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TOWN OF

HARWICH

732 Main Street

Harwich, MA 02645

HARWICH CONSERVATION COMMISSION - MINUTES

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THURSDAY – APRIL 20TH – 2023

TOWN HALL – SMALL MEETING ROOM – HYBRID PARTICIPATION

Commissioners and Staff Present: Chairman John Ketchum, Wayne Coulson, Alan Hall, James Atkinson, Stanley Pastuszak, and Conservation Administrator Amy Usowski.

Commissioners present virtually: Mark Coleman and alternate Sophia Pilling.

Commissioners Absent: Bradford Chase

Audience and Representatives Present: Selectboard member Michael MacAskill, Michael Lach, Tom Evans, Mark Robinson, Harbormaster John Rendon, Kevin Baruchian, Mark Kelleher, Kathy White, Robert Thomason, Robert Johnson, Peter Shankman, John Donohue, Kieran Healy, Steve LeBrandt, Don Monroe.

Call to Order:

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

Update from Board of Selectmen Chairman Michael MacAskill regarding the property at 374 Main Street.

Mr. MacAskill informed the Commission that Town Counsel has confirmed that Chapter 97 funding was not involved in the original purchase of the land, which has allowed the start of the process to draft a deed and a long-term lease for the property.

Mr. Coleman asked what portion of the land will be meant for building. Mr. MacAskill answered that the Cape Cod Regional Technical School intends to build on a portion of the land where a house once stood. Mr. Coleman asked Mr. MacAskill if he knew how large their build would be and Mr. MacAskill said that size would be a part of the lease that is being drafted. The Commissioners and Mr. MacAskill discussed the location of the proposed building.

Ms. Usowski asked Mr. MacAskill if the Town and the school would still be pursuing an intermunicipal agreement. Mr. MacAskill answered that a lease was preferred by both parties. Mr. Hall asked if the lease would have to be open for bidding, and Mr. MacAskill answered that the lease would be filled through procurement and voting, not bidding. Mr. Atkinson asked if the language of the current warrant covers a lease and Mr. MacAskill answered that town legal counsel has said it does. Mr. MacAskill assured the Commission that the project would be a partnership not based on money.

Discussion and possible vote to hold a Conservation Restriction on the Harwich Conservation Trust's 67.1 acre "Spruce Woods" property at the end of Spruce Road.

Commissioner Alan Hall recused himself from the discussion.

Michael Lach, Executive Director of the Harwich Conservation Trust, was present virtually as a representative. Tom Evans, President of the Harwich Conservation Trust Board of Trustees and Mark Robinson, Executive Director of the Cape Cod Compact of Conservation Trusts, were present in person as representatives. Mr. Lach explained that the CCCCT is under contract with the Town of Harwich and discussed the importance of the Spruce Woods property, noting that it is in the Six Ponds District, and mentioned that the State Department of Conservation and Recreation was contributing funds to the project.

Ms. Usowski recommended that the Commission write a letter of support to the Select Board for the conservation restriction pending a final draft of the restriction.

Mr. Atkinson expressed support for the conservation restriction. Ms. Usowski offered to draft a letter for the Commission. Mr. Robinson noted that the final proposal will be finalized as soon as the Attorney for the Executive Office of Environmental Affairs finishes reviewing it. Mr. Atkinson asked what the timeline would be for the review and Mr. Robinson said that he was unsure but that the proposal needs to be closed by the end of June since it is grant based.

No further discussion from the Commission.

Mr. Atkinson moved to authorize Ms. Usowski to draft and send a letter of support to the Board of Selectmen for the Conservation Commission to jointly hold the conservation restriction on the Spruce Woods property. Seconded by Mr. Coulson.

Vote: 5:0:1 Mr. Hall had recused himself. Motion carried.

The following applicants have requested an Amended Order of Conditions

Town of Harwich, Along Nantucket Sound, Herring River, Round Cove, Allens Harbor, Wychmere Harbor, and Saquatucket Harbor. SE32-2292. Amend scope to include beaches on private property.

John Rendon, Town of Harwich Harbormaster, and Amy Usowski were present as representatives. Ms. Usowski explained that the Town of Harwich wishes to expand the scope of the project to allow sand nourishment on private properties, above mean high water, and not on vegetation, when excess sand is available from the dredging of channels and harbors. She said that the intent of the permit seemed to include private beaches and noted that the Town could hold a lottery for the sand, and that the excess dredged sand was more compatible and less expensive than other sand. She recommended approval.

Mr. Atkinson asked where previous excess sand has been deposited and Ms. Usowski answered that some of it has gone to private property owners. Mr. Rendon added that public beaches have been the first in line for nourishment with extra sand after the sand has been tested for compatibility. Ms. Usowski commented that sand could be stored in the Town and reused later. Mr. Pastuszak asked if there has ever been extra sand that required storage and could not be used immediately, and Ms. Rendon answered no. The Commission and representatives discussed the cost saving of reusing sand.

No further discussion from the Commission.

Mr. Atkinson moved to approve the Amended Order of Conditions. Seconded by Mr. Coulson.

Vote: 6:0 Motion carried; Amended Order of Conditions approved.

The following applicants have filed a Notice of Intent

Town of Harwich, 15 Harbor Way, Map 1 Parcel H2. Alteration to Pier and Site Improvements.

Kevin Baruchian of GEI Consulting was present virtually as a representative. John Rendon, Town of Harwich Harbormaster, was present in person as a representative and reviewed the project noting that the proposed changes would address storm water runoff, public float access, and erosion. He explained that although the project was approved in 2019 the former engineer departed before finishing the design. Using a map, he indicated a proposed Jersey Barrier, restoration areas, a trench, and a catch basin with riffraff.

Ms. Usowski explained that some parking will be reduced by the proposed project. She noted that there are several resource areas at the site, and mitigation will be 700 square feet of salt marsh restoration. She emphasized the importance of reducing storm water runoff. Ms. Usowski reviewed a letter from the Division of Fish and Wildlife, noting that the impacts to resources would be minimal. She recommended approval.

Ms. Ketchum asked if there would be any need to raise the dock. Mr. Rendon answered that in the future that could be considered. Mr. Baruchian agreed and discussed the requirements of raising the dock with Ms. Usowski and the Commission.

Mark Kelleher and Kathy White, residents of Gordon Richie Road West were present. Mr. Kelleher commented that the barrier would reduce kayak access to a muddier area on the South side which has more current than the North side. Ms. White shared that she has been stuck in the mud on the South side and asked if an access path could be made for the North side since children may not be able to get out of the mud on the South side.

Mr. Ketchum thanked the residents and explained that the Commission is unable to make any decisions based on public safety concerns since their charge is simply to evaluate whether the proposed project meets the requirements of the Wetlands Protection Act and the Harwich Bylaws.

Robert Thomason, resident, was present and commented that he did not understand the point of redirecting access to the South for restoration in the North area, and that the catch basin may not be suited for the area and the riffraff may be painful to walk on.

Robert Johnson, resident of Riverside Drive, was present and commented that he did not understand why the North side should be restored.

Peter Shankman, resident, asked Mr. Rendon if the purpose of the barrier was to block access to the North side. Mr. Rendon answered that the purpose was to prevent washout and eliminate the need to walk through water at high tide to reach the float, not to specifically block North side access. Mr. Shankman suggested putting an opening in the pier or a ramp from the dock for North side access. Ms. Usowski responded that those options could be considered. Mr. Baruchian said that it would not be possible without additional permitting and that it would hinder restoration efforts. Ms. Usowski responded that a simple opening or a ladder could be less impactful. Mr. Ketchum commented that the restoration area would be impacted by foot traffic.

John Donohue, resident of 17 Harbor Way, was present virtually as a representative. He commented that his property is eroding but that some salt marsh has come back in front of his house and shared his personal thoughts on the project.

Ms. Usowski read aloud a letter from Mr. Zoretti, local business owner and direct abutter, which stated his personal and professional support for the project.

No further discussion from the Commission.

Mr. Atkinson moved to approve the Notice of Intent. Seconded by Mr. Pastuszak. Mr. Atkinson amended the motion to include a condition to allow for consideration of the potential raising of the dock. Seconded by Mr. Pastuszak.

Vote: 5:1 Mr. Hall voted no. Motion carried, Notice of Intent approved.

Steve Bobola, 46 Indian Trail, Map 34 Parcel K3-2. New Single-Family Dwelling and Appurtenances.

Kieran Healy of BSC Group was present as a representative and discussed relevant portions of the application. He explained that the property has a conservation restriction but that the project consultants found differences in the wetland delineations, noting that there is a vernal pool, and requested to modify the restriction. Mr. Healy described the 85-foot buffer area that has been proposed and the possibility of creating a permanent wooden marker to delineate the border of the new conservation restriction. He noted that the property owners are worried about trees overhanging the proposed dwelling.

Ms. Usowski relayed the concern of an abutter who was worried about work on the site affecting the water table. She asked Mr. Healy where water was found in test holes and Mr. Healy said that water was found at 6 feet and noted that there is a 4-foot adjustment for the area through the Cape Cod Commission and that the proposed septic slab will be a foot-and-a-half above the water table. Ms. Usowski continued and discussed the efforts of the applicants to reduce impacts to the lot, noting that a 90-foot buffer should be applied and that the wetlands do not connect. She recommended approval with the 90-foot buffer and additional conditions.

No further discussion from the Commission.

Mr. Atkinson moved to approve the Notice of Intent with the condition that the conservation restriction buffer is extended to 90-feet with the ability to remove trees which might overhang the proposed dwelling. Mr. Atkinson amended his motion and clarified that the 90-foot buffer will be on the North side of the proposed dwelling. Seconded by Mr. Coulson.

Vote: 6:0 Motion carried; Notice of Intent approved.

The following applicants have requested a Determination of Applicability

Round Cove Resort Owner LLC., 2173 Rt 28 – Head of the Bay Rd, Map 115 Parcel S1-3. Pruning.

Steve LeBrandt of Wilkinson Ecological Design was present as a representative. Ms. Usowski informed the Commissioners that the pruning has historically been performed without permits and recommended a one-year Determination of Applicability to allow for time to create a comprehensive plan for the area and allow for desirable species to recover.

Mr. Ketchum noted that the lawn of the property appears to possibly be fertilized and that an ongoing Order of Conditions for the property states that no fertilizer will be used.

No further discussion from the Commission.

Mr. Atkinson moved to approve a one-year Determination of Applicability. Seconded by Mr. Pastuszak. Vote: 6:0 Motion carried; Determination of Applicability approved.

Stone Horse Yacht Club, 4 Harbor Rd, Map 8 Parcel S4. Replace Pier.

Don Monroe of Coastal Engineering was present as a representative and discussed relevant portions of the application, noting that Harbormaster John Rendon did not require the applicants to apply to the Waterways Committee, and that the boards of the pier will be replaced with spacing in compliance with regulations.

Ms. Usowski recommended approval with a Negative 2 determination with the condition that there be a siltation boom used whenever new piles are driven. She suggested a time-of-year restriction for the project.

Mr. Ketchum asked if the pier would be raised, and Mr. Monroe said the pier would be raised but not above the bulkhead. Mr. Pastuszak asked why Chapter 91 permitting was not required and Mr. Monroe explained that the work will be in the same footprint. Mr. Ketchum asked if the area had any flooding issues and Mr. Monroe said there are flooding issues but that the piers in the area are designed to prevent lifting.

No further discussion from the Commission.

Mr. Atkinson moved to approve the Determination of Applicability contingent upon receipt of a revised plan showing the elevation of the proposed dock. Seconded by Mr. Coulson.

Vote: 6:0 Motion carried; Determination of Applicability approved.

Orders of Conditions

Natalia Wallace, 16 Olde Coach Ln, Map 112 Parcel A6-28. After-the-fact Application to Permit a Deck and Restoration Plan.

Mr. Atkinson moved to approve the Order of Conditions. Seconded by Mr. Coulson.

Vote: 5:0:1 Mr. Atkinson abstained. Motion carried; Order of Conditions approved.

Peter Van Dyck & Ann Foster, 5 Panorama Point Dr, Map 91 Parcel G2-7. Construct Access Stairs and Seasonal Dock.

Mr. Ketchum moved to approve the Order of Conditions. Seconded by Mr. Atkinson.

Vote: 6:0 Motion carried; Order of Conditions approved.

Thomas and Gina Flannery, 58 Chase St, Map 4 Parcel E2-B. Replace Bulkhead.

Mr. Atkinson moved to approve the Order of Conditions. Seconded by Mr. Coulson.

Vote: 6:0 Motion carried; Order of Conditions approved.

Brendan and Michelle Glynn, 20 Brooks Rd, Map 5 Parcel K1-A5. Construct Pool and Hardscape.

Mr. Atkinson moved to approve the Order of Conditions. Seconded by Mr. Coulson.

Vote: 6:0 Motion carried; Order of Conditions approved.

Discussion and Possible Vote:

Herring River Study - Request for Proposals.

Ms. Usowski suggested moving the item to the agenda for the next meeting.

Bells Neck Land Management Plan – Discussion of possible revisions.
M. Ketchum suggested moving the item to the agenda for the next meeting.

Minutes

January 4, 2023 Meeting
April 14, 2023 On-Site at Bells Neck

Mr. Ketchum asked for the April 14th minutes to be revised to represent the motion and vote to adjourn the meeting.

No further discussion from the Commission.

Mr. Ketchum moved to approve both set of minutes with the applicable changes. Seconded by Mr. Pastuszek.
Vote: 6:0

Adjournment

Ms. Usowski announced that the 8th annual Tour de Trash will be happening on Sunday, April 29th at 10AM. She encouraged sign ups.

Mr. Hall asked if a form or letter could be created to implore the State to offer deposit rewards for recycling nip bottles, noting that the bottles are a prolific form of litter in the community. The Commission discussed the possibility of a letter and Ms. Usowski offered to draft a letter and research the proper state agency to send it to.

No further discussion from the Commission.

Mr. Atkinson moved to adjourn the meeting. Seconded by Mr. Coulson.
Vote: 6:0 Motion carried; meeting adjourned.