

On 10/21/2021, on a motion by Commissioner Bernstein, seconded by Commissioner Durkin, the Commission voted unanimously, 7-0, to approve these minutes as written.

## CONSERVATION COMMISSION MEETING MINUTES

October 7, 2021

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

**Member(s) Absent:** Paul Huggins arrived during meeting, Rick Bishop left during meeting (as noted in minutes)

**Staff:** Kelly Grant

**Start Time:** 5:00pm

YARMOUTH TOWN CLERK

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### Request for Determination of Applicability

1. Dianne Collatos, 12 & 16 Fairwind Circle, Yarmouth, replace timber walkway and trim vegetation within a coastal bank and riverfront area

Presenting: Dianne Collatos

Commissioner Lawrence stated that the measurements on the plan don't add up, and asked what the plan is for the bayberry bushes in the lower section of the bank. Diane Collatos responded that she plans to cut a directed path but will trim rather than remove vegetation. Commissioner Durkin asked if it is a 13-foot drop down the bank; Diane Collatos responded that it is. Commissioner Bishop expressed concern with salt marsh impacts from encouraging increased traffic through this location. Commissioner Bernstein stated that there is not enough information to approve and that a more detailed and accurate plan is required. Chairman Hoopes stated that he can't support the application in its current form. The Commission view such project differently than it did in 2002, he won't support at/in grade steps, and he recommends a maximum of four feet wide and at least one foot above grade.

Mr. Antonellis, spouse of the owner of 16 Fairwind Circle and Colleen Bueller, owner of 12 Fairwind Circle addressed the Commission. Mr. Antonellis presented a letter to the Conservation Administrator before the meeting and read it to the Commission (on file). Mr. Antonellis stated that no one else is using the easement and that three homes have deeded access. He stated that the applicant has no right to improvement. Four to five timbers were added in 2004 that caused stability issues because they were not well-installed, and that the plan presented is 19 years old and the area has changed. He stated that the marsh will be impacted by trampling, there is no beach currently there, and he does not support the application. Ms. Bueller commented that she is concerned with liability. Chairman Hoopes reminded those present that the the Commission's purview is limited to the wetland protection regulations.

Commissioner Bishop made a motion to issue a positive 1,3,5 determination, requiring a Notice of Intent filing with a stamped engineered plan. The motion was seconded by Commissioner Durkin. The motion carried unanimously 6-0. (Higgins absent)

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Commissioner Hoopes informed Ms. Collatos that she can file an RDA for vegetation trimming for access if she wishes.

2. Yana Vilenchik & Dmitry Orlovsky, [31 Bayberry Road](#), Yarmouth, proposed installation of a septic tight tank to replace existing cesspool, within the buffer zone to an isolated wetland and within land subject to coastal storm flowage

Presenting: Dan Ojala, Down Cape Engineering

The application was approved by the Board of Health. A silt sack will be used for dewatering, allowing pumped groundwater to soak into the ground. Commissioner Bishop asked if there is consideration of alternative system. Dan Ojala responded saying no, that it is too cost prohibitive; the property will connect to the sewer when it becomes available. Commissioner Bernstein asked if the alarm is loud. Mr. Ojala stated that it's loud enough to be heard inside, maybe outside. Commissioner Bernstein asked about the capacity. Mr. Ojala responded that there is five days of design flow, and the system is generally pumped every seven to ten days. Commissioner Bernstein asked what happens if it fails. Mr. Ojala responded that it over flows. He stated he is not in favor of the solution but is responding to the wishes of the applicant. Conservation Administrator requested a dewatering plan.

The CA suggested a special condition to comply with state tight tank regulations.

Commissioner Durkin made a motion to approve with this condition. The motion was seconded by Commissioner Lawrence. The motion carried 4-2 (Bishop/Bernstein in the negative, Huggins absent).

The Commission took the Agenda out of order to allow 11 Kelp Lane to proceed before the remaining items.

**Certificate of Compliance:**

3. **SE83-184** [11 Kelp Lane](#), Yarmouth

Presenting: Alexander Will

Commissioner Huggins joined at 5:47pm.

The CA presented the request stating that the bulkhead was superseded by a later bulkhead replacement project but the dock was not. The engineer's statement does not include the dock and the configuration and design appears to differ from that permitted. It also connects to the neighboring dock which is not in compliance with their permit. Commissioner Hoopes suggested a violation notice for 7 Kelp Lane and an as-built plan for the dock at 11 Kelp Lane.

Commissioner Bernstein made a motion to continue to December 2, 2021, pending receipt of the as-built plan. The motion was seconded by Commissioner Bishop. The motion carried unanimously.

4. Ofer Dagan, [10 Moss Road](#), Yarmouth, proposed in-ground pool, patio, sheds, walkway, fire pit, stormwater control features, deck and pool fencing within land subject to coastal storm flowage