



TOWN OF

HARWICH



*732 Main Street*

*Harwich, MA 02645*

CONSERVATION COMMISSION  
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**HARWICH CONSERVATION COMMISSION – MINUTES**

**WEDNESDAY, JUNE 6, 2018**

**6:30 P.M.**

**DONN B. GRIFFIN ROOM, HARWICH TOWN HALL**

**Present:** Brad Chase, Stan Pastuszak, Carolyn O’Leary, Ernest Crabtree, Mark Coleman, James Donovan, Associate Member John Ketchum and Conservation Administrator Amy Usowski

**Call to Order**

By Chairman Brad Chase.

**Cornelius Pond Conservation Restriction**

**Presenter:** Mike Lach

This is a request for the Conservation Commission to hold a Conservation Restriction on the Cornelius Pond parcel, as would be consistent with Annual Town Meeting vote. This restriction will allow the Trust to apply for a state grant to raise funds for project completion. The Harwich Conservation Trust will remain the owner, but the Commission is the holder of the restriction. O’Leary questioned what was planned for public access and public activities that will be allowed. The goal is to discontinue use of the existing driveway and relocate parcel access to a small parking area that will be closer to Queen Anne Rd. Walking trails will be created, but direct shore access is not being envisioned. There will not be a specific prohibition of fishing, but there will be no access made to allow for it. Coleman and Chase wish to have public access to the shore since the town is contributing money. Chase said he supports this request, but is concerned with the trend to regulate fishing in conservation areas that are acquired using public funds. **Motion to approve the Conservation Restriction by Brad Chase and seconded by Carolyn O’Leary. Motion approved unanimously.**

## HEARINGS

### Requests for Determination of Applicability

**Stephen Simpson, 120 Clearwater Drive, Map 63 Parcel G105A.** Remove existing retaining wall and replace with new interlocking wall in same footprint.

**Presenter:** Michelle Vitale

Existing retaining wall is beginning to fail and will cause damage to the deck. The wall will be replaced in the same footprint with interlocking brick. Coleman noted that anything over 4' would need to be engineered and get a building permit. If the wall is terraced, it could decrease the height, but would be in a different footprint. Any disturbed areas need to be revegetated. The Commission will vote as presented, but the applicant may submit a minor change in plans if the construction of the wall changes. **Motion by Carolyn O'Leary to find a Negative 3 determination that work will take place in the buffer zone, but will not cause harm to the resource area; seconded by Stan Pastuszak. Motion approved unanimously.**

**Cape Cod Regional Technical High School, 351 Pleasant Lake Ave, Map 82 Parcel A1.** Removal of existing entrance median, reconstruction of the existing sidewalk, milling of the driveway pavement and placement of new top coat of asphalt pavement. Work will be approximately 80' from and on the opposite side of the road from the inland bank at its closest point. Construction of a stabilized stone dust path, minor grading and restoration of existing lawn area. Work will be approximately 90' from the irrigation pond at its closest point.

**Presenter:** Dave Michniewicz

The high school is being rebuilt and two areas on the property are in conservation jurisdiction. The existing landscaped entry median will be removed and replaced. The new median will be out of jurisdiction, but the removal, paving, reconstructing existing sidewalk and milling pavement/repaving will be in jurisdiction. The second work area in jurisdiction is a stonedust footpath that will just barely be in the buffer zone to the irrigation pond. Stormwater currently discharges into the wetland and that will be fixed with this project. Usowski recommends a Negative 3 determination. **Motion by Ernest Crabtree to find a Negative 3 determination that work will take place in the buffer zone, but will not cause harm to the resource area; seconded by James Donovan. Motion approved unanimously.**

### Notices of Intent

**Alfred and Carol Novak, 30 Harbor Road, Map 15 Parcel 15-A.** Proposed pier, ramp, float and dredging (continued hearing).

