

The FALMOUTH CONSERVATION COMMISSION
MEETING MINUTES - WEDNESDAY, APRIL 15, 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 15, 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.

EXECUTIVE SESSION:

Kasok v. Conservation Commission, discuss pending litigation

Mr. Robbins: Move that we go into Executive Session to discuss strategy with respect to anticipated mediation regarding Kasok, 39 Jetty Lane because an open meeting may have a detrimental effect on the mediation position of the Commission.

Ms. Gladfelter: Second:

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

The meeting reopened at 7:12 p.m.

Mr. Mathews: During the Executive Session we voted an amendment to the Order of Conditions for 39 Jetty Lane. In attendance at the session were Jennifer Lincoln, Kevin Newton and Susan Cronin and all the Commissioners. If there are any public comments re the following hearings, please use the Chat function to be heard.

VOTE MINUTES

4/8/2020

Mr. Bird: Move to adopt the minutes as corrected

Ms. Harlow-Hawkes: Second.

Mr. Mathews: Unanimous, so moved.

CONTINUED HEARINGS UNDER A NOTICE OF INTENT

James McLoughlin (TOF), Ashumet Road and Katharine Lee Bates Road, Falmouth, MA- For permission to install structural storm water treatment Best Management Practices along Ashumet Road and Katharine Lee Bates Road, and to resurface portions of Ashumet Road and the entire length of Katharine Lee Bates Road.

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

Ms. Lincoln: Please promote James McLoughlin, Nick Shaw and Ben Lunsted from attendees to participants.

James McLoughlin (TOF) We met with last week on all sites except Ashumet with Mark Kasprzyk and Alissa Bergeron and incorporated Mark's suggestions into the plan.

Ben Lunsted (CEI) I worked with Nick on the revisions and we resolved most of them. Nick will go through the revisions. We went over the suggestions and looked at the grading changes. Not all could be done. I was not at the meeting with Mark and Alissa so I will hand the rest of the discussion over to Nick.

Nick Shaw (CEI) Ashumet: We added flow arrows to the swales and catch basins. We pitched the road to show where the storm water goes into the 2 swales and the pipes were kept. Curbing was a concern re the water going into the vernal pool. Mark said it was better for the water to go into the vernal pool rather than into the pristine Shiverick's Pond.

Mr. Lunsted: We changed the position of the existing catch basin and added a leaching pit across from the catch basin and directed all the storm water into it.

Ms. Lincoln: No more questions – all of Mark's concerns were added.

Mr. Newton: No questions or comments.

Mr. Mathews polled the Commissioners and there was only one question:

Mr. Patton: Do we have the DEP #?

Ms. Lincoln: Yes.

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

Mr. Bird: Second.

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

James McLoughlin (TOF), Chester Street, Elm Road, Old Main Road, and Garnet Avenue, Falmouth, MA- For permission to install structural storm water treatment Best Management Practices and the resurface the entire lengths of Chester Street, Elm Road, Old Main Road, and Garnet Avenue and to resurface the entire length of Chester Street, Elm Road, Old Main Road, and

Garnet Avenue.

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

Ms. Lincoln: No comment at this time.

James McLoughlin (TOF) Chester Street: as stated in the previous hearing we met with Mark and Alissa on site. We will be adding additional swales and the road will be elevated. A few flow arrows were added to show the direction of storm water to the swales.

Nick Shaw: As Jim said we added flow arrows to show the road pitch, moved a proposed swale and shifted it north toward Derry Lane. This allows for less water into the wetland. An under-drain was added to improve storm water treatment. There is high ground water in the area so we are adding swales with under-drains to discharge the water away from the high ground water area. It is discharging toward the wetland. Curbing has been added to direct storm water and we added a swale.

Elm Road: A swale with a riprap spillway will be installed. Mark agreed with the placement of it. There is a low spot with a catch basin and a swale. Flow arrows to indicate the road pitch were added.

Garnet Avenue: We decided to keep the road crested because of possible ice hazards if changed. The area is surrounded by marsh land and land under the ocean. Storm water is directed into an existing swale with a dual treatment process. The storm water will flow through sand and rocks before going out to the ocean.

Old Main Road: We have added flow arrows. We removed some of the existing curbing in the woodland area and will treat the storm water before it reaches a vernal pool. In one area we removed a catch basin and put in a swale with a riprap spillway to catch a bigger amount of storm water. The existing berm is to be maintained.

Mr Lunsted: We have received the DEP number and also the updated buffer areas.

Ms. Lincoln: Thank you for listening to staff and incorporating our concerns.

Mr. Newton: No further comments.

Mr. Mathews: Do you have to coordinate with the Town of Bourne?

Mr. McLoughlin: Our limit of work is at the town line.

Ms. Gladfelter: Garnet Avenue is rough on bikes.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: No questions or comments.

Ms. Harlow-Hawkes: What does the treatment consist of in the spillways?

Mr. Shaw: The under-drain is a perforated pipe at the bottom of the swale. Storm water will go through sand and rocks and then continue to the water. It will remove the suspended solids before it reaches the water. If the swale totally fills the water has somewhere to go.

Mr. Lunsted: It's a pre-treatment for areas of high ground water. The under-drains take care of the catch basins around Garnet Avenue. They will also filter out phosphorous and nitrogen. The fresh stone acts as a gravel wetland. It allows for nutrient removal and provides infiltration.

Mr. Walsh: Do we have a DEP number?

Mr. Mathews: Yes.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Ms. Gladfelter: What happens when it gets inundated with salt water?

Mr. Lunsted: It will get flushed out with rain water and with the crushed stone eventually.

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

Ms. Harlow-Hawkes: Second.

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

Ellen Ruland & Sarah Buckwalter, 2 Coatuit Road, North Falmouth, MA- For permission to raze an existing single family dwelling and construct a new single family dwelling with associated clearing, grading, and landscaping and to install mitigation plantings.

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

Ms. Lincoln: Please move James McLoughlin, Ben Lunsted and Nick Shaw back to attendees and promote Michael Borselli to a participant.

Mr. Mathews: Do we have a DEP number?

Ms. Lincoln: Yes.

Michael Borselli (Falmouth Engineering) I have made revisions to the plan. The hearing was continued because of issues with the plantings. Changes include: the proposed trees along the property have been clustered and there is another grove of trees on the other side. The road is a Private Road and has been labeled as such.

Ms. Lincoln: There have been no Chat questions.

Mr. Newton: This will provide good habitat.

Mr. Mathews polled the Commissioners and there were no further questions.

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

Mr. Bird: Second.

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

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

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

Ms. Lincoln: Please move Michael Borselli down to an attendee and promote Tom Bunker up to a participant.

Tom Bunker (BSS Design) At the last hearing there were questions re the existing leaching field being re-purposed for drainage. It will be abandoned, filled in place and removed from use instead. It is not on the revised plan. Dry wells will be installed – I could not note the exact locations of the dry wells because the final roof lines have not been determined. The dry wells will be placed all around the property where needed. There will be four AC condensers instead of one. We have added 9 cedar trees – 5 in one group – and I have noted that they are to be planted no closer than 6-ft from each other. 4 will be planted in another group with the same distance apart as stated above.

Mr. Mathews: There is a typo at the top – it says you are planting 4 cedar trees.

Mr. Bunker: I will fix that.

Mr. Newton: No questions or comments.

Ms. Gladfelter: I like that Tom has the trees socially distanced. I also like the dry wells.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: No questions or comments.

Ms. Harlow-Hawkes: Is the staff okay with the trees being 2-3-ft off the property line?

Mr. Bunker: I will move them to 5-ft off the property line.

Ms. Harlow-Hawkes: Please do that all the time.

Mr. Walsh: No questions or comments.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

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

Mr. Bird: Second.

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

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

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

Ms. Lincoln: Please move Tom Bunker down to an attendee and promote Jeff Ryther to a participant.

Jeff Ryther (BSS Design) At the last hearing there was a comment about the 3 to 1 calculations for the 164-sq.ft stairway. 492-sq.ft of mitigation is required and we are proposing 550-sq.ft. Shrubs will be planted in the buffer and a single rail fence will protect the buffer. At the base of the stairway there is a detail on the plan re the "flipping up" lower section of the stairway. It is a 3x5-ft piece and is less in weight. The revised plan is dated April 7, 2020.

Ms. Lincoln: No questions. It is nice to see the added buffer.

Mr. Newton: No questions or comments.

Mr. Mathews: Is the top of the coastal bank being mowed down still a problem?

Ms. Lincoln: Yes, but the buffer plantings will help.

Ms. Gladfelter: Thank you for the changes.

Mr. Bird: I'm pleased you included my design re the bottom of the stairway.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: The hinge section is more susceptible to damage but we'll see how it goes.

Ms. Harlow-Hawkes: The single rail fence – have we determined that they are moving it? Did you discuss the plant list because there are no amounts on the plan?

Mr. Newton: We can condition that.

Ms. Lincoln: We will make sure there is a mix of all the species.

Ms. Harlow-Hawkes: Thank you.

Mr. Walsh: No questions or comments.

Mr. Robbins: No questions or comments.

Mr. Patton: Thank you for the improvements.

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

Mr. Patton: Second.

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

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

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

Ms. Lincoln: Please move Jeff Ryther down to an attendee and promote Michael Borselli and Theresa Sprague from attendees to participants.

Michael Borselli (Falmouth Engineering) At the last hearing there was a discussion about incorporating an invasive management plan and adding additional trees next to the driveway. There are 5 trees in the lawn to be removed. On the revised plan there are 10 trees and shrubs planted in various areas.

Theresa Sprague (Blueflax Design) The management plan will include 2200-sq.ft of invasive removal. A mix of native trees and shrubs will be planted (Black Tupelos, arrowwood, vibernum, etc.)

Ms. Lincoln: There needs to be a discussion re where the trees are being planted. The invasives will damage the trees if they are planted in front of that area. The invasive species should be removed and then plant the trees and shrubs.

Mr. Newton: No questions or comments.
Ms. Gladfelter: I agree with Jen. I do like the plan.
Mr. Bird: No questions or comments.
Mr. O'Brien: No questions or comments.
Mr. Gurnee: No questions or comments.
Ms. Harlow-Hawkes: Will the 12" Cherry tree southwest of the plants be staying?
Ms. Sprague: It is staying.
Ms. Harlow-Hawkes: I'm concerned about the sizes of the plantings – 7 gallon, 2 and 3 gallon.
Ms. Sprague: We can go larger – 6-ft range.
Ms. Harlow-Hawkes: You are cramming the plants on the property line and putting the mitigation in a place where people can remove them. 99 caliper inches of trees are being removed.
Ms. Sprague: We can move closer to the septic system.
Mr. Borselli: The trees were in the middle of the lawn. We haven't removed them from the A zone and the trees are not doing well.
Ms. Gladfelter: The cedar trees are there for a border between two very close houses. It's a compromise.
Mr. Walsh: No questions or comments.
Mr. Robbins: No questions or comments.
Mr. Patton: No questions or comments.
Mr. Mathews: The cedars are mitigation for the invasive removal.
Ms. Lincoln: Basically yes.

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

Mr. Bird: Second.

Ms. Lincoln: There are no comments on the Chat function.

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

Ms. Lincoln: Please move Michael Borselli and Theresa Sprague back to attendees.

REQUEST FOR A CERTIFICATE OF COMPLIANCE

Judith R. Berg, 344 Pinecrest Beach Drive, E. Falmouth, MA- Request for a Certificate of Compliance for MA DEP #25-3679.

Ms. Lincoln: This is a holdover from last year. The issue was that they measured the area for a large patio and outdoor kitchen with a tape measure. They thought it was out of our jurisdiction, but they are required to mitigate for it. It is a very small area and they have planted and filled in as much as they could. We have received a survey.

Mr. Newton: I have seen pictures and the plantings are appropriate.

Mr. Mathews polled the Commissioners and there were no questions or comments.

Ms. Gladfelter: Move to issue a Certificate of Compliance.

Mr. Bird: Second.

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

VOTE ORDER OF CONDITIONS

Scott Carpenter (GM), THO of Massachusetts (Safe Harbors Marina), 36 & 42 Fiddler's Cove, North Falmouth, MA (4/15/20)

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

Ms. Lincoln: This is the type of marina, i.e. Falmouth Inner Harbor, where we have looked at the

footprint. They are not adding a large amount of dockage. We received a concern from a neighbor re the size, but it is not rooted in our regulations.

Mr. Mathews polled the Commissioners and there were no further questions or comments.

Ms. Lincoln: We can incorporate DMF time of year restrictions at any time.

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

Mr. Bird: Second.

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

Bayridge Realty, LLC, 127 Shorewood Drive, East Falmouth, MA (4/15/20)

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

Ms. Lincoln: This is the raze and construct. There was a concern with the proposed patio. Tim Santos indicated that there previously was a concrete or stone patio there. I have no additional concerns.

Mr. Mathews polled the Commissioners and there were no further questions or comments.

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

Ms. Harlow-Hawkes: Second.

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

Kevin M. Arnstein, 31 Cataumet Street, Falmouth, MA (4/15/20)

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

Ms. Lincoln: This is another raze and construct. There was a concern that a proposed path was fragmenting the mitigation plantings. That has been changed. There was a concern from an abutter about the septic system, but that was satisfied. We will condition that the path be terminated.

Ms. Gladfelter: If de-watering is necessary staff must be notified.

Mr. Mathews polled the Commissioners and there were no further questions or comments.

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

Mr. Bird: Second.

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

Michael Herzig, 8 Nichols Road, Falmouth, MA (4/15/20)

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

Ms. Lincoln: This is the proposed garage to be built on a mound. The garage didn't have a height on it.

Ms. Gladfelter: Two trees are to be added.

Mr. Mathews: Mike's aware of that.

Ms. Gladfelter: No it is just one tree.

Mr. Mathews: Not one within the mitigation?

Ms. Lincoln: No, near 40.8 by the mean high water mark and the deck.

Ms. Gladfelter: No questions or comments.

Mr. Bird: Are you comfortable that the retaining wall can support the foundation?

Mr. Mathews: The wall is going to be on independent piles.

Mr. Bird: Are you comfortable with that?

Mr. Mathews: Yes.

Mr. Bird: I'd hate to see us approve something and then they have to come back.

Ms. Gladfelter: The wall is separate from the building.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: 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: There is a lot of stuff on a small lot. What about drainage?

Mr. Mathews: Is there a dry well?

Ms. Lincoln: Yes.

Mr. Mathews: Runoff is addressed. Lot coverage will come up in the building phase.

Ms. Lincoln: There is 12.7% lot coverage – existing and proposed – with parking and paving.

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

Mr. Bird: Second.

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

Mr. Bird: Move to adjourn.

Mr. Robbins: Second.

Mr. Mathews: Unanimous, so moved.

The meeting adjourned at 8:41 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary