



TOWN OF HARWICH

732 Main Street
Harwich, MA 02645

HARWICH CONSERVATION COMMISSION - MINUTES
PHONE (508)-430-7538 FAX (508)430-7531
WEDNESDAY, MARCH 20TH 2024 – 6:30PM
TOWN HALL - GRIFFIN ROOM – HYBRID PARTICIPATION

Commissioners and Staff Present: Chairman John Ketchum, Mark Coleman, James Atkinson, Bradford Chase, and Conservation Administrator Amy Usowski

Commissioners Absent: Sophia Pilling, Wayne Coulson

Audience and Representatives Present: Tom Courier, Steve Rhodes, Sahil Patel and Mary Patel, Bob Rego, David Little, Atty. Senie, Frank Gataletta, David Clark, Theresa Sprague, John O'Reilly, Bob Rodgers, and David Norlander,

Call to Order

Chairman John Ketchum called the meeting to order at 6:30PM and the Pledge of Allegiance was recited.

The following applicants have filed a Notice of Intent:

Town of Harwich, Route 28 Road Layout between Bank Street and Saquatucket Harbor, SE32-2552. Sidewalk construction by Mass DOT on south side of Route 28. (*Continued from 2/22/24*)

Tom Courier, project manager, and Steve Rhodes of VHB were present as representatives and discussed relevant portions of the application. Mr. Rhodes proposed to mitigate for the project by diverting drains in the area into a deep sump to improve the quality of water that runs off from Route 28 into Wychmere Harbor. He also reviewed the planting plan.

Ms. Usowski said that the improvement of water quality would meet the mitigation requirements for this project. She recommended the approval of the application as a limited project and granting the variances.

Mr. Chase noted that the new system is rated to handle 5 inches of rain per hour and asked if that were the maximum amount or a proportion of what would be entering the harbor. Mr. Rhodes said that the rating was based on 550 feet of roadway in the most intensive storm. Mr. Chase asked if there was a way for all runoff going into Wychmere harbor to be diverted. Mr. Rhodes said that the project could be expanded into Harwich Port or approximately 20 catch basins could be installed. Link Hooper, director of the Department of Public Works, said that the stormwater improvements that have been proposed are focused on staying within the States rights without needing to pursue easements from direct abutters.

Mr. Chase asked the applicants to describe the design of the crossing of Cold Brook. Mr. Rhodes displayed the plans for the crossing and noted the granite curb and crash barrier that will be placed on top of a retaining

wall for support. Mr. Chase asked how erosion will be prevented, as the slope is very steep. Mr. Rhodes said that the slope is expected to hold once it is grassed.

Mr. Atkinson moved to approve the application and grant the requested variance. Seconded by Mr. Coleman.

No further discussion from the Commission.

Vote: 4:0 Motion carried; Notice of Intent approved.

KBD Patel LLC, 435 Route 28, Map 13, Parcel S1-B2, SE32-2554. Relocation of unpermitted structure.
(Continued from 3/6/24)

Sahil Patel and Mary Patel were present in person as representatives. Mr. Bob Rego of Riverhawk Environmental was present virtually as a representative. Mr. Rego asked to delay the hearing to further in the meeting because he had a conflict with a hybrid meeting in another town. Mr. Ketchum agreed to move the hearing to the end of the meeting.

CLS Properties LLC, 11 Atlantic Street, Map 6B, Parcel L144. Raze and replace single family dwelling.

David Little of Ryder and Wilcox was present as a representative and discussed relevant portions of the application, noting that the new dwelling will be compliant with FEMA flood standards and that the site should be more capable of absorbing stormwater. He added that an IA component will be installed with the septic system, and that a set of coastal access stairs will be relocated and rebuilt.

Ms. Usowski said that the proposed plan seemed like an improvement, noting that the footprint will be reduced and the IA component. She recommended approval.

