



TOWN OF

HARWICH

732 Main Street

Harwich, MA 02645

HARWICH CONSERVATION COMMISSION - MINUTES

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WEDNESDAY October 4, 2023 – 6:00 PM

TOWN HALL - GRIFFIN ROOM – HYBRID PARTICIPATION

Commissioners and Staff Present: Chairman John Ketchum, Brad Chase, Sophia Pilling, Alan Hall, Jim Atkinson, Wayne Coulson and Conservation Administrator Amy Usowski

Commissioners Absent: Mark Coleman,

The Commission entered into Executive Session at 6:00pm with a representative from Town Counsel to discuss ongoing litigation with Harwich Conservation Commission v. Thomas Smith et al, Barnstable Superior Court Docket No. 2372CV00215 and Jeffrey King v. Harwich Conservation Commission, Barnstable Superior Court Docket No. 1772CV00406.

Audience and Representatives Present: Michael Lach, Brian Yergatian, Lindsay Carle, David Clark, John Bologna, Tucker Dutchel, Mike Sharlet

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 an Amended Order of Conditions

Michael Lach, Harwich Conservation Trust, Cold Brook Preserve, Map 23, Parcels C3-2, C1-0, and C1-1.
Additional work for public access.

Michael Lach, of Harwich Conservation Trust, Brian Yergatian and Lindsay Carle (remotely), of BSC group were present as representatives. Mr. Lach and Mr. Yergatian discussed the proposed Amendments noting the project is to improve parking and allow handicapped access to the property.

Ms. Usowski discussed the Site Summary including the applicants' request for another Variance because some of the trail work will take place within 50' buffer. However, the proposal decreases the square footage of walking trail within in the 0-50' foot and increases within in 50-100' buffer. She stated the project will overall benefit the stie by providing better storm water control and improving Public Access.

Mr. Chase said the Variance request is consistent with the Variance Language for hardship for ADA compatible pathways.

No public comment.

Mr. Ketchum asked how parking spaces will be delineated with a pervious surface. Ms. Carle responded curb or wheel stops will be used.

Mr. Atkinson moved to approve the request for amended Order of Conditions and grant a Variance for within the 50' buffer to the Cold Brook Preserve, Map 23, Parcels C3-2, C1-0, and C1-1. Seconded by Mr. Chase. No further discussion from the Commission.

Note 4:0:2. Mr. Hall and Mr. Coulson abstained. Motion carries; Amendment approved.

The following applicants have filed a Notice of Intent:

Rudolph & Robin Hernandez Trustees, Hernandez Living Trust, 2 Pilgrim Road, Map 7, Parcel C16. Front porch and second floor balcony addition.

David Clark, of Clark Engineering, discussed the application noting the addition is 242 sq. ft and the proposed mitigation is to remove hardscape.

Mw. Usowski discussed the Site Summary, noting the site is highly developed on a very small lot measuring 100' x 100' and front porch addition is on the opposite side of the resource area. She recommended approval with special condition of no chemical or herbicide and discussed about 15-20 boats being stored and a bar with chairs in the dunes at the front of his property. She stated the owner did not build the bar and suggested the Commission authorize her to send a letter to the Beach Association regarding the violation.

Mr. Chase asked if all the previous structures were permitted and what will replace the hardscape. Ms. Usowski responded all structures are properly permitted. Mr. Clark responded lawn will replace the hardscape. The Commissioners discussed lawn as mitigation will not be adequate compliance and suggested native plantings instead of adding a monoculture, which likely requires fertilizers and herbicides. Mr. Clark agreed some native plantings against the bulkhead and a native seed mix for the lawn would reduce the nutrient load.

Mr. Atkinson moved to approve the Notice of Intent for 2 Pilgrim Rd with Special Condition that no fertilizers or chemicals are to be used on the property, reseeding much be done with a native seed mix and mitigation plantings are to be approved by the Conservation Administrator. Seconded by Mr. Coulson. No further discussion from the Commission.

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

The following applicants have applied for an Extension to their Order of Conditions:

64 Snow Inn Rd Realty Trust, 0 Snow Inn Rd, Map 15 Parcel N8-B. Vegetation management & bank stabilization.

Ms. Usowski stated the applicant is requesting a one-year extension to come the annual required monitoring reports and to allow the planting one more season to stabilize. Mr. Chase stated the property was barren earlier in the season and wanted to ensure the plantings are doing better. Ms. Usowski responded that the drought and large invasive seed bank were factors in a low plant survival rate but looks much better now, and recommended a one-year extension.

Mr. Atkinson moved to approve the Extension to the Order of Conditions for 0 Snow Inn Rd, Map 15, Parcel N8-B for one year. Seconded by Mr. Coulson. No further discussion from the Commission.

Vote 6-0. Motion carries; Extension approved.

Gary Pedi, 3 Skinequit Rd, Map 25 Parcel C3-18. SE32-2381. After the fact filing for cutting of vegetation, staircase, dock and playground.

Ms. Usowski gave a brief history of the violation on the property and stated the project is moving forward well, but additional planting need to be done in the spring. She recommended a one-year extension.

Mr. Atkinson moved to approve the Extension to the Order of Conditions for 3 Skinequit Rd, Map 25, Parcel C3-18 for one year. Seconded by Mr. Coulson. No further discussion from the Commission.
Vote 6-0. Motion carries; Extension approved.

