

The Falmouth Conservation Commission  
**MEETING MINUTES - WEDNESDAY, MAY 13, 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 May 13, 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/1092/Conservation-Commission>
    - 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](mailto: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](mailto: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

4/29/2020

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

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. Unanimous, so moved.

## REQUESTS FOR DETERMINATION OF APPLICABILITY

Greg Inman, 132 Wild Harbor Road, North Falmouth, MA- For permission to construct an addition to an existing garage in the flood zone.

Mr. Newton: Jurisdiction: within flood zone AE 15. The proposed project is to construct an addition to an existing garage and to reconfigure the driveway. The work is proposed within the flood zone only. No other resource areas are located within 100-ft of proposed project. No mitigation is required. 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: Gurnee, aye; Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Walsh, aye; Patton, aye; Robbins, aye; O'Brien, aye; Bird, aye. Unanimous, so moved.

Michael O'Brien, 331 Edgewater Drive West, East Falmouth, MA- For permission to install a new septic system with a de-nitrification unit.

Mr. Newton: Jurisdiction: within 100 ft. resource area buffer to a salt marsh, coastal bank, flood zone AE 12. This project is to upgrade to a new Title 5 septic system. The system will include a de-nitrification. The house is 3 bedrooms requiring 330 GPD flow. A 600 GPD tank is proposed. The leaching field is proposed in the flood zone only. Staff recommends a negative 2 (under the State) and Negative 3 (under the bylaw). Resource area boundaries are not confirmed by this RDA.

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

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. Unanimous, so moved.

Jeanne M. Pagani & Abby B. Lammers, 30 Foster Road, East Falmouth, MA- For permission to construct and maintain an addition with a porch and steps within the flood zone

Mr. Newton: Jurisdiction: within flood zone AE 12. This project is to construct and maintain an addition with a porch and steps. All work is proposed outside of the resource area buffer zones. The work is only proposed within flood zone AE 12. Drywells are proposed to control storm water. 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. Gladfelter: 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.

Mary Carnavale, Trustee of the Acapesket Realty Trust, 448 Acapesket Road, East Falmouth, MA-

For permission to insatall a Title V septic system to replace an existing failed cesspool.

Mr. Newton:

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

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.

Clarence E. & Amy L. Korsgard, 23 Deely Lane, West Falmouth, MA- For permission to completely renovate and upgrade the entire building, construct a second story addition, upgrade the subsurface sewage disposal system and to lightly grade the walk-out access beneath the existing deck.

Ms. Lincoln: The applicant has requested a continuance until June 3, 2020.

Ms. Harlow-Hawkes: At the request of the applicant I moved to continue the hearing until June 3, 2020.

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.

Patrick J. & Ann E. Hester, 7 Beccles Road, Falmouth, MA- For permission to add lawn and ornamental shrubs to a previously landscaped area.

Mr. Newton: Jurisdiction: within 100 foot buffer to a coastal bank, inland bank, BVW, land under water bodies and within flood zone AE 15. This project is to add lawn and ornamental shrubs within an existing landscaped area. Landscaping is to be conducted by Horiuchi Solien Landscape Architects. The area currently consists of mulch and scattered shrubs. The proposed shrubs include a variety of hydrangeas. Staff discovered an unpermitted rinse station and landscaping steps. The applicant will work with staff to address mitigation for the increase in impervious surface. Staff recommends a negative 2 (under the State) and negative 3 (under 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: Gurnee, aye; Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Walsh, aye; Patton, aye; Robbins, aye; O'Brien, aye; Bird, aye. Unanimous, so moved.

Ken and Laura Morse, 210 Quissett Avenue, Woods Hole, MA- For permission install an osprey nest and platform.

Mr. Newton: Jurisdiction: within 100 foot buffer to a salt marsh. This project is to erect a timber pole and wooden nesting platform for ospreys. The design is to include 4 augers to support a wooden base. No digging or concrete is to be set. After construction a request will be made for inspection from Conservation Staff. A letter of support and approval from The Buzzards Bay Coalition and The 300 Committee (grantees of the CR) was submitted with the request. Staff recommends a negative 2 (under the State) and negative 3 (under 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: Gurnee, aye; Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Walsh, aye; Patton, aye; Robbins, aye; O'Brien, aye; Bird, aye. Unanimous, so moved.

Cumloden Associates, Inc., 59-101 Cumloden Drive, 45 Cumloden Drive, 14 Damon Drive, Falmouth, MA- For permission to conduct routine maintenance including mowing the roadside vegetation to 2-feet from the road, repairing pot holes, cleaning the surface drain on Cumloden Drive, removing debris from the road layout and removing invasive vegetation encroaching on the roadway.

Mr. Newton: Jurisdiction: within 100 foot buffer to isolated land subject to flooding, freshwater wetland, and vernal pool. Staff met on site with Janice Forrester to review the proposed scope of work. The RDA is for ongoing maintenance of the road layout to prevent the spread of invasives and to prevent branches and vegetation from interfering with vehicles. It also includes filling in potholes and clearing catch basins. If the association wants to remove any trees, they must ask for permission from the Conservation Commission. A similar RDA was filed and approved by the Commission in 2017 and is set to expire in June. Staff recommends a negative 2 (under the State) and negative 3 (under 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: Gurnee, aye; Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Walsh, aye; Patton, aye; Robbins, aye; O'Brien, aye; Bird, aye. Unanimous, so moved.

Falmouth Conservation Commission, Surf Drive (Map 47-02-025-000), Falmouth, MA- For permission to install an osprey nest and platform.

Mr. Newton: Jurisdiction: within 100 foot buffer to coastal dune, coastal beach and land under the ocean and within flood zone VE 15. Mass. Audubon contacted Conservation Staff proposing to replace a nest that was lost with the replacement of an electric pole at 396 Surf Drive. A design plan has been submitted with the application. Any cutting of pressure treated wood shall be cut outside of resource areas. Any material removed from the nest pole shall be placed back in the hole or removed off-site. Conservation Staff shall be notified in writing of the day work is proposed to start. Staff recommends a negative 2 (under the State) and negative 3 (under 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: Gurnee, aye; Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Walsh, aye; Patton, aye; Robbins, aye; O'Brien, aye; Bird, aye. Unanimous, so moved.

## **REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT**

Aaron Fein, 94 Little Island Road, West Falmouth, MA- For permission to construct a 10'x5' addition on the back of the garage, including roof line alterations and exterior stairway, and to install mitigation plantings.

Ms. Lincoln: Please move Tom Bunker up as a participant.

Tom Bunker (BSS Design) Mr. Bunker displayed an aerial view of the property. The house was originally the gate house for the development. The garage is in the original roadway. Mr. Bunker displayed the plan. The brown area denotes the addition that will be a bathroom. There will be steps up to a deck above the bathroom and the second floor of the garage. There is a stone slab at the bottom of the stairs within the flood zone and within 55-ft of the coastal bank. There is 136-sq.ft of increased coverage in the B zone of a wetland. 415-sq.ft of required mitigation will be planted closest to the wetland. There are lots of coastal banks and an A zone of the coastal bank.

Ms. Lincoln: There is a little shrub material behind the shed. Is that remaining?

Mr. Bunker: That is honeysuckle and will be removed and replaced.

Ms. Lincoln: Okay.

Mr. Newton: No questions or comments.

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: You have 7-ft from the limit of work. Will a mini-excavator be doing the work?

Mr. Bunker: Yes.

Ms. Harlow-Hawkes: I see you are going to ZBA. Why?

Mr. Bunker: There is an accessory building that is too tall.

Ms. Lincoln: It is necessary to file for all obtainable permits before coming to us.

Mr. Mathews: Should we continue the hearing?

Mr. Bunker: It will be filed tomorrow.

Ms. Lincoln: Make sure it is.

Mr. Walsh: There are no suggested changes to the septic system and there was no bathroom in the garage before.

Mr. Bunker: The new septic system was oversized so no change in the septic system is needed.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Mathews: Are they adding a bedroom?

Mr. Bunker: No, but the Health Department may consider it to be one and that was calculated in when we did the septic system.

Mr. Mathews: Anyone using the Chat function?

Ms. Lincoln: No.

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

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. Unanimous, so moved

Francis and Christina Ahern, 27 Fresh River Lane, Falmouth MA- For permission to raze an existing single family dwelling and to construct a new single family dwelling, drive under garage, porch with stairs, paved driveway, rinse station, a/c and generator units, with all associated grading, utilities, and landscaping, and to relocate Town Water and Sewer lines.

Ms. Lincoln: Please move Tom Bunker to attendee and Matt Costa up as a participant.

Matt Costa (Cape & Islands Engineering) Resource areas include: Fresh River to the west and a BVW to the east, buffer zones A & B to the BVW. The house is outside of the 200-ft Riparian Zone. It is at elevation 12-ft. The new house is not in a Velocity zone. There will be flood vents on the new house and it will be elevated above the flood zone. There is a small reduction in impervious surface and no mitigation is required. There will be a rinse station. French drains will be installed rather than dry wells. I believe it meets all performance standards.

Ms. Lincoln: No questions or comments.

Mr. Newton: No questions or comments.

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: No questions or comments.

Mr. Walsh: No questions or comments.  
Mr. Robbins: No questions or comments.  
Mr. Patton: No questions or comments.  
Mr. Mathews: Anyone on the Chat Function?  
Ms. Lincoln: No.

Mr. Bird: 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

Richard and Claudia Mackin, 12 Nichols Road, East Falmouth, MA- For permission to replace an existing ramp with a 3'x32' aluminum ramp and to install a connecting removable 4'x7' timber platform on the top of a coastal bank.

Ms. Lincoln: Please move Matt Costa to an attendee and Michael Borselli to a participant.  
Michael Borselli (Falmouth Engineering) The property has frontage on Waquoit Bay. Resource areas include: land under the ocean, land containing shellfish, A & B zones, land subject to coastal storm flowage, a waterfront VE 13 south and west in the area of a salt marsh. There is a bulkhead and seawall and a float system with a ramp. There is a wetland coastal bank along the bulkhead and seawall. The application is relatively straightforward: replace a small ramp access to the licensed float. The proposed aluminum ramp will connect to a small platform (4-ft x 4-ft) that is removable. Mr. Borselli displayed a photo of the situation showing how the end of the present ramp lands directly on the coastal beach. Another photo (looking north) shows how the present ramp is connected to a small platform. The new ramp will allow for public access under it (5-ft). Resource areas include: land subject to coastal storm flowage. Comments from the staff have to do with the floats there today. They have a Chapter 91 license which has been provided. Mr. Borselli displayed another photo re the float system which is the problem. The float system is 6-ft x 48-ft and the T is 96-sq.ft. On the license it is 6-ft x 24-ft. The existing system is 8-ft too long. The owner knows this. The dock was licensed by a previous owner. The applicant is willing to do whatever the license says. A Condition could be that he is allowed to modify it or get a new one. It is allowed to be 96-sq.ft and the applicant would like more length to berth along the side. If he is not allowed to correct this, he will replace the float with the correct size.

Ms. Lincoln: Will this require more piping?

Mr. Borselli: No additional supports are needed.

Ms. Lincoln: I have no real reservations as long as the square footage of the two 6 x 24 floats is correct. They can be slightly different but the same size. We have received a number of correspondences both for and against the project which you have all received.

Mr. Newton: No questions or comments.

Mr. Borselli: I discovered an opposition email today and referred it to Mr. Newton and he shared it with the Board.

Ms. Lincoln: I did share it with the Board.

Mr. Borselli: The project improves public access. There will be no ramp in the resource area. DEP had no problems with the project and several neighbors are in support of it.

Ms. Gladfelter: I have no problem with the project. Will the whole system come out in the winter?

Mr. Borselli: Yes, I believe Little River installs and removes it each season.

Ms. Gladfelter: It is in a Velocity zone and should come out.

Mr. Borselli: It can be a condition.

Mr. Bird: No questions or comments.

Mr. O'Brien: Generally I approve but would like to see some sort of a railing on it.

Mr. Borselli: The new aluminum ramp will have railings.

Mr. O'Brien: Then I'm fine with it.

Mr. Mathews: The Chapter 91 license does say it is to be seasonal.

Mr. Gurnee: No questions or comments.

Ms. Harlow-Hawkes: In the Order it should be noted that public access signs should be provided. The bayberry is being pruned and there should be a finding about that. The entire dock should have been on the plan. I'm a little concerned about a larger float having a larger boat on it, but I'm glad that the public access is improved.

Mr. Walsh: I noticed that the grass is very green and the Falmouth Regulations do not allow fertilizer close to the water.

Ms. Lincoln: There will be a reminder in the OOC. It's in the standard Conditions.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Mathews: What about the T – should it be altered to comply?

Ms. Lincoln: Yes. It must be 96-sq.ft. I have no reservations about the configuration.

Ms. Harlow-Hawkes: To a 100-sq.ft?

Ms. Gladfelter: No. The question is configuration.

Ms. Lincoln: The Chapter 91 license says it should be 4-ft x 16-ft. The Mackin's replaced it with one that is 6-ft x 16-ft. It doesn't match with the license.

Mr. Mathews: It can be anything but must be 96-sq.ft. Is there anyone in the Chat function?

Ms. Lincoln: No.

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

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. Unanimous, so moved

Les Chernauskas, 69 Paola Drive, East Falmouth, MA- For permission to raze an existing single family dwelling and to construct a new single family dwelling; to upgrade to a Title V septic system; to install drywells, a retaining wall, a rinse station, a wall and steps, and an elevated a/c unit.

Ms. Lincoln: Please move Michael Borselli to attendee and Tom Bunker to participant.

Tom Bunker (BSS Design) The property fronts on Bourne's Pond. The entire property is in a flood zone. Resource areas include: salt marsh, Velocity zone elevation 14, 25'ft wide Velocity zone, Falmouth Velocity zone AE, bordering BVW area of salt marsh, 63-ft of salt marsh, A zone of salt marsh that encompasses all of the house, coastal bank (10 to 1), A zone of coastal bank, zone B of coastal bank. 3 to 1 mitigation is required. The house will be bigger but no closer (64-ft) to the resource areas. It is the same distance from the salt marsh. The house is wider closer to the street. The increase in coverage requires 2,000-sq.ft + of mitigation. The Velocity zone is planted with native understory. I am told that there are 115 trees on the property. A retaining wall will be built on the south side and will be extended up to a neighboring retaining wall. We will remove an oak tree and replace it with a maple tree. We will plant cedar and tupelo trees. The Velocity zone will be planted. The steps got closer to the resource area and we changed that. The floor of the house will be 3-ft higher than the existing one. A rinse station will be under the deck and will connect to dry wells – 4 will be along the back of the house.

Ms. Lincoln: Thank you for addressing the stairs and making a revision. (May 4<sup>th</sup> dated plan) I went to the site and there is a lot of stuff going on – boat in the salt marsh, wheels, fire pit in mitigation area and on the edge of the salt marsh. They must all be removed.

Mr. Bunker: Yes.

Ms. Lincoln: The ramp and kayaks cannot be moved to the salt marsh or fire pit.

Mr. Bunker: I told him that.

Mr. Newton: No questions or comments.

Ms. Gladfelter: No questions or comments.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: The stakes are closer than they should be. How will you get across the marsh land? What is the plan to get the kayaks across?

Mr. Bunker: No particular plan – maybe a boardwalk?

Mr. Gurnee: I don't know but there needs to be a route that goes back and forth.

Ms. Lincoln: Maybe some sort of boardwalk or a removable mat – but that might harm the mitigation.

Mr. Bunker: I can talk to staff about that after.

Mr. Gurnee: What about the staking for the mitigation?

Mr. Bunker: I will check on that.

Ms. Harlow-Hawkes: The project is doubling in size. You are using the hot tub as the closest area to the resources.

Mr. Bunker: The hot tub is 57-ft away and I'm not using it as anything. The principal structure is 63-sq.ft and the new house is 64-ft away - 1-ft further than the existing deck.

Ms. Lincoln: I told them they could not use the hot tub or the patio as the closest area.

Ms. Harlow-Hawkes: This is a huge project. Did you discuss a denitrifying septic system with the owner? There will be elevation changes. You will cut a large oak down and put in a small maple tree that is on the property line and less than 10-ft from the house that we do not allow. All the area is new lawn. I'd like new mitigation. The project is going from 10.78% to 24% coverage of the property.

Mr. Bunker: If you cut a tree down you should be able to put another in the same place. There's not much room.

Mr. Mathews: I suggest you review with staff about placement of the trees.

Ms. Harlow-Hawkes: You could move the trees closer to the limit of work.

Ms. Lincoln: If that's what the Board wants we can do that.

Ms. Harlow-Hawkes: You will be taking down a 20" oak tree and planting a 2 1/2" caliper maple tree in its place. You are sticking all the trees together.

Mr. Bunker: In nature, they grow close together.

Ms. Harlow-Hawkes: I'm disappointed again because there is no denitrifying system. You should suggest it to your client to improve the status quo of the pond.

Mr. Walsh: No questions or comments.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Mathews (to Jen) What is your take on the trees?

Ms. Lincoln: They can move them out of the mitigation area, but where to? I will go out with Tom. I will stand where the stakes are and look up to see if I see sky if the Board wants the staff to decide.

Ms. Harlow-Hawkes: You should go out and look at it before the hearing is closed.

Ms. Lincoln and Mr. Bunker will meet tomorrow morning or next Monday.

Ms. Lincoln: Shall we continue the hearing until next week?

Mr. Bunker: Yes.

Ms. Lincoln: I will measure the mitigation area and see if it's appropriately staked.

Mr. Mathews: Does continuing until next week give you enough time?

Ms. Lincoln: It's up to the Board. The staking may be a only little off and trees are easily shifted.

Mr. Bunker: Yes, it's enough time.

Mr. Mathews: Anyone on the Chat function?

Ms. Lincoln: No.

Ms. Gladfelter: At the request of the applicant's representative I move to continue the hearing until May 20, 2020.

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

Daniel & Carolyn Palmquist, 46 River's End Road & 58 East Harbor Drive, East Falmouth, MA-

For permission to install a fiber roll stabilization system to stabilize an actively eroding coastal bank and to conduct minor beach nourishment.

Ms. Lincoln: Please move Tom Bunker to an attendee and Michael Borselli and Nick Crawford to participants.

Michael Borselli (Falmouth Engineering) There are co-applicants - #46 and #58 East Harbor Drive because applicant Palmquist has a limited area on River's End Road and there is an area of erosion along the shoreline on both properties. The abutter to the south was asked to join but is not going to participate. Mr. Borselli displayed a photo of the dramatic erosion on #58. Trees are uprooted. Another photo on the south side of the dock shows a similar problem. The plan is to install a fiber roll array by Crawford Land Management. There will be 5 20" rolls in the array with tied anchors and mesh to secure the system in the bank. It will be designed to fit the bank and go to the top of the erosion. We would like to place some sand nourishment at the toe. Sand chutes will be used to send the sand to the area from the driveway. A skid steer will be the equipment used. A photo showed the open path to the area. Any disturbance will be restored. A hard solution is not appropriate here.

Ms. Lincoln: I have no concerns as long as the nourishment is going above mean high water. If not it must be pulled back.

Mr. Borselli: If you look at the cross-section you can see it is just above mean high water.

Ms. Lincoln: The bank has to be stabilized.

Mr. Newton: Is there any plan to put woody vegetation in there?

Nick Crawford (Crawford Landscape Management) We will seed the fiber rolls and the nourishment will fill into the fiber rolls. I hadn't planned on putting woody vegetation because it can be difficult.

Ms. Gladfelter: I went out to see the project and did not find a sign. Why? I looked at both properties. It is a pretty bare area with lots of trees but zero understory.

Mr. Borselli: We don't intend to disturb any area that isn't eroding and will stay off the coastal bank as much as possible. Anything that we do disturb by the skid steer will be restored.

Mr. Crawford: The skid steer is a dingo - 4-ft wide. There shouldn't be any disturbance on the coastal bank. We are using chutes with a half pipe and there will be no traversing of the coastal bank. All materials will be carried down the stairs by hand.

Ms. Gladfelter: I'm worried about the buffer to the coastal bank. There are trees but no ground cover. Any rain will run down onto the coastal bank.

Mr. Crawford: I can talk to the homeowners about seeding the additional bare areas above the coastal bank.

Ms. Gladfelter: That is the buffer to the coastal bank.

Mr. Crawford: Yes.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: There is no place to put any rolls at a 45 degree slope. There is land straight down to the platform. You'll have to dig back or move out onto the beach.

Mr. Crawford: I haven't seen the site for a month and a half. There may be more erosion. We will put the fiber rolls as close to the existing height as possible.

Mr. Gurnee: Look at it more closely. I believe the erosion is from the water. You can't cut into the bank, you'll cut the roots of the trees.

Mr. Crawford: There is 20" of depth to play with the fiber roll to lay them back flush with the existing topography. I have about 20" to cut in and part of it may be a field decision.

Mr. Borselli: At the time of the survey the land surface projected out and he needs to fit this to the slope. The toe may bump out a bit, but we may not have to be digging into the bank. The rolls have the ability to fit into the slope. You may make field adjustments as you go along by the dock and under the dock. We can continue the hearing, look closer and give you a methodology.

Mr. Crawford: The fiber rolls are literally flexible. You can cut into them and pull out some of the coir and contour the fiber rolls to fit the existing grade.

Mr. Mathews: Could the site change between now and when you do the project?

Mr. Crawford: Yes, especially if there is a storm.

Mr. Gurnee: I understand flexible rolls but you need to get them in without further encroachment on the beach. We will lose beach – how much? The rolls will be exposed.

Mr. Crawford: If the choice is to lose beach or make the bank steeper, we will do the latter. We will stack them up at a steeper angle.

Mr. Gurnee: Nothing will grow on them then. I'm concerned you will be running into mean high water.

Mr. Crawford: We will start at the base above mean high water. I need to see the conditions right now.

Mr. Gurnee: That's a good idea. It could be a funny looking project.

Mr. Crawford: The only other option is to cut the top of the bank and I don't want to do that. The proposed project will maintain the bank as long as possible.

Mr. Gurnee: I agree. I'd like to see it staked so we know where it is going to be.

Ms. Gladfelter: It may be a field decision anyway. We could stake it today or tomorrow and there may be a storm.

Mr. Gurnee: I understand that but right now I don't see how they can do this.

Mr. Borselli: I respectfully disagree with Mr. Gurnee. If you look at the cross-section the contours are spaced out a little more by the dock. We can attempt to stake with strings where it will be. This is the best soft solution option. Another option is to do nothing or go back to a vertical wall (hard solution) as a last resort.

Mr. Gurnee: The fiber roll is the best solution. The bank is steeper than it looks on the plan. You may have to extend it into the stairs. I'd like to have an engineer put them at 60 degrees.

Ms. Harlow-Hawkes: I concur with Betsy. The staking was rough. It was not well staked in the field. This is the best way to go, the best approach, but the steepness is extreme. You will have to cut into the bank and there is a big oak there. You may have to design it in the field. Perhaps you need an erosion control blanket with a lot of vegetation up there.

Mr. Crawford: When we do installation, we only use blankets 12" above to stop any disturbance. Anything above the fiber rolls will be stabilized.

Ms. Harlow-Hawkes: Don't standardize. Adjust in the field as needed. As for the beach nourishment – there is not much beach there. It's more of an eroded salt marsh. 80 yards of sand is 4 10 wheelers to be put at the base of the coir log. I hope you are erring on the side of more sand needed but not used. Underneath the stairway is very deep. The stairway and bulkhead are not on the plan. I'd like to go out after it is staked.

Mr. Borselli displayed a photo of the north side showing that the stairs slope with a tree at the base and mean high water. It's not really a beach. The slope is 1 to 1 at a 45 degree angle on the north side. The display will be right above mean high water. The amount of beach nourishment is probably more than needed. Just a little sand at the toe to stabilize it would be enough. We will set up some stakes and strings and continue the hearing.

Mr. Walsh: The sooner it is done, the less damage to the environment. I'd prefer to get it done sooner than later.

Mr. Robbins: I agree.

Mr. Patton: No questions or comments.

Mr. Mathews: So the call may be made in the field.

Ms. Harlow-Hawkes: If the call is made in the field – call staff.

Mr. Borselli: Staff can meet us on site and I will stake everything.  
Ms. Lincoln: We were planning to do a pre-construction site meeting anyway.  
Mr. Mathews: Anyone on the Chat function?  
Ms. Lincoln: No.

Ms. Harlow-Hawkes: 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

## **CONTINUED REQUESTS TO EXTEND THE EXISTING ORDER OF CONDITIONS**

James McLoughlin (TOF), Bourne Pond Bridge Replacement, Falmouth, MA (DEP# 25-4278)-  
Request a three-year extension.

Ms. Lincoln: The applicant is requesting a three-year extension. Please move Michael Borselli and Nick Crawford to attendees and move Jim McLoughlin to a participant.

Mr. McLoughlin (Town Engineer) We are requesting a 3-year extension. The original Order was issued in June of 2017, was appealed for a superseding Order and then dropped. We are going forward with beach nourishment on Menauhant Beach first before this project begins.

Ms. Gladfelter: Was sea level rise in consideration when this first came up? Has there been any coordination between the Coastal Resiliency Action Committee (CRAC) and the Water Quality Committee?

Mr. McLoughlin: Not as far as the bridge goes. The height of the bridge will be maintained at the current elevation. Raising it would add cost because of raising the road and the parking lot and damaging the dunes on the ocean side and the resource areas on the Bourne's Pond side. We will maintain the same bridge profile. The nourishment work does provide for a rise in the sea level by a couple of feet. Applied Coastal extended to MEFA and they don't require a full IRR. They are okay with that.

Ms. Gladfelter: Do you have the Chapter 85 permit yet?

Mr. McLoughlin: Yes, all permits are in hand.

Ms. Gladfelter: DOT doesn't have a problem?

Mr. McLoughlin: No.

Mr. Bird: I have a lot of concerns about this project. It's a very dynamic area. The bridge could be obsolete with sea level rise.

Mr. O'Brien: I go along with the previous 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: No questions or comments.

Ms. Lincoln: When does the Order expire?

Mr. McLoughlin: It was issued on June 23, 2017.

Ms. Gladfelter: Move to grant a three-year extension.

Mr. Patton: Second.

Mr. Mathews: Gurnee, aye; Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Walsh, aye; Patton, aye; Robbins, aye; O'Brien, aye; Bird, no. 8 yes, 1 no The motion is passed.

Andreas and Joan Spalaris, 78 Squibnocket Drive, E. Falmouth, MA (DEP# 25-4277)- Request a one-year extension.

Ms. Lincoln: The applicant is requesting a one-year extension. Please move to table this hearing as

we will address this and the later enforcement order at the same time.

Ms. Harlow-Hawkes: Move to table the extension request.

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. Unanimous, so moved

Ms. Lincoln: Please move to untable the extension request and open the request and the enforcement order at the same time. We will be taking separate votes.

Mr. Robbins: Move to untable the extension request.

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. Unanimous, so moved

Mr. Mathews read the extension request and the enforcement order.

Ms. Lincoln: Please promote Arlene Wilson and Brian Wall to participants. Staff does not recommend the extension. There has been an alteration to the plan – a retaining wall at the edge of the proposed driveway. An Order of Conditions (OOC) was issued – DEP #3466 – subject to a settlement agreement that has expired. They finished the front area and the driveway according to the original conditions in the new OOC. We have met out there several times and they had a hard time stabilizing the slope with vegetation so they built an additional retaining wall and filled a coastal bank. There is a stone slab by the door. In addition, the hay bale line is decomposing in a buffer zone. They were advised about these issues and they have been met with silence for 8 months until the applicant was seeking an occupancy permit without a Certificate of Compliance. We have had no feedback re the Certificate of Compliance. We issued the enforcement order and then received the request for the extension. We cannot recommend the extension based on the OOC and the site plan.

Mr. Mathews: There are two different DEP numbers.

Ms. Lincoln: That is a glitch on our part. It should have been advertised with both numbers (4277). They are the same plan and OOC however. The OOC had expired. The Board issued the OOC in 2017 to complete the project.

Arlene Wilson (Engineer for the applicant) The reason that they asked for the extension is that there is work to be done and it is probably best to have an open OOC to do the work. I am new to this and there have been a number of deviations over its history. It is a difficult lot. There was a misunderstanding re the issue of the hay bales. They thought that they were supposed to allow it to deteriorate in place. It is halfway deteriorated now and they will take it out. There is a large stone slab in the area of the side door that was done as a favor for my client. That will be taken out. I have prepared an overlay plan with the plan deviations. Stakes are on site now. The gravel driveway does not percolate. There is 186-sq.ft less impervious surface. On the authorized plan there is a big row of cedars along the property line and a shrub line on the bank that had not been planted and the Certificate of Compliance could not be issued. They have now been planted. We intend to apply for an additional amendment to cure some of the problems. The extension is to insure that there is an open permit. We would like a site visit to go over what has been done and what is needed to be.

Ms. Lincoln: You do not have to grant an extension. The Order is still in effect because of the Governor's declaration of emergency. The Order is still in effect for 45 days after the end of the declaration of emergency. This is a built in extension. There is a statement saying that I told them to allow the hay bale to deteriorate in place. I would never say that.

Ms. Wilson: I will take it out of the statement.

Ms. Lincoln: If the Board wants anything removed it would be done under the enforcement order.

Ms. Wilson do you have more to share – a plan? A photo of the wall and walkway was displayed.

Ms. Wilson: This is the wall and walkway. The driveway is a couple of feet landward and the walkway to the front door is more geometric.

Ms. Lincoln: It doesn't match up with the proposed driveway and landing.

Ms. Wilson: The permit showed a stone dust landing and it is now a stone slab.

Ms. Lincoln: The permit showed a little box. A photo of the other side with the remainder of the hay bale was displayed. Another photo illustrates how high the wall is.

Mr. Mathews: They should be vegetating the side first.

Ms. Lincoln: There are issues on both sides. There was a septic break through. They were aware of how high the wall was to be.

Ms. Gladfelter: Were we ever aware of a door going out to the box? Was it added?

Ms. Lincoln: They had to have a secondary egress. It was supposed to be a walkout on the main floor.

Ms. Gladfelter: There was not supposed to be a stone wall.

Ms. Lincoln: It was supposed to be a landing with stone dust and pavers.

Ms. Gladfelter: It was supposed to be a walkout with a landing and a railing to keep them from falling into the slope.

Ms. Lincoln: We raised that at the hearing and were told it could be done.

Ms. Gladfelter: It was to be a porch with a landing and railing that looked down on a vegetated slope. That's what we permitted. Arlene made a comment about doing whatever they had to do with an amendment. Why do they need an extension? They could do an amendment.

Ms. Harlow-Hawkes: I am not in favor of an extension. I'm waiting to get to the enforcement order. The wall is a serious mortared, engineered wall built with no permit. I will not vote for the extension. Work must be done under the enforcement order.

Mr. Bird: I'm very disturbed. This whole thing has dragged on and on. They have pushed the envelope again and again. They have to get the wall out of there. I have no sympathy for them. There is no permit for the wall and it has to get out of there. The original plan shows a 4 x 4 landing. They must get the work done before the 45 day period is done.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: No questions or comments.

Mr. Walsh: No questions or comments.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Ms. Lincoln: The permit is still in effect until 45 days after the end of the emergency declaration.

Ms. Harlow-Hawkes: Move to grant a one-year extension.

Mr. Robbins: Second.

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

## **REQUESTS TO EXTEND THE EXISTING ORDER OF CONDITIONS**

Carrie R. & Jorge L. Figueredo, 55 & 57 Gunning Point Rd., Falmouth, MA- (DEP# 25-4272)-  
Request a one-year extension.

Ms. Lincoln: The applicant is requesting a one-year extension. This is the restoration project. All the plantings are in but they want to address the honeysuckle problem.

Ms. Harlow-Hawkes: Move to grant a one-year extension.

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. Unanimous, so moved

Salt Pond Bird Sanctuaries, Inc. & Quissett Harbor House Land Trust, Inc., 48 & 71 Quissett Harbor Rd., Falmouth, MA- (DEP# 25-4280)- Request a two-year extension.

Ms. Lincoln: The applicant is requesting a two-year extension. This is the big management plan. There are a number of different issues at the Knob and staff believes the two-year extension is appropriate.

Ms. Harlow-Hawkes: Move to grant a two-year extension.

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

## **HEARINGS UNDER ENFORCEMENT ORDER**

See above Request for Extension.

Andreas & Joan Spalaris, 78 Squibnocket Road, East Falmouth, MA- Violations of approved Order of Conditions / settlement agreement (DEP# 25-3466)

Ms. Lincoln: We are discussing the original permit and the same plan. I talked to Town Counsel about the glitch in advertising the two DEP numbers. We will re-advertise and continue the hearing until June 3, 2020 with the correct DEP numbers – 3466 and 4272. It is however the same plan and the same OOC.

Ms. Gladfelter: The wall should not be there. There was no building permit and it should go.

Mr. Mathews: They need a railing system.

Mr. Bird: The wall must go.

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: No questions or comments.

Mr. Mathews: The hearing will be continued until June 3<sup>rd</sup> so it can be advertised properly.

Ms. Lincoln: The mitigation shrubs are in and the hay bale must come out. There is a tremendous amount of mitigation with shallow root material. They need to look at both slopes and get them stabilized. There is a lot to go into in the discussion on the 3<sup>rd</sup>.

Ms. Harlow-Hawkes: Should the line of work be removed when there is work to be done?

Ms. Lincoln: The line of work is of no use.

Ms. Harlow-Hawkes: Then it must be re-established.

Ms. Lincoln: Yes.

Mr. Mathews: The staff will enumerate all the issues for the 3<sup>rd</sup>. Is the building occupied?

Ms. Wilson: No.

Ms. Gladfelter: At the request of the applicant's representative I move to continue the hearing until June 3, 2020.

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

Tyler Fazzino, 77 Antone Avenue, Falmouth, MA- Alteration to isolated land subject to flooding (CMR 10.57), potential vernal pool (FWR 10.58), and freshwater wetland (FWR 10.55)

Ms. Lincoln: Please move Arlene Wilson and Brian Wall to attendees and promote Jim Stathopoulos to a participant. We were alerted that work was being done on Antone Avenue. Photos of the area were displayed. There is an isolated wetland area on the property with vernal

pool species in it. It is a certifiable vernal pool. This is one of the most protected resource areas. A photo from 2003 shows the back side of #77. Another photo from April of 2020 shows a shed. At the edge of the shed fill was moved around or brought in and pushed into the wetland area. The applicant needs to find someone to delineate the wetland area. It will be difficult. There is a plan done by Tom Bunker in 2011 (displayed) that shows the area but doesn't delineate the wetland edge. They have begun to contact some consultants to assist them. It will be a restoration plan. We were asked if there would be a payment requested for damages. We responded that our focus is on repairing the damage rather than making them pay. It was a buffer to a vernal pool and we want the buffer returned.

Jim Stathopoulos (Attorney for the applicant) Jen gave an accurate presentation of the facts. How do we proceed?

Ms. Lincoln: They must find the wetland edge. Once the edge is established they can work with staff or a consultant to come up with an appropriate restoration.

Mr. Mathews: They should talk to Tom Bunker. Maybe he can help.

Attorney Stathopoulos: He told us that he still has some CAD files and maybe could help.

Ms. Lincoln: That will be good.

Attorney Stathopoulos: They have reached out to a couple of experts on restoration but haven't heard back yet.

Ms. Gladfelter: It must be restored.

Mr. Bird: The first step is to get someone in there to delineate the edge. Then plan a timeline for restoration and then a timeline for the work.

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: I agree with Betsy and Courtney.

Mr. Patton: Me too.

Ms. Lincoln: They must delineate the wetland and meet with staff about a date certain. We will vote the enforcement order at the next meeting and start the procedure right away. It shows good faith to the Board.

Mr. Mathews: Anyone on the Chat function?

Ms. Lincoln: No.

Ms. Lincoln to the Attorney: We will vote this next week and give you clear timelines, deadlines and what kind of restoration they want.

Attorney Stathopoulos: No more hearings to appear at until the Order?

Ms. Lincoln: Right. The plan will look different from Mr. Bunker's. There will be a lot of detail – existing topography, vegetation on site, etc. Please ask your clients to cease and desist doing any work on the property.

Ms. Lincoln: Please move Attorney Stathopoulos to an attendee.

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

## **VOTE ORDER OF CONDITIONS**

Allen Willis, 72 Eel River Road, East Falmouth, MA (5/13/20)

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

Ms. Lincoln: This is to address the outstanding planting issues.

Mr. Newton: The beach grass is to be left in place.

Ms. Lincoln: They are moving the shed and the utilities. The Board wants the area of beach grass to be inter-planted with salt tolerant shrubs.

Mr. Mathews: Bayberry – 4-ft on center.

Ms. Gladfelter: Mark Kasprzyk wanted vibernum and we said Bayberry.

Ms. Lincoln: They are relocating the shed. Tupelos are proposed. They will remove the areas of invasives and replant the bare areas. The only change is the bayberry 4-ft on center inter-planted in the beach grass.

Mr. O'Brien: I believe we discussed a 3 year monitoring period?

Ms. Lincoln: Yes, for the life of the permit. The planting should be done immediately.

Ms. Gladfelter: 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

Michael C. & Ann L. Feenan, 101 Lake Leaman Road, Falmouth, MA (5/13/20)

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

Ms. Gladfelter: This is the knotweed problem.

Mr. Gurnee: They have to get it out of there.

Mr. Newton: The Board wanted a root barrier.

Ms. Gladfelter: Yes, remove the knotweed and put in a root barrier.

Ms. Lincoln: The southern neighbor's side will also be done.

Ms. Gladfelter: The northern side is Town owned land.

Mr. Robbins: The Town should address that.

Ms. Gladfelter: Right. They also talked about mechanical removal of the Ivy. There is a patch by the north knotweed at the base of the trees.

Ms. Lincoln: There is mitigation planting.

Ms. Gladfelter: 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

Ms. Harlow-Hawkes: Move to adjourn.

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. Unanimous, so moved

The meeting adjourned at 10:25 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary