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732 Main Street

Harwich, MA 02645

HARWICH CONSERVATION COMMISSION - MINUTES

PHONE (508) 430-7538

WEDNESDAY JANUARY 19, 2023 – 6:30 PM

TOWN HALL - GRIFFIN ROOM – HYBRID PARTICIPATION

Commissioners and Staff Present: Chairman John Ketchum, Jim Atkinson, Mark Coleman, Alan Hall, Wayne Coulson, Stanley Pastuszak, Brad Chase (arriving at 6:35pm), Sophia Pilling and Conservation Administrator Amy Usowski

Audience and Representatives Present: Lynn Hamlyn, Jack Wishart, Dan Croteau, Angela Tanner, John O'Reilly, Mr. Hunter, and Jonathon Shuster.

Call to Order

Chairman John Ketchum called the meeting to order at 6:30PM and welcomed new Associate Commissioner, Sophia Pilling.

HEARINGS

The following applicants have requested a Determination of Applicability

Philip & Susan Robins, 47 Strandway, Map 1 Parcel J1-56. Installation of rinse station.

Lynn Hamlyn, of Hamlyn Consulting, was present as representative and discussed relevant portions of the application, noting the previously approved plan by the Commission included the removal of a deck and the property owners could use that square footage in the future, which is what is before the Commission this evening. The rinse state was less square footage than original deck, creating a total net loss of site coverage.

Ms. Usowski discussed the Site Summary noting the new rinse station will not require mitigation because of the deck removal and recommended a Negative 3 Determination.

No discussion from the Commission or public comment.

Mr. Atkinson moved to approve the Request for Determination of Applicability for 47 Strandway with a Negative 3 Determination. Seconded by Mr. Coleman.

Vote 7-0. Motion carried; Request for Determination approved.

John Barone & Karen Gagne, 14 Atlantic St, Map 6B Parcel L140. Reconstruct home on existing foundation, upgrade septic system, and reconfigure porch.

Jack Wishart, of Coastline Construction, was present as representative.

Ms. Usowski discussed the Site Summary, noting the front half of the property is within 100' buffer to a Coastal Bank but is across the street from the resource area. She stated the foundation of the house is within the load layout, but that is for the Highway Department and Board of Appeals to discuss. She recommended approval with a Negative 3 and conditions regarding storage of material and potential runoff issues on such a small site.

No discussion from the Commission or public comment.

Mr. Atkinson moved to approve the Request for Determination of Applicability for 14 Atlantic St with a Negative 3 Determination. Seconded by Mr. Pastuszek.

Vote 7-0. Motion carried; Request for Determination approved.

Town of Harwich, 0 North Rd, Map 28 Parcel C4. Permit to stabilize path leading to pedestrian bridge and install fencing, following an Emergency Certification.

Ms. Usowski represented the Town of Harwich and discussed relevant portions of the application noting the access to foot bridge has been improperly and excessively used by the public creating unsafe conditions and explained the construction method used to stabilize the area.

Mr. Coleman asked if the materials used for the fence were the same as what would be required for other properties. Ms. Usowski responded the material used are appropriate for public areas, but something different may be suggested for private properties.

No further discussion from the Commissioners or public comment.

Mr. Atkinson moved to approve the Request for Determination of Applicability for 0 North Rd with a Negative 2 and Negative 3 Determination. Seconded by Mr. Chase.

Vote 7-0. Motion carried; Request for Determination approved.

The following applicants have filed a Notice of Intent

James & Tracy Fish, 61 Shore Rd, Map 2 Parcel B1-1. Raze & Replace Dwelling with Appurtenances and Beach Access. *(continued from 1.4.23)*

Dan Croteau, of Moran Engineering, was present as representative and discussed the changes made to the plans, including moving mitigation plantings closer to the resource area, removal of invasive species in the resource area and removal of a lawn area.

Ms. Usowski stated the proposed project now meets mitigation requirements and recommended approval.

Mr. Chase said he prefers structures to move away from the resource area with any raze and replace, but agrees the project meets all the requirements.

Ms. Pilling asked what plants are proposed where it says "plantings" on the site plan against the abutting property. Angela Tanner, Crawford Land Management, responded that no specific plants have been chosen yet because it is not part of the mitigation plan, but she does plan to plant a mix native species and ornamental plantings. Mr. Ketchum suggested adding a special condition to the Order of Conditions that all plantings must be approved by the Conservation Administrator. This was agreed upon by the representatives.

Mr. Atkinson moved to approve the Notice of Intent for 61 Shore Rd with the condition that all planting done within the 100' buffer be approved by the Conservation Administrator. Seconded by Mr. Hall.

Vote 7 – 0. Motion carries; Notice of Intent approved.

Pleasant Bay Community Boating, 2285 & 2287 Rte 28 – Head of the Bay Rd, Map 119 Parcels N7-3 & N8-0. Changes to parking areas, retaining walls, walkways, stairs, and deck.

John O'Reilly and Mr. Huntley were present as representatives. Mr. O'Reilly discussed relevant portions of the application, including the addition of handicap accessibility and public safety issues. He explained the multiple resources areas on the property, the planting plan and because the property spans 3 towns it involves multiple Conservation Commissions. He requested the additional 500sq ft of hardscape on the Harwich side of the property not require any mitigation, because a previously approved project for the entire property resulted in a reduction of about 4,800 sq ft of hardscape or paving.

Ms. Usowski stated she cannot recommend the project with no mitigation because the previous project was approved too long ago, between 2014 and 2016, and regulations were different and suggested areas for mitigation plantings. She asked if the wood-chipped area in front of building 2287 is used for parking and asked why the view platform is not on the plan. Mr. Huntley responded the woods-chipped area is used for parking not on a regular basis, only temporary parking to unload items out of the building. Mr. O'Reilly responded he will add the view platform to the plan.

The Commission, the representatives and Ms. Usowski discuss if mitigation will be needed, possible sites for mitigation plantings, existing hardscape and parking on the site. The Commission determined that mitigation for the variance will be required.

Mr. O'Reilly requested a continuance to February 15th, 2023.

Mr. Atkinson moved to continue the hearing to February 15th, 2023. Seconded by Mr. Pastuszak. No further discussion from the Commission.

Vote 7-0. Motion carried; hearing continued.

The following applicants have requested a Certificate of Compliance

Carver Crowell, 57 Gorham Rd, Map 23 Parcel C1-B. SE32-352. Construction of dwelling.

Ms. Usowski stated this permit it from 1984, the work is complete, and the Order of Conditions was incorrectly recorded on the wrong lot so it was never closed properly. She stated there is a newer Order of Conditions that supersedes this one and recommended approval to correct the error and clear the deed.

No discussion from the Commission.

Mr. Atkinson moved to issue the Certificate of Compliance for SE32-352. Seconded by Mr. Coleman.

Vote 7-0. Motion carried; Certificate of Compliance issued.

Wychmere Estates, 23 Snow Inn Rd, Map 8 Parcel P2-2. SE32-2070. Balcony supports and southern beach access stairs. Partial Certificate for work never done on Unit 2.

Ms. Usowski stated the property is in the process of being sold and the work was never done on unit 2. She recommended and partial Certificate for Work Never Done because the entire property is not ready for a Certificate of Compliance.

Mr. Atkinson moved to issue partial Certificate of for work never done on Unit 2, SE32-2070. Seconded by Mr. Ketchum. No further discussion from the Commission.

Vote 7-0. Motion carried; Partial Certificate of Compliance issued.

Discussion and Possible Vote

Wychmere Habitat Conservation Plan

Jonathan Shuster, from SWCA, was present as representative and discussed the details of the potential Habitat Conservation Plan to implement measures, such as beach raking and deterring nesting, to better allow recreational use of beaches with federally protected Shorebirds, in this case the Piping Plovers and Least Terns, by deterring nesting and raking the beach. He requested a Letter of Support from the Conservation Commission.

Ms. Usowski stated Massachusetts Audubon said they are in favor of the Habitat Conservation Plan because it will allow better enforcement and policing of the site, but she has reservations about the plan. She furthered saying the representative has not demonstrated how this Habitat Conservation Plan meets the performance standards of a Coastal Beach, for example the property has no permit to use mats to deter nesting, only for beach raking. She quoted 310 CMR 10.37, noting that this also under the jurisdiction of local Conservation Commission and would require further local permitting. She could not endorse the Habitat Conservation Plan.

The Commission agreed with Ms. Usowski and could not endorse the Habitat Conservation Plan.

Mr. Shuster asked what the Commission would need to send a letter of support or approve an Notice of Intent for the Habitat Conservation Plan. Ms. Usowski responded the Commission will not provide feedback to a preliminary plan. The Commissioners agreed with Ms. Usowski. No action was taken and no further discussion.

Update on ongoing land management tasks:

Discussion about any potential bylaw changes for Town Meeting 2023.

Ms. Usowski notified the Commissioners the deadline to add articles to Town Meeting is in a few weeks. The Commissioners and Ms. Usowski discussed if the Commission would like to add any articles and determined there is not enough time to fully vet any new wetland bylaws or regulations. Mr. Atkinson suggested discussing any potential articles soon, so if there is a fall Town Meeting, they will be ready. Mr. Ketchum requested to add this topic to the February 15th, 2023 Agenda.

Thompson's Field Management

Ms. Usowski stated she is waiting to hear if the Bylaw changes regarding "voice control" submitted by the Animal Control Officer will go to Town Meeting.

Herring River Study

The Commissioners and Ms. Usowski updated the new member, Ms. Pilling, on the Herring River Study. Mr. Hall asked if property owners need to be notified of the study. Mr. Chase responded notifying property owners is not a legal requirement because the structures are within commonwealth tidelands, but would like to see property owners notified. The Commissioners and Ms. Usowski discussed what portions of the Herring River should be the focus of the study. The Commissioners decided to make a final review and put it on the Agenda for next meeting.

Ms. Usowski announced the upcoming MACC meeting for any interested Commissioners

Approval of Minutes

August 3, 2022

August 17, 2022

The Commission had the following corrections for the August 3rd minutes had an

- Error on the vote count for the Cold Brook Restoration Project and should say "Vote 5-0. Mr. Hall and Mr. Coulson recused themselves."
- On page 2, second paragraph says "on" and should say "one".
- On page 4, second paragraph should have specific information of the discussion about ongoing conditions and should say "create channel riffle and pond outlets to support fish passage."

Mr. Ketchum moved to approve the minutes with amendments for August 3rd, 2022. Seconded by Mr. Coleman.
Vote 7-0. Motion carried; minutes approved.

Mr. Ketchum moved to approve the minutes for August 17th, 2022. Seconded by Mr. Coleman.
Vote 7-0. Motion carried; minutes approved.

Adjournment

Mr. Atkinson moved to adjourn. Seconded by Mr. Chase.
Vote 7-0. Motion carried; meeting adjourned.

Respectfully submitted,

Lecia McKenna