Wychmere Harbor Real Estate LLC, 23 Snow Inn Rd, Map 8 Parcel P2, SE32-2269. Maintenance Dredging

John Bologna and Mike Sharlet, of Coastal Engineering, and Tucker Dutchel, of Wychmere Beach Club, were present as representatives and Mr. Bologna stated the post-dredge survey the Commission requested has been submitted and the extension request is only for maintenance dredging which is an ongoing condition.

Ms. Usowski said the Commission can extend the permit for 3 years or close the permit with an ongoing condition to allow maintenance dredging. She stated the dredging was done within the parameters of the permit and recommended the Commission approve a 3-year extension or Certificate of Compliance with ongoing condition.

The Commission discussed whether to approve an extension of Certificate of compliance and determined an indefinite extension to for maintenance dredging is not ideal. The Commission will approve another 3-year extension, so the permit is valid for about 10 years, like the Corps of Engineers permitting process, and then requested another application be submitted. The Commission, Ms. Usowski, Mr. Bologna and Mr. Sharlet discussed the history of dredging in Wychmere Harbor and how all parties work together to maintain the channel.

Mr. Atkinson move to approve the extension of the Order of Conditions for Wychmere Harbor Real Estate LLC, 23 Snow Inn Rd, Map 8 Parcel P2, SE32-2269 for a 3-year period. Seconded by Mr. Coulson. No further discussion from the Commission.

Vote 6:0. Motion carries; Extension approved.

The following applicants have requested a Certificate of Compliance:

Wychmere Harbor Real Estate, 23 Snow Inn Road, Map 8 Parcel P2, SE32-2383. Proposed building and hardscape modifications.

John Bologna and Mike Sharlet, of Coastal Engineering, and Tucker Dutchel, of Wychmere Beach Club, were present as representatives. Mr. Bologna stated the goal is to clean up the open permits for the property.

Ms. Usowski stated this permit is for the demo and rebuild of the beach club and the plantings are doing well. She recommended a Certificate of Compliance with ongoing condition of no use of fertilizers or chemicals. She said the brief memo from McNamara Brothers about the treatment of the property says lawn areas are spot sprayed when needed which is not in compliance with the Order of Conditions and there is no explanation of what they are spraying with. Mr. Dutchel gave the Commissioners a landscape plan of the property and said the only spot spraying is on the on the planting beds, the grass lot behind the beach club and gravel lot on the North end, not on the lawn area. The Beach Club area is all handpicked. Mr. Ketchum stated any application of chemicals within Conservation jurisdiction is not allowed. Mr. Dutchel said he will notify McNamara Brothers no herbicides or fertilizers are allowed anywhere on the property. Ms. Usowski requested to receive an agreement in writing to add to the case file.

The Commission decided not to issue a Certificate of Compliance until an agreement in writing is received.

Wychmere Harbor Real Estate LLC, 23 Snow Inn Rd, Map 8 Parcel P2, SE32-2387. Seasonal deck, tiki bar, lockers and mitigation plantings.

John Bologna and Mike Sharlet, of Coastal Engineering, and Tucker Dutchel, of Wychmere Beach Club, were present as representatives.

Mr. Bologna gave the Commissioners an updated Site Plan.

Ms. Usowski discussed the current permit and explained there is additional decking than originally permitted. However, there was also additional square footage of beach grass planted, which has created habitat, and she is concerned about changes being made without notification to the Commission.

The Commission discussed the ongoing problems with the property and were hesitant to issue a Certificate of Compliance for a permit that has a new violation. Ms. Usowski suggested removing the additional decking, a one-time fine and issue an extension for the applicant to apply for an Amended Order of Conditions to request the additional decking. Mr. Sharlet apologized for not following proper procedure. After discussing the options, the Commission decided to issue a one-year extension and a \$300 fine, and the representatives agreed.

Mr. Atkinson moved to approve an Extension of the Order of Conditions for Wychmere Harbor Real Estate LLC, 23 Snow Inn Rd, Map 8 Parcel P2, SE32-2387 for one year. Seconded by Mr. Coulson. No further discussion from the Commission.

Vote 5:0:1. Mr. Hall abstained. Motion carries; Extension approved.

Mr. Atkinson moved to authorize the issuance of a \$300 fine to 23 Snow Inn Rd, Map 8 Parcel P2. Seconded by Mr. Chase. No further discussion from the Commission.

Vote 5:0:1. Motion carries; fine issued.

Discussion and Possible Vote

Acceptance of \$300 donation to the Wetlands Revolving Account

Ms. Usowski stated she taught a shoreline ecology and geology class to Northeastern students through an organization called Ed Odessey and in lieu of payment the organization offered to donate \$300 to Conservation efforts in Harwich.

Mr. Ketchum moved to accept the \$300 donation to the Wetlands revolving account. Seconded by Mr. Atkinson. Vote 6:0. Motion carries; donation accepted.

Minutes

No Minutes were available for approval.

Ms. Usowski updated the Commissioner someone has been hired to the newly created position and will start in a few weeks, and she updated the Commission on Americorps projects in the town, including using Robbins Pond Conservation Area for Chainsaw training.

Mr. Hall announced the state declared October as Cranberry Month and Governor Healy applauded Cranberry growers as being good land stewards.

Adjournment

Mr. Coulson moved to adjourn at 8:08pm. Seconded by Mr. Atkinson.

Vote 5-0. Motion carries; meeting adjourned.

Respectfully submitted by Lecia McKenna, Assistant Conservation Agent.