Mr. Chase asked if the site was in compliance and Ms. Usowski said yes. Mr. Chase asked if the bulkhead would be changed. Mr. Lyttle said that the applicants consulted with Cape Cod Engineering and were told that it was in good condition, though the seawalls on either side may need to be worked on in the future. Mr. Chase asked if there was vegetation removed at the site and Mr. Lyttle said not in the time that he has worked on the project. Mr. Ketchum asked if the coastal access stairs have layers and if they were attached to the concrete wall. Mr. Lyttle explained that the stairs will all be removed. Ms. Usowski recommended that the new coastal access stairs be aluminum or have a removable bottom half.

Atty. Senie was present to represent Gavin Archibald, owner of 8 Atlantic St, and expressed that his client had no objections to the project for any aspects that are within the jurisdiction of the Commission but is concerned about the height the structure.

Frank Gataletta, 12 Atlantic St, was present and expressed that he was worried that the proposed dwelling was too large to be adequately served by the available parking. Ms. Usowski suggested adding a pervious pad such as shell. Mr. Lyttle said that it would be possible, but that it would increase the site coverage. Mr. Ketchum said that the issue would likely need to be raised with the Planning Board.

Mr. Atkinson moved to approve the application and grant the requested variance. Seconded by Mr. Coleman.

No further discussion from the Commission.

Vote: 4:0 Motion carried; Notice of Intent approved.

Walsh Family Investments L.P., 29 Walther Road, Map 16, Parcel T7. Raze and replace single family dwelling with spa, firepit, patio, and coastal access stairs.

David Clark of Clark Engineering was present in person as a representative. The homeowners and Theresa Sprague of Blue Flax Design were present virtually. Mr. Clark described relevant portions of the application, noting that the proposed dwelling is larger than the current dwelling, but that it has been moved away from the resource areas, that no part of the dwelling will be within the 50-foot buffer zone, and that the existing Title 5 septic system would remain in place. Ms. Sprague described the planting plan for the project, noting that there is over 9000 square feet of mitigation proposed and is designed to blend into the existing plant community in the adjacent Town-owned vacant lot.

Ms. Usowski reviewed an email from abutters Kathleen and Marty Crane, which noted a request for AC units and the patio to be screened and asked why the coastal access stairs are being moved close to the lot line and what the setback requirements for patios are. Ms. Usowski noted that some of their concerns are not within the jurisdiction of the Commission. Mr. Clark replied that the new location for the stairs was selected because the owners did not want them in direct view from the living room of the proposed dwelling. Ms. Sprague said that there is a plan to add a plant screen, and that the planting displayed is only what is within the jurisdiction of the Commission.

Ms. Usowski explained that the current house is entirely within the 0-to-50-foot buffer zone and that the proposed house is completely outside of it. She noted that the applicants have proposed an increase in hardscape in the 50-to-100-foot buffer zone with mitigation. She asked the applicants to consider perpendicular coastal access stairs instead of parallel to the bulkhead. Ms. Usowski recommended approval.

Mr. Chase said that the proposed location of the house and the planting plan are both good, but that he would like to see an expansion of the coastal bank as a form of mitigation and said that the spa should be moved outside of the 0-to-50-foot buffer zone. Mr. Clark said that if the spa is brought back then views would be lost or diminished. He said that the house would need to be re-designed if the spa is moved back because of setback requirements. Mr. Chase said that he would like to hear from other Commissioners.

Mr. Ketchum asked if the area labeled “beach grass” on the planting plan would be new plantings. Mr. Clark explained that there were former beach grass plantings that were affected by overtopping. Ms. Usowski asked if that area would be reinforced with other plants and Ms. Sprague said yes. The Commissioners discussed the addition of the spa within the 0-to-50-foot-buffer zone. Ms. Usowski noted that the shrub plantings will help to reinforce the bank. Ms. Sprague clarified that the area labeled “beach grass” is not included in the mitigation calculations because there is existing native vegetation in the area. She asked if Mr. Chase would like it to be included in the calculations. Mr. Chase said yes, so that the dimensions of the coastal bank could be increased. He asked Ms. Usowski how the mitigation could be conditioned. Ms. Usowski explained that some conditions could be no lawn can be placed in the 0-to-50-foot buffer zone, that the plants must establish, and that an annual monitoring report may be required. Mr. Ketchum asked if there was a plan to mow the area if it was seeded with grasses and flowers. Ms. Sprague said that there were no plans to mow since there are shrubs interspersed within the grassy area. Ms. Usowski asked if that information were included in the planting plan and Ms. Sprague said no, but that she would provide another sheet of the information for the planning plan.

