

The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, JANUARY 21, 2026, 7:00 P.M.

Covid protocols have been extended to allow for continued expanded remote participation, **the January 21, 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
James McGrath
Ron Driscoll
David Kent
Ronald Bowman (alternate)
Alissa Bergeron, Agent
Fallon Queeney, 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.

REQUESTS FOR A CONTINUANCE FOR DETERMINATION OF APPLICABILITY

Stephen Byrne, 55 Grove Street, North Falmouth, MA – For permission to reconstruct a portion of the house, construct an addition, remove part of a stone patio, install drywells, and reconstruct a stone wall.

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

Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye; McGrath – aye; 7-0-0, so moved.

REQUESTS FOR DETERMINATION OF APPLICABILITY

Jeffrey Eason, 51 Bryant Point Road, Falmouth, MA – For permission to expand an existing dormer.

Ms. Queeney stated that staff is recommending a negative 3 under the State and a negative 2 under the bylaw. Resource area boundaries are not confirmed.

Mr. Bird moved to accept Staff's recommendations. Second by Mr. Driscoll.

Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye; McGrath – aye; 7-0-0, so moved.

Andrei Yarmalovich, 228 Alder Lane, Falmouth, MA – For permission to reconstruct a deck.

Ms. Queeney stated that staff is recommending a negative 3 under the State and a negative 2 under the bylaw. Resource area boundaries are not confirmed.

Mr. Driscoll moved to accept Staff's recommendations. Second by Mr. Bird.

Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye; McGrath – aye; 7-0-0, so moved.

Paul Sellers, 307 Shorewood Drive, East Falmouth, MA – For permission to conduct minor invasive species removal and to vista prune according to FWR 10.18(10)(b).

Ms. Queeney stated that staff is recommending a negative 3 under the State and a negative 2 under the bylaw. Resource area boundaries are not confirmed.

Mr. Bird moved to accept Staff's recommendations. Second by Mr. Driscoll.
Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye;
McGrath – aye; 7-0-0, so moved.

The Valle Group, 18 Hotel Street, Falmouth, MA – For permission to construct a dormer.

Ms. Queeney stated that staff is recommending a negative 3 under the State and a negative 2 under the bylaw. Resource area boundaries are not confirmed.

Mr. Bird moved to accept Staff's recommendations. Second by Mr. Driscoll.
Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye;
McGrath – aye; 7-0-0, so moved.

Salley H. Mavor, 25 Bar Neck Road, Falmouth, MA – For permission to relocate an existing single-family dwelling and place the new dwelling on concrete piers; to install mitigation plantings; and to install two drywells.

Ms. Queeney stated that staff is recommending a negative 3 under the State and a negative 2 under the bylaw. Resource area boundaries are not confirmed.

Mr. Bird moved to accept Staff's recommendations. Second by Mr. Driscoll.
Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye;
McGrath – aye; 7-0-0, so moved.

Kathy and David Campbell, 5 Millfield Street, Falmouth, MA – For permission to install a shed and permit an existing shed.

Ms. Queeney stated that staff is recommending a negative 3 under the State and a negative 2 under the bylaw. Resource area boundaries are not confirmed.

Mr. Bird moved to accept Staff's recommendations. Second by Mr. Driscoll.
Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye;
McGrath – aye; 7-0-0, so moved.

Stephen Byrne, 55 Grove Street, North Falmouth, MA – For permission to reconstruct a portion of the house, construct an addition, remove part of a stone patio, install drywells, and reconstruct a stone wall.

This item was previously continued.

Michael O'Hara, 56 Pattee Road, East Falmouth, MA – For permission to replace a patio and a set of stairs, construct two landscape walls, and install plantings.

Ms. Queeney stated that staff is recommending a negative 3 under the State and a negative 2 under the bylaw. Resource area boundaries are not confirmed.

Mr. Bird moved to accept Staff's recommendations. Second by Mr. Driscoll.
Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye;
McGrath – aye; 7-0-0, 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. Bird moved to continue this hearing to February 4, 2026, at request of the applicant. Second by Mr. Driscoll.

Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye;
McGrath – aye; 7-0-0, so moved.

CONTINUED REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

15 Darylane LLC, 15 Darylane and 0 Rand Beach Road (Map/parcel: 05 03 001B 000), Falmouth, MA – For permission to construct a common dock.

Mr. Bird moved to continue this hearing to March 11, 2026, at request of the applicant. Second by Mr. Driscoll.

Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye;
McGrath – aye; 7-0-0, so moved.

Brian McLaughlin, Falmouth Pier 37 Inc., 110 Scranton Avenue, Falmouth, MA – For permission to replace and relocate the bulkhead; remove a portion of filled tidelands; and expand the existing dock system.

Mr. Bird moved to continue this hearing to March 4, 2026, at request of the applicant. Second by Mr. Driscoll.

Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye;
McGrath – aye; 7-0-0, 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 his intention was to open the hearing in case there were any concerns from abutters, as someone had contacted his office with concerns and questions. That person had a phone call with Nick Crawford of Crawford Land Management and the project manager on the site which may have satisfied the issues and concerns. The hearing cannot yet be closed because a letter from MESA has not yet been received.

There was no public comment at this time.

Mr. Bird moved to continue this hearing to February 4, 2026, at request of the applicant. Second by Mr. Driscoll.

Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye; McGrath – aye; 7-0-0, so moved.

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

Mike Borselli, Falmouth Engineering, explained that discussions have been had with staff regarding this item and revisions have been made to the plan to address those concerns. The property has frontage on Bournes Pond. Associated resources include land under the ocean, salt marsh, bordering vegetated wetland, land subject to coastal storm flowage, and an AE12 flood zone. The property contains an existing single family house, landscaping, typical appurtenances, and a deck. There have been three property owners since the house was constructed. The new owner has applied to obtain an Order of Conditions to allow her to add onto the deck. The standards for redevelopment state that, if the structure is already less than the required setback from the wetland resource, it can be expanded laterally, but not closer to the wetland resource. This was designed specifically not to expand closer to the wetland resources. To expand laterally, there must be mitigation for adding impervious surfaces. There is existing crushed stone in this area and bulk of the deck expansion will be over that. Some of the crushed stone will be removed, leading to an overall decrease in impervious surface. No mitigation planting is required for the deck expansion.

Mr. Borselli explained that staff reviewed aerial photos and visited the site and found activities that were performed by a previous owner, including alteration of the buffer beyond the limit of work that was approved, along with removal of some understory plants. The current applicant intends to restore this area back to the way it was supposed to be. The intent of the restoration plantings is to restore the previously existing buffer. The total estimated area of restoration is 1,600 s.f., requiring 115 plants. The applicant will retain the services of a licensed landscape contractor to meet with staff and create a plan for the area to be restored. Staff also discovered a platform built to accommodate an AC unit which was unpermitted. This has a total area of 21 s.f. in a B Zone. All of this leads to a net increase of 9 s.f. of impervious surface, requiring 18 s.f. of mitigation, and the proposal is for 20 s.f.

Ms. Bergeron stated that staff comments have been addressed. She noted that staff recommended that a single rail fence be installed landward of the restoration plantings. There was one in the area which was previously removed.

Mr. Kent asked why the restoration plantings may be less than 1,600 s.f. Mr. Borselli explained that there were some pockets of vegetation in the area which were not cleared. The contractor will work to determine exactly which spaces need to be planted.

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: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye; McGrath – aye; 7-0-0, so moved.

CONTINUED HEARINGS UNDER AN ENFORCEMENT ORDER

David and Marci Barnes, 38 Squibnockett Drive, Falmouth, MA – Unpermitted construction of retaining walls, steps, and a patio; replacement of decking; and alteration of a coastal bank.

Mr. Bird moved to table this hearing until the owner's representative was present. Second by Mr. Driscoll.

Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye; McGrath – aye; 7-0-0, so moved.

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. Queeney explained that there is some history with this property. The Commission previously approved a house to be built, and Mr. Butt purchased the property in the middle of the build. In November 2024, staff met with Mr. Butt and his contractor, because they requested a building permit for a deck. The deck was proposed within the no structure zone, 10' from a Zone A. It was explained to Mr. Butt that this would not likely be able to be permitted. In January 2025, staff was at an abutting property and noticed some cut trees and debris thrown into the salt marsh on the property in question. While on site, Mr. Butt spoke to staff, and they viewed the framed deck on site. Staff met with Mr. Butt and Tom Bunker of BSS Design in April 2025. After this meeting, staff asked for an updated site plan illustrating the current site conditions and the additional violations on site. No progress was made after the meeting in April. An enforcement letter was sent via certified mail on August 8, 2025. Staff was made aware of other violations on the site, including clearing past the limit of work, clearing within a Zone A buffer, and installation of a fence. Mr. Butt has since informed staff that the deck has been removed.

John G Butt, owner, explained that he has been dealing with serious health issues over the last 5-6 months and unable to attend the violation hearings. He stated that he wished he had known earlier about the no structure zone within Zone A. His contractor made a mistake and started the project without an approved permit. Once this was determined, they met with staff and then learned of the no structure zone within Zone A. This was news to him and the contractor. At that point, he removed the deck. In terms of the fence, which was installed, his intention was to protect his dog when in the backyard. Also, there is a public easement right of way in that area and people use it as a walking path. He believed the fence was on his property line. He believes the fence is outside the Zone A, though not by a lot. He suggested that the Commission come view the property and determine which items can be kept. He noted that there were some dead trees on the property which he cut down. Staff saw them laying on the ground and noted it as a violation. He had that area cleaned up and the trees removed. He did not dump any trees by the wetlands. He respects the Commission's process, and it was never his intention to do work maliciously.

Mr. Bird stated that he believes the contractor should have known that a building permit was needed for the deck prior to work beginning. Mr. Butt explained that the contractor called to find

out the status of the permit, which he assumed had already been issued, and then found out it was not granted due to the structure being within the A Zone.

Mr. Kent asked for the plan moving forward. Ms. Bergeron suggested that the Commission visit the site and review the document materials. Updates to the site plan are likely needed.

Mr. McGrath stated that he would like to see an existing conditions plan.

The Commission agreed to visit the site.

There was no public comment at this time.

Mr. Driscoll moved to continue this hearing to February 4, 2026. Second by Mr. Bowman.
Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye; McGrath – aye; 7-0-0, so moved.

David and Marci Barnes, 38 Squibnockett Drive, Falmouth, MA – Unpermitted construction of retaining walls, steps, and a patio; replacement of decking; and alteration of a coastal bank.

Mr. Driscoll moved to untable this hearing. Second by Mr. Bird.
Voting: Patton – aye; Bird – aye; Driscoll – aye; Bowman – aye; Duffy – aye; Kent – aye; McGrath – aye; 7-0-0, so moved.

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

Ms. Bergeron explained that an existing conditions plan of the property was received and sent to the Commission today but has not yet been fully reviewed by staff. The request is for an additional continuance in order for staff to review the plans. The plans seem to show the trees and landscaped areas. For each protected resource area, there is a 100' buffer divided into different sections and these lines are typically shown on the plans.

David Barnes, owner, explained that his backyard goes down approximately 50' to the water at a 45° slope. He reviewed the potential encroachments on the site. The south retaining wall was replaced in its previous location, but he continued the wall across. Thus, the north retaining wall was brought approximately 5' forward to create one continuous wall. If the walls need to be moved back some amount or removed, it could be a large cost. The existing walls were rotten and needed to be removed. He would like for there to be consideration as to what the benefit of this would be. His entire house is within the resource area setback.

The Commission agreed to visit the site.

Mr. Bird noted that the Commission should be careful in the precedent set if this is allowed without remedial action.

Mr. Driscoll moved to continue this hearing to February 18, 2026. Second by Mr. Bowman.

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

VOTE ORDERS OF CONDITIONS

It was noted that Mr. Bowman was not on the quorum for the following items and he exited the meeting.

- Michael and Pamela Bachrach, Trustees, Bachrach Family Living Trust, 197 Shorewood Drive, Falmouth, MA

Ms. Bergeron noted that staff would like to see some replacement trees and restoration of the bank due to unpermitted cutting. This may be able to be handled under an AOC.

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

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

- Stephen & Janice Rejto, 173 Metoxit Road, Falmouth, MA

Ms. Bergeron explained that the impervious surface calculation needs to be readjusted. The eroding coastal bank may be able to be bolstered. The Commission could consider a special condition regarding prohibition of any future coastal engineering structures.

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

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

- Falmouthport Condominium Owners c/o Rudy Hunter, Falmouthport Drive (across from Units 278-292), Falmouth, MA

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

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

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

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

The meeting adjourned at 8:23 p.m.

Respectfully submitted,
Kristan Patenaude, Recording Secretary