

On 2/16/17, on a motion by Tom Durkin, seconded by Ellie Lawrence, the committee voted 4-0-0 to approve these minutes.

CONSERVATION COMMISSION MEETING MINUTES


February 2nd, 2017

Members Present: Tom Durkin, Phil Johnston, Ellie Lawrence Brendan Quirk and Cris Luttazi

Member(s) Absent: Rick Bishop

Staff: Kelly Grant – Conservation Administrator

Start Time: 7:00 p.m.


YARMOUTH TOWN CLERK
'17FEB17AM9:27 REC

Executive Session:

Commissioner Durkin opened the meeting and announced the Commission would be entering Executive Session for the purpose of discussing strategy regarding threatened litigation regarding Bayview Beach, Bayview Pond and Railway Bluffs. Commissioner Durkin called the roll for those attending the Executive Session and announced the Commission would return to Open Session following the discussion.

Roll call:

Commissioners Tom Durkin, Phil Johnston, Ellie Lawrence, Brendan Quirk, Cris Luttazi; Staff Kelly Grant, and Karl Von Hone; and Town Counsel, Jay Talerma.

The Executive Session being concluded, the Commission returned to Open Session at 7:34pm.

Request for Determination of Applicability:

Cont from 1/5/2017, 1/19/2017 David Swift, **63 Thacher Shore Road**, Yarmouth, MA, proposed upgrade of an existing dirt driveway with the buffer zone and land subject to coastal storm flowage. Commissioner Durkin read into the record a request from Dan Ojala of Down Cape Engineering to continue to the February 16th meeting.

Commissioner Lawrence made a motion to continue to the February 16th meeting. Seconded by Commissioner Luttazi. Motion carries unanimously.

Notice of Intent:

Cont. from 11/17/2016, 12/1/2016, 12/15/2016, 1/5/2017, 1/19/2017, **SE83-2087** Crowell Beach Association, **138 Crowell Road**, West Yarmouth, proposed beach nourishment on a coastal beach and intertidal zone. Commissioner Durkin read into the record a request from Joe O'Brien of Capitol Engineering to continue to the February 16th meeting.

Commissioner Lawrence made a motion to continue to the February 16th meeting. Seconded by Commissioner Quirk. Motion carries unanimously.

Cont. from 1/19/2017, **SE83-2098**, Dennis Neier & Marisha Krupkin, **858 West Yarmouth Road**, Yarmouth, MA, after-the-fact filing for a hot tub, proposed construction of a patio, second floor addition, restorative plantings and seasonal dock on Elisha's Pond. Mr. David Bennett of Bennett Environmental Associates represented the applicant and presented the proposed changes to the plan. He commented that comments were received from the Division of Fisheries and Wildlife with a finding of no adverse effect. The revised plan has removed reference to pressure treated timber that will be replaced with stone walking paths. The patio and hot tub have been remove, with the hot tub to be relocated to the first

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floor deck, further restorative plantings are proposed and the dock has been moved slightly further out on the pond. Commissioner Quirk asked about the current condition of the area shaded in green on the plan. Mr Bennett responded that it is an existing sandy area that will be stabilized with plantings and conservation mix grasses. Commissioner Lawrence commented that she appreciates the relocation of the hot tub; however she considered the dock to still be an issue as it does not meet the regulations requiring 2 feet of water at its end. She commented that it is not possible for the Commission to enforce the proposal to allow the dock when the water level is high enough. In addition, the dock cannot be stored within a resource area or the 35 foot setback. Commissioner Luttazi stated her appreciation for the proposed restoration plantings but is concerned about the dock storage. Mr. Bennett responded that the dock would be stored on blocks on grass, while the grass is dormant. Commissioner asked what is proposed for storage of the boat. Mr Bennett responded that the boat would be removed at a Town landing as water level increases. Commissioner Lawrence asked if the dock could also be removed via a Town landing rather than being stored within the resource area or the 35 foot setback. Mr. Bennett responded that it would be difficult to transport the dock in sections. Commissioner Johnston asked about the proposal to expand the deck by one foot. Mr. Bennett responded that the extra foot is required to allow passage around the hot tub. The deck is 4 foot above the ground so there will not be a significant impact to shade tolerant vegetation proposed for under the deck. Commissioner Quirk asked if the additional 1 foot will need an additional support structure below? Mr. Klugg building contractor for the applicant responded from the audience that it will be cantilevered off the existing sonotubes. The Conservation Administrator (CA) asked the applicant to confirm the location of the public landing to be used for removing the boat. The applicant responded that there is no such landing but that the applicant has permission from the owners of a camp across the pond to use their boat ramp. The CA suggested the Commission receive this permission in writing. The CA requested the proposed invasive species be removed from the plan as per the request of the Division of Fisheries and Wildlife. Mr. Bennett agreed and commented that the dock is to be used for general recreation rather than just for the boat. The applicant understands the limitation on using the dock during low water levels and asked if the Commission would entertain the installation of a longer dock? The response was negative. The CA suggested she could be notified to confirm pond levels before the dock is installed, however the water level does not appear to be adequate even at average pond depth. Commissioner Durkin commented that he understands the urgency for the applicant to proceed with the proposed home addition and suggested the dock be removed from consideration at this time to allow permitting of the remaining proposed work. The applicant agreed to remove the dock from the application to allow issuing of the Order of Conditions for the remaining work.

Commissioner Lawrence made a motion to issue an Order of Conditions approving the project with the following special conditions:

- The hot tub and associated patio shall be removed and the hot tub will be relocated to the 1st floor deck;
- The proposed dock shall be removed from the plan. A new plan will be submitted to the CA prior to the Order of Conditions being issued.
- Conditions 1-12, 15, 16, 17, 23, 31, 36, 37.
- The plants used for stabilization and/or restoration shall be listed as native to Barnstable County, MA (as listed in *The Vascular Plants of Massachusetts: A County Checklist, First revision* (Dowcullina, Connolly, Sorrie & Sommers, 2011))

Seconded by Commissioner Johnston. Motion carries unanimously.

Approved Plan: *Notice of Intent, 858 West Yarmouth Road, Yarmouth Port; Bennett Environmental Associates, Inc.; John Z. Demarest, Jr., PLS; 2/3/17*

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Cont. from 1/19/2017, SE83-2098, Thomas Ruhan, 168 South Street, South Yarmouth, MA, proposed at-grade bulkhead along Bass River. Mr. Mark Burgess of Shorefront Consulting presented the revised plan with a 4 foot vegetated buffer as requested by the Commission. The vegetation shall be from the approved Barnstable County Cooperative Extension Program List. The buffer strip shall be planted to its maximum density as specified by the plant species utilized.

Commissioner Lawrence made a motion to issue an Order of Conditions approving the project as amended with special conditions 1-6, 7, 8, 9, 10, 11, 12, 17, 20, 25, 29 (a 4 foot buffer monitored for 2 growing seasons, planted to the maximum density as specified for the plant species utilized.), 30, 36, 37. Rock shall be maintained in front of the vinyl sheeting. Seconded by Commissioner Luttazi. Motion carries unanimously.

Approved Plan: Plan Showing Proposed Bulkhead 168 South Street, 1/23/2017, Down Cape Engineering Group.

SE83-2099, Karin and Jeff Tyndall, **252 Great Western Road**, proposed construction of an addition and installation of a full foundation within the buffer zone to a coastal bank. Mr. Kieran Healy of BSC Group represented the applicant and presented the project. Commissioner Lawrence commented that she would prefer to see no basement so close to the coastal bank. Commissioner Luttazi commented that the patio was not marked on the plan, and asked if it will be retained. Mr. Healey responded that the survey was done during snow and yes, the patio will remain as is it. The CA asked if it was anticipated that any trees would be removed during construction. Mr. Healey responded that only vegetation immediately beside the house would be disturbed.

Commissioner Luttazi made a motion to issue an Order of Conditions with special conditions: 1-6, 7, 8, 9, 10, 11, 12, 15, 16, 17, 31, 36, and 37. Seconded by Commissioner Johnston. Motion carries unanimously.

Approved Plan: Plan of Land to Accompany a Notice of Intent at #252 Great Western Road, South Yarmouth, BSC Group, Craig A Field PLS, 1/17/2017.

Request for Certificate of Compliance:

SE83-2021, 12 Jessie's Lane. Mr. Kieran Healy of BSC Group requested a continuance for **SE83-2021** and **SE83-1972** to the March 2nd meeting so the property owners could be present. Commissioner Quirk made a motion to continue both items to the March 2nd meeting. Seconded by Commissioner Lawrence. Motion carries unanimously.

SE83-1972, 8 Jessie's Lane. See above motion.

SE83-1986, 12 Hedge Row. There being no concerns, Commissioner Lawrence made a motion to issue a Certificate of Compliance. Seconded by Commissioner Luttazi. Motion carries unanimously.

SE83-2027, 15 Ship Shops Way. The CA reported that the 8 foot buffer of native vegetation required in the Order of Conditions is only about 4 ½ foot wide. The CA recommended that the applicant establish the full buffer before reapplying for a Certificate of Compliance. Commissioner Quirk made a motion to issue a Certificate of Compliance. Seconded by Commissioner Luttazi.

Votes: Affirmative: 0, Negative: 5. Motion does not carry.

Community Preservation Committee Update:

Commissioner Durkin gave an overview of the CPC program and the types of project proposed for funding.

Meeting Minutes:

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1.19.2017 - Commissioner Lawrence made a motion to approve the minutes as written. Seconded by Commissioner Quirk. Motion carries unanimously.

Change of Meeting time:

Vote on proposed change of meeting start time from 7.00pm to 6.30pm. There being no objections, Commissioner Lawrence made a motion to change the meeting start time to 6:30pm starting February 16th, 2017. Seconded by Commissioner Quirk. Motion carries unanimously

Discussion:

MACC conference agenda and registration. The Commission coordinated their attendance at the conference.

Staff Updates

The CA commented that she is creating guidelines for residents for control of phragmites and will distribute to the Commission for comment.

Commissioner Lawrence made a motion to adjourn at 9.17pm. Seconded by Commissioner Quirk. Motion carries unanimously.