Mr. Atkinson moved to approve the application. Seconded by Mr. Coleman.

No further discussion from the Commission.

Vote: 4:0 Motion carried; Notice of Intent approved.

David and Palmie Riposa, 0 Pleasant Lake Road, Map 100, Parcel K4-3. Seasonal dock.

John O'Reilly of J.M. O'Reilly and Associated was present as a representative and discussed relevant portions of the application, noting that the dock will be 71 feet long and rest on pads, and be stored on the beach or off the property in the offseason.

Ms. Usowski reviewed the application, noting that there is 3.8 feet of water at the end of the dock and that the structure is 65-feet away from any adjacent structures. She explained that she suggested that the applicants store the dock away from the resource area, and suggested some form of mitigation for the project, but noted that the site is very sandy, and that planting would be extremely difficult. Ms. Usowski suggested considering in lieu fees for this project. She said that the hearing would need to be continued because the National Heritage and Endangered Species Program has not yet commented on the project.

Mr. Chase said that mitigation was not necessary for a freshwater dock since the regulations are not very descriptive. The representative requested a continuance to April 3rd, 2024.

Mr. Atkinson moved to continue the hearing to the meeting of April 3rd, 2024. Seconded by Mr. Coleman. No further discussion from the Commission.

Vote: 4:0 Motion carried; hearing continued.

The Chair opened the hearing for the following:

KBD Patel LLC, 435 Route 28, Map 13, Parcel S1-B2, SE32-2554. Relocation of unpermitted structure.

Mr. Rego described relevant portions of the application, noting that the structure was placed without a permit. He explained that the plan proposes to move the shed outside of the 0-to-50-foot buffer zone and to keep the fence with mitigation. He described the minimal impact of the fence and how it will help to keep trash out of the wetland, noting that the applicants have requested a variance to maintain it.

Ms. Usowski said that the proposed location of the shed is better but noted that the applicants will need to appear before the Planning Board because parking capacity may be affected. She recommended that the Commission grant the variance to allow the applicants to maintain the fence because there is a high volume of litter on the site and because it is a dangerous location for wildlife. She said that the mitigation is good but that some plants should be changed to ones that are more suited to the area. She recommended approval with the suggested update to the mitigation plan and a constrained timeframe to relocate the shed.

Mr. Coleman asked if the shed had a wood or a concrete floor. Mr. Sal said that the floor is wood, and Mr. Coleman asked how it would be removed. Mr. Sal said with a crane. Mr. Atkinson asked if the Commission should vote before the applicants go to the Planning Board. Ms. Usowski said yes, if the plan needs to be redrafted then the applicants will have to come back before the Commission. Mr. Chase said that the fence should be removed since it is a new structure in the 0-to-50-foot buffer zone. Mr. Ketchum agreed with Ms. Usowski that the fence would help to control trash. Mary Patel said that the trash is much easier to manage.

Mr. Atkinson moved to approve the application and grant the variance. Seconded by Mr. Coleman.

Mr. Ketchum suggested that the motion include that the variance is for an existing fence.

Amendment accepted by the mover and the seconder.

Vote: 3:1 Mr. Chase voted nay. Motion carried; Notice of Intent approved.

The following applicants have requested an Amended Order of Conditions:
Vincent Petroni, 31 Shore Road, Map 2, Parcel B1-7, SE32-2430. Boulder revetment.

Bob Rodgers of GAF Engineering was present as a representative and discussed relevant portions of the application, noting that coir logs and beach grass have been previously used at the location. He said that the existing boulders need to be set since soft solution attempts have failed to control the erosion at the site. He noted that the reinforcements will be as minimal and shallow as possible at 3 to 5 rows of stones.