**Presenters:** Mark Burgess and Alfred Novak.

The applicant went back to the Waterways Committee to discuss possible changes in order to avoid dredging. The Committee did not want the dock extended due to hazards to navigation. They did approve the revised plan being presented tonight. Mark Burgess stated that this location is not one that is seeded and the Natural Resources Director did not have any concerns about harm to shellfish. Mitigation will include 30 bushels of seed each year for three years. Overall, approximately 1,000 acres will be seeded. Changes in design include reconstruction of stairs,

raising the lower landing, shortened float and a tighter dredge area of 96 cubic yards. Distance from the marsh is 25' except for a small corner. Dredging will allow for a boat only on the south side and clearance will be 3' from all sides. The pier is 3.5' wide and at the lowest, is 3.8' above the marsh.

Usowski agreed that the applicant has done everything possible to make the dock as compliant as possible. There are concerns with the mixed class of shellfish found and being present in approximately 37% of plots. Due to the need to closely follow the regulations, she cannot recommend approval. If they Commission chooses to approve the project she recommends require marsh mats and a condition that the boat be exclusively stored on the south side. Donovan and Pastuszak expressed concerns that the bylaw specifically states no new dock in shellfish habitat. O'Leary reminded the Commission there is wording in the regulations to allow for a variance if they see fit; she would also like to see documentation from the Waterways Committee. She questioned the location of the shellfish grids and would have liked them to be more centered on the dock. Chase was concerned that the survey did not turn up any softshell clams and he considers this area to be significant shellfish habitat. Burgess can agree that this could be classified as significant habitat, but does not believe there will be a significant negative impact. **Motion to deny approval by Chase. He moves denial under the WPA due to impacts to saltmarsh, shellfish habitat, changes to elevation and the cumulative impact of the dock, float and ramp. Also that the project would change resource area type from coastal beach to land under the ocean. He moves to deny under the Harwich Wetland Regulations due to impact to shellfish habitat and saltmarsh. Motion seconded by Stan Pastuszak. A 2-2 vote resulted in no action with Chase and Pastuszak for the motion and O'Leary and Crabtree against the motion.** Due to a no action vote the applicant would like to continue to July 5, 2018 in hopes of having a fifth voting member. **Motion to continue to July 5, 2018 by Chase and seconded by Pastuszak. Motion approved unanimously.**

#### **Change in Plans-44 Smith Street:**

**Presenter:** Mark McKenney

The original approved NOI was for a garage and in return the applicant would stop mowing a section of a field and let it naturalize. McKenney would like to move the building southeast and that will result in it being slightly closer to the resource area. He will stop mowing more of the field as mitigation for this change. **Motion to approve by Brad Chase and seconded by Ernie Crabtree. Motion approved unanimously.**

**Darlene & Robert Turner, 18 Strandway, Map 1 Parcel J1-5A & J1-90.** Proposed access steps, revetment enhancements, dock and dredging. **Motion to continue to June 20, 2018 by Brad Chase and seconded by Ernie Crabtree. Motion approved unanimously.**

**2 and 10 Lake Shore Drive, Richard Boskey, Map 110 Parcels A2 and A4.** Proposed construction of a residential accessory building and septic system.

**Presenters:** David Lytle and Philip Cheney.

The project consists of an accessory, one bedroom building on the vacant lot and an upgraded septic system on the developed lot. There was a previous Order of Conditions that stated that the

vacant lot would never be built upon. Usowski and Lyttle came to the conclusion that it was no longer valid as there was no ongoing condition placed on the Certificate of Compliance. Resource areas include BVW and edge of pond. The deck on the new building will be cantilevered so only two posts will be close to the 50' buffer. The landscaping plan shows 1,485 square feet of mitigation and there is already a well-established vegetated buffer. There will likely be vegetation under the deck as it is 12' above ground. The patio on the existing dwelling is larger than what was approved and the applicant is willing to remove a walkway to get back to the original approved square footage. Usowski would prefer 2:1 mitigation and she sees an opportunity to improve the developed lot and does not suggest adding more mitigation to the vacant lot. She would like the deck to be slightly reduced or reconfigured to be further from the 50' buffer. Crabtree's concern is with how this project may affect the already poor water quality of Seymour Pond. Chase would like to know the difference in the square footage of the walkway and the square footage of unpermitted patio area. He would also like the deck to be pulled back from the buffer. Donovan would like all the mitigation to be on the developed lot. The applicant would like a continuance to discuss changes. **Motion to continue to the June 20, 2018 meeting by Ernie Crabtree and seconded by Mark Coleman. Motion approved unanimously.**

### **Orders of Conditions**

**Jennifer Taylor Chiasson & Jane Ayoub, 17 & 23 Sound View Rd, Map 26 Parcel L1-11 & L1-10.** Proposed vegetation management in order to maintain a view corridor. Work will take place in the 50' buffer zone to a coastal bank, on the coastal bank, within LSCSF and in the 200' riverfront area. **Motion to approve the Order of Conditions by Brad Chase and seconded by Carolyn O'Leary. Motion approved unanimously.**

**Jane Ayoub, 23 Sound View Rd, Map 26 Parcel L1-10.** Proposed vegetation management and establishment of a view corridor, the removal of asphalt and wooden patio to be replaced with pervious materials. Work will take place on and in the 50' buffer zone to the top of a coastal bank, within LSCSF and in the 200' riverfront area. **Motion to approve the Order of Conditions by Carolyn O'Leary and seconded by Mark Coleman. Motion approved unanimously.**

**Jennifer Taylor Chiasson, 17 Sound View Rd, Map 26 Parcel L1-11.** Proposed vegetation management in order to maintain a view corridor and the proposed removal of 4 trees and mitigation plantings. Work will take place on and in the 50' buffer zone to a coastal bank and in the 200' riverfront area. **Motion to approve the Order of Conditions by Ernie Crabtree and seconded by Carolyn O'Leary. Motion approved unanimously.**

**Mark Russo, 5 Salt River Ln, Map 4 Parcel A1-B3.** Proposed shorefront protection. **Motion to approve, with changes, by James Donovan and seconded by Stan. Motion approved unanimously.**

### Certificates of Compliance

**Harwich Conservation Trust, 2 Grist Mill Ln, Map 41 Parcel S1-18.** New dwelling. Work was never completed.

**Town of Harwich, 183 Oak Street, Map 11 Parcel A1.** Installation of an underground electric line.

**Carolyn and Michael Kemp, 18 Catharine Rose Rd, Map 100 Parcel X2.** Landscaping and site improvements.

**Motion to approve the three requests for Certificates of Compliance by Carolyn O'Leary and seconded by Mark Coleman. Motion approved unanimously.**

### Discussion and Possible Vote

**Review of submitted proposal(s) for leasing of the Herring River Bogs in the Bells Neck Conservation Area, and possible recommendation to Board of Selectmen:** Mark Coleman has elected to withdraw his proposal due to the condition of the bog and the length of time the process has taken. He stated he was disappointed they couldn't come to an agreement. The Commission will set up a comprehensive site visit and re-evaluate whether they want to release another RFP as is, rewrite a proposal or decide to do something else with the land.

**Harwich Wetlands Protection Regulations:** The Commission will review and vote on new regulations at the next meeting. There needs to be discussion on what to do when a lot doesn't allow for mitigation, mitigation ratios and lawn regulations.

**Professional Services Agreement-Red River Beach report by BSC Group:** The BSC Group was hired to study Codium. The Commission will approve the study this year, but want to review the task list and determine if this study will tell anything of importance. **Motion to approve the contract by Brad Chase and seconded by Stan Pastuszak. Motion approved 6-1 with Mark Coleman opposed.**

**Motion to adjourn by Brad Chase and seconded by Carolyn O'Leary. Motion approved unanimously.**

### In attendance at meeting:

Philip Cheney, David Lyttle, Mark McKenney, Mark Burgess, Dave Michniewicz, Alfred Novak, Michelle Vitale, Michael Lach

Minutes Transcribed by Nicole Smith, Assistant Conservation Agent.