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TOWN OF HARWICH

*732 Main Street
Harwich, MA 02645*

HARWICH CONSERVATION COMMISSION - MINUTES

PHONE (508)-430-7538 FAX (508)430-7531

WEDNESDAY, APRIL 5TH 2023 – 6:30PM

TOWN HALL - GRIFFIN ROOM – HYBRID PARTICIPATION

Commissioners and Staff Present: Chairman John Ketchum, Mark Coleman, Wayne Coulson, James Atkinson, Stanley Pastuszak, Bradford Chase, Alan Hall, Alternate Sophia Pilling, and Conservation Administrator Amy Usowski

Commissioners Absent:

Audience and Representatives Present: Bob Perry, Rebecca Brack, Brad Malo, Mark Burgess, Stephanie Sequin, Andrew Garale, Rob Wallace, Lynne Hamlyn, Zachary Basinsky

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 requested a Determination of Applicability

Rebecca Brack, 166 Headwaters Dr, Map 80 Parcel K65. Stabilize Bank and Replace Stair Components.

Rebecca Brack, owner, was present as a representative and informed the Commission that there is a hole in the bank underneath the staircase caused by erosion.

Ms. Usowski added that approximately a third of the bank underneath stairs has eroded and that the applicants are proposing fill grade, erosion control matting, bank stabilization, and planting with native vegetation. The applicants would also install a gutter to redirect runoff from a gazebo into a gravel drain. She recommended approval with a Negative 2 and 3 Determination.

Mr. Hall commented that the project seems simple. No further discussion from the Commission.

Mr. Atkinson moved to approve the project with a Negative 2 and 3 Determination. Seconded by Mr. Coleman.

Vote: 7:0 Motion carried; Request for Determination of Applicability approved.

LISCOCAPE LLC, 10 Fiddlers Landing, Map 6 Parcel A1-10. Remove Portion of Existing Dwelling and Replace with New Addition.

Brad Malo of Coastal Engineering was present as a representative and explained relevant portions of the project, noting that there would be a 36 square foot increase in footprint between the 50-foot and 100-foot buffer zones and that a total of 90 square feet of mitigation is proposed.

Ms. Usowski added that the change would be on the road facing side of the house and that the mitigation plan is sufficient. She noted that there is a metal storage rack for kayaks on the property within the 0 to 50-foot buffer zone that can be moved but that it did not seem to be having an adverse impact.

Mr. Pastuszek commented that he would like to have the kayak rack moved to adhere to precedent. Ms. Atkinson agreed. Ms. Pilling commented that she did not think there would be an issue with the kayak rack remaining. Mr. Malo added that the kayak rack is in an area of lawn. Mr. Pastuszek clarified that he would like the rack moved even if it is in an area of lawn because structures are prohibited within the 50-foot buffer zone.

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

No further discussion from the Commission.

Vote: 6:1. Mr. Pastuszek voted nay. Motion carried; application approved.

The following applicants have filed a Notice of Intent

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

Mark Burgess of Shorefront Consulting was present as a representative and described some revisions to the plan including 50-to-100-foot foot buffers and readjusting the top of the inland bank to the annual mean high-water mark.

Ms. Usowski said that the wetland delineation is now correct with the addition of the buffer zones and recommended that the Commission find the site as mitigation constrained and accept in-lieu fees since it is very naturally vegetated.

Mr. Atkinson moved to approve the application subject to the provision of mitigation in the amount of \$1696.00. Seconded by Mr. Coleman.

No further discussion from the Commission.

Vote: 7:0. Motion carried; application approved.

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

Bob Perry of Cape Cod Engineering was present as a representative and shared that the Harbor Master had reviewed the project materials and decided that the Waterways Committee would likely not need to review the project and went over some structural expectations for the structure. He noted that removing the old bulkhead and replacing it is better than building the replacement in front of or behind the old bulkhead, and that the work should be speedy.

Ms. Usowski confirmed that Waterways review is not required and summarized the construction protocol and erosion control measures. She noted the plan to use a silt curtain and agreed that removal is the best

option. She recommended approval with the condition that no fertilizers or chemicals be used on the property within Commission jurisdiction going forward.

Ms. Chase said that he has observed that the bulkhead has caused significant impacts to the coastal bank and that he would like to see a reduction in those impacts. He asked Ms. Usowski about the history of the structure. Ms. Usowski said that the Commission would probably not be able to stop replacing a licensed existing structure. Mr. Perry added that he considered reducing the impacts but did not find a meaningful solution.

Mr. Coulson asked if any of the pilings in the existing bulkhead are creosoted pilings and Mr. Perry said that some could be. Mr. Coulson said that he was worried about the creosote pilings leave a sheen over water while being removed, and Mr. Perry said that would be reduced using a silt curtain, but that he would examine the pilings more closely. Mr. Ketchum asked if contaminants could be removed from the water immediately is they were introduced and Mr. Perry said yes, Ms. Usowski offered to add it as a condition.

Mr. Atkinson moved to approve the project with the conditions previously discussed. Seconded by Mr. Pastuszak.

Vote: 6:1 Mr. Chase voted nay. Motion carried; Notice of Intent approved.

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

Stephanie Sequin of Ryder and Wilcox and Andrew Garale of Yarmouth Port Design Group were present as representatives and described relevant portions of the application, noting that the only resource area for this property is Land Subject to Coastal Storm Flowage. Ms. Sequin noted that the existing dwelling is flood compliant and described the proposed changes to the site including constructing a pool house, a pergola, drainage systems, and native plantings. Mr. Garale used a plan to demonstrate the features of the property and the planting plan.

Ms. Usowski explained that the state does not have performance standards for Land Subject to Coastal Storm Flowage but that the guidance is to capture as much drainage on site as possible. She said that guidance was sought from Barnstable County and that a flood plain manager had not been overly concerned with this project. Ms. Usowski said that the regulations do not require mitigation for a new structure in a flood plain but that the property owners want to improve the site. She asked Mr. Garale to remove any fertilizers and chemicals from the lawn care plan and recommended approval for the project.

Mr. Coleman asked Ms. Usowski if a standard Order of Conditions would be applicable. Ms. Usowski said yes, and that pool water could be pumped into the leeching pits on the property since it is not within a buffer zone of a resource area. Mr. Coleman asked Ms. Usowski to look back on the conditions for past pools at other properties in the neighborhood.

Mr. Atkinson moved to approve the application. Seconded by Mr. Coulson. Mr. Atkinson amended his motion to include the condition that all water drained from the pool would need to be disposed of off-site. Seconded by Mr. Coulson.

No further discussion from the Commission.

Vote: 7:0 Motion carried; Notice of Intent approved.

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

Lynne Hamlyn of Hamlyn Consulting and Rob Wallace, owner, were present as representatives.

Ms. Usowski explained that the Commission would be listening to updated information despite already having voted to deny the project.

Ms. Hamlyn added that the revised plan included improved restoration and zero additional construction within the 50-foot buffer zone.

Ms. Usowski said that part of the deck would be cut back and that the shed on the property would be removed, which would result in no new net increase within the 50-foot buffer zone. She emphasized the significance of the new mitigation plan with planting a thicker buffer on the slope. Ms. Usowski recommended approval under the Wetlands Protection Act and the Bylaw.

Ms. Pilling commented that she supports the project. Mr. Atkinson said that he has concerns about the applicant's violation and Mr. Chase agreed. Mr. Ketchum asked if a variance has been requested for this project since the claim is that there is no new structure in the 0-to-50-foot buffer zone. Ms. Usowski clarified that the original application did have a variance request but since the plan has now been revised to reduce the deck there will be no variance required. The Commissioners and the representatives discussed the specific measurements of the proposal and the responsibilities of the Commission and the Town Bylaw. Mr. Coleman expressed support for the project.

Mr. Wallace spoke to the Commission about taking responsibility for the violations and using the resources of the Conservation Department to be conscious of the environment going forward.

Mr. Ketchum expressed support for the project. Ms. Hamlyn and the Commissioners discussed setting a precedent.

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

Mr. Coleman asked the Commissioners to consider the net benefits of the project. Mr. Chase said that too many violations are occurring and that there needs to be a stronger precedent. Mr. Atkinson agreed with Mr. Chase. Mr. Hall said that he feels that the applicant has faced appropriate repercussions that have already set a strong precedent.

No further discussion from the Commission.

Vote: 5:2. Mr. Atkinson and Mr. Chase voted nay. Motion carried; Notice of Intent approved.

Michelle Marie Mann Abel, 18 Bob White Ln, Map 17 Parcel G4. Raze and Replace Single-Family Dwelling and Appurtenances.

Zachary Basinsky of Bracken Engineering was present as a representative and described relevant portions of the application, noting that the proposal will result in a net increase in site coverage within the 0-to-50-foot buffer zone, but that disturbed areas would be reduced by approximately 10%.

Ms. Usowski asked if fill would be used to achieve the required first floor elevation of 15.5 feet and Mr. Basinsky said no. Ms. Usowski said that she would not recommend the addition of the plunge pool and the firepit within the 0-to-50-foot buffer zone. She asked Mr. Basinsky to revise the mitigation plan to be strictly native plants and to include more planting information and plunge pool specifications on the site plan.

Mr. Chase inquired about the site possibly having been illegally filled years ago and Ms. Usowski said that there was no record of a fill in that location. Mr. Chase said that he would not support new structures within the 0-to-50-foot buffer zone but that he liked the plan to move the septic to the front of the lot. Ms. Pilling agreed with Mr. Chase and commented that the mitigation plan could use some more species diversity. Mr. Ketchum agreed that hardscape should not be increased and asked if the new septic system would perform well if the house was seasonal. Mr. Basinsky replied that the house would eventually be used year-round.

Mr. Atkinson moved to continue the hearing to the 5.24.23 meeting. Seconded by Mr. Coulson.

No further discussion from the Commission.

Vote: 7:0 Motion carried; hearing continued to 5.24.23.

Discussion and Possible Vote:

Update of Harwich Wetlands Protection Regulations

Ms. Usowski explained that the update would only consist of water-dependent structure regulation changes to match alterations that were approved at Town Meeting. She reviewed the changes.

Mr. Atkinson moved to approve the changes discussed. Seconded by Mr. Coleman.

No further discussion from the Commission.

Vote: 7:0 Motion carried; changes approved.

Update on ongoing land management tasks:

Herring River Study

Mr. Chase reviewed edits that he had made to the bid document, noting that a GIS layer should be created. Ms. Usowski said that she would need to investigate the capabilities of the Town to create a layer. Mr. Ketchum suggested looking into open-source GIS platforms. Ms. Usowski said that the Cape Cod Commission may be able to provide a map. The Commissioners discussed the options for accomplishing the tasks of the study, the cost of services, and randomizing the selection of which water-dependent structures will be evaluated.

The Commissioners discussed how to present the study to potential bidders. Mr. Ketchum asked if the Cape Cod Commission and the County would be actively involved in the study. Ms. Usowski said that the Natural Resource Conservation Service of the United States Department of Agriculture and the Cape Cod Conservation District would be funding another study in a few years. She added that some options are fish passage into Long Pond underneath Route 134 or fish passage from the Cold Brook Preserve to Grass Pond. Mr. Ketchum asked who would be writing the grant proposal for that. Ms. Usowski said that it would be a collaborative effort between several local entities.

Mr. Hall asked if bridges and boat ramps would be considered water-dependent structures and Ms. Usowski said no and read the definition of water-dependent structure aloud.

Change to May meeting schedule and filing deadlines

Ms. Usowski explained that the schedule has been changed to have meetings on the second and fourth Wednesday of the month.

Mr. Ketchum moved to amend the schedule as recommended. Seconded by Mr. Atkinson.

No further discussion from the Commission.

Vote: 7:0 Motion carried; schedule change approved.

Minutes

November 16, 2022

Mr. Ketchum moved to approve the minutes for November 16th, 2022. Seconded by Mr. Atkinson.

No further discussion from the Commission.

Vote: 7:0 Motion carried; minutes approved.

December 7, 2022

Mr. Ketchum moved to approve the minutes for December 7th, 2022. Seconded by Mr. Atkinson.

No further discussion from the Commission.

Vote: 7:0 Motion carried; minutes approved.

December 21, 2022

Mr. Ketchum moved to approve the minutes for December 21st, 2022. Seconded by Mr. Atkinson.

No further discussion from the Commission.

Vote: 7:0 Motion carried; minutes approved.

Ms. Usowski proposed a workday starting at 1:00pm on April 14th at the Bells Neck Conservation Area.

Mr. Ketchum informed the Commission that there are two citizen petitioned articles on the warrant for the upcoming Town Meeting regarding a lease or municipal agreement for the bog on Main Street and a modification to the 2001 Town Meeting article that approved the purchase of the Main Street bog property. The Commissioners discussed having the Chairperson for the Select Board come to a meeting discuss the matters.

Mr. Hall asked if Ms. Usowski had any information on the Azalea Drive Herring River Bridge. Ms. Usowski said no but that she would gather some.

Adjournment

Mr. Atkinson moved to adjourn the meeting at 9:33pm. Seconded by Mr. Hall.

Vote: 7:0 Motion carried; meeting adjourned.