

The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, JULY 01, 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 July 01, 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 at **least 5 hours prior** to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized or displayed during the meeting at the discretion of the chair.
4. Applicants, their representatives and individuals with enforcement matters before the Conservation Commission may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Conservation Commission may contact the Conservation Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to concom@falmouthma.gov so they may be displayed for remote public access viewing.

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

Pat Harris, Alternate
Jennifer Lincoln, Administrator

Absent: Maurie Harlow-Hawkes, Kevin Newton, Agent

Mr. Mathews opened the meeting at 7:00 p.m. and called Peter Walsh up to the quorum.
Mr. Mathews instructed the public on how to use the Chat function for questions or comments on any of the hearings.

VOTE MINUTES

6/24/20

Mr. Bird: Move to adopt the minutes as corrected.

Ms. Gladfelter: Second.

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

REQUESTS FOR DETERMINATION OF APPLICABILITY

Elias Atamian, 6 Ocean Avenue, East Falmouth, MA – For permission to upgrade to a Title 5 sewage disposal system with no increase in design flow.

Ms. Lincoln: Jurisdiction: within flood zone AE13. This RDA is to upgrade to a Title V sewage disposal system. No increase in design flow is proposed. Work is proposed within lawn area located in flood zone only. No other resource areas are located within 100 feet of the proposed project. No vegetation is to be removed. Staff recommends a negative 2 (under the State and the bylaw). Resource area boundaries are not confirmed by this RDA.

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

Mr. Robbins: Second.

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

There were no public comments.

Richard Manzo, 65 Mariners Lane, Falmouth, MA – For permission to construct a 12'x27' deck at rear of the house and to construct a 6'x6' landing.

Ms. Lincoln: Jurisdiction: within flood zone AE12. This RDA is to construct a 12' x 37' deck in the rear of the house and to construct a 6' x 6' landing. Staff discovered the project when signing building permits. The applicant has since filed for an RDA Located in flood zone only; no mitigation required. Staff recommends a negative 2 (under the State and the bylaw). Resource area boundaries are not confirmed by this RDA.

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

Mr. Patton: Second.

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

There were no public comments.

CONTINUED REQUESTS FOR DETERMINATION OF APPLICABILITY

Mary Ellen Pimental, 339 Carriage Shop Road, East Falmouth, MA – For permission to install a new Title V septic system with associated grading and landscaping.

Ms. Lincoln: Jurisdiction: within 100-ft resource area buffer to inland bank and land under water bodies. On 07/01/2020 Health agent Scott McGann conducted a walk through that determined this property is a 4 bedroom. The RDA is to upgrade to a new Title V septic System with no increase in design. The leaching field is proposed as far away from the resource areas as possible. Staff recommends a negative 2 (under the State) and negative 3 (under the bylaw). Resource area boundaries are not confirmed by this RDA.

Ms. Gladfelter: Move to accept staff's recommendation.

Mr. Bird: Second.

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

There were no public comments.

CONTINUED HEARINGS UNDER A NOTICE OF INTENT

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

Ms. Lincoln promoted Tom Bunker and Theresa Sprague to participants.

Tom Bunker (BSS Design) The hearing was continued because of questions about the plantings between the house and the salt marsh. In the dotted area on the revised plan 2522-sq.ft will be planted. An additional area (green on the plan) will be provided for planting to be discussed by Theresa Sprague.

Theresa Sprague (Blueflax Design) Ms. Sprague displayed photos of the site. One was an image taken from the front of the house looking north. It shows an open lot. A second photo taken from the front of the house to the south shows the edge of the marsh and a marshy area. There is a cedar tree and a higher marsh area that is bare and has been mowed. There is a demarcation line that transitions from high marsh to lawn. At the edge of the marsh, 2405-sq.ft of planting is required. 3328-sq.ft will be planted with a 5-ft offset from the trees. This will allow the area to go back to high marsh – bayberry, etc. will be planted. In the upland area a total of 297 shrubs and 11 trees will be planted. 7 trees will be removed. Tupelos will be planted in the high marsh area and along the southern edge. One service berry will be planted on the property line. As for the oak canopy understory – previously on a Seapit Road site there was an oak canopy where we provided a ground cover of low bush blueberry, etc. On this property they will stop mowing and we will plant the 297 shrubs including 38 large Virginia Rose and 259 understory shrubs (huckleberry and low bush blueberry. This will provide a thick, dense understory layer. A single rail fence along the edge of the salt marsh will be installed to separate this area from the lawn. The applicant will retain a 4-ft wide path to the marsh.

Ms. Lincoln: Is there a reason why you wouldn't plant the high marsh area with bacchius which are higher?

Ms. Sprague: We could add more bacchius.

Ms. Lincoln: I'm saying that because the Board is generally not supportive of 1 gallon plants. I know because of the oak canopy you don't want to dig into the roots too far. The single rail fence that you mentioned is not on the plan.

Ms. Sprague: I will do that.

Ms. Lincoln: Where is the bacchius?

Ms. Sprague: It's near the fire pit.

Ms. Lincoln: Did you do soil borings?

Ms. Sprague: Yes. It's a pretty clear line from the oak that they were trying to establish a lawn and it didn't work out very well. The salinity of the soil is pretty high. We can get a good shrub establishment.

Mr. Robbins: No questions or comments.

Mr. Patton: No further comments. It's a comprehensive plan.

Mr. Walsh: There hasn't been any mention of the fire pit, the ramp relocation and the kayak rack and what will happen to them.

Ms. Sprague: They are removing the fire pit from the area. I don't know about the kayak rack, etc. because I was not focused on them.

Mr. Bunker: All of them will be landward of the mitigation plants.

Mr. Gurnee: I noticed that too. Will there be a route over the marsh into the water. Will they walk across the marsh?

Mr. Bunker: They are considering a light penetrating walkway over it, but want to finish this project first.

Mr. Gurnee: That would be necessary.

Mr. O'Brien: No questions or comments.

Mr. Bird: Are the trees along the edge of the property part of the mitigation?

Ms. Sprague: Yes, there are many intersecting zones on the property. The furthest tree is southeast of the septic system. The red maple has too wide of a canopy. The tupelo canopy is not quite as wide.

Mr. Bird: Are you considering the canopy as part of the square footage of the mitigation?

Ms. Sprague: No.

Mr. Bird: What about the abutting property owners? Are they liable to start whacking the trees that are over the property line?

Ms. Sprague: That's why we chose Tupelos.

Mr. Bird: In previous cases they have been set back from the property lines.

Ms. Sprague: I understand that, but there are so many oak trees on the property that we can't fit them anywhere else.

Mr. Bird to Ms. Lincoln: Are you okay with them?

Ms. Lincoln: Yes. I would like to see more of them along the salt marsh, but there isn't room.

Mr. Bird: It's the overhang on the neighboring properties that is a problem for me.

Ms. Gladfelter: I like the planting plan.

Ms. Lincoln: We can condition a single rail fence along the mitigation.

There were no public comments.

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

Mr. Bird: Second.

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

New Silver Beach Association, Inc., 0 Moses Road, Parcel/Lot Number 000, 93A-93E, 96, 97, 98, North Falmouth, MA – For permission to perform maintenance including minor grading, raking, screening, and cleaning of the existing coastal beach above mean high water.

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

Ms. Lincoln moved Tom Bunker and Theresa Sprague to attendees and promoted Michael Borselli and David O'Keefe to participants.

Michael Borselli (Falmouth Engineering) I worked with the Association on the plan and there are minor revisions. (1) The location of the life guard stands that were in the right-of-way of two of the streets – both have been removed – one to land under control of the Association and the other removed from the property; (2) We received a late letter from the Heiler family stating that they did want to participate in the beach cleaning operation. Now all properties are participating.

Ms. Lincoln: Any word on the contractor?

Mr. Borselli: I don't know.

David O'Keefe (President of the New Silver Beach Association) We have two plans. The Life Guards will do the light maintenance (debris pick up). When we need an outside contractor I have the name of a vendor who does this work throughout the Cape. I can't remember the name right now.

Ms. Lincoln: Could it be Beachcomber from Orleans?

Mr. O'Keefe: I believe it could be All Seasons Beach Cleaning.

Ms. Lincoln: I haven't heard of them.

Mr. O'Keefe: We will be sure that they are attuned to the process, are following your guidelines and have equipment similar to the Town's.

Ms. Lincoln: We just want them picking up trash and not sorting out cobble. Staff would like to meet with the contractor prior to putting the machine on the beach. The last Order of Conditions was not properly followed, i.e. ConCom was to be notified 24 to 36 hours before the machine was to be on the beach. It didn't happen.

Mr. O'Keefe: Our plan is to have a set schedule – once a week on a Friday morning. I will discuss this with the Board of the Association.

Ms. Lincoln: I saw the protective caution tape, but maybe there should be a few stakes around the dunes. Just a reminder - 10% of the rack is to remain. Shorebirds forage for food in the rack and they need enough food and energy to make it back to the Caribbean in the fall. It's a valuable food source.

Mr. O'Keefe: I understand.

There were no questions or comments from the Board members.

Mr. Mathews: Staff wants to review the type of machine because of concerns about the depth it could reach. Once a week seems like a lot.

Ms. Lincoln: We allowed that last time. I'm not sure that's necessary but it was allowed last time.

Mr. O'Keefe: We are hoping there are weeks that it isn't necessary.

Ms. Lincoln: Did you find the contractor through a website?

Mr. O'Keefe: No, it was a referral through one of our members.

Ms. Lincoln: Please get me the contractor and machine information.

Mr. Mathews: Can that be conditioned?

Ms. Lincoln: Yes.

Mr. O’Keefe: I will get the information for you.

Mr. Borselli: I looked at the old Order of Conditions and it states that cleaning is to be done no more than once a month unless approved by the ConCom.

Ms. Lincoln: That’s fine.

Ms. Gladfelter: Staff is to be notified each time.

Ms. Lincoln: Right. Just a simple email will do.

Mr. O’Keefe: Yes.

Mr. Bird: Also – provide the name of the contractor before we issue the order or provide it before they start.

Ms. Lincoln: And that I will meet with them before they start.

There were no public comments.

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

Mr. Bird: Second.

Mr. Mathews: Mathews, aye; Gladfelter, aye; Bird, aye; Walsh, aye; Robbins, aye; Gurnee, aye; Patton, aye; O’Brien, aye, Harris, aye. Unanimous, so moved.

REQUESTS TO AMEND THE EXISTING ORDER OF CONDITIONS

Louis T. Falcone Jr., 31 Point Road, North Falmouth, MA – For permission to expand the size of the patio by approximately 178 square feet and to add additional mitigation plantings.

Ms. Lincoln moved Mr. Borselli and Mr. O’Keefe to attendees and promoted Tom Bunker and Theresa Sprague to participants.

Tom Bunker (BSS Design) This is the patio set into the house. The square footage is to be increased by 6-ft toward the water but it is not going any closer to the resource area than the existing house is. It is actually 2-ft further back from the resource area, but because of the 178-sq.ft of expansion some mitigation is required.

Ms. Sprague: I don’t have too much to add. On the previously approved mitigation plan, 242-sq.ft was required in zone A. There will be 2800-sq.ft of lawn that will be planted with mitigation – more than was required. Because of the slight increase in zone A 10 additional shrubs will be planted abutting the other mitigation. The revetment is done and the woody vegetation has been planted on the coastal bank. We will be planting the mitigation in the fall.

Ms. Lincoln: Are the additional plantings grasses?

Ms. Sprague: No all woody vegetation – fragrant sumac, Virginia rose. All woody.

Ms. Lincoln: Perfect. Thank you for clarifying.

Mr. Bird: I’m okay with the additional plantings. On the south side of the house?

Ms. Lincoln: Yes.

Ms. Gladfelter: It’s nice to see the restoration area coming back to life.

Ms.Sprague: Thanks.

There were no other comments from the Board.

There were no public comments.

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

Mr. Walsh: Second.

Mr. Mathews: Mathews, aye; Gladfelter, aye; Bird, aye; Walsh, aye; Robbins, aye; Gurnee, aye;

Patton, aye; O'Brien, aye, Harris, aye. Unanimous, so moved.

VOTE ORDER OF CONDITIONS

Lucie Greer, 77 Bar Neck Road, Woods Hole, Falmouth, MA

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

Ms. Lincoln: This is the bank restoration and the management of the rosa ragosa. They wanted to keep mowing the rosa ragosa on the harbor yearly to a height of 1-ft. We asked them to change and cut it to 1-ft originally and then manage them at 3-ft. On the Buzzard's Bay side additional bayberry plants will be added to those already there. Staff will go out there when they are doing the bank restoration.

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

Mr. Walsh: Second.

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

Joanne and Gary Perwak, 233 Bay Shore Drive, North Falmouth, MA

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

Ms. Lincoln: This is the raze and rebuild. It's a pretty straightforward project. The material will have to be removed - the little shrub areas next to 12.7 and 12.4 will have to be removed. It's too close to the house.

Mr. Mathews: They agreed to replace it in-kind.

Ms. Lincoln: Right.

Ms. Gladfelter: When they remove the tree with many leaders, they should replace it with more trees than just one. The clusters should be planted next to the other buffer vegetation.

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

Mr. Bird: Second.

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

Mr. Bird: Move to adjourn.

Mr. Robbins: Second.

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

The meeting adjourned at 8:04 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary