

The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, JANUARY 14, 2026, 7:00 P.M.

Covid protocols have been extended to allow for continued expanded remote participation, **the January 14, 2026, public meeting of the Falmouth Conservation Commission shall be physically closed to the public to avoid group congregation.**

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 and participate in the meeting. Text comments submitted with the Chat function 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.falmouthma.gov/Conservation>**
 - ii. Please plan on 10-15 minutes of preparation time to log in though it may be less if you have previously used Zoom on the device you will use to access this meeting.
3. Additionally public comments may be sent in advance of the meeting to concom@falmouthma.gov **at least 5 hours prior** to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized, or displayed during the meeting at the discretion of the chair.
4. Applicants, their representatives and individuals with enforcement matters before the Conservation Commission may appear remotely and are not required to be physically present. Applicants, their representatives, and individuals with enforcement matters before the Conservation Commission may contact the Conservation Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to concom@falmouthma.gov so they may be displayed for remote public access viewing.

Present: Bill Duffy (Chair)
Steve Patton (Vice Chair)
Courtney Bird [7:20pm]
James McGrath
Ron Driscoll
David Kent
Jennifer Lincoln, Administrator
Alissa Bergeron, Agent

Mr. Duffy, Chair, opened the meeting at 7:00 p.m.

Mr. Duffy instructed the public on how to use the Chat function for questions or comments on any of the hearings. All submissions will be read into the record. He announced that anyone is welcome to be heard on any specific hearing. When asked if anyone would like to comment they are to let it be known via the public chat function that they want to be heard and they will be promoted to a panelist. They are to confine their remarks to 3 minutes.

VOTE MINUTES: December 10, 2025; January 7, 2026

Mr. Patton moved to approve the meeting minutes of December 10, 2025, pending any amendments made this evening. Second by Mr. Driscoll.

Voting: Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 5-0-0, so moved.

Mr. Patton moved to approve the meeting minutes of January 7, 2026, pending any amendments made this evening. Second by Mr. Driscoll.

Voting: Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 5-0-0, so moved.

REQUESTS FOR A CONTINUANCE UNDER A NOTICE OF INTENT

CH Newton Builders, 52 Oyster Shell Lane, East Falmouth, MA – For permission to enlarge the existing deck and install the associated mitigation.

Mr. Driscoll moved to continue this hearing to January 21, 2026, at request of the applicant. Second by Mr. Patton.

Voting: Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 5-0-0, so moved.

REQUESTS FOR DETERMINATION OF APPLICABILITY

Falmouth Beach Hotel Realty Trust, 321 Shore Street, Falmouth, MA – For permission to construct landings, walkways, and install ADA compliant features.

Ms. Bergeron stated that staff is recommending a negative 2 under the State and under the bylaw. Resource area boundaries are not confirmed.

Mr. Driscoll moved to accept Staff’s recommendations. Second by Mr. Patton.

Voting: Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 5-0-0, so moved.

CONTINUED REQUESTS FOR DETERMINATION OF APPLICABILITY

Scott Miccile, 75 Reynolds Street, Falmouth, MA – For permission to construct an addition and porch, and to reconstruct a deck.

Mr. Patton moved to continue this hearing to January 21, 2026, at request of the applicant. Second by Mr. Driscoll.

Voting: Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 5-0-0, so moved.

REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

Michael and Pamela Bachrach, Trustees, Bachrach Family Living Trust, 197 Shorewood Drive, Falmouth, MA – For permission to raze an existing single family dwelling, and to construct a new single family dwelling with detached garage.

Mr. Driscoll moved to table this item to later in the meeting. Second by Mr. Patton.

Voting: Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 5-0-0, so moved.

William and Elizabeth Scannell, 314 Quissett Avenue, Falmouth, MA – For permission to conduct invasive species management and install restoration plantings.

Mike Borselli, Falmouth Engineering, explained that there is a large residence on the site which is currently under renovation. The property is surrounded by a coastal bank, portions of which are armored. There is an existing dock which the Commission issued an Order of Conditions to reconstruct in the recent past. The Commission also issued an Order to Conditions for some significant improvements, including a reconfiguration of the driveway, and construction of a pool and a pool cabana. The applicant has submitted RDAs for minor activities on the main house and associated with the existing carriage house. The applicant is now seeking permission for other improvements on the property. The coastal bank which surrounds the entirety of the property on the Quissett Avenue frontage is full of invasive plant material and the applicant is seeking approval for an extensive invasive management program that has been designed by Crawford Land Management.

Mr. Bird entered the meeting.

Nick Crawford, Crawford Land Management, explained that the total area proposed for restoration is approximately 42,000 s.f. Of this, approximately 33,600 s.f. is highly invaded. There are a few pockets of native vegetation on the coastal bank. There are some canopy trees on site, including a mixture of native species and 11 invasive trees that are proposed to be flush cut and treated. In the areas proposed for restoration, 100% of the native species would remain. There is minor invasive species removal proposed from the areas that currently exhibit native plant species. The work would be completed from the top of the coastal bank using a low impact equipment. All work on the bank itself would be completed by hand. The herbicide application would be completed by licensed applicators. In addition to the removal of all the invasive species, there is one eastern red cedar at the corner of the house which is proposed for pruning. After the invasive species have been flush cut and treated, the entire area will be seeded with a custom native seed mix, and the barren exposed soils will be covered with erosion control blankets. In terms of staff comments, revisions can be made to the plan as needed. Plantings are proposed at 4.5' on center within the areas that currently possess invasive species. The area will be planted one full growing season after the invasive species management is completed. Monitoring reports can be provided. In terms of runoff mitigation, the bank will be covered with erosion control blankets and most of the site is pitched towards the bank, which is steep. He does not anticipate any significant runoff or erosion while the site is becoming vegetated. The initial

treatment is proposed during the winter and/or early spring. Future treatments would not be carried out during heavy winds and/or rain. Mowing is proposed on the bank to help establish both cool and warm season grasses. This will be done by hand.

Ms. Lincoln noted that comments are needed from Natural Heritage before the hearing can be closed.

Mr. Patton asked about the hedges on the north side of the home. Mr. Crawford stated that these will be removed.

There was no public comment at this time.

Mr. Patton moved to continue this hearing to January 21, 2026, at request of the applicant.
Second by Mr. Bird.

Voting: Bird – aye; Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 6-0-0, so moved.

Michael and Pamela Bachrach, Trustees, Bachrach Family Living Trust, 197 Shorewood Drive, Falmouth, MA – For permission to raze an existing single family dwelling, and to construct a new single family dwelling with detached garage.

Mr. Driscoll moved to untable this item. Second by Mr. Bird.

Voting: Bird – aye; Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 6-0-0, so moved.

Tom Bunker, BSS Design, explained that the plans incorrectly show a 12” pine which was removed in 2018. That tree was blown down and was not removed by the homeowners. There are a couple of other items that are incorrect on the existing conditions plan. The existing house was built in 1954. Associated resource areas include Great Pond, land under water body, salt marsh, coastal bank, and flood zone. The proposed garage is not located in a flood zone or a buffer zone. There is approximately 8’ from the house to the property line. A limit of work is shown on the plan. The applicant has permission to crossover a bit of the neighboring property if needed for the construction. Drywells are proposed for the site. There were some steppingstones on the site which no longer exist. This can be shown on a revised plan. There are a couple of trees in the front yard which are proposed to be removed. The mitigation calculations show a 129 s.f. reduction in the Zone A and a 30 s.f. overall increase. No mitigation is required.

Ms. Lincoln asked why the steppingstones are being counted for existing coverage if they no longer exist on the site. Mr. Bunker stated that he is no longer counting them, per the revised plan.

Ms. Lincoln noted that the bank has continued to be cut and this should cease. The applicant will need to come back to the Commission for additional bank work.

Mr. Kent asked about the required minimum of 10' from a building to a property line. Ms. Lincoln stated that she is concerned with the limit of work along the north side of the property, and this will need to be addressed on site.

There was no public comment at this time.

Mr. Driscoll moved to close the hearing and take it under advisement. Second by Mr. Bird. Voting: Bird – aye; Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 6-0-0, so moved.

Stephen & Janice Rejto, 173 Metoxit Road, Falmouth, MA – For permission to raze an existing single family dwelling, construct a new single family dwelling with porch and deck, install a new Title V sewage disposal system, and install mitigation plantings.

Mike Borselli, Falmouth Engineering, explained that the property has 2.3 acres of land. The associated resources include land under the ocean, land containing shellfish, coastal beach, coastal bank, and flood zone VE13. There is a 75' No Disturbance Zone A from the top of the coastal bank and a 25' Outer Buffer Zone B from the top of the coastal bank. All of the existing impervious surfaces are in the A Zone. The house is currently served by cesspools, which will be pumped, filled, and abandoned. The new house will be served by a Title 5 septic system including a 1,500 gallon septic tank, an innovative alternative unit, and a leaching field. Most of the leaching field is under the proposed gravel driveway. The applicant is proposing drywells. Four trees are proposed to be removed. Replacement trees and mitigation plantings are shown in the A Zone on the northeast side of the house. Due to the orientation of the new house and the fact that it will be shifting back, there is a proposed increase of 56 s.f. from the current impervious surfaces to the proposed. This results in the need for 168 s.f. of mitigation. There will be an increase of 800 s.f. in the outer buffer Zone B. At a 2:1 ratio, this equates to 1,604 s.f. The applicant is also proposing tree replacements.

In terms of the Staff report, an area of crushed stone and a rinse station were counted as preexisting surfaces, but the applicant cannot conclusively prove there were previously existing and so the impervious surface calculations will need to be modified. There was also a recommendation for some supplemental planting on the eroding bank which he will review with his client. If this is pursued, it would come back to the Commission under an amendment. In terms of the staff note that there has been some cutting of the brush layer, his client has been made aware of this and understands that cutting cannot occur. There is an existing wire fence located along the edge of the eroding portion of the coastal bank and that is intended to be removed. A limit of work has been provided on the side of the house to limit how much vegetation will be removed, even though it is outside of an A Zone. Staff also commented about the regulations as they relate to armoring of the coastal bank and noting that this would be a new house and so no longer protected under the regulations, His client understands this and has no proposals for any additional hard solutions to stabilize the bank.

Mr. Kent asked if a revised plan is needed for the proposed changes and amendments to the calculations. Some Commissioners noted that the changes could be worked out between the applicant and staff.

Mr. Patton moved to close the hearing and take it under advisement. Second by Mr. Driscoll. Voting: Bird – nay; Patton – aye; Driscoll – aye; Duffy – aye; Kent – nay; McGrath – aye; 4-2-0, so moved.

CONTINUED REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

CH Newton Builders, 52 Oyster Shell Lane, East Falmouth, MA – For permission to enlarge the existing deck and install the associated mitigation.

This item was previously continued.

Falmouthport Condominium Owners c/o Rudy Hunter, Falmouthport Drive (across from Units 278-292), Falmouth, MA – For permission to raise and re-grade the roadway and install drainage improvements.

Mr. Patton recused himself from this item.

Mark Dibb, Cape & Islands, Engineering, explained that Falmouthport is a relatively large condominium complex with over 50 buildings. It is bordered on the east by the end of Great Pond and Route 28 to the north. The proposal is a roadway regrading project. The portion of the roadway proposed for work runs approximately 600' along Falmouth Drive, close to the pool and clubhouse area. Associated resources include Great Pond, coastal bank, and associated buffer zones. There is a low point in the Falmouthport drive that is prone to flooding during storm events. There are a couple of catch basins at elevation 3 and some drainage systems underground. There is an existing overflow pipe which high tides can overflow, creating issues at the low point. The proposal is to bring the road up to approximately elevation 7 to provide flood resiliency and allow runoff to go into an infiltration basin and drainage swales to adequately maintain, capture, and treat the runoff. Runoff data shows that the proposed infiltration basin should be able to handle 100 year storm events. Currently, even relatively small storm events create a significant puddle which can become hazardous to get through at the low point in the roadway. In order to achieve elevation 7, there will be no expansion of pavement, and the proposed work will be in the same footprint. A grass shoulder is proposed along the side from the entrance, including a grass walkway for people to access the pool and clubhouse from their units. Staff commented that the outlet structure will require disturbance of some of the natural vegetation. The applicant is willing to provide restoration in excess of that area.

Ms. Lincoln stated that Staff has no additional concerns at this time.

There were no Commissioner comments at this time. There was no public comment at this time.

Mr. Driscoll moved to close the hearing and take it under advisement. Second by Mr. Bird. Voting: Bird – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 5-0-0, so moved.

CONTINUED REQUESTS TO AMEND AN EXISTING ORDER OF CONDITIONS

Kim Sieurin, 24 Edgewater Drive East, East Falmouth, MA – Request to amend the Order of Conditions for MA DEP# 25-4981 to regrade a portion of the backyard and install retaining walls.

Brad Bertolo, JC Engineering, explained that the amendment involves some proposed retaining walls along the property. The amendment is proposed to the currently permitted plans at 24 Edgewater Drive East. The project involves a tear down, rebuild of a single family dwelling, removal of a cesspool and installation of a Title 5 septic system, including some site grading, walkways, and roof drywells. The amendment includes proposed retaining walls to help with accessibility along the southern side of the structure. The original plan called for grading that created too steep of an area to access the patio. The proposal includes a couple of terraces on the south side to allow for more of a level walkway. As part of the project, a wall is also proposed along the east side of the structure. The property owner started doing work ahead of time and was not aware that this should not have occurred. All work has since been stopped work.

At the last hearing, there was concern regarding the stonewall being considered an accessory structure, closer to the resource area than the primary structure. In reviewing the regulations, he believes the project as presented is a vast improvement over the originally permitted plans. He also believes it is compliant with the regulations. Section 10.18 mentions work to redevelop an area disturbed within the Zone A and a majority of this property is in the Zone A of the adjacent salt marsh. Accessory structures in Zone A located closer to the resource area than the primary structure may be modified, but the amount of impervious surface that cannot support vegetation must not be increased. There are large areas of rip rap that do not support any vegetation and a block patio. These areas prevent any type of native ground cover from being planted. There is a considerable amount of landscape features on the property located closer to the resource area than the proposed retaining wall. The revised plan shows slight modifications to the walkway. The proposal includes removing all of the patio blocks and providing a walkway. The slope itself changes between elevation 13 and 7. The applicant is trying to maintain the preexisting slopes. The retaining walls are proposed to be made of granite stepping blocks, with the area planted with low maintenance ground cover. All rip rap areas will be removed and revegetated. There is very minimal existing vegetation between the limit of work and the resource areas. By revegetating the entire area from the southern property line to the northern property line, between the bulkhead and retaining wall, this will greatly increase the amount of natural habitat and buffering between the house, the yard, and the resource areas. The retaining wall itself will also help create a more gradual slope across the yard. This follows the regulations regarding restoration of a degraded resource area buffer. The retaining wall will act as a barrier to help slow runoff during heavy rainstorms. The permitted plans called for 440 s.f. of mitigation area, extending up to elevation 10, with fill in the areas on either side of the walkway. This proposal increases the mitigation to 1,740 s.f. Trees are being planted to replace four trees that were removed.

Ms. Lincoln stated that she has seen the Commission previously not allow retaining walls in the A Zone or have them removed from plans. Small retaining walls can become problematic. She stated that her position has not changed from the last meeting.

Mr. McGrath stated that is it unclear why the retaining wall was installed in the first place and he does not believe it should be in the A Zone.

Mr. Kent asked what was originally permitted. Mr. Bertolo stated that everything on the site, other than the retaining wall was originally permitted. The coastal bank follows the flood zone line. Mr. Kent expressed some concern with the retaining wall being so close to the coastal bank.

Mr. Bird asked if the wall could be moved in order to comply with the regulations. Ms. Lincoln stated that it cannot be moved outside of Zone A because the house is close to the top of bank.

Mr. Patton stated that he supports Staff's position.

Mr. Driscoll asked what can be done to the area if the retaining wall is removed. Mr. Bertolo stated that the grade could be changed back to the original grade and the area seeded. He asked if the retaining walls to the side of the structure could remain. Ms. Lincoln stated that those walls could be approved administratively.

Mr. Bertolo requested to withdraw the amendment application.

Mr. Driscoll moved to accept the withdrawal request without prejudice. Second by Mr. Bird. Voting: Bird – aye; Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 6-0-0, so moved.

CONTINUED REQUESTS FOR A CERTIFICATE OF COMPLIANCE

Timothy Leedham, Trustee, R&G Realty Trust, 1209 East Falmouth Highway, East Falmouth, MA – Request for a partial Certificate of Compliance for MA DEP# 25-4524.

Mr. Driscoll moved to continue this hearing to February 18, 2026, at request of the applicant. Second by Mr. Bird.

Voting: Bird – aye; Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 6-0-0, so moved.

CONTINUED HEARINGS UNDER AN ENFORCEMENT ORDER

John G Butt and Maryellen Butt, 41 Mary Manuel Way, Falmouth, MA – Unpermitted construction of a deck and fence, removal of trees, and clearing vegetation within Conservation jurisdiction.

Ms. Lincoln stated that Mr. Butt previously stated that he would attend the meeting, but he was not in attendance. If there is no representation at the next meeting, Staff will present on an enforcement order.

Mr. Driscoll moved to continue this hearing to January 21, 2026. Second by Mr. Bird.

Voting: Bird – aye; Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 6-0-0, so moved.

VOTE ORDERS OF CONDITIONS

- Michael O'Connor, 73 Lake Shore Drive, Falmouth, MA

Ms. Bergeron noted that the cut and fill calculations are pending. There is debris in Zone A that needs to be cleared.

Mr. Driscoll moved to issue an Order of Conditions, as discussed. Second by Mr. Bird.

Voting: Bird – aye; Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 6-0-0, so moved.

- Wendy Y. Hill, Trustee, 75 Nashawena Street Nominee Trust, 0 Nashawena Street (Map/parcel 24-20-001-000), Falmouth, MA

It was noted that Mr. Bird was not on the quorum for this item.

Mr. Driscoll moved to issue an Order of Conditions, as discussed. Second by Mr. McGrath.

Voting: Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 5-0-0, so moved.

Mr. Bird moved to adjourn the meeting. Second by Mr. Driscoll.

Voting: Bird – aye; Patton – aye; Driscoll – aye; Duffy – aye; Kent – aye; McGrath – aye; 6-0-0, so moved.

The meeting adjourned at 8:53 p.m.

Respectfully submitted,
Kristan Patenaude, Recording Secretary