The Falmouth Conservation Commission

MEETING MINUTES - WEDNESDAY, JANUARY 27, 2021, 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 January 27, 2021 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.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: Jamie Mathews, Chair
         Courtney Bird, Vice-Chair
         Betsy Gladfelter
         Maurie Harlow-Hawkes
         Mark Gurnee, Alternate
         Pat Harris, Alternate
         Peter Walsh, Alternate
         Jennifer Lincoln, Administrator
Kevin Newton, Agent

Absent: Kevin O’Brien, Steve Patton

Also present: Amy Coughlin, Administrative Clerk, Alissa Bergeron, Agent, Mark Kasprzyk, MES Tech

Mr. Mathews 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.

VOTE MINUTES

1/20/2001

Mr. Bird: Move to adopt the minutes as corrected.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

REQUESTS FOR DETERMINATION OF APPLICABILITY

Richard Bosse, 203 Chapoquoit Road, Falmouth, MA – For permission to install a dune fence.
Ms. Lincoln: The applicant has requested a continuance until February 3, 2021.

Mr. Bird: At the request of the applicant I move to continue the hearing until February 3, 2021.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

Thomas Demello and Cynthia Feldmann, 15 Hawthorne Court, Falmouth, MA – For permission to construct a new garage and front deck, to install a new gravel driveway and to trench a new underground electric line.
Mr. Newton: Jurisdiction: within flood zone AE13. This RDA is seeking permission to construct a new garage and front deck and to install a new gravel driveway and underground electric line. All work is proposed within flood zone only; no other resource areas are proposed within 100 ft of the project. No mitigation planting is required. Project site is extremely flat; erosion should not be an issue. Staff recommends a negative 2 (under the State and under the bylaw). Resource area boundaries are not confirmed by this RDA.

Mr. Bird: Move to accept staff’s recommendation.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

The hearing was held after the Gayle Avenue hearing.
Eugene Clerkin, 67 Cliffwood Lane, Falmouth, MA – For permission to construct and maintain
deck and porch additions, steps, retaining walls, roof drainage, and for all associated clearing,
grading, utility installation, landscaping, and mitigation plantings.
Ms. Lincoln: I would like this hearing to be tabled.

Ms. Gladfelter: Move to table the hearing.
Mr. Bird: Second.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye;
Walsh, aye; Harris, aye. Unanimous, so moved.

Ms. Gladfelter: Move to untable the hearing.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye;
Walsh, aye; Harris, aye. Unanimous, so moved.

Ms. Lincoln promoted Tim Santos to a panelist.
Tim Santos: Holmes & McGrath: This home was built in 1985. Resource areas include: vernal
pool to the north, isolated wetland, coastal bank, land subject to coastal storm flowage. They
will construct and expand a porch and deck with new steps. There will be a gravel pathway and
wooden steps over the riprap. According to your redevelopment regulations when there is an
increase in impervious surface mitigation is required. For the 275-sq.ft increase in zone A the
ratio is 3 to 1. For the 345-sq.ft increase in zone B the ratio is 2 to 1. Drip strips will be installed
for roof runoff.
Ms. Lincoln: Are the drip strips in your calculations?
Mr. Santos: No.
Mr. Walsh: No questions or comments.
Ms. Harris: In the narrative you concluded that the coastal bank is not performing any function
and you did not show the A and B buffer zones on the plan.
Ms. Lincoln: This is at the upper reach of the flood zone. All coastal banks perform some
function. Can the applicant overcome this? It’s important to have the A and B buffers on the
plan. We need a revised plan. I agree with some of your bullet points and not others.
Ms. Harris: Where are the flood waters coming from?
Ms. Lincoln: Mashapaquit Creek. It’s the tail end of the flood zone.
Ms. Harris: I defer to staff’s expertise.
Ms. Lincoln to Tim Santos: Next time put the buffers on the plan.
Mr. Santos: I can do that – no problem.
Ms. Harlow-Hawkes: The mitigation plants are all along Yankee Lane. Are we happy with it
there? 870-sq.ft and two trees. I suggest red maples – they are better in wet areas.
Mr. Gurnee: No questions or comments.
Mr. Bird: No questions or comments.
Ms. Gladfelter: No questions or comments.
Mr. Mathews: Any public comment?
Ms. Lincoln: No.

Ms. Gladfelter: Move to close the hearing and take it under advisement.
Mr. Bird: Second.
Marion K. Wright, Trustee, Marion K. Wright Trust, 15 Darylane, Falmouth, MA – For permission to upgrade the existing non-compliant septic system to a Title V septic system, to install a water service, and to abandon an existing well.
Ms. Lincoln promoted Zachary Basinki to a panelist.
Zachary Basinki (Bracken Engineering) Resource areas include: BVW to the north, AE flood zone AE15, coastal bank. There are two cesspools that will be abandoned and a new system with a 1500 gallon tank and a 1000 gallon pump chamber will be installed. Staff had requested that it be put in the front of the house but the plumbing comes out of the back. It will have to be in the sloped lawn area. The new force main will be outside of the 100-ft to the BVW, but within 100-ft to the coastal bank.  
Ms. Lincoln: It would be nice to have it outside the buffer, but it can’t be. Staff commented on the mowing of the wetland area in the staff report.
Mr. Basinki: Historically it’s been mowed down to the road. It’s been like this since 1975. There is a fence there. The owner says the area has gotten wetter recently.
Ms. Lincoln: There should be no mowing of the area.
Mr. Newton: I echo what Jen said.
Ms. Gladfelter: No questions or comments.
Mr. Bird: I agree that it would be nice if they didn’t mow it but if it has been done since before 1979, they can mow it.
Mr. Mathews: At least the leaching field is in the front.
Mr. Gurnee: No questions or comments.
Ms. Harlow-Hawkes: Is it phragmites they’re mowing?
Ms. Lincoln: Yes.
Ms. Harlow-Hawkes: Maybe they will do a restoration project at some point.
Ms. Harris: No questions or comments.
Mr. Walsh: I’m always glad to see a Title 5 system instead of cesspools.
Mr. Mathew: Any public comment?
Ms. Lincoln: No.
Ms. Gladfelter: The engineer didn’t really show where the tanks will go. It should have been staked.
Mr. Mathews: Any public comment?
Ms. Lincoln: No.

Ms. Gladfelter: Move to close the hearing and take it under advisement.
Mr. Bird: Second.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

Stephen Parker, 12 (Lot 39) Bridge Street, Falmouth, MA – For permission to construct a single-family dwelling with associated clearing, grading, and landscaping.
Ms. Lincoln moved Mr. Basinki to an attendee and promoted Michael Borselli to a panelist.
Michael Borselli (Falmouth Engineering) Mr. Borselli displayed a GIS map of the area. Resource areas include Green Pond, salt marsh, coastal beach, low profile coastal bank that is...
non-eroding, flood boundary AE 12 and AE 15, 25-ft FEMA velocity zone, 25-ft buffer to FEMA velocity zone, AE12, land subject to coastal storm flowage. The house has been designed to fit the buffer regulations – 100-ft from the no disturbance zone A (salt marsh); no structure zone with a width of 10-ft and a 10-ft minimum from the limit of work. The house telescopes and narrows down to fit. It will be three bedrooms with a covered porch. The septic system is 10-ft from the house which is on a slab. Everything is 10-ft from the property line. There is a requirement to provide improvements and we are proposing a row of native shrubs to delineate the limit of work. It is not mitigation, it is an improvement. There will be dry wells for roof runoff. The staff report stated that I should show the trees that are near the limit of work and 25-ft from the limit of work seaward. They are on the presentation plan. We can continue the hearing if you would like me to put them on the site plan. The oak tree will remain. There are other oak trees on the presentation plan. I mentioned a path in the narrative, but didn’t show it on the plan. When we come back for a vista pruning permit I can ask for the path.

Ms. Lincoln: I’m fine with the trees being on the presentation plan. There should be a note re the amendment for the path.

Mr. Newton: The covered porch – is it at ground level, are there steps?

Mr. Borselli: The steps come off the south end of the house.

Mr. Mathews: You already showed that the trees are 25-ft out?

Mr. Borselli: Yes, on the presentation plan.

Mr. Mathews: That’s not continuation worthy. What about an AC and generator pad?

Mr. Borselli: I’m not sure what the buyer wants. We will come back for them if necessary.

Mr. Mathews: Someone has questioned whether the lot is buildable. The Building Department will make that decision.

Ms. Lincoln: You said you would come back for an amendment for vista pruning, but we won’t approve that permit until the house is done.

Mr. Borselli: We’ll come back when the framing is done.

Mr. Gurnee: No questions or comments.

Ms. Harris: No questions or comments.

Mr. Walsh: No questions or comments.

Ms. Gladfelter: I have to give you an “atta boy”.

Mr. Borselli: Thank you.

Mr. Bird: No questions or comments.

Ms. Harlow-Hawkes: I don’t think there will be an AC pad and rinse station because the structure is maxed to a 10-ft setback.

Mr. Borselli: They are not required to meet the setbacks for an AC pad and rinse station.

Ms. Harlow-Hawkes: You’re planting 24 vibernum plants after denuding the area.

Ms. Lincoln: They need some improvement.

Ms. Harlow-Hawkes: The vibernum will be 5-ft off the house. When they get large they will touch the house.

Mr. Borselli: They can maintain the vibernum. Maybe there is a better planting choice.

Ms. Lincoln: We’ll work with you on that.

Ms. Harlow-Hawkes: Mitigation can’t be within 10-ft of house, but improvements can.

Mr. Mathews: Any public comment?

Ms. Lincoln: Yes. Sean Collin (abutter) wants to know if abutters will be notified if they come back for an amendment? Yes, if they come back under an NOI, but not if they come back under an RDA. You can sign up to receive alerts on our website.
Ms. Galdfelter: Move to close the hearing and take it under advisement.

Mr. Bird: Second.

Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

CONTINUED HEARINGS UNDER A NOTICE OF INTENT

Lynne Riley, 0 Gayle Avenue (Assessors Map 40 12 Parcel/Lot 040 000), East Falmouth, MA – For permission to construct a single-family dwelling, to install native plantings, and to perform all associated clearing, grading, and landscaping.

Ms. Lincoln: Mr. Borselli remains as a panelist. We have a revised plan dated January 15, 2021.

Michael Borselli (Falmouth Engineering) Mr. Borselli displayed a GIS map of the area. This is 5 acres of undeveloped land with a common driveway. It’s a dirt road. There are a number of single family homes in the area. There is conservation land on both sides of Gayle Avenue and a gravel road. Resource areas include: salt marsh, non-eroding coastal bank, a slope that goes to less than 10 to 1, a fragmented coastal bank, no disturbance zones A and outer buffer B, 100-ft from the salt marsh, 50-ft from the top of the coastal bank which is the most restrictive. The project meets the regulations in 10.18. The applicant oriented the house so it can be fitted with solar panels. There will be the clearing of trees on the south and west sides. The limit of work will be further from the house. The driveway comes in from Gayle Avenue. The septic system will be under the parking places. There is no Town water so they are proposing a well. It will be 100-ft from the septic system. They are proposing vibernum as an improvement that will be further from the house. They are open to something else instead of vibernum. There are no trees on the plan so the Board may want to continue the hearing.

Ms. Lincoln: I would like the trees to be on the plan. You need to show the ones to be removed that are in our jurisdiction – the ones for the solar panels.

Mr. Borselli: We will remove the trees up to the limit of work.

Ms. Lincoln: No trees will be removed from the no-disturbance zone for the solar panels?

Mr. Borselli: No. Shall I show the trees with the 25-ft?

Ms. Lincoln: Yes.

Mr. Newton: No questions or comments.

Ms. Lincoln: Where are the stairs on the deck? You need to show them on the plan.

Mr. Borselli: I will submit a revised plan. There is one tread and two risers from the deck. There are paths meandering through your jurisdiction, but there is not plan for a path right now.

Ms. Harlow-Hawkes: What about AC pads and a rinse station?

Mr. Borselli: I will consult with my client.

Ms. Harris: No questions or comments.

Mr. Walsh: No questions or comments.

Ms. Gladfelter: No questions or comments.

Mr. Bird: Please show the first floor elevation of the house and the deck elevation on the plan.

Mr. Borselli: Yes.

Mr. Gurnee: No questions or comments.

Ms. Lincoln: A continuance would just be cleaner.

Mr. Borselli: I’ll have the revised plan in by next Wednesday.

Mr. Mathews: Any public comment?
Ms. Lincoln: Yes, Ms. Riley says that it will be a “passive house”.

Ms. Gladfelter: At the request of the applicant’s representative I move to continue the hearing until February 10, 2021.
Mr. Bird: Second.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

The hearing for Cliffwood Lane was heard before the following:

REQUEST TO AMEND AN EXISTING ORDER OF CONDITIONS

Joseph and Mary Noonan, 183 Surf Drive, Falmouth, MA – Request to amend the Order of Conditions for MA DEP 25-4517 to alter the location of the house, to decrease the size of the house, to increase the size of the driveway, and to install mitigation plantings.

Ms. Lincoln: Tim Santos remains a panelist.
Tim Santos (Holmes & McGrath) The project was before you in 2020. They have made modifications to the footprint (reduction), moved the house back (10-ft from bank), moved further from the abutter. There is an increase of 24-ft of impervious surface for the driveway. There is a total increase of 66-sq.ft and a 3 to 1 ratio of mitigation is required. It’s the same house, only smaller.
Ms. Lincoln: No questions or comments.
Mr. Newton: No questions or comments.
Ms. Gladfelter: Thanks for more mitigation.
There were no more questions or comments from the members of the Commission.

Ms. Gladfelter: Move to close the hearing and take it under advisement.
Mr. Bird: Second.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

REQUEST TO EXTEND THE EXISTING ORDER OF CONDITIONS

Teague Campbell, 147 Bay Rd, N. Falmouth, MA – (DEP# 25-4346)- Request one-year extension.
Ms. Lincoln: The applicant has requested a one-year extension. Staff recommends a one-year extension.
Mr. Bird: Why the extension request?
Ms. Lincoln: Personal issues beyond their control.

Mr. Bird: Move to grant a one year extension.
Ms. Harlow-Hawkes:
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

Teague Campbell, 148 Bay Rd, N. Falmouth, MA – (DEP# 25-4347) – Request one-year extension.
Ms. Lincoln: The applicant has requested a one-year extension. Staff recommends a one-year extension.

Mr. Bird: Move to grant a one-year extension.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

**VOTE ORDER OF CONDITIONS**

Town of Falmouth, Department of Public Works, 0 Menauhant Road, Parcel 45 20 002 000, Falmouth, MA

Quorum: Jamie, Courtney, Mark, Peter, Pat
Ms. Lincoln: This is the groins, beach nourishment and parking spaces. There are two major construction projects (bridge and nourishment, etc) going on at the same time. Time of year restrictions will be enforced. There will be a series of pre-construction meetings. The area will be monitored after completion and that is a very big component – 5 years of monitoring with reports every other year. I think the monitoring should be ongoing. The Town has appropriated money for beach profiles of all Town beaches so it will still be monitored beyond the five years. Grain size will be analyzed every 1,000 yards. For any special conditions on the groins, I will go through John Ramsey’s methodology. The entire Menauhant beach east and west will be completely under construction. Any other ideas?
Mr. Mathews: I would like a report on what structures they found and what they did with them.
Ms. Lincoln: Good idea. They don’t know what they will uncover, but they need to get the structures out.
Mr. Mathews: I would like documentation of what they find. There should be a five year monitoring program and monitoring after any major storm.
Mr. Gurnee: Do you recall where he said the sand for the nourishment is coming from?
Ms. Lincoln: Some will come from the channel dredging for creating the dunes on the east side. They will have to truck some more in. That should be used for the dunes and the dredges spoils should be put on the beaches.
Mr. Gurnee: They should mark the grain size of the dredge material also.
Mr. Mathews: Anything else?
Ms. Lincoln: I will go back through the presentation again and look at the bridge project also.
Mr. Mathews: Anything re the parking area? Is it ADA compliant?
Ms. Lincoln: The path to the beach is ADA compliant. I’m sure the parking places will be.
Ms. Gladfelter: The Town has pads that they bring down to the beach.
Ms. Lincoln: They will provide them. There will be a softer slope to the beach when the foundation is out.

Mr. Bird: Move to adopt the Order of Conditions as discussed.
Ms. Harris: Second.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

**VOTE ORDER OF RESOURCE AREA DELINEATION**
Ms. Lincoln: There were 5 or 6 small wetland boundaries to be delineated. Mark Kasprzyk worked with LEC to define them. Some of their original boundaries were changed per Mark and some remained the same. This project does not include the boundaries for Coonamessett Pond or Round Pond. It was just for setting the resource area boundaries.

Mr. Bird: Move to accept the Order of Resource Area Delineation as discussed.
Ms. Harris: Second.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

Mr. Bird: Move to adjourn.
Mr. Mathews: Mathews, aye; Gladfelter, aye; Harlow-Hawkes, aye; Bird, aye; Gurnee, aye; Walsh, aye; Harris, aye. Unanimous, so moved.

The meeting adjourned at 8:23 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary