cut.

Mr. Decker: Woods Hole Road is a State road so we are in the process of applying to Mass Dot for the curb cut.

Ms. Lincoln: We did need to write a letter for Mr. Borselli to send to Mass Dot.

Mr. Newton: No questions or comments.

Ms. Lincoln: Mark and Kevin walked the whole length of it.

Mr. Bird: What is the current access to those buildings?

Mr. Decker: The current access is via the right-of-way that is along Woodruff Road.

Mr. Bird: Can you show us on the map?

Mr. Decker: It runs between #275 and #279 Woodruff Road straight back to the house and barn. It is paved to the house and a gravel road to the barn.

Mr. Mathews: And is not amenable to continuing to use that?

Mr. Decker: It is not amenable for the potential use of the Conference Center. When we get a tenant in #18, we would allow the tenant to use the gravel road. It looks like you're driving up a driveway literally between two people's houses. They would prefer that we not have that as access for what we want to do. It's better to have the driveway engineered and more safely placed.

Mr. Bird: No questions or comments.

Ms. Harlow-Hawkes: No questions or comments.

Ms. Gladfelter: No questions or comments.

Mr. O'Brien: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Walsh: No questions or comments.

Ms. Gladfelter: Move to approve the Conservation Restriction and the Municipal Certification.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Unanimous, so moved.

VOTE MINUTES

1/15/2020

Ms. Gladfelter: Move to adopt the minutes as written.

Mr. O'Brien: Second.

Mr. Mathews: Unanimous, so moved.

1/22/2020

Ms. Harlow-Hawkes: Move to adopt the minutes as written.

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

REQUESTS FOR A CONTINUANCE UNDER A NOTICE OF INTENT

Scott Tynell, 163 Bay Road, North Falmouth, MA- For permission to conduct shellfish aquaculture within Rand's Canal and Megansett Harbor.

Ms. Lincoln: The applicant has requested a continuance until March 4, 2020.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until March 4, 2020.

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

Susan Choate Garland, 42 Chase Road, Falmouth, MA- For permission to conduct targeted treatment and manual removal of phragmites from the Bordering Vegetated Wetland and the edge of Salt Marsh on site.

Ms. Lincoln: The applicant has requested a continuance until February 19, 2020.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until February 19, 2020.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Unanimous, so moved.

Mary Ann Pesce Choate, 58 Cape Codder Road, Falmouth, MA- For permission to raze existing house and construct a single-family dwelling, and pool, with all associated clearing, grading, and landscaping.

Ms. Lincoln: The applicant has requested a continuance until February 5, 2010.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until February 5, 2020.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Unanimous, so moved.

REQUESTS FOR DETERMINATION OF APPLICABILITY

Barbara and Gary Schneider, 71 Sandcastle Drive, East Falmouth, MA- For permission to vista prune according to FWR 10.18 (10) (b).

Mr. Newton: Jurisdiction: within 100 foot resource area buffer zone of Land Under Ocean, Coastal Beach, Coastal Bank, Salt Marsh, and within flood zone AE 13. RDA is to maintain the current vista prune. Removal of any dead Pitch Pines within the maintained view. This RDA permits pruning only on 71 Sandcastle Drive. Permission must be obtained from the Association to work on their property. 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.

Mr. Patton: Second.

Mr. Mathews: Unanimous, so moved.

Anmarie Cenisio, 145 Seapit Road, East Falmouth, MA- For permission to conduct landscape improvements including removing trees overhanging the existing dwelling, replanting trees, and adding additional plantings.

Mr. Newton: Jurisdiction: within 100 foot resource area buffer zone of Land Under Water Bodies, Salt Marsh, and within flood zone AE 12. This RDA is to remove and or prune trees on the property and to plant additional trees and plantings. Staff met in the office and on site with the applicant and

landscaper (CMS Landscape). Applicant has provided a landscape and planting plan. Any additional work must be permitted through the ConCom. 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. Harlow-Hawkes: Second.

Mr. Mathews: Unanimous, so moved.

Alan & Helen Clark, 80 J Little Island Road, West Falmouth, MA- For permission to install a 12' x 16' shed in an area where a shed previously existed.

Mr. Newton: Jurisdiction: within 100 foot resource area buffer zone to an isolated wetland and within flood zone AE 17. RDA is to construct a 12'x16' shed on a previously developed area. No vegetation will be removed and no mitigation is required. Staff requested and reviewed documentation showing the existence of the shed in previous surveys. Staff met on site with the applicant. 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.

James McLoughlin (TOF), Lot 000B Great Bay Street at the intersection of Hiawatha and Great Bay Street, East Falmouth, MA- For permission to replace an existing set of stairs damaged by recent storms and to remove an additional existing damaged set of stairs.

Mr. Newton: Jurisdiction: within 100 foot resource area buffer zone of Land Under Ocean, Coastal Bank, Coastal Beach, and within flood zone VE 15. RDA is to remove a damaged staircase and replace a second damaged staircase. Staircases are within one block from each other. Replaced staircase will be constructed on 6"x6" support columns and on 12" sonotube footings, placed at a minimum of 4' in depth. 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. Harlow-Hawkes: Second.

Mr. Mathews: Unanimous, so moved.

East Marine Corporation, 89 Falmouth Heights Road, Falmouth, MA- For permission to replace four (4) licensed pier pilings on two existing piers.

Mr. Newton: Jurisdiction: within 100 foot resource area buffer of Land Under Ocean, land Containing Shellfish, Coastal Bank (manmade - existing licensed bulkhead), and within flood zone of AE 15 and AE 13. RDA is to replace 4 licensed pier pilings on two existing piers. Project will be performed in conjunction with the approved travel lift reconstruction project (Order of Conditions – DEP file 25-4493). Pilings to be replaced are at the end of their respective piers. No other work is proposed under this RDA. 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. Harlow-Hawkes: Second.

Mr. Mathews: Unanimous, so moved.

CONTINUED REQUESTS FOR A DETERMINATION OF APPLICABILITY

Richard & Patricia Torre, 57 Cape Codder Road, West Falmouth, MA- For after the fact permission to install a water service to the dwelling and rebuild a section of stone wall.

Mr. Newton: The applicant has requested a continuance until March 4, 2020.

Mr. Bird: At the request of the applicant I move to continue the hearing until March 4, 2020.

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

William J. & Ellen C. Wedge, 78 Associates Road, West Falmouth, MA- For permission to repair an existing foundation and to construct second floor additions.

Mr. Newton: The applicant has withdrawn the request.

REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

Susan Choate Garland, 42 Chase Road, Falmouth, MA- For permission to conduct targeted treatment and manual removal of phragmites from the Bordering Vegetated Wetland and the edge of Salt Marsh on site.

The hearing is continued until February 19, 2020.

Mary and Joseph Noonan, 183 Surf Drive, Falmouth, MA- For permission to demolish the existing single-family dwelling and construct and maintain an elevated single-family dwelling with parking below, decks, access stairs, elevator, driveway reconfiguration, leaching trench for roof runoff, and all associated utility installation, excavation, grading, mitigation planting, and landscaping.

Ms. Lincoln: No comment at this time.

Tim Santos (Holmes & McGrath) presented colored plans. Resource areas include Fresh River, coastal bank (riprap along the river), land subject to coastal storm flowage. This is a tear down and rebuild. It will be an elevated dwelling. The existing dwelling is 927-sq.ft. The proposed dwelling will be 1350-sq.ft above elevation 15 and 887-sq.ft underneath. 1710-sq.ft. of mitigation will be planted on the northeast and southeast sides of the lot. You have a list of the species and trees. There will be a leaching trench along the lot line. They will extend the driveway to gain access for parking underneath – a 2 car garage. The elevated house will be an improvement. There will be storage below, as well as an elevator and stairway similar to #189 and #199 Surf Drive that are adjacent properties. The distance between the house and the riprap is 9-ft for zoning purposes, but 7.2-ft to the top of the riprap.

Ms. Lincoln: There is 9-ft to the 3-ft contour that zoning requires.

Mr. Santos: The first floor is 1,352-sq.ft and the second floor is 1438-sq.ft above the Velocity zone.

Ms. Lincoln: You're in the Velocity zone with close to 3000-sq.ft of structure in a high hazard area. The Board will take that into consideration. The Board has seen – specifically on 117 Surf Drive – they limited the inside of the breakaway panels to just the area of the elevator and stairway with a small walking area around the elevator where they could get to both sides of the house. I'll have to double check but that was a very small square footage. I think it was less than half of what you're saying. The Board needs to consider whether you want to stop the breakaway panels in this hazardous area and reduce the enclosure as you did on 117 Surf Drive. The other one that comes to mind is either 45 or 145 Little Neck Bars Road in West Falmouth. That was restricted just to the stairway and elevator area. There was no garage on that. I'm talking about the house on the bluff. I'm really concerned with building this structure 7.2-ft away from the revetment. Did you say a trench box would be used?

Mr. Santos: Yes. I'll try to go step by step. The enclosure is on ground level. What the applicant is trying to do is obtain storage and I understand the Board's policy, but he wants it to be similar to what was done on the two properties in front of him. That's how the design came up for the

property. I'm aware of other properties where it's been reduced, but every property is supposed to be looked at differently. That's how we came up with the lower level. The total square footage of the area above – I looked at the others and I know they are well over 2,000 to 3,000-sq.ft. As far as construction the piers and the construction of the piers will be done in sections and are not going to be totally open. It's just to protect.

Ms. Lincoln: The pier is 18x18.

Mr. Santos: On top of the concrete footing that's 4-ft wide.

Ms. Lincoln: You're going to excavate for the footing.

Mr. Santos: Yes and building it within a trench box in order to protect the bank.

Ms. Lincoln (to Jamie and Courtney) Can that be done?

Mr. Mathews: It's been done before.

Ms. Lincoln: Without damaging the riprap?

Mr. Mathews: The most vulnerable time is as it's being excavated before the trench box is installed. But that's kind of simultaneous.

Mr. Santos: They're not going to excavate 5-ft down at once. They will excavate 2-ft, put the trench in and start digging again and the box will go down little by little. That is typically how it is done.

Ms. Lincoln: Do they have a contractor?

Mr. Santos: No. We have no problem setting up a site meeting.

Ms. Lincoln: Right. The contractor will have to agree to use the trench box.

Mr. Santos: We haven't discussed this yet.

Ms. Lincoln: Well, if it's something different you'll have to come back and discuss it with this Board. It's the breakaway panels we're concerned with and we're trying to reduce the space specifically for the coastal area. The plantings will do the area a tremendous amount of good.

When it's going to flood, how much is it going to flood? The site is void of vegetation now and the plantings will provide a little bit of habitat. The revetment is very old and while they are excavating it I'm concerned about the stability of it. But if Jamie and Courtney think it will work, it'll be okay.

Ms. Gladfelter: But isn't the ground water 2-ft down?

Ms. Lincoln: But he has drainage.

Mr. Santos: We do have a de-watering basin that has high elevations. I believe it's 1.8 over in that area so it's 3-ft down.

Ms. Lincoln: How far down does your footing have to go?

Mr. Santos: 4-ft down.

Mr. Bird: What analysis have you done on the soils there?

Mr. Santos: I haven't done any analysis.

Mr. Bird: I have a real question about this because you've got an inlet that's been there for a long time and it's now contained by artificial revetments. If you go back those revetments were man-made and if I recollect correctly this area was a lot of marshland. I worry about how much peat is down there and what these footings will support.

Ms. Harlow-Hawkes: I bet there is peat.

Mr. Bird: I think that it was all marsh in there once upon a time. I think you need an engineering study for all these piers because you've got a big house and a lot of footings there and it's not very good there. I've run into – in my own building life – there are areas that are sensitive to this and you get areas of peat layers and you have all water and all kinds of stuff that don't support a typical foundation. There is a lot of engineering that hasn't been done here and I'm not comfortable.

Mr. Santos: I'll let the architect speak.

Greg Smerinian (Rescov Architectural) We've done these types of homes for 23 years and we've used the same foundation system. It's a little different. We've had an engineer who has trained us in how to do this. We have run into this (peat) from time to time but we've never run into it on an entire site. We find sometimes there are pockets you have to deal with but the way these footings

are designed – they’re designed as strip footings. They’re not designed as local pier footings and it makes a huge difference because you get a much more bearing capacity. What you’ll see is a lot of time is you don’t just do what is required for one particular pier. The way we design it is we take it over a much larger area so that the bearing capacity can be reduced.

Mr. Bird: Have you done a soil analysis?

Mr. Smerinian: We have not. We have done a construction drawing.

Mr. Bird: The reason this comes to mind – I hear what you’re saying about putting a much wider footing in to disperse the load.

Mr. Smerinian: We’ve looked at others in the area and they’re all of different scales. Some don’t look like they have a sophisticated foundation system.

Mr. Bird: I understand but I want to see an engineered soil study.

Mr. Smerinian: We would have to do that in order to get a building permit.

Mr. Bird: I want to see it because what happens if the design warrants that it may require more excavation in this sensitive area. I want to know this and I think the Board wants to know this before we can approve this project.

Mr. Smerinian: We would have to come back before the Board because of a change.

Mr. Bird: You understand where I’m coming from.

Mr. Smerinian: A lot of money is involved to get the engineering done.

Mr. Bird: We can’t approve something on an assumption that is this close to the edge. If you have a bigger footing that changes the dynamic, it changes what needs to be done to protect the resources. I’m saying come back to us when you have it all ready to go and then we can talk about it.

Ms. Harlow-Hawkes: We’ve got the groundwater and the soil in your narrative and that the leaching trenches must be installed in coarse sand to allow for proper functioning. And again soils are really important to know what’s going on there and if it will work.

Mr. Santos: That is correct.

Ms. Harlow-Hawkes: But you don’t know what is there.

Mr. Santos: If the soils in the area of the leaching trench are unsuitable, they will have to excavate below them and strip it out comparable to what they do on a septic system. That’s noted.

Ms. Harlow-Hawkes: I see that but if the groundwater is at 3-ft you’re discharging to groundwater. It’s a tough situation I understand when you have groundwater and soils. You have a river next to you and it’s hard but we have concerns about this. And the other thing that concerns me – not a concern but a question – on the plan it shows a raised condenser and a raised wooden platform. Where is this on the house? Is it the little square bump out?

Mr. Santos: Yes.

Ms. Harlow-Hawkes: Jen’s concerns are ours.

Ms. Gladfelter: Is this Riverfront?

Ms. Lincoln: Yes.

Ms. Gladfelter: No further questions.

Mr. Mathews: I have a question about the process for the soil analysis. You didn’t do a perc test because it’s a Town sewer. I get that but why wouldn’t you do a soil analysis as standard?

Mr. Santos: Typically borings for construction are not done until all permits are in place knowing that is done under the assumption that the architectural engineers know the surrounding area. Then they would do borings when they are ready to finalize their final plans and are ready to submit to the Building Department. Honestly I’ve been here for 23 years and this is the first time we’ve had someone ask. I’m not saying we won’t do it but I’ve never had the request before. I’m not saying it’s wrong either.

Mr. O’Brien: I have to admit worries about not doing any soil test especially because a similar problem made me switch a project area at the last minute. I’m nervous about solving this problem later. I’m thinking about this as apples and oranges. It just makes me nervous. There’s really no information on what the ground is.

Mr. Patton: I looked at the site and found the house to be an improvement dwelling from the safety and environmental point of view and also the view. The houses in front are becoming enormous and you're right about the conditions under which they are approved. I didn't think about the soil so it wasn't part of my purview to evaluate it. I walked the site in two different conditions, i.e. after rain. It appeared to be stable in the sand but I was concerned about how close it is to the mortared riprap on the side. But it seemed to be an improvement over existing conditions.

Mr. Walsh: I agree with Steve that it would be an improvement and I just want to summarize what your original project was. You would try to get approval from ConCom and then when you get most of the permits done if the soil analysis said that you had to have larger or different footings, you would return to the Board and change everything. Is that right?

Mr. Santos: Typically when the final architectural plans that are required for a building permit, the final ones for construction aren't done until after Conservation and Zoning approvals are obtained. So the final construction design is done after all permits are in hand. The design of the structure that's shown there is the design that they plan on using but the final permit plans are done when all local permits are in hand.

Mr. Bird: My comment on this is yes under normal circumstances, however, in this situation the construction engineering has direct bearing on the site conditions and our jurisdiction. What we're asking for is to get the stuff squared away. The second point I want to make is that I have to agree with the Administrator about the breakaway panels. I am not in favor of seeing breakaway panels or any of this except in the area of the elevator and perhaps the access stairway to the second floor. So you're not going to have my support on it.

Ms. Lincoln: Mr. Chairman: I don't believe it was Tim's project but the Board has asked for a soil analysis when a house went up on piers. I believe it was on the Moses Road property.

Mr. Santos: I'm not saying you didn't, I'm just saying that a lot of projects I've presented and a number have been on piers – I've never been asked. If it was normal policy then we would get it done. Four Board members want it done, so we need to get it done.

Ms. Lincoln: Okay. We look at things in a very site specific way and on Moses Road we required a soil analysis prior to closing the hearing. It has been done.

Ms. Gladfelter: Tim has heard what the people want. This is just asking for some port holes not all the structural plans.

Mr. Santos: I understand.

Ms. Lincoln: Give me a comfort level about digging that close to the revetment.

Mr. Santos: I'd just like to give the applicant a chance to talk.

Mr. Smerinian: What we've normally done in the past is during the excavation process – ask to be present when they start digging – knowing that we're going to want to look at the soils and if there is a question we will bring in a Geotechnical Engineer. I'd recommend on this one that we do something like a perc test. We'll have an excavator come and dig down a little bit. I think that will give us a good indication on how the soils are going to behave and we can schedule a Geotech to be there and he can do a soil analysis and do a report. This is as long as the Board has no issues having an excavator on site to do a little test hole.

Ms. Harlow-Hawkes: You can auger.

Mr. Smerinian: Yes, but I think I'd rather have it open a little bit and it's less expensive for the applicant. If I have to get a boring truck and an engineer – a Geotech is in the \$3000 to \$5000 range. If we could do a perc test type thing for a couple hundred dollars it would tell us the same thing.

Ms. Harlow-Hawkes: As long as it's a mini-excavator and you put the limit of work where you're going to be.

Mr. Smerinian: Yes.

Joseph Noonan (Applicant) Thank you for allowing me to speak. My wife and I have been residents of Falmouth for over 30 years. For those of you who have walked the property the landscape has changed on Surf Drive. Our house is not on Surf Drive – it's a house removed.

We've literally watched the dynamics of Surf Drive change over the last 6 or 7 years. We are currently in a small cottage that is now surrounded by very big homes that are on the same soil. There is a riprap retainer we put in to protect the wetlands. The house behind us doesn't have that so their pilings are right on the river itself. We thought we were making the property better when we did that. Our request really is – we've tried to design a house that my wife and I can retire in and that's what our plan is. We're certainly not rich people. You're asking for us to incur more expense on a project that we've already had significant expense on the design phase. We hired Greg because he is a structural engineer and we're relying on his expertise to build a house that's going to cost us a lot of money and will withstand time. Certainly it is going to withstand storms. As for the breakaway panels, we're surrounded by houses that the Board has already approved with breakaway panels. Our intent was to really build less on the ground floor than our existing structure. I believe it is less in square footage than what is currently on the ground right now. Our ask was to close the stairway area and enclose a two car garage so that we have protected cars in the winter. The rest of the house would be open. I believe it's 50 – open and 50 – closed on the ground level. The houses that surround us that are in front of us are on Surf Drive and directly on the water. Our house has withstood two hurricanes on the ground level with no damage. We've been there for significant storms and flood tidal surges. Our plans are to build up. The breakaway panels on the ground would have hinges and we don't see any liability to the property owners around us that the panels would go into their property or Fresh River. That is what our plan is but we've already incurred a lot of expenses. We would really like your approval to move forward with the project. Are there any questions?

Ms. Harlow-Hawkes: The house has only increased 6%. You have not gone from little to huge. The plantings are a great improvement to the property. I think your engineering consultant headed in the right direction. It's sort of like a perc test and if you were doing any project besides one that is on a sewer, you would do a perc test anyway. If it were a \$5,000 incurrence it would be a different deal. This is a protection not just for the environment but also for you as an applicant because your design will be based on what is in the ground. The soil analysis is the piece we're missing now.

Mr. Noonan: Your main concern is the structural ability of the house?

Ms. Harlow-Hawkes: Yes. But the comparison is to how you would be doing a perc test in other cases to discover what is in the ground and what would have the integrity to hold up your house.

Mr. Noonan: Certainly if we were going to incur the cost of building a house we would rely on the expertise of the structural engineer who is going to be handling the footings to be sure that the house will stand up. That's why we hired this firm.

Ms. Gladfelter: I think why we're asking for this test to be done is that it has to be done for a building permit anyway and you may find that the engineer may have a different approach which may change the footings and that would change what would happen here. Let's find all this out right now. So you just have to come to us once.

Ms. Lincoln: A clarification on some of the numbers: the enclosure as proposed is only 40-sq.ft less than what is existing on the site. It's not a tremendous reduction in structure in a Velocity zone so that's why staff says that the structure should be reduced and the added structure space in a hazard area is at 2542-sq.ft. It's a substantial structure that is going in.

Ms. Gladfelter: It's also true that the houses in front are all that way but it's in the last couple of years that the Town has become much more concerned about the coastal hazards, coastal resiliency and the likelihood of storms, etc. How we look at things and how we try to condition things to protect the environment changes also depend on the new information we get in Town. There has been a lot of information in the last year or two that make us much more cautious about how things have to be conditioned in certain areas.

Mr. Noonan: I totally understand that. I also understand that we're taxpayers in Town and we have obviously paid a lot of tax money to the Town for a number of years. The houses directly in front of us on Surf Drive were built within the last four years. The Board had granted them the same

permission that we're asking for. We are right behind them and you're saying that you don't want to do it for us when you've already approved houses around us in the last four years.

Ms. Gladfelter: I'm saying that the information we've gotten from the Town on the coastal resiliency aspect of the Town has been in the last two years. There may have been decisions made four years ago that we would look at differently now.

Mr. Noonan: Do you also look at a fairness assessment on what's been granted vs. what someone is requesting?

Ms. Gladfelter: What we look at is how we can best protect the environment. It's not that these things are grandfathered in.

Mr. Noonan: I agree but we're making the property better and we're raising the property per existing flood regulations. We're improving the property and spending a lot of money to do that. Is the Board going to take this into consideration?

Ms. Lincoln: You're improving the property because it's a requirement of the Riverfront regulations and your mitigation requirements for the plants.

Ms. Gladfelter: And to meet the building codes.

Ms. Lincoln: Yes, you're improving the property but it doesn't have one inch of vegetation on it. It hasn't in years so you are required to put plants in because of what you're doing on the property. So yes, it's an improvement but it's not just an improvement, it's a requirement.

Mr. Noonan: Our intent is to conform to that. I would appreciate your consideration. Thank you.

Mr. Bird: Part of our concern is protecting the resource areas but also our point in many respects in asking for the soil test and engineering on the foundations – all this is the kind of thing that you as a property owner should know up front so you can have a good estimation of your costs. Having been in the business for 30 years, I hated to go to the landowner and say I gave you a price to build this house and I just discovered that I have to put a roof on it and that will be extra. Obviously I'm being facetious but you might as well know what you're up against. You want to know if you're going to invest to make the house the way you want it that you want to know at the end of the day that it will withstand these storms and the foundation will support the structure. In a sense we're looking for the knowledge of what's going to happen on the property in advance so we can properly condition it. At the same time we're giving you the same benefit so you know up front what it's going to cost you to build it.

Ms. Gladfelter: At the request of the applicant's representative I move to continue the hearing until February 12, 2020.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Unanimous, so moved.

Mary Ann Pesce Choate, 58 Cape Codder Road, Falmouth, MA- For permission to raze existing house and construct a single-family dwelling, and pool, with all associated clearing, grading, and landscaping.

The hearing is continued until February 5, 2020.

CONTINUED HEARINGS UNDER A NOTICE OF INTENT

Scott Tynell, 163 Bay Road, North Falmouth, MA- For permission to conduct shellfish aquaculture within Rand's Canal and Megansett Harbor.

The hearing is continued until March 4, 2020.

REQUESTS TO AMEND THE EXISTING ORDER OF CONDITIONS

Ms. Gladfelter recused.

The Woods Hole, Martha's Vineyard, Nantucket Steamship Authority, Woods Hole Ferry Terminal (end of Railroad Ave), Woods Hole, Falmouth, MA- For permission to amend DEP # SE 25-4151 to revise the design of the permanent terminal building and the utility building.

Ms. Lincoln: No comment at this time.

Bob Ayers (GZA) introduced the subject of the request.

Steve Lakow (GZA) We are asking for an amendment to the existing OOC. The changes will be in the building footprint and size for the permanent terminal building and for the utility building.

There is an existing temporary terminal building that will eventually be dismantled and a permanent building constructed. The graphic in the application shows the build-out condition by the water.

Looking at the dotted black line is the building footprint and we're looking to shift the building slightly back and further away from the water and go from a two-story building to a 1-story building with a slight increase in the footprint but a significant decrease in the amount of square footage because we are going from a two-story building to a one-story building. The building height will decrease by about 12-ft. from what was previously approved. This is what we're proposing for the terminal building. The utility building outline in dotted black was previously approved and we are looking to re-configure that by going out a little further and the structure will be further away from the water. The overall size of the building will increase by 1800-sq.ft. within the regulated area which is land subject to coastal storm flowage because of the 100 year flood.

These two buildings that have been previously approved are in land subject to coastal storm flowage. Only a little of the front of the utility building is in land subject to coastal storm flowage. Basically we are looking for a slight shift in the terminal building and a little more footprint in both buildings. That's a summary of what we're proposing.

Ms. Lincoln: No questions or comments.

Mr. Mathews: Just to clarify or confirm – the terminal building is going to increase the footprint by 888-sq.ft?

Mr. Lakow: That's correct.

Mr. Mathews: And the utility building footprint is increasing by 14-sq.ft?

Mr. Lakow: That's just the net change from what was originally approved. But within the regulated area of land subject to coastal storm flowage it's 768-sq.ft.

Mr. Walsh: Was there any discussion about where mitigation could be placed for the increase in square footage?

Mr. Lakow: We reviewed the WPA within land subject to coastal storm flowage and there is really no performance standards per se with this resource area because what we're really talking about is a slight placement in the flood zone called basically the ocean. It's not like an inland river situation where when you increase the square footage you're displacing flood storage. If you were to calculate the flood storage lost here it would be very small.

Mr. Patton: No questions or comments.

Mr. O'Brien: No questions or comments.

Ms. Harlow-Hawkes: No questions or comments.

Mr. Bird: No questions or comments.

Mr. Bird: No questions or comments.

Mr. Bird: No questions or comments.

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

Ms. Harlow-Hawkes: .

Mr. Mathews: Unanimous, so moved.

Ms. Gladfelter returned to the meeting

CONTINUED REQUEST FOR AN ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION

Robert Sullivan, Wings Pond LLC, 63 North Falmouth Highway, Falmouth, MA- Request for confirmation of the following resource area boundaries: isolated land subject to flooding, freshwater wetland.

Ms. Lincoln: We still need to work with the consultants on delineation. They replaced the flags and they are a little higher now so we need to go out there. They are requesting a continuance until February 19, 2020.

Ms. Bird: At the request of the applicant I move to continue the hearing until February 19, 2020.

Ms. Gladfelter: Second.

Mr. Mathews: Unanimous, so moved.

Ms. Gladfelter: Move to adjourn.

Mr. Bird: Second.

Mr. Mathews: Unanimous, so moved.

The meeting adjourned at 8:16 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary