

The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, MAY 20, 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 20, 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:

The meeting will be televised via Falmouth Community Television.

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.

Zoom Login instructions:

Instructions and the meeting link for this specific meeting can be found at the following web address: <http://www.falmouthmass.us/1092/Conservation-Commission>

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.

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.

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.

Mr. Mathews called Kevin O'Brien up to the quorum.

Mr. Mathews instructed the public on their ability to make a comment by using the Chat function on the bottom of the screen.

VOTE MINUTES

5/13/2020

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

Mr. O'Brien: Second.

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

REQUEST FOR A CONTINUANCE UNDER A NOTICE OF INTENT

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

Ms. Lincoln: The applicant has requested a continuance until July 23, 2020. He is seeking legal advice.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until July 23, 2020.

Mr. Patton: Second.

Mr. Mathews: Will this be the end of this? I believe it is the fifth continuance.

Ms. Lincoln: I can't guarantee that.

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

REQUEST FOR A CONTINUANCE UNDER A DETERMINATION OF APPLICABILITY

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

Mr. Newton: The applicant has requested a continuance until June 10, 2020.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until June 10 2020.

Mr. O'Brien: Second.

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

REQUESTS FOR DETERMINATION OF APPLICABILITY

Blair Anthony, 121 Surf Drive, Falmouth, MA – For permission to remove an existing driveway to Surf Drive, add a sand dune buffer, add a stone pathway and rock boulders, and to seed the new lawn area.

Mr. Newton: Jurisdiction: within 100 foot buffer to coastal dune, coastal beach and within flood zone VE 16. This project is to establish a sand dune buffer, remove an existing driveway, and add a stone pathway. The Surf Drive driveway entrance will be removed. A new stone pathway will be set in grass in its place. A sand dune buffer will be created at the existing concrete wall and extend across the site along Surf Drive. 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.

Ms. Gladfelter: Second.

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

Marine Biological Laboratory, 29 Pondlet Place, Falmouth, MA – For permission to remove an existing failed septic system and to install a new Title V sewage disposal system located within the flood zone with an increase in design flow.

Mr. Newton: Jurisdiction: within flood zone AE 12. This project is to upgrade to a new Title 5 septic system with an increase in design flow. The system will increase from 3 bedroom to a 4 bedroom system. All work is proposed within the flood zone only. No other resource areas are located within 100 feet of proposed work. Staff recommends a negative 2 (under the State and the bylaw). Resource area boundaries are not confirmed by this RDA.

Ms. Harlow-Hawkes: 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.

CONTINUED REQUEST FOR DETERMINATION OF APPLICABILITY

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

The hearing is continued until June 10, 2020.

REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

James P. and Jean F. Bourdon, 124 Sider's Pond Road, Falmouth, MA – For permission to raze an existing single family dwelling and construct a new single family dwelling with associated clearing, grading, and landscaping; to install mitigation plantings; and to conduct coastal bank restoration.

Ms. Lincoln: Please promote Tim Santos and Theresa Sprague to participants.

Tim Santos (Holmes & McGrath) Resource areas include Sider's Pond, inland bank, coastal bank and land subject to coastal storm flowage. The existing house will be razed and a new home will be constructed. The black dots show the existing house and the new house is outlined in brown on the plan. Porches and a patio will be built. The cesspool will be abandoned and a new system will be installed. The curb cut will remain but a re-configured driveway will be installed. There is an increase of 1642-sq.ft of impervious surface and according to FWR zone B regulations a 2 to 1 ratio of mitigation is required. (3300-sq.ft). There will be a coastal bank along the rear of the property. Theresa Sprague (Blueflax Design) We have a land management plan. The existing vegetation includes a lawn and ornamental plantings. There are several large oaks, holly and cypress trees and two dogwood trees next to the foundation. The lawn runs to the top of the coastal bank. There is vegetation on the bank. Ms. Sprague displayed photos. Invasive species include English Ivy and bittersweet (2090-sq.ft). The area will be restored with a total of 5400-sq.ft. Some of the lawn area will be removed and replaced with native vegetation. Two cedar trees will be removed. Five trees will be removed for construction or because of damage. We will plant two cedars and 206 shrubs, i.e. bush honeysuckle, inkberry. We will remove the turf from the lawn area and plant woody vegetation and seed the lawn area with wildflower mix. There will be no vegetation within 10-ft of the trees. We will remove a cypress tree and try to regenerate an oak tree that is covered with English Ivy. As seen in the land management plan all non-native ornamentals will be removed and transplanted out of the buffer area. We will treat the English Ivy and remove it from the oak tree. If the tree still declines we will replace it with 3 to 4 white oaks. 13 trees will be planted – two red

maples, 1 redbud, a hazelnut and eastern red cedars. We will remove a yew and box (?). These trees are not part of the mitigation.

Ms. Lincoln: Are the four cedar trees on the northern property line for zone B?

Ms. Sprague: Yes for the yew and box (?) Two cedars in the easternmost area will be planted in the lawn and two to the west are replacing the yew and box (?).

Ms. Lincoln: The stakes in the field are within the existing mitigation. There is a crabapple tree.

Ms. Sprague: Yes, it has a wide canopy and is overgrown. We are hoping to regenerate it with a little tweaking.

Mr. Newton: Any idea when the timber dock went in?

Mr. Santos: They are looking for a license. When the house is finished the applicant will file to get a permit for a float. We will get photos for the next application, but I don't know the answer to your question.

Ms. Gladfelter: How steep is the bank? How will you prevent sediment from going into the water?

Ms. Sprague: There is no ground cover layer now. We will seed and plant the bank.

Ms. Gladfelter: I'm worried because it is so steep. Will the fence be gone?

Ms. Sprague: Yes. I will put that on the plan.

Ms. Gladfelter: We will require a single rail fence between the mitigation and lawn. Goal three of the land management plan states that trees will be replaced 1 to 1 with native trees in zone A. Will there be any additional trees?

Ms. Sprague: We are removing 5 trees and planting 13.

Ms. Gladfelter: How many caliper inches are they?

Ms. Sprague: 2 to 3 caliper inches. The American Holly and the hazelnut are 1 to 2 caliper inches. The cedars and hollies are 7 to 8 feet.

Ms. Gladfelter: How many caliper inches are you removing?

Ms. Sprague: I don't have that number but will get it for you.

Ms. Gladfelter: The tree being removed – the beech – is in the front.

Ms. Sprague: Yes.

Ms. Gladfelter: Did anyone get the age on the tree?

Mr. Santos: I don't know.

Ms. Gladfelter: It could be quite old.

Ms. Sprague: I will get you the information re the caliper inches of the removed trees.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: I'm disappointed that the trees are not on the plan. What are you going to do near the bottom of the bank?

Ms. Sprague: The shrub layer is all invasive species. They will be removed. There is some indication of yellow birch in there but it's hard to reach. It will remain. Only the invasives will be removed. We will be getting a ground cover layer established and then planting.

Mr. Gurnee: It's a steep bank and stripping vegetation of it could be a problem. You're planting trees of 1 to 2 inch caliper and taking everything off.

Ms. Sprague: We're only removing non-native material and it will be stabilized with an erosion control blanket.

Mr. Gurnee: There is a good root structure under it that is holding the bank up. I assume the boat hoist will be taken out.

Ms. Sprague: The bank will be trimmed and then treated – not pulled out.

Ms. Harlow-Hawkes: The bank is very steep. There are three red maples on the property line. The size of the ball of the trees is large. How can you dig a hole large enough?

Ms. Sprague: The red maples are on the southern property line. The two large American hollies are close to the top of the bank. They are substantial. We will go across the lawn to put the trees in.

Ms. Harlow-Hawkes: They all look alike on the plan. What are the three trees by the edge of the inland bank?

Ms. Sprague: Serviceberry (small in pots). The three to the west are redbud trees. (3 dots on the plan) We are limited to what CAD allows us.

Ms. Harlow-Hawkes (to the Board members) As you know I have angst about planting trees along the property lines. The furthest is 5-ft off the property line and it will overhang the next property. The 7-8-ft eastern red cedars or the hollies are 3-ft off the property line.

Ms. Sprague: There are red cedars on the opposite property that are also coming over the property line. The applicant wants to blend in with the ones on the neighboring property.

Ms. Harlow-Hawkes: The red maples are 3-ft off the property line.

Ms. Sprague: They are actually 6-ft off the property line. The canopy will be much higher.

Ms. Harlow-Hawkes: We don't want things crammed on the property. You are creating a screen – we've seen it over and over – and there are hardly any trees on the bank. You may need to put coir logs on the bank. You will strip the grass out and re-seed. Why is yours better than what is there now?

Ms. Sprague: There will be a straw waddle at the top of the bank. We are putting native grasses there that are much deeper rooted.

Mr. Mathews: Could you put an additional row of straw waddles?

Ms. Sprague: Yes.

Ms. Lincoln: You're not getting soils from Breivogel are you? The Town?

Ms. Sprague: No. We're not bringing any soil in.

Mr. Robbins: No questions or comments.

Mr. Patton: Will you clarify what you mean about Town soil?

Ms. Lincoln: It has a lot of invasive material in it.

Mr. Patton: It will be a challenging bank to work on.

Mr. Mathews: Anyone in the Chat?

Ms. Lincoln: No.

Mr. Mathews: What will the driveway be?

Mr. Santos: It is cobble now, but will be paved. It's outside your jurisdiction.

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; Patton, aye; Robbins, aye; O'Brien, aye. Unanimous.

Mr. Bird and Mr. Walsh joined the meeting.

Lucie Greer, 77 Bar Neck Road, Woods Hole, Falmouth, MA – For permission to reconstruct an existing deck, replace an existing post and rail fence, and to conduct invasive species management on a coastal dune.

Ms. Lincoln: Please move Tim Santos and Theresa Sprague to attendees and Michael McGrath and Catrin Higgins to participants.

Michael McGrath (Holmes & McGrath) The property is located at the entrance to Penzance Point. The house is on the neck of the peninsula that connects Penzance Point to Woods Hole. Resource areas include: beach and dune, Velocity zone elevation 16, VE elevation 15. Across the street is a dune, beach and Great Harbor. On the other side is Buzzard's Bay. The existing deck needs to be rebuilt in place. I'm not sure of the condition but if the frame is rotting we will replace it. It will be in the same footprint. There will be additional work by Wilkinson Ecological, i.e. improvement to the dune and the removal of invasives.

Catrin Higgins (Wilkinson Ecological) The 10,000-sq.ft area of restoration will be to remove the invasive species, replant with native vegetation and restore the dune. The plant species in the dune area include American beach grass, ragosa rose and bittersweet. They tolerate salt spray but do not have a deep root system. We will remove the non-natives by hand and plant all areas that are barren. The bayberry will stay with the American beach grass and the bluestem. 2500-3000 plugs

will be planted right away with woody shrubs, i.e. shrub oak, beach plum. This will improve the conditions and the habitat quality. There has been a slow spread of invasive species.

Ms. Lincoln: Why are you cutting the ragosa rose down to 1-ft from 3-ft?

Ms. Higgins: It's in the land management plan. We would like to prune it annually. We would remove it but it's a heavily trafficked and dynamic area. If the site is exposed it would not be good to start fresh. We will crush it down and treat the bittersweet. It's at 3-ft in height and it's the best way to get rid of the bittersweet but protect the site from a storm.

Ms. Lincoln: It won't grow to 3-ft in one season. I thought you were going to selectively remove the invasives.

Ms. Higgins: It would be much easier to get to the bittersweet. The root system of the ragosa rose will stay there and allow it to grow.

Ms. Lincoln: It won't grow 2-ft in one season and you want to cut it to 1-ft. Later on pruning of the rose will be one our biggest concerns.

Mr. Newton: Re the 4400-sq.ft dune project - you mentioned American beach grass and other appropriate beach grasses will be planted. What about woody shrubs?

Ms. Higgins: We will immediately plug the dune with the grass species and then plant the shrubs.

Ms. Gladfelter: No questions or comments.

Mr. Bird: The ragosa rose should be left. It will grow more than 1-ft in a year. Clarify something for me – you want to cut it back so you can get rid of the bittersweet. How are you planning to get rid of it?

Ms. Higgins: We'll use the cut and wipe system.

Mr. Bird: Will that be effective?

Ms. Higgins: We will cut it to 1-ft and apply the herbicide. We may have to repeat that over the years or try different alternatives.

Ms. Lincoln: The word annually caused tension. Once the OOC is over, it won't happen again. For the first year that is fine. After we will have a discussion about the 1-ft height.

Mr. Bird: I agree with that. Do you think you can get rid of it in two years?

Ms. Higgins: Certainly in three years.

Mr. Bird: If it is 85 to 95% gone after the first two years and then it will be maintenance, will you still have to cut the rose back?

Ms. Higgins: That could work for us.

Ms. Lincoln: You mentioned that you had done this type of project in Dennis. Where?

Ms. Higgins: Right along the coast.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: Re the existing 6 cedar trees – they are in bad shape.

Ms. Higgins: At our previous filing they were wrapped up. They are struggling.

Mr. Gurnee: They will have to be replaced.

Ms. Higgins: In such an exposed site, we have to plant smaller trees.

Mr. Gurnee: They should be given a serious evaluation and replaced as part of this plan. On the Buzzard's Bay side there is a lot of ragosa rose. I don't like the idea of taking it out. You need to prepare a planting plan.

Ms. Harlow-Hawkes: The trees may rally. You're correct - the cedars should be 12" to 18" inches tall. I'm with Jen on the ragosa rose. You could try interspersing some bayberry to make it more substantial on the Buzzard's Bay side. On the other side you could plant pockets of beach plum or bayberry.

Ms. Higgins: We talked about that in the office.

Mr. Walsh: I agree with Jen.

Mr. Robbins: No questions or comments.

Mr. Patton: I have a question about the boats on the beach. Do we have a policy on this?

Ms. Lincoln: Yes, we don't allow it. They have to get a kayak or dinghy rack.

Mr. Mathews: Anyone on the Chat function?

Ms. Lincoln: No.

Ms. Higgins: The project I spoke about was in Yarmouth on Bass River.

Mr. Gurnee: There is a great view of the dune on the Buzzard's Bay side. It's pretty cleared. If it's left with beach grass it's not much protection against over wash. It doesn't protect the dune. You shouldn't replace the ragosa rose with beach grass.

Ms. Lincoln: I agree with you Mark. Storm events from Buzzard's Bay can be pretty strong too.

Ms. Higgins: It does control foot traffic and the root system of the beach grass will hold it in place. It's a huge part of the community and the shrubs will have less exposure.

Ms. Lincoln: Yes, when you have beach grass with shrubs interspersed.

Ms. Higgins: There is bayberry in there now.

Ms. Gladfelter: This is how the dune community starts – first there is beach grass that makes the soil more favorable for woody shrubs to come in. Some of the bayberry should be left.

Ms. Higgins: I agree. We'll get rid of the bad stuff, plant beach grass and allow the natives to come in on their own.

Ms. Gladfelter: The beach grass roots go way down and stabilize the dune.

Ms. Lincoln: I understand that. Look where the beach grass and woody shrubs are proposed – where the deck is.

Ms. Gladfelter: I don't want to close the hearing.

Ms. Harlow-Hawkes: I agree.

Mr. Mathews (to Jen) If we continue the hearing, can you work it out with them?

Ms. Lincoln: Yes. I won't be able to meet until next Wednesday or Friday. You will have to continue the hearing until June 10th.

Ms. Gladfelter: You can't plant until late next fall anyway.

Ms. Higgins: Yes.

Mr. Mathews: Are you amenable to working with staff?

Ms. Higgins: Yes.

Mr. Gurnee: We need an assessment of how many woody shrubs.

Ms. Lincoln: We can meet on site. If we meet by next Wednesday can you have a plan by June 10th?

Ms. Higgins: Yes.

Mr. McGrath: I request a continuance until June 10, 2020.

Ms. Gladfelter: At the request of the applicant's representative I move to continue the hearing until June 10, 2020.

Mr. Bird: Second.

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

Mr. Walsh was recognized at the meeting.

Rosemarie E. Murphy, 23 Green Pond Road, East Falmouth, MA – For permission to construct an addition that connects the existing dwelling to the garage and to install mitigation plantings.

Ms. Lincoln: Please move Michael McGrath and Catrin Higgins as attendees and promote Tom Bunker to participant.

Tom Bunker (BSS Design) The property is on the north end of Green Pond. It's a Riverfront area so there is a 100-ft riparian zone. 200-ft is within the Riverfront area. There are flood zones AE elevation 15 and AE elevation 13. There is a slope that is steeper than 4 to 1. A coastal bank runs up hill until it gets to less than 4 to 1. The coastal bank is co-incidental with the flood zone. With the reconstruction of the existing house there is an increase in the A & B zones and the riverfront area. Mitigation is required. Resource areas include: salt marsh along the water, zone A of the coastal bank. The house and garage are in zone B. The staff report mentioned the planting on the south side of the path to the pond and noted that in 2014 dead and/or missing shrubs were to be

planted in the lawn area. There was no understory in 2012 to 2014. The area further north has been mowed out and steps built into the slope and behind the garage. There is a landing and steps on the garage – the steps were included as part of the 2012 OOC. The paths were in there at the time and have narrowed down since then. There is a small platform for water access that will be removed at this time. On the proposed plan the reddish area shows the connection between the house and garage with an open space facing the road. There will be a hallway and mud room in the addition. With the increase in impervious surface of 534-sq.ft, 1602-sq.ft of mitigation is required. The steps will be removed and the area replanted as well as the riverfront between the retaining walls (570-sq.ft). The previous house had stone drip strips (still on the front) but they won't work on the water side so there will be two dry wells at the bottom of the stairs. The limit of work starts at the garage and around the house. I reviewed the staff report and per the plan 2 to 1 mitigation is required in the riverfront area (1068-sq.ft). The entire bank will be planted. I will need a continuance.

Ms. Lincoln: I'm disappointed that the previous OOC was disregarded. It doesn't give us faith that this one will be followed. The Riverfront regulations require mitigation and are really protected by the State. Ms. Lincoln read the regulations. The planting will better protect the Riverfront area. There may be an enforcement order.

Mr. Bunker: An enforcement order?

Ms. Lincoln: You should review the Riverfront regulations before the continued hearing.

Mr. Bunker: Yes.

Ms. Lincoln: Will the picnic tables, etc. be removed?

Mr. Bunker: Yes.

Ms. Lincoln: The picnic table is already in the lower area of 1050-sq.ft in with the plants.

Mr. Bunker: Yes.

Mr. Newton: No questions or comments.

Ms. Gladfelter: No questions or comments.

Mr. Bird: Do you have the architectural drawings?

Mr. Bunker: No. I have the elevations drawings.

Mr. Bird: Does the garage have habitable space?

Mr. Bunker: No.

Mr. Bird: Is the breezeway one story?

Mr. Bunker: Yes and there is a basement area.

Mr. Bird: So there is no access to the second floor.

Mr. Bunker: No.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: Can you clarify something for me – the current steps to the water are being removed. The dock and float near the garage goes to the water.

Mr. Bunker: The steps on the house are not being removed.

Mr. Gurnee: Just the ones by the water?

Mr. Bunker: Right.

Ms. Harlow-Hawkes: No questions or comments.

Mr. Walsh: Could you give me the total square feet of additional mitigation?

Mr. Bunker: At least double the 534-sq.ft (1068-sq.ft) The 125-sq.ft between the retaining walls – about 900-sq.ft total.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

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 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.

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.

Ms. Lincoln: Please move Tom Bunker to attendee and promote Michael McGrath to participant. Michael McGrath (Holmes & McGrath) A photo was displayed showing the significantly uniquely shaped parcel. Resource areas include: flood zone, fresh water wetlands on both sides of the street, Velocity zone follows the water, 2 AE zones. There is a walled in garden. The applicant would like to build a new retaining wall and put in a 12 x 20 pool. The pool lies within the A zone for the edge of the water. Some of it is in the B zone. The Board denied the pool before ignoring that the edge of the water is natural. A series of photos show the wall that was built years ago. It is a solid wall that rings pretty much the entire site. Your previous denial was because the pool was going closer to the water but you're ignoring the wall. There is some algae at the base of the wall which is a problem. The house has seasonal use and the edge of the wetland is unique. I made a mistake on the mitigation calculations on some areas and the area will be the same as what was required a long time ago when the pool was approved. There are enough plants on site for the increase in impervious surface. There is a written description showing the numbers. The previous Order denying the pool says the walls are part of the structure of the building and too close to the waters of Great Harbor. The pool can be authorized. They will be taking out the landscape vegetation. In the Simon's case the Board approved a structure to go to a retaining wall and then denied this project. I don't think the proposed pool will cause any environmental damage. I don't see any problems and it should allow you to overcome the assumption of causing environmental damage.

Ms. Lincoln: The Board did deny it and this pool is a little larger and there is an increase in impervious surface. 1566-sq.ft of plants are required.

Mr. McGrath: Yes.

Ms. Lincoln: You said you made the wrong calculations on the last plan.

Mr. McGrath: I will provide more calculations. The enforcement order required a certain number of plants. I think they are right but will be happy to give you more.

Ms. Lincoln: I have heard this argument before. If the Board approves the pool then you should require some amount of mitigation. The pool is moving closer to the resource area. I think your previous denial was legitimate and within the regulations. Because it is closer to the resource area and if allowed mitigation is required.

Mr. Newton: No questions or comments.

Ms. Gladfelter: I understand the facts of the case.

Mr. Bird: No questions or comments.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: No questions or comments.

Ms. Harlow-Hawkes: If you were removing lawn you would be reducing nitrogen. That is not supposed to be applied.

Mr. McGrath: It's not lawn.

Mr. Walsh: No questions or comments.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Mr. McGrath: I would like a continuance until June 10, 2020. I will provide the area coverage.

Mr. Bird: **At the request of the applicant's representative I move to continue the hearing until June 10, 2020.**

Mr. Patton: **Second.**

Ms. Lincoln: What will you provide?

Mr. McGrath: I will verify the areas of mitigation.

Ms. Lincoln: How many OOC's are on this property?

Mr. McGrath: On this OOC I will let you know how much area of wetlands and how much area of mitigation is required.

Ms. Lincoln: There was a big project on a property in West Falmouth. There were 8 OOC's. In the format the plans corresponded to each area and it was 3 to 1 mitigation.

Mr. McGrath: The enforcement order shows the area. I will do an analysis and submit it.

Ms. Lincoln: That should have been planted for the enforcement order. You can't use that area for this plan.

Mr. Bird: We have a motion to continue the hearing until June 10th. You should run the plan by Jen.

Ms. Lincoln: We will meet next week.

Mr. Mathews: Is anyone on the Chat function?

Ms. Lincoln: No.

Mr. Mathews called for the vote.

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

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

The hearing is continued until July 23, 2020.

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.

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

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

Mr. Bunker: The hearing was continued from last week. Fewer trees will be planted as the property is well-treed now. I connected with Jen today and we agreed to have fewer trees and more shrubs.

Ms. Lincoln: We met last Thursday to discuss the project. There is an area of mature oaks with a lawn underneath. Staff does not think that more trees should be planted to meet the requirement.

How many additional trees are there?

Mr. Bunker: Eight.

Ms. Lincoln: That is not appropriate. Larger shrubs should be placed along the salt marsh edge. I don't want them to dig in the root system of the trees. The Board wants additional shrubs instead of trees.

Mr. Bunker: The shrubs will not be directly around the trees when the mitigation is provided. 50-sq.ft around each tree is committed to native mitigation. They shouldn't be penalized for it.

Ms. Lincoln: Carve out areas closer to the marsh area.

Mr. Bunker: A healthy forest would have a smaller tree understory.

Ms. Lincoln: Smaller trees grow. Think about the use of the property. If you put additional trees there it hurts the view corridor.

Ms. Harlow-Hawkes: You don't have any more area for mitigation. Do something in shrubbery as understory, i.e. viburnums, etc.

Ms. Gladfelter: I'm confused. Are we suggesting more square footage of shrubs to increase the

mitigation area and fewer trees? Where are we right now? What are our options?

Ms. Lincoln: You can leave the plan as done or add shrubbery for mitigation.

Ms. Gladfelter: Not unless they are shade tolerant and don't grow as high. That's where we're at.

Mr. Bunker: Additional square footage? An additional area? Or closer to the house?

Ms. Gladfelter: If you take the space around the trees to compensate for the four trees you can plant more woody shrubs.

Mr. Mathews: We are looking for more shrubs vs. trees.

Ms. Gladfelter: Is the mitigation area larger?

Mr. Bunker: More shrubs for fewer trees.

Mr. Bird: No shrubbery under the trees. There are mature oaks with an understory of native plants and invasive species. They provide habitat.

Mr. Bunker: They will not be planted directly under the trees.

Ms. Gladfelter: You don't want to cut into the roots.

Mr. Bird: It's a natural system.

Ms. Gladfelter: You want to put something in there that will mature to a natural area but don't want to dig into the roots of the trees that are there.

Mr. Bird: How near will they be?

Ms. Gladfelter: 10-ft in diameter.

Ms. Harlow-Hawkes: Blueflax plants under the understory. You have to get the right plants.

Ms. Gladfelter: You can plant there but you don't have to dig big holes.

Ms. Harlow-Hawkes: A seed mix to 1 gallon to 2 ½ inch caliper. Plants that are more open. Packets that get sun and shade. Make a path to the water.

Mr. Bunker: Plant in the understory.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: You can get plants in a 5-ft radius if you don't get in there with a bulldozer. Pick the right plants that grow in the shade.

Mr. Bunker: If you plant in a 5-ft radius – that's 75-sq.ft – 750 to 800-sq.ft of plants. It adds 14 to 15-ft width to the mitigation plan. How many square feet of shrub planting is required? Many of the trees being taken down are on the street side of the property. We have more room up there within your jurisdiction.

Ms. Harlow-Hawkes: Did you think of moving the house back?

Mr. Bunker: We can't, it's too close to the septic system.

Ms. Harlow-Hawkes: They wanted the project and there is not enough room for mitigation. The house is doubling in size. Reduce the size of the house.

Mr. Mathews: There is no place for trees.

Ms. Gladfelter: No problem – the trees by the street are being removed.

Mr. Mathews: Put the trees there.

Ms. Harlow-Hawkes: There would be no improvement to the resource areas. No denitrifying system either.

Mr. Bunker: We have had a discussion re a denitrifying system. If they did that would it help?

Ms. Gladfelter: Put it in and put the trees up by the street.

Ms. Harlow-Hawkes: I agree.

Mr. Mathews: Is this amenable?

Mr. Bunker: I can let them know that you are amenable. A denitrifying system is expensive. They will have to think about it.

Mr. Walsh: I agree with Mark.

Mr. Robbins: No questions or comments.

Mr. Patton: No questions or comments.

Mr. Bunker: I would like a continuance until June 10, 2020.

Mr. Bird: At the request of the applicant's representative I move to continue the hearing until June

10, 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.

REQUESTS TO AMEND THE EXISTING ORDER OF CONDITIONS

College Light Opera Company, Inc., 54 Chapoquoit Road, West Falmouth, MA – For permission to amend DEP #25-4467 to widen and improve the existing gravel driveway for fire and emergency vehicle access, to relocate the existing porch for student housing cottage #2, and to additionally clear the understory as well as install restoration plantings and trees.

Ms. Lincoln: Please move Tom Bunker to attendee and promote Tim Santos and Kim Mercurio to participants.

Tim Santos (Holmes & McGrath) In 2019 an OOC was issued for construction, septic system upgrade, parking improvements and mitigation. They would like to revise and modify the OOC to expand the driveway per Fire Department requirement. They want a clearance of 18-ft wide from side to side. They will remove the porch on the south end of cottage #2 and add it to the north side. 750-sq.ft of mitigation will be planted and 14 trees will be removed. We will restore the 750-sq.ft of planting along the pond. The 14 trees will be replaced. Water service and a gas line are coming and will be cut to the east. I will fix that on the plan. The electric service will go another way. We will restore the area with woody shrubs. This is mainly for widening the driveway so the Fire Department will sign off.

Kim Mercurio: Tim covered everything. I have nothing to add.

Mr. Santos: In area 1 there will be a 7000-sq.ft+ of mitigation. In area 8 704-sq.ft of restoration – planting for the widening of the driveway. Trees will be planted in two areas and the list of trees and shrubs are on the plan. Restoration for the utility swap is in area 9.

Ms. Lincoln: This is a really busy plan that is hard for new staff members to figure out. If you would just put the already approved on the plan it would be helpful.

Mr. Santos: We could highlight it.

Ms. Lincoln: Good. The area of proposed trees near Chapoquoit Road looks like they are right on the septic system.

Mr. Santos: The ones in light orange are screening trees proposed by the Planning Board. They are not on the leaching trenches.

Ms. Lincoln: Was there any consideration given to transplanting the cedar trees?

Ms. Mercurio: Near cottage #2?

Ms. Lincoln: Yes.

Mr. Santos: Could they be transplanted?

Ms. Mercurio: It depends on the size.

Ms. Lincoln: What species will the replacement trees be?

Ms. Mercurio: Most are cedars.

Mr. Santos: The existing driveway is 3600-ft and the proposed is 2400-ft. I didn't view it as mitigation because we're restoring it up front. We can discuss that.

Ms. Lincoln: It needs to be mitigation for the gravel road.

Mr. Santos: Does it have to be mitigated at 3 to 1 plus 700 or without it?

Ms. Lincoln: The Board will need to discuss that. Why was that not in the original proposal?

Mr. Santos: I tried to do a different route. The Fire Department said no. It's 18-ft from side to side and a 14-ft driveway.

Mr. Newton: No questions or comments.

Ms. Gladfelter: How wide is the biggest fire engine?

Mr. Santos: Outside to outside of the trees is 9 1/2-sq.ft and the Fire Department wants 14-sq.ft.

Mr. Bird: No questions or comments.

Ms. Lincoln: Has Mr. DeMello reviewed the plan?

Mr. Santos: I sent it to him and he reviewed it.

Ms. Lincoln: The 18-ft access is about 4-ft from student housing #2.

Mr. Santos: They know that.

Mr. O'Brien: No questions or comments.

Mr. Gurnee: No questions or comments. No questions or comments.

Ms. Harlow-Hawkes: The trees are planted within 5 to 6-ft of the buildings and they are not even mitigation. The lot is 80% denuded now. The hay bales are compromised and we need to protect the salt marsh. There are no elevations on the driveway. The cedar trees have boulders on them and the trees on Chapoquoit Road are up to my knees.

Ms. Lincoln (to Ms. Mercurio) There are juniper trees between the two staircases of building #1. The tree at the corner of student housing #2 needs to be re-located. The two junipers need to be shifted by building #4.

Ms. Harlow-Hawkes: Is the area illuminated?

Ms. Mercurio: Yes, but not near the water.

Mr. Walsh: No questions or comments.

Mr. Robbins: Maurie said it all.

Mr. Patton: I agree. This is a major change.

Ms. Lincoln: It is within the scope of the plan.

Ms. Harlow-Hawkes: 122 caliper inches of trees are coming down and not that much is coming back.

Mr. Mathews: Is it not the quantity but where they are going?

Ms. Harlow-Hawkes: It's both.

Mr. Mathews: Was the access road on the original plans?

Mr. Santos: Yes. It qualified under an amendment, but it's up to the Board.

Mr. Mathews: It's a glitch that qualifies as an amendment.

Ms. Harlow-Hawkes: How can we protect the salt marsh?

Mr. Santos: I'll make sure the limit of work is up to standards.

Mr. Mathews: The road was on the plan. There has to be some form of protection.

Mr. Santos: A silt fence and straw waddle is there.

Mr. Mathews: Is this a permanent solution?

Mr. Santos: We could pitch the driveway toward the upland and put in a French drain along the edge of the driveway.

Mr. Mathews: Within the road layout?

Mr. Santos: Yes.

Mr. Bird: There are enough issues that need to get resolved to get them moving forward. We need to see the drainage design, where the trees will go and the amount of mitigation required. You will need a continuance.

Mr. Mathews: Anyone on the Chat function?

Ms. Lincoln: No.

Mr. Santos: For the continued hearing: drainage for the driveway, mitigation 3 to 1, larger trees – how big?

Ms. Harlow-Hawkes: More trees. There are no caliper inches or species on the plan.

Ms. Gladfelter: The trees have to be planted 10-ft from the buildings.

Mr. Santos: We can move them.

Ms. Lincoln: The project manager is on the attendee list. The hay bale waddle must be replaced.

Ms. Harlow-Hawkes: Why not run the electricity through the driveway?

Mr. Santos: The electrical contractor said it was better in the proposed area.

Ms. Gladfelter: At the request of the applicant's representative I move to continue the hearing until June 10, 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.

Bonnie W. Simon, 138 & 144 Gardiner Road, Woods Hole, Falmouth, MA – For permission to amend DEP #25-4512 to reconfigure the proposed paved driveway, to reconfigure proposed steps, and to replant 11 additional trees.

Ms. Lincoln: Please move Kim Mercurio to attendee and promote Bernice Wahler to participant. Tim Santos will remain as a participant.

Mr. Mathews is recused.

Tim Santos (Holmes & McGrath) This project was approved in January of 2020. The OOC was for the demolition of #130, re-grading, invasive removal and restoration, removal of the driveway, modification and construction of the lower parking area, connection to #144, removal of pavement for the driveway at #144, re-grading and landscaping.

Bernice Wahler (Bernice Wahler Landscape) Some trees have been transplanted. It will be a similar restoration palette as before. We will add additional cedar trees along the driveway.

Ms. Lincoln: No questions or comments.

Mr. Newton: No questions or comments.

The Board members were questioned and there were no further questions or comments.

Mr. Mathews: Anyone on the Chat function.

Ms. Lincoln: No.

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

Ms. Harlow-Hawkes: Second.

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

HEARINGS UNDER ENFORCEMENT ORDER

Mr. Mathews returned to the meeting.

David Bell and Yves DeBouteiller, 554 Quaker Road, North Falmouth, MA- Alteration to isolated land subject to coastal storm flowage (FWR 10.38), coastal bank (FWR 10.30) / (CMR 10.30), and salt marsh (FWR 10.32)/ (CMR 10.32).

Ms. Lincoln: Please move Tim Santos and Bernice Wahler to attendees and promote David Bell and Pete Sampson to participants. We received a number of calls re the clearing of trees within the 100-ft salt marsh. We also received calls about the burning of the cut material. Ms. Lincoln shared pictures of the area cleared and photos from the owner of the property showing what the area looked like prior to the clearing. Mr. Bell is trying to show the invasive species climbing up the trees. There was no permit for the clearing.

David Bell (homeowner) read a statement. As a person new to Falmouth he had no idea of Conservation Commission rules and is now aware of them. After our site visit on May 4th I met with three consultants and their prices went from \$2500 to \$4250 not including landscape design which I am financially unable to afford during this pandemic. I can't afford a survey but my brother-in-law (a Conservation Commission member in another Town) will help. I removed the overrun part of the property. We thought we were doing a good thing. As part of our stewardship we removed trash from the marsh. We intend to plan native species and white pines along the property line for a privacy screen. We will plant a diverse plant community for a native species environment. The top soil is still in place. We would like your guidance to move forward.

Mr. Mathews: When was the work done?

Ms. Lincoln: April 12th.

Mr. Mathews: Is this your primary residence? When was it purchased?

Mr. Bell: Yes it is. It was purchased in 2019.

Mr. Mathews: Who did the work?

Mr. Bell: I did.

Ms. Gladfelter: No questions or comments.

Ms. Lincoln: At the enforcement hearing the Board can decide if you want the area restored. If so you can vote the enforcement order at the next hearing. Staff can give some guidance with what needs to be done. I don't know if grants are available for private owners.

Mr. Bird: You have to address the problem. The regulations require restoration and there will be an expense involved. You can consult a landscape architect or get a survey or you can work with staff. You will have to buy plants. We can't help you financially but we can't let it go.

Mr. O'Brien: I'm reluctant to order to restoration of something that is nothing but invasive species. But we need something a little more judicial.

Ms. Lincoln: Anytime the Board is asked to do invasive species removal the area is required to be restored with native plants.

Mr. Mathews: There is no plan to show what was involved.

Ms. Lincoln: Trees were removed also.

Mr. Bell: They were small trees that were covered with vines and were almost dead. Anything that was cut was 90% dead.

Mr. Gurnee: We always approved invasive removals. A survey is not of use going forward. The fact that trees were removed is upsetting. We will need some kind of plan. Timing might not be as immediate as in normal times, but the area must be re-populated.

Ms. Harlow-Hawkes: Because you recently purchased the property there may be a site plan. You must fix everything – 3 gallon, 3-ft on center planted. You don't need a landscape architect.

Mr. Walsh: I agree with Mark. Maybe Mr. Bell and Ms. Lincoln can discuss the mitigation and work out an agreement that the Board would find suitable.

Mr. Robbins: No questions or comments.

Mr. Patton: I like what Maurie said. We need some semblance of what was removed.

Pete Sampson (brother-in-law of the applicant) I have been a member of the Barnstable Conservation Commission for 18 years and I came to try and help. I saw 4 or 5 sassafras trees, 2 to 4 caliper inches that were cut. Sassafras readily re-sprouts and without the vines on it could come back. A jute roll could be placed to make sure the soil remains. This is not within 50-ft of the salt marsh.

Ms. Lincoln: Surely there is sympathy on this Board, but if we don't do something about this case, there will be mass clearing all over Town. It has to be basically surveyed so we know where the resource areas are, the boundaries where the areas were cleared and where the stumps of the trees are. We need a restoration concept. You need to come up with a re-vegetation plan and determine where the cutting occurred. We understand the hardship but we do have to be very consistent with how we handle enforcement orders.

Mr. Robbins: Jen had some great points. The applicant has to bring in a plan to the staff and get some feedback. I don't think staff should design the restoration project.

Mr. Bird: You will have to have professional people involved. When controlling invasives you have to have someone who knows what they're doing. There is an expense to restoration, but if you haven't gotten rid of the root mass it will come back right away. It is complicated and expensive.

Mr. Newton: No questions or comments.

Mr. Robbins: I know a time limit is required, but can we give them more time?

Ms. Lincoln: Yes, you can relax some of your more stringent requirements.

Mr. Mathews: No more work can be done at this time.

Ms. Gladfelter: As difficult as coming up with a plan may be, it's important that we are consistent. We can give them more time.

Mr. Mathews: I encourage the staff to work with the applicant.

Mr. Bell: We had a basic plan – a rough plan with a list of the native species. We can work with

staff and show them our plan.

Ms. Gladfelter: You will still need a certified plan that shows the resource areas and where the wetlands are.

Mr. Sampson: It's in their interest to get a plan. The delay expectation is very generous on your part.

Ms. Lincoln: It won't be like a year delay, but it won't be the usual one. You can assist them with the plan but they need to have a survey first to denote the resource areas and the buffer boundaries.

Mr. Mathews: Any public comment?

Ms. Lincoln: No.

Mr. Bird: We need a timeline.

Ms. Lincoln: We will discuss that at the next hearing.

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.

Ms. Lincoln: Please move David Bell and Pete Sampson to attendees.

VOTE ORDER OF CONDITIONS

Aaron Fein, 94 Little Island Road, West Falmouth, MA (5/20/20)

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

Ms. Lincoln: Tom Bunker has filed with ZBA.

Ms. Gladfelter: This is to replant the patch of vegetation behind the garage.

Ms. Lincoln: The mitigation is fine. They can add it to the area they have.

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.

Francis and Christina Ahern, 27 Fresh River Road, Falmouth MA (5/20/20)

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

Ms. Gladfelter: This is pretty straight forward.

Mr. Mathews: It's a raze and rebuild.

Ms. Gladfelter: No mitigation is required.

Ms. Lincoln: They are not increasing the impervious surface.

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.

Richard and Claudia Mackin, 12 Nichols Road, East Falmouth, MA (5/20/20)

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

Ms. Lincoln: This is the ramp extension to the licensed dock. They are going to reduce the T section to the number found on the Chapter 91 license.

Ms. Gladfelter: The dock is seasonal.

Ms. Lincoln: And will be removed in the winter. There is to be no pruning of the bayberry.

Mr. Mathews: No more pipes are required.

Ms. Lincoln: A reminder about the nitrogen bylaw will be included in the findings.

Ms. Harlow-Hawkes: A reminder about the signage for the public access also and there is to be no electricity to the dock.

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.

Daniel & Carolyn Palmquist, 46 River's End Road & 58 East Harbor Drive, East Falmouth, MA (5/27/20)

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

Ms. Lincoln: This is the fiber roll installation. There will be a pre-construction meeting to see how to fit the fiber rolls under the bank. There is to be no cutting of the top of the bank. They must stake the mean high water mark.

Ms. Gladfelter: The re-vegetating on the upper part of the bank will be done by Crawford Landscape. If that changes they must come back to the Board.

Mr. Bird: They must specify what should go on the top of the bank.

Ms. Gladfelter: They said they would put native grasses there.

Mr. Mathews: There will be mixes of grasses and shrubs in the area.

Mr. Gurnee: I'd like to go to the field meeting.

Ms. Harlow-Hawkes: They said they would check the sand viability.

Ms. Harlow-Hawkes: Move to adopt the Order of Conditions as discussed.

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.

VOTE ENFORCEMENT ORDER

Tyler Fazzino, 77 Antone Road, Falmouth, MA (5/20/20)

Ms. Lincoln: This will be difficult. First we need to know where the wetland line was. They will need to hire a professional to determine the line.

Ms. Gladfelter: It will be difficult to do some cores because of the fill on top of the hydric soils.

Mr. Mathews: It's possible that Tom Bunker's plan may help. Is it fair to suggest that he get involved?

Ms. Lincoln: It's a good place to start. They have to have a survey plan with the resource areas, the buffer lines and the amount of fill brought on site. They have to remove the fill and provide a planting plan. This is more involved because soils have been disturbed, a number of trees have come down and there is a vernal pool in the area. It will be a straight forward enforcement order but involved from the owner's standpoint. Stumps must be located and identified and a planting plan provided. What is the time frame? They should immediately install silt fencing around the vernal pool with staff's direction.

Ms. Gladfelter: How long will it take to determine the wetland line? It has to be done in 3 to 4 weeks – the plan in 60 days.

Ms. Lincoln: The clearing of the buffer area (last one) – this was a direct harm to the vernal pool. We need to impose a strict timeline on this one. They must stabilize the site immediately with help from Mark Kaspryck. They must pull back the fill along the edges of the vernal pool. We can give the people some time, but I don't know how busy firms are right now.

Mr. Mathews: What if the firms they call can't do it right now?

Ms. Gladfelter: They can have 30 days to get the plan and then another 30 days.

Ms. Harlow-Hawkes: We need to take into consideration that people can get out there to look at it – 30 days.

Ms. Gladfelter: It has to be stabilized right away. 60 days is fine.

Mr. Robbins: They must make a good effort to find someone.

Ms. Lincoln: We can leave the 30 day time period. If there is any delay staff will bring it back to the Board. We must have benchmarks.

Mr. Bird: They don't need 30 days to stabilize the area.

Ms. Gladfelter: Staff has to go out there and tell them how it is done.

Ms. Lincoln: They must contact us within one week to discuss site stabilization. We will need to see a robust planting plan.

Ms. Gladfelter: Once the resource areas are mapped they will have 30 days for a plan after that.

Ms. Lincoln: When do you want it planted? August?

Ms. Gladfelter: The fall planting period.

Ms. Harlow-Hawkes: September.

Ms. Lincoln: It must be planted by September 30th. Hopefully they can go off Tom Bunker's plan. It's pretty close to the wetland line. They need a 100-ft no disturbance zone to the vernal pool and that could be the whole property. How much of a buffer do you want to see?

Ms. Gladfelter: There is an 83-ft area below.

Ms. Lincoln: 30 to 40-ft? How much of a buffer can we get and still allow a small back yard to spare? We don't want to be punitive – we just want the area restored. And we don't want it to keep recurring. The buffer zone must be 10-ft from the house.

Mr. Bird: How old is the house?

Ms. Lincoln: I don't know.

Ms. Gladfelter: Can we wait to see where the wetlands are?

Ms. Lincoln: Yes.

Mr. Bird: If the house has been there for a long time it gives us more flexibility.

Ms. Lincoln: It was built in 1997.

Ms. Gladfelter: Move to vote what was 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.

Ms. Gladfelter: Move to adjourn.

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.

The meeting adjourned at 11:28 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary