

On 10/17/2019, on a motion by Commissioner Hoopes, seconded by Commissioner Durkin, the Commission voted unanimously, 5-0, to approve these minutes as presented.

CONSERVATION COMMISSION MEETING MINUTES

September 19, 2019

Members Present: Rick Bishop (Chairman), Ellie Lawrence, Tom Durkin, Paul Huggins, Phil Johnston, Patricia Mulhearn, and Ed Hoopes

Member(s) Absent:

Staff: Kelly Grant – Conservation Administrator

YARMOUTH TOWN CLERK

Start Time: 6.30pm

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Request for Certificate of Compliance:

SE83-984, Gerard R. Ethier, **394 Long Pond Drive**, South Yarmouth. Landscaper Mr. Rick Sears represented the applicant and presented the request. The project being completed per the Order of Conditions, Commissioner Lawrence made a motion to issue a Certificate of Compliance. The motion was seconded by Commissioner Hoopes. The motion carried unanimously.

Request for Determination of Applicability:

Gerard R. Ethier, **394 Long Pond Drive**, South Yarmouth, after-the-fact filing for a retaining wall in the buffer zone to Long Pond. Mr. Rick Sears of John Sears landscaping company represented the applicant and presented the proposed work. Mr. Ethier addressed the Commission and commented that the work was triggered by erosion damage. Commissioner Hoopes suggested an Enforcement Order is more appropriate and suggested a non-criminal citation for the landscaper. A landscape plan should be provided. Commissioner Mulhearn commented that native plantings should be included. Commissioner Huggins commented that a landscaping plan would be appropriate. Commissioner Durkin asked if there will be any fill added. Mr. Sears responded that there will be backfill. A planting plan should be submitted with native plantings. Commissioner Johnston suggest a Notice of Intent would be more appropriate than a Request for Determination. Commissioner Hoopes responded that an enforcement order would allow conditions to be applied and a timeline for completion.

Commissioner Lawrence made a motion to issue an Enforcement Order with the requirement for a landscape restoration plan that includes planting of 300 square feet along the length of the wall and between the two walls. The work must be completed within 10 working days from the issuance of the Enforcement Order. The motion was seconded by Commissioner Durkin. The motion carries unanimously.

Commissioner Hoopes made a motion to issue a positive 4, 5 determination. The motion was seconded by Commissioner Durkin. The motion carried unanimously.

Continued Notice of Intent:

Continued from 8/15/19, 9/5/19, **SE83-2206**, Great Island Ocean Club Homeowners Association, **Powers Lane**, West Yarmouth, proposed beach raking on a coastal beach to Nantucket Sound. Mr. Dan Ojala of Down Cape Engineering represented the applicant and presented the requested revisions to the plan. The seaweed will be collected by hand raking and disposed of offsite. Commissioner Hoopes commented that the applicants should pay

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particular attention to the shorebird monitoring conditions. The CA commented that do dogs should be allowed on the beach between April 1st and August 15th of each year. She also clarified the period of the Order and NHESP authorization period. The Order should be valid for three years with the options to extend for two years.

Commissioner Hoopes made a motion to issue an Order of Conditions approving the project with the following conditions: 1-6, 37, and:

- Raking shall be carried out by hand only. No vehicles or machinery shall be allowed on the beach.
- There shall be no raking within 10 feet of dunes and/or vegetation to protect the stability and ecology of the beach and dune area;
- Removal shall be focused on the areas of trash and nuisance seaweed on the open beach area. No raking shall occur below the daily high tide line (within the intertidal zone), leaving the wrack line to provide a seed source, nutrient source, and foraging habitat for shorebirds and to help build the beach and dunes;
- All beach cleaning activities shall be carried out in accordance with the NHESP conditions.
- Material removed from the beach shall not be deposited on any dune area where it can smother live plants, leading to dune erosion and destabilization. The disposal location shall be approved by the Conservation Administrator prior to any disposal.
- No dogs shall be allowed on the beach between April 1 and August 31 of each year.

Commissioner Durkin asked for clarification that shorebird monitors are required. The CA confirmed that the NHESP conditions include that, "all raking shall occur by hand and shall be coordinated with or guided by a qualified shorebird monitor, as determined by the Division".

The motion was seconded by Commissioner Lawrence. The motion carried unanimously.

Continued from 9/5/19, SE83-2208, Stephen & Nancy DiPalma, 159 & 165 South Street, South Yarmouth, proposed addition, detached garage, driveway, pool, and patio within land subject to coastal storm flowage and buffer zone to a salt marsh and bordering vegetated wetland. Mr. Dan Ojala of Down Cape Engineering and Mr. Andrew Garulay Landscape Architect represented the property owner and presented the proposed updates to the plan dated September 16, 2019. The CA suggested clarifying the conditions for the swimming pool. The pool in the proposal is salt water. The CA commented that the conditions require salt water pool be drained off site. Mr. Ojala responded that the salt concentration will be about 40ppm and therefore much lower concentration than regular salt water. The pool will only be drained down about four inches at the end of the season. Commissioner Hoopes made a motion to issue an Order of Conditions approving the project with the following conditions: 1-12, 15-18, 31, 32, 36, and 37. The motion was seconded by Commissioner Lawrence. The motion carried unanimously.

Continued from 9/5/19, SE83-2207, Brian Serpone, 28 Seminole Drive, Yarmouth Port, proposed demolition and replacement of deck; prune and thin vegetation within the buffer zone to a bordering vegetated wetland. Mr. Robin Wilcox of Sweetser Engineering represented the property owner and presented the updated plan dated September 19, 2019. There is a lot of debris still to be removed by hand from the area around the structure. Commissioner Hoopes commented that there is a monoculture of juniper proposed and it would be good to see greater diversity of plantings. The CA expressed concern with the growing conditions for juniper. The property owner should consider alternatives. Commissioner Durkin made a motion to issue an