Ms. Usowski said that she had concerns about the proposal since there are several resource areas involved. She noted that the area which currently has rocks is a coastal bank, and that the area where the applicant would like to reinforce with rocks is a coastal dune with windblown sand, and that the application did not include an explanation of how performance standards would be met. She recognized that the water funnels in the area, but that she did not believe that the erosion was imminently dangerous to the dwelling and noted that rock revetments are typically only added to protect homes built before 1978 which are at risk of damage. She said that she did not find that the application met these standards and recommended that County Coastal Process Specialist Brian McCormack review the filing. Mr. Rodgers noted that the Order of Conditions allowed for some reinforcement with smaller stones on the East side of the coastal access stairs.

Mr. Rodgers responded he would be amenable to having the application reviewed by Brian McCormack.

Mr. Chase stated this might require a new Notice of Intent because the change in plans is very extensive. Mr. Ketchum asked if the fiber rolls were installed. Mr. Rodgers responded new fiber rolls have not been installed and the previously install fiber rolls have been completely wiped out by previous storms. The Commission and Mr. Rodgers discussed if the groin extends all the way to the dune and agreed to have the application review by the County Specialist to help determine the resource area and location of the groin.

Ms. Usowski requested the applicant to provide how the project meets the performance standards for a coastal bank and what mitigation efforts will be put in place to prevent adverse impacts to any abutting properties and suggest a continuance for one month so the site visit can be scheduled with Brian McCormack.

No public comment

Mr. Rodgers agreed and requested a continuance for the meeting on April 17th, 2024.

Mr. Atkinson moved to continue the hearing for the Amended Order of Conditions for SE32-2430 to April 17, 2024. Seconded by Mr. Coleman. No further discussion from the Commission.
Vote 4-0. Motion carries; hearing continued.

Lee Mei-Ting et al. through trustee David Nordlander, 602 Queen Anne Road, Map 83, Parcel S2, SE32-2487. Trash removal and planting, additional mitigation, landscaping, and patio.

The following applicants have requested an Extension for an Order of Conditions:
Lee Mei-Ting et al. through trustee David Nordlander, 602 Queen Anne Road, Map 83, Parcel S2, SE32-2487. Trash removal and planting, additional mitigation, landscaping, and patio.

The Chair announced the Extension and Amendment for SE32-2487 to be heard together.

David Norlander, property owner, was present as representative and discussed relevant portions of the requests, noting there was another area of the property with several layers of asphalt shingles and broken glass that they would like to clean up from the resource area and will need more time to execute the work.

Ms. Usowski stated the current property owners are diligently working to clean the property of trash within Conservation Regulations which is an overall improvement. She requested the planting begin this spring and recommended approval of the Amendment and a 2-year extension.

The Commission. Mr. Norlander and Ms. Usowski discussed if the proposed work would destabilize the slope to the resource area if too much excavation is done to remove benign debris and the current replanting plan. Ms. Usowski suggested she could visit the site after the work was complete to determine if the slope needs to be matted and seeded in order to maintain stability and to provide reports of work progress. Mr. Norlander agreed.

No public comment.

Mr. Atkinson moved to approved the Amendment for SE32-2443 and grant a 2 year extension. Seconded by Mr. Coleman. No further discussion from the Commission.
Vote 4-0. Motion carried; Amendment approved and 2-year Extension granted.

Nancy White, 26 Old Campground Road, Map 30, Parcel C15, SE32-2443. Single family dwelling, driveway, septic, and grading. *(Continued from 3/6/24)*

Ms. Usowski stated this hearing was continued because there was no voting quorum and recommended a 3-year extension.

No discussion from the Commission.

Mr. Atkinson moved to grant a 3-Year Extension to SE32-2443. Seconded by Mr. Coleman. No further discussion.
Vote 4-0. Motion carried; extension approved.

The following applicants have requested a Certificate of Compliance:

Thomas and Caroline Lucey, 32 Dunes Road, Map 5, Parcel W1-52, SE32-1498. Construct additions.

Ms. Usowski stated this an older permit that was never closed out properly and is a hindrance on the deed. There is also a new Order of Conditions with supersedes this one that has a Certificate of Complicate. She recommended the issuance of the Certificate of Compliance.

No comments from the commission

Mr. Atkinson moved to approve the issuance of the Certificate of Compliance for SE32-1498. Seconded by Mr. Coleman. No further discussion from the Commission.
Vote 4-0. Motion carried; Certificate of Compliance issued.

CDMeader LLC et al. through trustee Kevin Meader, 443 Route 28, Map 13, Parcel S1-30, SE32-737. Construct an addition and a roof canopy.

CDMeader LLC et al. through trustee Kevin Meader, 443 Route 28, Map 13, Parcel S1-30, SE32-768. Replace failed septic system.

CDMeader LLC et al. through trustee Kevin Meader, 443 Route 28, Map 13, Parcel S1-30, SE32-775. Construct an addition and parking lot.

CDMeader LLC et al. through trustee Kevin Meader, 443 Route 28, Map 13., Parcel S1-30, SE32-1856. Replace commercial building destroyed by fire.

Mr. Ketchum announced all four Certificate of Compliance requests for 443 Route 28.

Kevin Meader, trustee of CDMeader, LLC., was present as representative and stated the property has a prospective and the 3 older permits were never closed and are a hindrance to deed. He furthered to say the most recent permit supersedes the previous permits and he has provided an As-built for compliance.

Ms. Usowski stated SE32-1856 is a permit to rebuild the structure after a fire, so she recommended approving the Certificates of Compliance for SE32-737, 768 and 775. She discussed relevant portions of SE32-1856, noting the site has a recent accurate Site Plan and changes in hardscape for public access and safety. She stated considering the only significant change in plan was for public safety and would have likely been approved and suggested approval for this permit as well.

No comments from the public or discussion from the Commission.

Mr. Atkinson moved to approve the issuance of 4 Certificates of Compliance for 443 Route 28, SE32-737, 768, 775 and 1856. Seconded by Mr. Coleman. No further discussion from the Commission. Vote 4-0. Motion carried; 4 Certificates of Compliance issued.

Channel Realty Trust, 29 Snow Inn Road, Map 8, Parcel P4, SE32-777. Construct deck.

Ms. Usowski stated this is another older permit that was not closed out properly and is a hindrance on the deed. She said no as built was required and the plans are vague, but it appears the deck has not been replaced since the issuance of this permit and there are no other obvious violations. She recommended approval.

Maggie Hoyt-Rupert, of Nutter, McLennon and Fish, was present as representative and stated the trust is selling the property and the deck was built in accordance with the Order of Conditions.

Mr. Atkinson moved to approve the issuance of the Certificate of Compliance for SE32-777. Seconded by Mr. Coleman. No further discussion from the Commission. Vote 4-0. Motion carried; Certificate of Compliance issued.

Minutes:

3/6/24

There were no comments or corrections of the Minutes of 3/6/24.

Mr. Ketchum moved to approve the Minutes from 3/6/24. Seconded by Mr. Atkinson. Vote 4-0. Motion carried; minutes approved.

Ms. Usowski asked Mr. Chase to review the minutes he questioned in a previous to determine if enough information was notated so staff can make any changes and those minutes can be approved by the Commission.

Discussion and Possible Vote:

Ms. Usowski announced the Planning Department is in the process of creating a new Local Comprehensive Plan and wanted to notify the Conservation Commission, along with several departments/committees, there is a public round table meeting this Saturday of anyone would like to participate.

Update on the Bells Neck Land Management Plan

Ms. Usowski stated she removed all the track changes to make the draft easier to read, and the only item left to work on is the appendices. She suggested prioritizing goals moving forward. Mr. Ketchum requested to give the Commission time to review the new final draft and add a discussion item at the next meeting. The Commission briefly discussed the fish ladder and potential gate and agreed to have an in depth discussion at the next meeting.

Adjournment

Mr. Chase moved to adjourn the meeting at 9:00pm. Seconded by Mr. Atkinson.
Vote 4-0. Motion carried; meeting adjourned.

Respectfully Submitted,
Lecia McKenna