The Falmouth Conservation Commission

MEETING MINUTES - WEDNESDAY, MARCH 3, 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 March 3, 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
Kevin O’Brien
Steve Patton
Peter Walsh
Kevin Newton, Agent
Alissa Bergeron, Agent

Absent: Jennifer Lincoln, Administrator, Mark Gurnee, Alternate, Pat Harris, Alternate

Also present: Amy Coughlin, Administrative Clerk, Mark Kasprzyk, MES Tech, Sam Patterson, Select Board

Mr. Matthews opened the meeting at 7:00 p.m.

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

2/24/2021

Ms. Gladfelter: Move to adopt the minutes as corrected.
Mr. Bird: Second.
Mr. Mathews: Mathews, aye; Harlow-Hawkes, aye; Gladfelter, aye; Bird, aye; O’Brien, aye; Walsh, aye; Patton, aye. Unanimous, so moved.

REQUEST FOR A CONTINUANCE UNDER AN ENFORCEMENT ORDER

Claudia Cenedese, 51 Pondview Drive, East Falmouth, MA – Unpermitted removal of vegetation within Conservation jurisdiction.
Mr. Newton: The applicant has requested a continuance until March 24, 2021. Jen has an on-site meeting scheduled for next week.

Mr. Bird: At the request of the applicant I move to continue the hearing until March 24, 2021.
Mr. Mathews: Mathews, aye; Harlow-Hawkes, aye; Gladfelter, aye; Bird, aye; O’Brien, aye; Patton, aye; Walsh, aye. Unanimous, so moved.

REQUESTS FOR DETERMINATION OF APPLICABILITY

Henry and Winifred Dick, 392 Boxberry Hill Road, Falmouth, MA – For permission to improve an existing trail by creating new elevated segments of 6’, 15’, and 30’ in length.
Mr. Newton: Jurisdiction: within BVW/freshwater wetland and possible Riverfront Area. The applicant seeks permission to install additional sections of elevated locust planks along existing trails. This section of trails is located within old cranberry bogs which, in the spring, are wet and may be under water. The project also includes re-routing approximately 150 linear feet of trail to guide walkers away from their private driveway; the section of old path will be blocked off with branches and allowed to re-grow. The re-routed path is within resource area buffer to BVW/freshwater wetland like the existing path but closer. Recommended to applicant that they minimize the new trail disturbance and keep as far away from wetland as possible. Staff
Mr. Bird: Move to accept staff’s recommendation.
Mr. Patton: It looks like a totally altruistic project.
Mr. Newton: It is. Mark took the lead on it.
Mr. Mathews: Mathews, aye; Harlow-Hawkes, aye; Gladfelter, aye; Bird, aye; O’Brien, aye; Patton, aye; Walsh, aye. Unanimous, so moved.

Richard and Carol Joseph, 95 Waterside Drive, North Falmouth, MA – For permission to construct and maintain a pool, pool house and patio, and to install an E-one effluent pump with all associated utilities and landscaping.
Mr. Newton: Jurisdiction: within flood zone AE14. This RDA is seeking permission to construct and maintain a pool, pool house, and patio. Applicant is also proposing to install an E-one effluent pump from the pool house to the septic tank. No increase in design flow proposed. All work is located within flood zone AE14 only; no mitigation is required. 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: Mathews, aye; Harlow-Hawkes, aye; Gladfelter, aye; Bird, aye; O’Brien, aye; Patton, aye; Walsh, aye. Unanimous, so moved.

REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

Nicholas Diesio, 105 Meadow Neck Road, Falmouth, MA – For permission to construct a new single-family dwelling with all associated clearing, grading and landscaping; and to install a Title V septic disposal system and drywells.
Mr. Newton promoted Tom Bunker to a panelist.
Tom Bunker (BSS Design) Meadow Neck Road is across from the Quashnet River – or maybe it’s the Moonakis River. Resource areas include: a promontory of salt marsh, VE elevation 13 of flood zone, Falmouth velocity zone 35-ft landward, salt marsh, 100-ft A Zone and 75-ft A zone for land under river. The topography is steeper than 10 to 1. There is a coastal bank with 100-ft coastal bank zone B. The limit of work is on the plan. Zone A is totally vegetated so there is no need for mitigation in zone B.
Mr. Newton: Tom did a good job – denoted all the trees on the plan. Are you going to offer any improvement to the resource area because mitigation is not required?
Mr. Bunker: The resource area and zone B are un-disturbed. I wouldn’t know what to answer. Perhaps an Osprey pole? They couldn’t put it in the marsh, but there is a stretch of upland.
Mr. Newton: Alissa?
Ms. Bergeron: I have nothing to add.
Ms. Gladfelter: I think it’s a completely pristine lot. It is the Quashnet River. Is this subject to Riverfront regulations?
Mr. Bunker: No, because the mouth of the river is to the north.
Mr. Bird: No questions or comments.
Mr. Mathews: There is nothing on the plan about a vista corridor. Will that come later?
Mr. Bunker: Yes, once the house is built.
Mr. O’Brien: No questions or comments.
Ms. Harlow-Hawkes: The Osprey pole is acceptable to me.
Mr. Walsh: Good project – no questions.
Mr. Patton: Good project.
Mr. Mathews: Any public comment?
Mr. Newton: No.

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

David and Kathleen DeVane, 371 Shorewood Drive, East Falmouth, MA – For permission to conduct invasive species management, to plant native plant species, and to establish a 25-foot wide vista corridor.
Mr. Newton moved Mr. Bunker to an attendee and promoted Michael McGrath to a panelist.
Michael McGrath (Holmes & McGrath) The property fronts on Great Pond. Resource areas include: dune with salt marsh behind it, BVW, velocity zone and AE zone (flood hazard) at elevation 12. The entire lot is in your jurisdiction. We are working with Clipper Landscaping and they have prepared a plan that shows the mitigation. They will remove the invasive species and restore 1,950-sq.ft. A vista corridor will be constructed. They will prune the bayberry to a height of less than 6-ft. Clipper Landscaping will do the work. The staff report asked how the invasives will be removed. It will be done by mechanical means and taken away.
Mr. Newton: I have the planting plan with the different species to be planted and I can get it for the Board. Staff had no problem with the species chosen. The vista corridor is on the plan and there is no problem with that either. One comment – they are putting mulch in the bedding and we don’t want that.
Ms. Bergeron: No questions or comments.
Mr. Mathews: The vista corridor will be no higher than 6-ft?
Mr. Newton: Correct.
Ms. Harlow-Hawkes: They are removing the cherry tree. Will there be a replacement for it?
Mr. Newton: It’s dead and was choked out by the invasives.
Ms. Harlow-Hawkes: It’s been dead for a long time. They should put matting under the plants.
Mr. Walsh: I agree with Maurie.
Mr. Patton: I wasn’t clear about the height of the vista corridor, but I am now.
There were no questions or comments from the remainder of the Commissioners.
Mr. Mathews: Any public chat?
Mr. Newton: No.

Ms. Gladfelter: Move to close the hearing and take it under advisement.
Mr. Bird: Second.
Mr. Mathews: Mathews, aye; Harlow-Hawkes, aye; Gladfelter, aye; Bird, aye; O’Brien, aye; Patton, aye; Walsh, aye. Unanimous, so moved.
CONTINUED HEARINGS UNDER A NOTICE OF INTENT

Cindy Coates, Trustee, The 187 Penzance Road Trust, 187 Penzance Road, Woods Hole, MA –
For permission to construct and maintain a 4’x127’ timber walkway with steps and lighting; to
create a 6’x200’ gravel path; to install an aeration system and subsurface electric lines for pond
restoration; to install an E-1 pump and force main to connect the workshop building to the
existing system; to remove 9 trees and plant 27 trees; to relocate and install 2,390 square feet of
mitigation plantings under Order of Conditions 25-2180; and all associated clearing, excavation,
grading, and landscaping.

Mr. Newton: Mr. McGrath remains as a panelist and Michael George was promoted to a
panelist.

Michael McGrath (Holmes & McGrath) I wrote a letter to the Commission agreeing with staff
and asked for a continuance. There are two different plans because the area is so big.
The boardwalk and the water treatment system to restore the pond have been removed. 9 eastern
red cedars and mitigation plants will be planted on the boundary. I knew the family who owned
the home before and zone B was always a lawn. There was a Coast Guard light on the property
on the lawn. A survey shows two driveways. We are going to file a management plan. The
trees will be planted in a sunny area. There is major work to be done other then planting the
trees and mitigation. A bathroom will be constructed in the workshop that will be attached to the
waste water tank. We have hired Wilkinson Ecological for the plantings. We have removed the
proposed utilities and changed the mitigation area.

Mr. Newton: Thanks for the staking aspect. I wonder if there will be a path element to this – a
6-foot gravel path.

Mr. McGrath: There is limited to access to the beach. They have to go across the tidal flats or
riprap. We show a path to be at the edge of the wetland that will probably be 4-ft wide and
provide access to the beach.

Mr. Newton: A 4-foot path is a allowed. Add it to the plan. What is the reasoning for moving
the mitigation?

Mr. McGrath: The ridge line is the appropriate area. It allows for some privacy for my client.
It’s better than planting it in the middle.

Ms. Bergeron: No questions or comments.

Mr. Mathews: Was the mitigation from a past OOC never planted?

Mr. McGrath: Yes. It was supposed to be between the riprap and the shed but was never
planted. It was on the route the Coast Guard used to get to their light.

Michael George (applicant) I would like to speak in support of Mike’s comments. With all the
issues of the boardwalk we removed it. A 4-ft path is adequate. The landscaper used to live on
the property but he no longer does. In order to use a bathroom he has to drive home. We will
install a simple toilet in the workshop.

Mr. Bird: It’s a good improvement.

Mr. O’Brien: No questions or comments.

Ms. Harlow-Hawkes: I have some concerns. It should be a grass path rather than gravel. It’s
softer on the feet. The 6 to 8 foot cedar trees are being planted in a very harsh area. I’d like to
see some woody indigenous shrubs there. Put the trees near the house where they will be more
protected.

Mr. Walsh: The existing path has been washed out to a narrow ½ foot line. Additional
clarification is needed on the proposed path. You don’t want it to wash out in two years. Show
the path on the plan.
Mr. McGrath: The path has eroded a lot. We will show sufficient details on the plan. It should last a long time.
Mr. Patton: No questions or comments.
Ms. Gladfelter: I’m concerned about the mitigation. There should be some kind of nexus to where it was intended to be in 1997. It’s proposed to be far from that area. I’d like Mike to find a closer place. There are large trees being removed in the B zone, but if the A zone was completely vegetated I wouldn’t worry about it. But it isn’t. The trees there are part of the buffer.
Mr. George: The trees we’re removing are right down the middle but don’t provide a buffer to the wind. We’re moving them to the ridge line for a buffer from the southwest wind. They are sitting in the middle of the B zone and don’t provide a good view for us. The density of the pine tree on the side makes it obvious that they’re quite hardy and provide protection from the wind. The proposed mitigation area used to be connected to another home on the property. It’s a lowly lawn space.
Ms. Gladfelter: I want to point out that the vegetation in the buffer may buffer from the wind. In the wetlands it has multiple roles. How will transplanting the large trees provide a buffer to you in a storm?
Mr. McGrath: I went out and looked at the proposed mitigation area being in the northwest corner. We should consider what a wetland is. Another one touches the beach. We’ve picked an appropriate area. The choice can be approved by the Commission.
Ms. Harlow-Hawkes: I agree with Betsy re the trees.
Mr. Mathews: In the interim you (Mr. McGrath) should speak with staff.
Mr. McGrath: Okay. We are requesting a continuance until March 31, 2021.
Mr. Mathews: There is no public comment. There was a letter submitted re the project and the concerns in the letter were answered tonight.

Mr. Bird: At the request of the applicant I move to continue the hearing until March 31, 2021.
Mr. O’Brien: Second.
Mr. Mathews: Mathews, aye; Harlow-Hawkes, aye; Gladfelter, aye; Bird, aye; O’Brien, aye; Patton, aye; Walsh, aye. Unanimous, so moved.

David P. and Kathy E. Campbell, 0 Millfield Street, Map 49A 04 Parcel/Lot 064 001, Woods Hole, Falmouth, MA – For permission to construct a single-family dwelling and garage with associated paved driveway, crushed stone parking area, retaining walls; to install native trees and shrubs; and to install a drainage system.
Mr. Newton moved Mr. McGrath and Mr. George to attendees and promoted Tom Bunker and Theresa Sprague to panelists.
Tom Bunker (BSS Design) I prepared one of these plans and Theresa Sprague prepared the landscape plan. I was here in December without Theresa. The plan was not well received at that hearing. The hearing was continued to make some changes. I submitted a narrative with the revised plan that is completely different than the previous one. The existing conditions are the same. The base of the property along Millfield Street is a flood zone AE. The bank is the terminus of the flood zone. A tip of the wetland is on another property. The 100-ft setback does not get onto the property. There is a 100-ft zone A from the marsh abutting Eel Pond. The entire lot is not within 100-ft of a resource area. There is no zone A to the coastal bank.
to 1 slope south of the coastal bank. The slope exceeds 4-ft in some areas. The coastal bank runs up to the edge of the driveway. The flood zone is 13 and steeper than 4 to 1. The limit of work is an orange line and the coastal bank line is brown. I didn’t exactly delineate the top of the coastal bank. It’s 1 to 2-ft downhill toward the west. There is an existing lawn. Theresa will get into the vegetation that is not native. In the prior plan there was a larger house and two driveways – one with a wider opening and in a lower area leading to a garage going into a hill. We’ve tightened it up quite a bit. It’s a smaller house that is 19-ft from a coastal bank – also 18-ft and 12-ft. It’s an adequate setback for the house. The height of the wall is 14 ½-ft with a built-in fireplace. The wall gets up to 7 ½-ft and starts at 1-ft. The limit of work might be a little tighter. A lot has to do with drainage. We’re not doing anything on the bank with three exceptions. There is no place to maintain a dumpster. The invasives will be taken out and replaced with native plants. The area will be filled with crushed stones for construction access. We will put the dumpster there. It’s at 10 ½-ft and if the drainage doesn’t work it will catch the water coming down the hill. Mr. Bunker displayed the construction plan. After the foundation is put in we will back fill with crushed stone. A solid catch basin will remain to catch surface water. There will be a vegetated swale. The leaching structure will be two solid basins with leaching on the bottom. The upper pipe will be capped and when completed the lower pipe will be removed. This addressed a letter from an abutter. After the final construction of the driveway there will be a small catch basin and a catch basin for roof runoff. To construct the driveway, a little bit of the coastal bank will be altered – 6 to 8-sq.ft. There will be no negative impact to the vertical buffer to the storm water. We have tightened it up quite a bit. 30 trees will be removed. Any native species on the bank will be protected.

Theresa Sprague (Blueflax Design) I do have a section that shows the height of the wall. The existing grade was cut into for the patio area and the built-in fireplace. The area behind it will be fully planted up to Quisset Avenue. This is a disturbed lot with a long history of dumping – yard work, asphalt on the bank. There are Norway Maples and English Ivy on the entire site. Ms. Sprague named all the vegetation on the site including Oak, Black Cherry and American Beach trees. Our goals include the protection of the resource area and creating better habitat value. Another goal is the wooded corner lot – maintain and restore the canopy on the lot, manage the invasive species, restore 30 native trees and 340 native shrubs. A swale will be created at the base of the riprap. Screening is important – from Quisset Avenue and for the driveway. We are restoring a mix of canopy. The understory trees have no succession value. The beach trees are only saplings. We will restore the canopy and shrub layers and plant trees of the 2 to 3-ft caliper size and smaller. Some of the native shrubs are summersweet, inkberry, vibernum and dwarf bush honeysuckle.

Mr. Newton: I’d like to thank Tom and Theresa for reducing the scope of the project. Jen went over the delineation of the coastal bank and was in agreement. Thank you for the creative approach to drainage. Would the Commission like a cross-section of the wall?

Mr. Bird: I would.

Mr. Mathews: The Building Department will want information on the wall.

Ms. Sprague: A construction detail on the wall?

Mr. Newton: Yes and the methodology.

Mr. Bird: Isn’t it a modular wall?

Mr. Bunker: No, because of the fireplace chimney it can’t be an interlocking wall.

Mr. Newton: Get us that information. We will also need a monitoring report for the restoration. To remove the English Ivy, will you come back for an RDA? It can’t be done in perpetuity.
Ms. Sprague: We don’t mention that it will be done in perpetuity.
Ms. Bergeron: The Commission does not usually approve dwarf varieties in their native plantings so staff recommends using another species.
Ms. Sprague: Dwarf bush honeysuckle is just the common name for the species and is not actually a dwarf variety.
Mr. Bird: This is an improvement over the first iteration.
Mr. Mathews: You addressed the erosion control. There was feedback from neighbors on the dumpster but it won’t remain and the area will be planted afterward.
Mr. O’Brien: This is a clever solution to the drainage situation. There is no other way to do it so I’m content.
Ms. Harlow-Hawkes: It’s a much better project. There is no limit of work on the restoration site. You will need some kind of methodology on how you’re going to restore the site. Will you flush cut or dig out the invasives.
Ms. Sprague: We generally flush cut them. We will leave the area open as a lawn. There are minor areas of lawn around the dwellings to west.
Ms. Harlow-Hawkes: The silt sock must be maintained on a weekly basis. Otherwise there will be unhappy neighbors. It will be nice to see it when it is restored.
Mr. Walsh: It is much improved.
Mr. Patton: They have done everything they could to meet the requirements.
Ms. Gladfelter: It’s a positive change. If you have done calculations to size these things could you put them in the record?
Mr. Bunker: Yes.
Ms. Gladfelter: The swale next to the house is like a rain garden. There will be soil on top of the stone and then it will be planted.
Ms. Sprague: We may plant holly in there.
Ms. Gladfelter: When it is all done it will be a nice section.
Mr. Mathews: Any public comment?
Mr. Newton: No.

Ms. Harlow-Hawkes: Move to close the hearing and take it under advisement.
Mr. Bird: Second.
Ms. Gladfelter: I didn’t think we were going to close tonight. We need more information.
Ms. Harlow-Hawkes: Move to withdraw the motion.
Mr. Bird: Move to withdraw the second.
Mr. Mathews: Mathews, aye; Harlow-Hawkes, aye; Gladfelter, aye; Bird, aye; O’Brien, aye; Patton, aye; Walsh, aye. Unanimous, so moved.
Ms. Gladfelter: At the request of the applicant’s representative I move to continue the hearing until March 24, 2021.
Mr. Bird: Second.
Mr. Mathews: Mathews, aye; Harlow-Hawkes, aye; Gladfelter, aye; Bird, aye; O’Brien, aye; Patton, aye; Walsh, aye. Unanimous, so moved.

CONTINUED HEARINGS UNDER AN ENFORCEMENT ORDER

Claudia Cenedese, 51 Pondview Drive, East Falmouth, MA – Unpermitted removal of vegetation within Conservation jurisdiction.
The hearing is continued until March 24, 2021.

VOTE ORDER OF CONDITIONS

Elizabeth D. Hlavka, Trustee, Dogwood Realty Trust, 69 Bar Neck Road, Falmouth, MA
Quorum: Jamie, Maurie, Betsy, Courtney, Kevin, Steve, Peter
Mr. Newton: This is the breakwater.
Ms. Harlow-Hawkes: Jen had a question about the fence across the street being in the road layout.
Mr. Newton: They need to get permission from the Town before doing work in the road layout.
Mr. Mathews: That must be a Condition.

Ms. Gladfelter: Move to adopt the Order of Conditions as discussed.
Mr. Mathews: Mathews, aye; Harlow-Hawkes, aye; Gladfelter, aye; Bird, aye; O’Brien, aye; Patton, aye; Walsh, aye. Unanimous, so moved.

Gerard T. & Margaret T. Robinson, 290 Acapesket Road, East Falmouth, MA
Quorum: Courtney, Kevin, Jamie, Steve, Peter
Mr. Newton: This is the dock.
Mr. Mathews: We were happy with the mitigation plan.
Mr. Newton: There were concerns re the shellfish.
Mr. Mathews: Did Chuck (Shellfish Constable) comment on that?
Mr. Mathews: He said it would be impossible to grow the shellfish.
Mr. Walsh: They offered a $1,000.00 donation for seeds.

Mr. O’Brien: Move to adopt the Order of Conditions as discussed.
Mr. Bird: Second.
Mr. Mathews: Mathews, aye; Bird, aye; O’Brien, aye; Patton, aye; Walsh, aye. Unanimous, so moved.

Karen Munroe, 26 Ferry Road, East Falmouth, MA
Quorum: Jamie, Maurie, Betsy, Courtney, Kevin, Steve, Peter
Mr. Mathews: This is the driveway.
Mr. Newton: It was an amendment. Mr. Borselli forgot to calculate two small things, i.e. stepping stones. We need a new plan and don’t have it yet.
Ms. Gladfelter: No mitigation is required. Once there it is a vegetative buffer.
Mr. Newton: It’s protected.
Ms. Gladfelter: Hopefully.

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

Ms. Harlow-Hawkes: Move to adjourn.
Ms. Gladfelter: Second.
Mr. Mathews: Mathews, aye; Harlow-Hawkes, aye; Gladfelter, aye; Bird, aye; O’Brien, aye; Patton, aye; Walsh, aye. Unanimous, so moved.

The meeting adjourned at 8:47 p.m.

Respectfully submitted,

Susan Cronin, Recording Secretary