

On 10/1/2020, on a motion by Commissioner Durkin, seconded by Commissioner Huggins, the Commission voted unanimously, 4-0, to approve these minutes as presented.

## CONSERVATION COMMISSION MEETING MINUTES

August 6, 2020

**Members Present:** Ed Hoopes (Chairman), Tom Durkin (Vice Chairman), Patricia Mulhearn, David Bernstein and Paul Huggins.

**Member(s) Absent:** Rick Bishop, Ellie Lawrence

YARMOUTH TOWN CLERK

**Staff:** Kelly Grant

'20OCT2AM11:16 REC

**Start Time:** 4.30pm

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Kelly Grant moderated the meeting reading the following into the minutes:

The August 6, 2020, meeting of the Yarmouth Conservation Commission is about to be convened. As a precautionary measure to reduce the spread of coronavirus, all Town buildings are closed to the public; therefore, this meeting will be held by remote participation. My name is Kelly Grant, and I will be moderating participation for this meeting. I will now turn it over to the Chair of the meeting:

Chairman Commissioner Hoopes opened the meeting, taking a roll call for quorum. The following members confirmed their presence:

Ed Hoopes, Tom Durkin, Paul Huggins, Patricia Mulhearn, and David Bernstein

Kelly Grant provided the following instructions for the meeting:

Pursuant to Governor Baker's March 12, 2020, Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 23, 2020, Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Yarmouth Conservation Commission is being conducted via remote participation. No in-person attendance will be permitted, but every effort will be made to ensure that the public can adequately access and participate in the proceedings as provided for in the Order. Persons who would like to view this meeting while in progress may do so by watching via this virtual meeting or the live feed on the Town of Yarmouth YouTube Channel. You may also listen to the meeting by dialing in to the number provided on the Notice of Meeting. We will also post a recording of this meeting on the Town of Yarmouth website as soon as we are able.

Please be patient as we work to overcome any technological challenges with the virtual meeting. To reduce confusion during the meeting, all participants of the virtual meeting are muted by the moderator. As participants are called upon to speak they will be unmuted.

Applicants can use the "Raise Hand" button or press \*9 on their phone to identify themselves to the chair. The meeting host will then un-mute applicants when they are called upon to speak. During the portion of the hearing designated for public comment, the Chair or moderator will ask who in the audience has any public comments or questions. Members of the public attending

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this meeting virtually will be able to make comments using the "Raise Hand" button within the virtual meeting. If you are dialed in to the phone number provided, you can press \*9 on your phone to indicate that you would like to comment. Please wait for the chairman to recognize you before speaking. As an alternative to making comments via the online audio or phone, you may also submit comments to the moderator via the virtual meeting "chat" function. To do this click on the "chat" icon and type your message. When prompted, the moderator will read comments and questions into the record.

Members of the public who wish to provide comment are asked to identify themselves by first and last name and affiliation for the public record and then provide their comment.

If you wish to speak during a hearing please consider the following guidelines:

- Do not use speakerphone
- Do not use Bluetooth devices
- Mute all background noises
- Clearly state your name each and every time prior to speaking

Prior to concluding opportunities for discussion, comment, or question, the Chair will ask:

"At this time I did not hear any requests for additional comment, if you wish to speak, please indicate now and I will ask this final time if there is anyone who wishes to speak on the matter at hand."

All votes must be roll call votes. After a motion is made and there is a second, the Chair will ask the moderator to take the roll call vote. The moderator will report the roll call vote. All motions, decisions, documents, and letters will be verbally read into the record. If it appears the meeting cannot or should not proceed, then the moderator will recommend that the Chair request to continue the hearing to a later date and time and/or until public meetings can resume normally. I will now hand the meeting back to the Chair.

## **AGENDA ITEMS:**

### **Request for Determination of Applicability:**

*Continued from 5/7/2020, 5/21/2020, 06/04/2020, 06/18/2020, 7/2/2020, 7/16/2020* Aunt Edith's Neighborhood Association, **Aunt Edith's Road**, South Yarmouth, Replacement in-kind of 10 12" pilings associated with a licensed pier in Bass River. Dan Ojala presenting agent. Mr. Ojala commented that a hodge podge of floats were added over the years with the seasonality of the structure. The basic configuration was maintained with some bump outs and additions to make it work better and changes to the south end.

The Association agrees that that the south float will be shortened up to conform to the Chapter 91 license. The southern most float will be removed and the pile associated with it will be removed and placed inside the last float on the south side.

The CA requested an updated paper plan to be submitted upon approval for the record.

A Negative 2 and 6 determination was moved by Commissioner Durkin, seconded by Commissioner Bernstein. The motion was amended that once the work is completed a COC be filed. The motion carried unanimously 5 – 0.

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Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

**Notice of Intent:**

2. Douglas Richards, **63 Park Ave**, Yarmouth, MA, Proposed addition to a single family dwelling within the buffer zone to a salt marsh, BVW and coastal bank. Dan Ojala representing agent.

Mr. Ojala remarked that the fill that was allowed in the past has created a manmade coastal bank, the additions will be over the existing decks. Runoff would be minimal but dry wells would be put in place.

Commissioner Durkin questioned about an open order, a COC with superseding conditions. The CA stated that the DEP issued a superseding order superseding a local order. The State closed out the COC. Still a COC to be issued for the bylaws, mostly administrative task.

Variance needed of 50 foot set back unless it is classified as a minor addition then it is within the 35 foot set back however it would still need a variance.

The coastal bank marks the edge of the velocity zone and the coastal A zone but not marked on the plan. It would be good to have those different flood zone markings on the final plan.

There is evidence of vegetation loss on the property but out side the fence is significant invasive growth with pruning of knotweed which will grow back thicker when cut.

Commissioner Hoopes discussed his concern with the cutting of the knotweed. He also voiced concern about the decks already at the 35 foot and the additions would intrude farther into the buffer.

No DEP number filed, a motion was made to issue the variance, close the hearing and continue until the next meeting without further discussion pending a DEP number with the CA assigning the order of conditions

Motion made by Commissioner Bernstein, second by Commissioner Huggins. Motion carries 5 – 0

Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

*Continued from 7/16/2020, SE83-2239* Kevin Cooper, **17 & 19 Eldridge Road**, Yarmouth, MA, Proposed razing of existing dwelling, construction of new, flood zone compliant dwelling and title 5 septic system within land subject to coastal storm flowage. Dan Ojala Presenting.

The hearing was closed at the last hearing and continued to receive the file number and to specify the number of trees to be replaced with native plantings at the discretion of the property owners.

The motion is made to sue an Order of Conditions with six trees in the 2 -3 inch caliper to be replaced around the property. Tom Durkin made the motion, seconded by David Bernstein.

Motion carries 5 – 0. Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

*Continued from 7/16/2020, SE83-2235* Robert and Barbara Troup, **20 River Drive**, Yarmouth, MA, Proposed access stairs, bulkhead and fiber rolls on the coastal bank to Bass River. Mark Burgess presenting. New plan shows a move of the access stairs 7 feet to the northeast

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without extending the bulkhead. Shortened the lower landing to 4 feet by 4 feet, added a trigger point for sediment and added mitigation with a condition to monitor for 3 years.

Commissioner Hoopes voiced concern of the size of the 6x8 landing mid-stair having more impact to the bank than a smaller landing. Commissioner Huggins recommended shortening it to 6X6.

Commissioner Bernstein inquired about the kayak racks. Commissioner Mulhearn suggested native planting at the lower landing to keep invasives at bay.

Mr. Burgess recommended letting it grow naturally at first to see what natives regrow and deal with the invasives as they appear with ongoing monitoring. Mr. Burgess will produce pictures and an evaluation report on the growth by May 15<sup>th</sup> 2021

Motion is made by Commissioner Huggins to approve the project as submitted with the added reduction to 6x6 in the landing, pictures of regrowth monitoring by May 15 2021, the monitoring of the trigger points for nourishing the beach and receive the updated plan before the order is issued. Commissioner Durkin seconded. Motion Carries 5 – 0.

Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

*Continued from 7/16/2020, **SE83-2237** Tushar and Karen Misra, **75 Partridge Valley Road**, Yarmouth, MA, Proposed seasonal dock on Jabinette's Pond.*

Requested to continue until August 20<sup>th</sup> 2020.

Abutter has sent a letter requesting that the Commission not grant the continuance and deny the project as presented.

Commissioner Durkin moved to continue until the August 20, 2020. Seconded by Commissioner Bernstein. Motion Carries 5 – 0

Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

*Continued from 7/16/2020, **SE83-2238** Margaret Smith, **47 Merchant Ave**, Yarmouth, MA, Proposed reconstruction of an existing licensed dock on Follin's Pond.*

Mark Burgess presenting. He consulted with DEP, anything within the existing foot print of the project would be allowed but extending seaward would require a new license.

The applicants propose to keep the project as is with a rebuilt dock and float stops added to the float. One order is open that requires plantings and must be completed before the work on this project moves forward.

The CA asked if grating would be used on the project and questioned the commissioners on if they accepted the height as proposed of 4 feet.

Commissioner Durkin Made the motion to accept the project with the following conditions; the grating will be substituted for the wooden planking, the float stops will be included on all four corners to be 2.5 feet above the substrate, the DEF time of year restrictions and the plantings will be completed before the work on the project begins. Commissioner Mulhearn seconded. Motion carries 5 – 0

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Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

*Continued from 7/16/2020, SE83-2241* William and Jeanette Hasapidis, **24 Scallop Road**, Yarmouth, MA, Proposed modification to an existing, licensed dock within Salt Pond. Lynne Hamlyn presenting. The dock is on an existing amnesty license, Con Comm approval for maintenance in 1978. Per DEP work cannot be done outside the foot print without a new license.

The pier was assembled off site and reassembled on site. It currently consists of 5 floats with 3 landward floats resting on the resource area.

The propose plan is to remove the 3 landward floats and replace with a fixed structure with a ramp on to the remaining two floats. The float position will be switched so that the ramp will land on the wider of the two floats. Walkway is 3 feet wide with a north south orientation.

The CA inquired about the height which is 4 feet above grade at the seaward end of the structure and tapers lower landward because of the grade. DEP suggested 4.5 feet but with grated decking it would be an improvement, float stops were also recommended at 2.5 feet above substrate.

Lynne Hamlyn asked whether grating was necessary given the small size of the pier and. Commissioner Hoopes suggest a 1 inch spacing would be acceptable to him on a wood structure.

Commissioner Hoopes pointed out the two kayaks stored on the resource area. Commissioner Huggins made the motion to accept the project with the kayaks and canoes stored off the resource area, one inch spacing on the dock spacing and any other special conditions that the conservation agent recommends. Commissioner Mulhearn seconded.

Motion carries 5 – 0.

Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

**Request for Amended Order of Conditions:**

**SE83-2206**, Great Island Ocean Club Homeowners Association, **Beach Parcel off Powers Lane**, Yarmouth MA, Proposed expansion of previously permitted beach raking area. George Doble, GIOC presenting.

Commissioner Mulhern referred to the August 19 2019 meeting where the commission was not allowing any machinery on the beach to rake and that the order of conditions was already amended once since. Mr. Doble agreed that the OOC was over looked by GIOC and not renewed and would have asked for expanded raking at the time. The GIOC states that they would like to keep the February 12 2020 OOC intact but just eliminating the 'no rake zones' per the site plan.

The abutter to an access point voiced concern of the raking occurring too close to the dune in front of her property and possibly causing undo erosion to the dune protecting her lot.

The CA stated that although the plan delineates the dunes and the plant area, this area changes over time so that it is very important to add to the conditions that there would be no

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raking within 10 feet of the toe of the dune or any vegetation and that a note should be marked on the plan as such. Approval before raking would be required.

NHESP has not yet responded. A number of letters in support were received and added to the file

Commissioner Durkin moved to continue to August 20, 2020 to hear from NHESP. Seconded by Paul Huggins. Motion approved 5 – 0.

Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

**Certificate of Compliance:**

**SE83-2133, 327 Great Island Road, Yarmouth, MA.** Motion to issue a COC by Commissioner Bernstein. Seconded by Commissioner Durkin. Motion carries 5 – 0.

Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

**SE83-2010, 46 Doherty lane, Yarmouth, MA.** Motion to issue a COC Motion made by Commissioner Durkin. Second by Commissioner Huggins. Motion carries 5 – 0.

Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

**Other Business:**

Approval of June 4, 2020 Minutes. Motion by Commissioner Durkin to approve Second by Commissioner Mulhearn. Motion carries 5 – 0.

Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein

Appointment of Commission Secretary. Duties include  
Recording;  
Approvals of minutes  
Attendance of meetings, listening to meetings/ affidavit  
Recording votes  
And motions on voting sheets  
Make motions for commission  
And recording motions

The Commission would like to acknowledge and thank Phil's long service to the town of Yarmouth serving as secretary and member of the Conservation Commission for many years. The Commission should organize a chair for him.

Commissioner Huggins - comments on fees discussion. Commission Huggins would like to share his ideas of fees for a future meeting.

Commissioner Durkin voiced his opinion on how much time it takes the Conservation Agent to process filings, project consulting, site visits and expertise.

Staff updates:

Town Hall is on limited hours, Con Comm will be continuing with Zoom format. 16:30hrs first and third Thursday is agreeable.

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A few violations are outstanding which will be addressed at the next meeting.  
Discussion of a meeting to update to the regulations was raised.

Commissioner Bernstein moved to adjourn the meeting. Seconded by Commissioner Huggins. Motion carries 5 – 0. Roll call vote: Commissioner Hoopes, Commissioner Durkin, Commissioner Huggins, Commissioner Mulhearn, and Commissioner Bernstein.

Posted By (Name):	Kelly Grant
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