

The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, APRIL 08, 2020, 7:00 P.M.

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, **the April 8, 2020 public meeting of the Falmouth Conservation Commission shall be physically closed to the public to avoid group congregation.**

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

1. The meeting will be televised via Falmouth Community Television.
2. Real-time public comment can be addressed to the Conservation Commission utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.
 - a. Zoom Login instructions:
 - i. Instructions and the meeting link for this specific meeting can be found at the following web address: <http://www.falmouthmass.us/Conservation>
 - ii. Please plan on 10-15 minutes of preparation time to log in though it may be less if you have previously used Zoom on the device you will use to access this meeting.
3. Additionally public comments may be sent in advance of the meeting to concom@falmouthma.gov at **least 5 hours prior** to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized or displayed during the meeting at the discretion of the chair.
4. Applicants, their representatives and individuals with enforcement matters before the Conservation Commission may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Conservation Commission may contact the Conservation Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to concom@falmouthma.gov so they may be displayed for remote public access viewing.

Present: Jamie Mathews, Chair
 Russell Robbins, Vice-Chair
 Betsy Gladfelter
 Maurie Harlow-Hawkes
 Courtney Bird
 Steve Patton
 Mark Gurnee
 Kevin O'Brien, Alternate

Peter Walsh, Alternate
Jennifer Lincoln, Administrator
Kevin Newton, Agent

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

VOTE MINUTES

4/1/2020

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

Mr. Robbins: Second.

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

REQUESTS FOR A CONTINUANCE UNDER A NOTICE OF INTENT

Anastasios Parafestas, Trustee, 160 Penzance Road, Woods Hole, Falmouth, MA- For permission to install a 12' x 20' pool, stone pool terrace, stone retaining walls, stone steps, pool utilities, lighting, fencing, drainage, and all associated clearing, excavation, grading, irrigations, landscaping, and mitigation plantings.

Ms. Lincoln: The applicant has requested a continuance until May 20, 2020.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until May 20, 2020.

Mr. Bird: Second.

Mr. Bird: Why the continuance?

Ms. Lincoln: They are looking for a variance and are not prepared at this time.

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

REQUESTS FOR DETERMINATION OF APPLICABILITY

Lisa Brown, 187 Shore Street, Falmouth MA- For permission to remove the existing garage, remove the existing sunroom and add an addition to this area, and upgrade to a Title V septic disposal system in the flood zone.

Mr. Newton: Jurisdiction: within flood zone AE 12. The RDA is to demolish an existing garage, add a new addition, and to upgrade to a new Title V septic system within the flood zone. There is an increase in design flow within flood zone AE. No other resource areas located within 100 feet of project. No mitigation required for work only within flood zone. Staff recommends a negative 2 (under the State) and Negative 3 (under the bylaw). Resource area boundaries are not confirmed by this RDA.

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

Mr. Bird: Second.

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

David Cousins, 121 Beebe Acres, Falmouth, MA- For permission to construct a 16'x12' screened porch and to construct a 24'x16' deck in the flood zone.

Mr. Newton: Jurisdiction: within flood zone AE 12. The RDA is to construct a new screened in porch and a new deck in the flood zone. No other resource areas are located within 100 feet of the project. No mitigation is required for work only within the flood zone. Staff recommends a negative 2 (under the State) and Negative 3 (under the bylaw). Resource area boundaries are not confirmed by this RDA.

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

Mr. Bird: Second.

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

CONTINUED REQUESTS FOR DETERMINATION OF APPLICABILITY

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

Mr. Newton: Jurisdiction: within 100 ft buffer zone to land under the ocean, land containing shellfish, coastal bank, salt marsh, and within flood zone AE 15. RDA is to relocate an existing stone wall along the property line. No new material will be added to the wall. No existing trees to be removed or impacted. Staff recommends a negative 2 (under the State) and Negative 3 (under the bylaw). Resource area boundaries are not confirmed by this RDA.

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

Mr. Bird: Second.

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

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

Ms. Lincoln: Jurisdiction: within 100 foot resource area buffer zone to a coastal bank, coastal beach, bank of salt pond, salt marsh, land under ocean, land containing shellfish, and within flood zone AE 13. The RDA is for the construction and maintenance of a front porch for the existing single family house; porch was approved in a 2016 RDA but never constructed. All work is taking place within the developed areas of the lot. No trees will be removed or impacted. 2-2.5 inch caliper Tupelo trees will be planted in the rear yard as mitigation for the proposed work (as previously approved in the 2016 RDA) since there is insufficient space for further mitigation planting. Mitigation is required in a 3:1 ratio for the proposed deck. The existing driveway was not constructed per approved RDA from 2016. Staff recommends a positive 3 (under the State) and positive 5 (under the bylaw). Resource area boundaries are not confirmed by the RDA.

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

Ms. Harlow-Hawkes: Second.

Mathews: Gladfelter, no; Bird, no; Mathews, no; O'Brien, no; Gurnee, no; Harlow-Hawkes, no; Walsh, no; Robbins, no. The motion did not pass.

Ms. Lincoln: Staff recommended a positive 3 because of our regulations. We asked the Board to look at the site and make your own decisions. Staff will send out a negative determination and the project will go forward.

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 May 20, 2020.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until May 20, 2020.

Ms. Gladfelter: Second.

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

REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

Kamran Khodakhah, 13 Fells Road, Falmouth MA- For permission to reconstruct an existing patio, construct elevated access stairs with a platform over the coastal bank, abandon an existing path and re-establish native vegetation within the path, manage invasive plants, and install mitigation plantings.

Ms. Lincoln: The applicant has requested a continuance until April 29, 2020.

Mr. Bird: At the request of the applicant I move to continue the hearing until April 29, 2020.

Ms. Harlow-Hawkes: Second.

Mr. Bird: Why the continuance?

Ms. Lincoln: Issues with an old plan from 2006. There is a habitat for rare plants on the property that can only be surveyed in September and October. Natural Heritage wants the survey done so they need time to address their comments.

Mr. Mathews: Unanimous, so moved.

Mr. Patton joined the meeting.

Karen Olcott, Trustee, Small Cottage Realty Trust, 141 Fay Road, Woods Hole, Falmouth, MA- For permission to raze an existing single family house and to construct a new single family house, porch, and deck; relocate the septic system components; reconfigure the driveway; and install mitigation plantings with associated clearing, excavation, utility installation, grading, and landscaping.

Ms. Lincoln: Please promote Wayne Tavares (Tavares Landscape) and Karen Olcott (Applicant) up to participants.

Wayne Tavares: Resource areas include: coastal bank, coastal dune, coastal beach, flood zone, Falmouth 25-ft flood zone, 25-ft A and B zones. The coastal bank zigzags around the original house which will be expanded a little. The new house is no closer to the resource areas (both are 3 ½ -ft). The house is lateral and parallel with the coastal beach. There is an overage of impervious surface in the A zone of 742-sq.ft requiring 2266-sq.ft of mitigation. We get credit

in the B zone because a driveway is being removed and a re-configured driveway will be installed. The applicant has to move a hydrant on the property and re-locate the septic system because of setbacks. This has been approved by the Board of Health. The proposed driveway will be permeable pavement. There will be granite steps in the back. The calculations were done and the setbacks observed – 12-ft from either sideline. There will be mitigation for 2 holly trees and 1 oak that are to be removed. The coastal bank has trees and weeds growing on it. It's a good place for mitigation. The list of proposed plants and their sizes are listed on the plan. 2069-sq.ft of the mitigation will be placed in an area of pitch pines, beech trees, etc. The plants will be placed 7 ½-ft from the trunk of the trees. On the other side of the property 157-sq.ft of the same plants will be placed with the same spacing. Mr. Tavares showed pictures of the coastal bank – nothing is growing in the area of the coastal bank. We have a DEP number. We feel that the coastal bank is a viable area for the mitigation and it is closer to the resource areas. It will also provide erosion protection and wildlife habitat. This is a velocity zone but the area (according to the applicant) has never flooded.

Karen Olcott (Applicant) The house has been in my family for 100 years. It is a narrow property and I have been working with staff for 9 months. We have placed the garage under the house. I know staff prefers the lower lawn for the mitigation (always used for croquet and a garden) but I would like to preserve a piece of history. I hope this will work for everybody.

Ms. Lincoln: In the staff report today the placement of the mitigation plantings is along the coastal bank. The area being discussed is vegetated and I'm okay with mitigation in that area. Is the shed staying or being removed?

Mr. Tavares: We would like to keep it in the B zone. If you want it to be removed, we will remove it. It's only 3x6-ft and will be used to stow bikes.

Ms. Olcott: The hill goes from 3-ft to 28-ft above sea level.

Ms. Lincoln: In the mitigation calculations of 2069 and 157-sq.ft – the driveway is not calculated.

Mr. Tavares: No it isn't because we're putting in permeable pavers so I took it out.

Ms. Lincoln: Are they grass pavers?

Mr. Tavares: Yes.

Ms. Lincoln: The Board has made a determination that if it functions as a permeable area it is okay but you do have additional room if the driveway fails to act as it should. The Board requires that the area be shown on the plan.

Mr. Newton: Are there dry wells?

Ms. Lincoln: Are they on the plan?

Mr. Tavares: No, but I'm happy to put them on. There are 4 of them.

Mr. Mathews: You should have the shed on the plan if you want to keep it. It should be in the narrative at least.

Ms. Gladfelter: I'm not opposed to woody vegetation on the coastal bank. I'm confused about the trees however. For every 1000-ft of mitigation, a tree is required. The trees being replaced with holly trees is not the same. You need 3 more trees on the plan.

Mr. Tavares: Would cedars be more appropriate than the holly trees?

Ms. Gladfelter: That would be okay with me. Option 2 could be eastern red cedars. Whatever you want should be made clear on the plan.

Mr. Bird: Will you show the dry wells on the plan?

Mr. Tavares: Yes. I hadn't because the architect hasn't confirmed all the roof lines. But the dry wells will be adequate for roof runoff.

Mr. O'Brien: There is a full architectural plan in the submission.

Mr. Mathews: The house is not any closer than the existing house? (3 ½-ft)

Mr. Tavares: Yes, it's the same as before.

Mr. O'Brien: It will be a beautiful project when it's done.

Mr. Gurnee: I like the location of the mitigation. I'd like to see more holly trees.

Ms. Harlow-Hawkes: I like the garage underneath. You do need more trees in the smaller area – a holly and a cedar. The shed is okay – just put it on the plan.

Mr. Walsh: It's a good project.

Mr. Robbins: It's a good project.

Mr. Patton: It's a great project.

Mr. Mathews: The shed and dry wells need to be on the plan.

Ms. Lincoln: How long will it take for you to revise the plan?

Mr. Tavares: You will have it by Wednesday the 15th.

Ms. Gladfelter: At the request of the applicant's representative I move to continue the hearing until April 22, 2020.

Mr. Patton: Second.

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

CONTINUED HEARINGS UNDER A NOTICE OF INTENT

Anastasios Parafestas, Trustee, 160 Penzance Road, Woods Hole, Falmouth, MA- For permission to install a 12' x 20' pool, stone pool terrace, stone retaining walls, stone steps, pool utilities, lighting, fencing, drainage, and all associated clearing, excavation, grading, irrigations, landscaping, and mitigation plantings.

The hearing is continued until May 20, 2020.

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

Ms. Lincoln: Please move Wayne Tavares and Karen Olcott back to attendees and move Tom Pogerski up to a participant.

Tom Pogerski (GM) This is the re-configuring of the existing floats and the addition of a small finger float. Resource areas include: land under the ocean, land containing shellfish, land subject to coastal storm flowage. On the north side they will be no further out. There will be 2 3 x 20 finger floats, 1 5 x 20, and 1 3 x 20 finger float. This will be better for the environment because the maneuvers can be done at low speed. We did not do a shellfish survey because low tide is still several feet of water. All docks are within 200-ft and not within 10-ft of the sidelines. The water is 5 to 6-ft at low tide. There will be no buffer zone work. We will use the existing infrastructure – stairways, etc. It will take less than a day to set the piles. The floats will comply with the Town of Falmouth requirements. They do comply with the minimum size, length and width and do not interfere with the adjoining areas. There will be no problem with the swimming channel and the project will protect water quality and turbidity. All materials are environmentally friendly. There will be no impact to banks because the floats are secured. We do not anticipate change in the water quality. There is no eelgrass in the area. The sizes and

elevation meet the Town's requirement and do not exceed 100-sq.ft. There are no moorings in the area. Some abutters are concerned with the way the marina is operated – including safety. Ms. Lincoln: There is no increase in the Velocity zone. The marina is the footprint. In the past (Falmouth Inner Harbor), when a re-configured float or added slip was requested, the Board looked at the footprint of the marina rather than the floats.

Mr. Newton: No questions or comments.

Ms. Gladfelter: No questions – the expansion is in the same footprint.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Ms. Harlow-Hawkes: No questions or comments.

Mr. Walsh: No questions or comments.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Gurnee: No questions or comments.

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

Ms. Harlow-Hawkes: Second.

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

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

Ms. Lincoln: Please move Tom Pogerski down to attendee and Tim Santos up to participant.

Tim Santos (Holmes & McGrath) The property is along Great Pond. Resource areas include: Great Pond, salt marsh, coastal bank and land subject to coastal storm flowage. There is a landing in the front and back of the new house. Dry wells will be installed for roof runoff.

There is a proposed patio and the shed will be moved landward. A Title 5 septic system will be installed. The patio will be in the A zone (131-sq.ft) and part of the patio and the house will be in the B zone (127-sq.ft). 565-sq.ft of mitigation is required.

Ms. Lincoln: My only concern is the location of the proposed patio extending into the A zone. You can't have any impervious surface closer to the resource area than the existing structure.

Mr. Santos displayed photos. An aerial photo shows a firepit and patio in the area. The patio is included in the mitigation calculations and if it is not permitted, there will be less mitigation.

Ms. Gladfelter: No questions or comments.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: No questions or comments.

Ms. Harlow-Hawkes: I like the patio giving us more mitigation, but I doubt the existing patio was permitted.

Mr. Walsh: No questions or comments.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Mathews: I don't see a rinse station or AC pad on the plan.

Mr. Santos: There is an AC pad, but no request for a rinse station yet.

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

Ms. Harlow-Hawkes: Second.

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

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

Ms. Lincoln: Please move Tim Santos down to attendee and Tom Bunker up to participant.

Tom Bunker (BSS Design) displayed a GIS map. The property is on Great Pond. There are two flood zones – VE elevation 14, AE 12 and VE elevation 15. There is a 25-ft Falmouth V zone. Resource areas include: Great Pond, land under salt pond, land subject to tidal action, salt marsh, narrow coastal beach, coastal bank and land subject to coastal storm flowage. There are A & B buffers for the resource area including a 100-ft salt marsh zone A and a coastal bank zone B inland. The coastal bank crosses over the salt marsh in zone A and terminates in a larger area of the salt marsh. The existing house is on the west side of the lot. There is a small area for parking and a lawn with ornamental shrubs around the house. The land is naturally vegetated and there are invasive species between the house and the Pond. The septic system will be mounded and installed 5-ft over the ground water. The house is at elevation 15 and the entry level is at 4. There is a flight of stairs to the first floor and also an elevator. There will be a porch on the first floor at the northwest corner. A deck will be faced toward Great Pond. There is another deck on the south side that is slightly in zone B. There will be gravel pavement that is very pervious – up to 2 inches of rain is 100% pervious with no runoff. The leaching chamber is in the front yard. Any runoff will go into the leaching area. There will be a roof overhang on the garage. There are 7 stepping stones (91-sq.ft). Required mitigation will be planted in the existing lawn. The pervious area will also catch water from Cataumet Street.

Ms. Lincoln: Explain why the mitigation areas are fragmented.

Mr. Bunker: I had put a path through the middle, but I will put it back together.

Ms. Lincoln: Good.

Mr. Newton: Thank you for breaking it down for us.

Mr. Mathews to Jen and Kevin: Are you comfortable with the amount of mitigation?

Ms. Lincoln and Mr. Newton answered yes.

Ms. Gladfelter: No questions or comments.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: No questions or comments.

Ms. Harlow-Hawkes: I want to be clear. You're putting the mitigation together – no path? It's too bad there was no talk of a denitrifying system in this area.

Ms. Lincoln: Yes.

Mr. Bunker: Will put the mitigation together – no path.

Ms. Gladfelter: No path will be a condition.

Mr. Mathews: There are 5 houses in that area that aren't sewered and this is one of them. 500 others are sewered.

Ms. Harlow-Hawkes: Yes.

Mr. Walsh: No questions or comments.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Mathews: Do you anticipate any problems with de-watering for the foundation?

Mr. Bunker: It will be right at the 4-ft depth. It depends on the tide. If needed we will come back and discuss a de-watering structure.

Ms. Gladfelter: That will be a condition also.

Ms. Lincoln: Conditions: mitigation and de-watering.

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

Ms. Harlow-Hawkes: Second.

Dan Honan is moved up from attendee to participant.

Dan Honan (abutter) I have a question about the septic system. Will there be any negative effect from this septic system on the septic systems of the abutting properties?

Mr. Bunker: No it is 10-ft from the property line and the leaching trench is 23-ft from the property line.

Mr. Mathews called for the vote.

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

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

Ms. Lincoln: Please move Tom Bunker and Dan Honan down to attendee and Michael Borselli up to participant.

Michael Borselli (Falmouth Engineering) Resource areas include: Waquoit Bay, land under ocean, beach, riprap seawall around the boundary. There is a sloping land form within land subject to coastal storm flowage, a coastal bank along the side of the slope by the concrete wall that pops out on the side of the house. A no disturbance zone A crosses beyond the street side of the property. There is a land under ocean outer buffer zones A & B. A 12 x 22 one car garage on top of the existing driveway will be constructed on mulch that is not impervious. There is an increase in the impervious surface. A cantilevered deck will be added on to the existing deck up one floor for a total of 90-sq.ft requiring 270-sq.ft of mitigation along the edge of the previously required mitigation. Bayberry and Beach Plum will be planted widening the area. Work is proposed in land subject to coastal storm flowage. The FEMA boundary is around the retaining wall, interfaces with the house and pops out at VE13 and X flood zones. X is not a special flood zone. The Falmouth Wetland regulations are parallel and 25-ft from the FEMA boundary in the Falmouth V zone area. There will be no structures except the open piles 2-ft above the base flood elevation at 15. Ground water surface is at 5-ft. The garage will be flush with the existing driveway with the piles into the ground.

Ms. Lincoln: The first floor elevation is at VE15 2-ft above the base flood zone?

Mr. Borselli: Yes.

Mr. Newton: There is a tree where the garage construction will be. Any plans to replace it?

Mr. Borselli: I hadn't considered it but am open to it.

Ms. Gladfelter: No questions or comments.

Mr. Bird: Do you have drawings of the garage? Are the pilings flush with the ground?

Mr. Borselli: The plan shows the pilings at elevation 15.1 with a structural beam on top of that.

There is a detail showing the 15.1 elevation with a concrete slab on top of that. There are 6 pilings as shown on the plan.

Mr. Bird: You are going beyond the existing driveway – beyond the retaining wall?

Mr. Borselli: No, the edge of the driveway terminates at the mulch.

Mr. Bird: Within the bounds of the concrete retaining wall?

Mr. Borselli: Yes.

Mr. Bird: Are there footings on the concrete wall?

Mr. Borselli: I have no idea.

Mr. Bird: Does the structural engineer agree with that?

Mr. Borselli: The architect does.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: No questions or comments.

Ms. Harlow-Hawkes: The land containing shellfish should be on the plan with the lot lines and elevation of the garage.

Mr. Borselli: Understood.

Mr. Walsh: No questions or comments.

Mr. Robbins: No questions or comments.

Mr. Patton: There is a letter in the file about the wall.

Mr. Mathews: Did everyone get a copy of the letter?

All agreed that they had.

Mr. Mathews: There is 13.3-ft to the lot line – is this legal according to Zoning?

Mr. Borselli: Yes, there is no setback to the edge of an easement.

Ms. Harlow-Hawkes: What about mitigation for the tree?

Ms. Gladfelter: We can condition it.

Mr. Borselli: I will work with staff on the type of tree.

Ms. Lincoln: Just don't plant it in the existing vegetation. We'll figure it out.

Ms. Harlow-Hawkes: Move to close the hearing and take it under advisement.

Ms. Gladfelter: Second.

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

CONTINUED REQUESTS TO EXTEND THE EXISTING ORDER OF CONDITIONS

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

Ms. Lincoln: The applicant has requested a one year extension. Staff is not recommending the one year extension. We are still not able to access the site – beach property on Vineyard Sound. There was one uncontested Enforcement Order and one last summer re the conditions on the property and the alleged removal of a dune. We are not allowed to access the site.

Mr. Newton: No questions or comments.

Ms. Lincoln read the regulations re denying an extension.

Ms. Gladfelter: At the request of the applicant I move to grant a one year extension.

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Gladfelter, no; Bird, no; Mathews, no; O'Brien, no; Gurnee, no; Harlow-Hawkes,

no; Walsh, no; Robbins, no, Patton, no. The motion is denied.

Ms. Lincoln: Because of a Bill just passed in the MA House re Covid-19 all permits are automatically extended until 45 days after the emergency is over.

VOTE ORDER OF CONDITIONS

Mary Ann Pesce Choate, 58 Cape Codder Road, Falmouth, MA (4/22/20)

Quorum: Russ, Jamie, Betsy, Courtney, Kevin

Ms. Lincoln: This is the demo of the existing house. They are adding a pool, plantings and removing some vegetation in zone B. There is a landscape and restoration plan. The plan is acceptable. Are there any other conditions?

Ms. Gladfelter: I'm fine with it.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Mr. Robbins: No questions or comments.

Mr. Newton: Is there a condition re the pool cover?

Ms. Lincoln: The automatic pool cover needs to have Building Department approval before being installed. I asked the Building Inspector if it meets the code and was told that it has to meet certain standards and if it doesn't they will have to come back for an amendment.

Mr. Mathews: There is supposed to be a single rail fence to protect the mitigation.

Ms. Lincoln: Right.

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

Ms. Gladfelter: Second.

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

Cape House 11 LLC, 207, 217, and 223 Meadow Neck Road, E Falmouth, MA (4/22/20)

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

Ms. Lincoln: You heard from the consultants re the alternatives to the rock revetment. Are you satisfied with the reports and if so what are the conditions for building the wall?

Ms. Gladfelter: Yes, I'm satisfied with the reports.

Mr. Bird: I'm troubled with the outcome but I don't know what else to do.

Mr. O'Brien: I understand that we have no choice to accept it, but how do we draw the line in the future.

Mr. Gurnee: I think it's the right solution but I need a better description of how they're going to do it.

Ms. Lincoln: It will be done from the top of the bank and they will build the wall from the side. After you all accept it, we need a construction method, protection for the salt marsh and a monitoring plan.

Mr. Bird: I think they are kicking the issue of sediment starvation down the road. What happens down the line? It's a tough situation.

Ms. Gladfelter: They're going to add 245-cu.yds of sand every year.

Mr. Bird: Forever and ever?

Mr. Walsh: I agree with Betsy.

Mr. Robbins: I'm good with it.

Mr. Patton: It's the only reasonable alternative.

Ms. Lincoln: We need a plan to protect the salt marsh and a pre-construction meeting. We have to determine how they will protect the salt marsh. The engineer said they would do the project in the winter when the marsh is dormant. I think this is misleading. They will need some kind of fencing to protect it when they are digging the toe stone.

Mr. Mathews: Can staff ask them for a plan prior to commencing?

Ms. Lincoln: We can ask for a construction methodology.

Mr. Bird: I'm all for protecting the salt marsh during construction but what effect will the wall have on the salt marsh?

Ms. Lincoln: I don't know.

Ms. Gladfelter: They gave an explanation that if the salt marsh is wiped out, they will put so many square feet of salt marsh somewhere on the property.

Ms. Lincoln: They must take protective measures and if damaged, they will restore it.

Mr. Mathews: No time of year restriction?

Ms. Gladfelter: No, they are working above high water.

Ms. Lincoln: To be sure they must protect the marsh or restore it. We need photos of the salt marsh before and after construction.

Mr. Gurnee: They should document it as it stands.

Mr. Patton: Has there been any comment from Mashpee? There are sand bags at the end of the adjoining retaining wall.

Ms. Lincoln: We have received no comment from the Town of Mashpee. We did not permit the sand bags at the end of the wall to the north.

Ms. Gladfelter: Is that in the area where they are going to do a tie back into it?

Ms. Lincoln: Yes.

Ms. Gladfelter: We need a much more detailed methodology.

Ms. Lincoln: We should talk about the beach nourishment. They want transects and to monitor the beach yearly re the 245-cu.yds of sand.

Ms. Gladfelter: On the neighboring properties - is there loose sand in front of the walls?

Ms. Lincoln: There is a large amount of sand there. The sediment transport is south to north and goes into Hamlin Pond. It was shoring the other property north of them. It will have an impact.

Mr. Mathews: Is there monitoring?

Ms. Lincoln: There is no monitoring in Hamlin Pond.

Mr. Mathews: They'll know how much is left.

Mr. Gurnee: Wouldn't it be hard to monitor?

Ms. Lincoln: They had tried to do a beach nourishment program and it was adversely affecting Hamlin Pond.

Mr. Gurnee: How will they get sand down there? They may have to drive vehicles onto the beach.

Mr. Mathews: There are ways to pump the sand down there from above.

Ms. Gladfelter: That's another condition - how will they do it?

Mr. Bird: They should be monitoring the sand going to the salt marsh also. It may have a long term impact.

Ms. Lincoln: Right. Any condition re re-vegetating the top of the bank or just a standard condition?

Ms. Gladfelter: I read through the materials. There are a couple of trees to be removed at the edge. I'm concerned about the existing trees - how will they be protected?

Ms. Lincoln: The biggest issue is protecting the salt marsh, monitoring the salt marsh, beach nourishment, a pre-construction meeting and a pre-vegetation meeting with Nick Crawford.

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

Mr. Robbins: Second.

Mr. Mathews: Gladfelter, aye; Bird, no; O'Brien, aye; Gurnee, aye; Walsh, aye; Robbins, aye, Patton, aye. 6 yes, 1 no. The Order of Conditions is adopted.

Quissett Harbor Preservation Trust, Woods Hole, Falmouth, MA (4/22/20)

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

Ms. Lincoln: This is an amendment to switch the construction access to the top of the Knob. At the original hearing they thought they would go over the top. They looked at it and thought of a better way to go. I don't want them to ruin the vegetation but it bounces back

Mr. Mathews: It's a nice mitigation plan.

Ms. Gladfelter: Yes but they want to plant just before the winter so they don't have to irrigate. If they build it in the spring – how will that work?

Mr. Mathews: Can we have them plant the mitigation as soon as construction is complete?

Ms. Lincoln: Yes.

Ms. Gladfelter: Then they will have to water it.

Mr. Newton: And it will have to survive to get a Certificate of Compliance.

Ms. Gladfelter: Will it be bare all summer?

Ms. Lincoln: No.

Ms. Harlow-Hawkes: The Order will be filed in mid-April and they can't work in June or July. They're not going to work this summer.

Ms. Lincoln: They will have to revisit their timing.

Mr. Mathews: They could do the project in the fall and then plant.

Mr. Bird: That makes the most sense.

Ms. Gladfelter: I agree.

Ms. Harlow-Hawkes: They need a licensed surveyor to do the staking and the tree pruning should be done by a registered arborist. They are removing 2 cedars, 4 black oaks and 4 black cherry trees. There are no caliper inches on the plan. I hope what they put back what is appropriate and is good habitat.

Ms. Lincoln: We will have them replace the trees with the same species.

Ms. Harlow-Hawkes: All the requirements from the Army Corp should be in the file.

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

Mr. Bird: Second.

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

Ms. Harlow-Hawkes: Move to adjourn.

Ms. Gladfelter: Second.

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

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary