



**TOWN OF HARWICH**

*732 Main Street  
Harwich, MA 02645*

**HARWICH CONSERVATION COMMISSION - MINUTES  
PHONE (508)-430-7538 FAX (508)430-7531  
WEDNESDAY, NOVEMBER 15<sup>th</sup>, 2023 – 6:30PM**

**TOWN HALL - GRIFFIN ROOM – HYBRID PARTICIPATION**

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

**Commissioners Absent:**

**Audience and Representatives Present:** Don Monroe, Glenn Wood, Cole Bateman, Paul Mancuso

**Call to Order**

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

**Request for support for one Conservation Restriction:**

Hinckleys Pond – Herring River Headwaters II Conservation Restriction - 0 Pleasant Lake Avenue, Harwich (Off Headwaters Drive).

**The following applicants have filed a Notice of Intent:**

**Daniel Corey & David Mogan, 9 & 11 Herring Run, Map 3, Parcels X3-2 & X3-3, SE32-2546.**  
Construction of new shared dock with float and dredging. (*Continued from 11/1/23*)

Don Monroe and Cole Bateman of Coastal Engineering, Glenn Wood of Rubin and Rudman, and Paul Mancuso of BSC Group were present virtually as representatives and discussed relevant portions of the application including the pile pattern and proposed mitigation. Mr. Monroe noted that the proposed location is the only feasible option for this dock and described utilizing a silt curtain to minimize dredging effects. Mr. Wood noted that ice from a significant freshwater spring nearby has limited alternative structure location proposals.

Ms. Usowski reviewed the resources that would be impacted by the proposed dock, the regulations that the proposal meets and the regulations that it does not, and noted that a complete mitigation plan has not been submitted. Ms. Usowski asked for information to evaluate the ability of oyster bags to withstand ice, and she asked Mr. Mancuso to describe the findings of the shellfish survey. Mr. Mancuso said that two bay scallops were found in the dredging area. Ms. Usowski reviewed a letter from the Massachusetts Division of Marine Fisheries which stated that the project was likely to have a negative impact on shellfish environment and diadromous fish environment. She declined to offer a recommendation for approval without a mitigation plan.

The Commission discussed the completeness of the application. Mr. Chase commented that the impacts to the resources are significant in this proposal and that he would not support the application. Ms. Pilling asked about the possibility of a variance for the 25-foot buffer from salt marsh for dredging and suggested

revisiting alternative locations for the dock. Mr. Ketchum noted that the project is not in compliance with the bylaws because the proposed dock is within a shellfish area.

Mr. Monroe assured the Commission that the oyster bags would do well if ice forms and reiterated that the proposed location is the only possibility for a dock. He noted that a variance was requested to put a new structure in a shellfish habitat and described the progress of creating a mitigation plan for the project. Mr. Mancuso commented that the shellfish in the area could be relocated before installation. Mr. Wood commented that he did not believe there would be any impacts to the coastal bank and that the commission had approved similar proposals in the past. Mr. Chase responded that the impacts of this project appear to differ from past projects and noted that the Wetlands Protection Act explicitly prohibits alterations to a salt marsh or its productivity.

Mr. Chase asked if this application could be put on hold until the Herring River Study is completed. Ms. Usowski stated that procedurally they cannot wait until the study is complete to decide on this project because the study will not be ready for about a year.

Mr. Wood stated that every other dock on the Herring River has been approved by the Commission and that he does not anticipate any adverse impacts on salt marsh productivity because the proposal meets the requirements of recent design standards such as the 1.5 height ratio to allow for adequate sunlight. Mr. Monroe stated the project has met the CMR and Harwich Bylaws performance standards, except for a variance in length and dredging. He discussed how the construction of the piles will not affect the coastal bank or shellfish habitat.

Mr. Ketchum asked the representatives to clarify how many variances are being requested and what they are, because only a variance request for length was in the application materials. Mr. Monroe responded that he thought it was in the application, but if not, he will submit it as soon as possible. Ms. Usowski stated that she also only saw one variance request in the application. She read section 1.13 B12 of the Harwich Regulations and stated that this section of the bylaw is silent on dredging.

The Commission decided to continue the hearing because more information is needed, such as the mitigation plan and shellfish variance request. Mr. Monroe stated that he will address the concerns of the Commission in writing for the next meeting, on Dec 6<sup>th</sup>, 2023

No further discussion from the Commission.

Mr. Atkinson moved to continue the hearing to the December 6<sup>th</sup>, 2023 hearing. Mr. Coulson seconded.  
Vote: 7:0 Motion carried, hearing continued.

**Allens Harbor Beach Associates, Off Dunes Rd, Map 5, Parcel Y1. SE32-2545.** Reconstruction of pedestrian pathway for beach access, including boardwalk and seasonal mobi mats. (*Continued from 11/1/23*)

Ms. Usowski informed the Commission that the applicants have requested a continuance to allow for adequate time to review a letter from the National Endangered Species and Heritage Program and recommended a continuance.

No further discussion from the Commission.

Mr. Atkinson moved to continue the hearing to the December 6<sup>th</sup> 2023 hearing. Mr. Coulson seconded.  
Vote: 7:0 Motion carried, hearing continued.

**The following applicants have requested a Certificate of Compliance:**

**Christopher Cooney, 4 Geraldine Ave, Map 16, Parcel A1-6. SE32-2462.** Garage addition, pool and patio, reconfiguration of driveway, relocate septic.

Ms. Usowski informed the Commission that the site is in compliance and recommended approval with the condition that no herbicides or pesticides be used on the property.

No further discussion from the Commission.

Mr. Atkinson moved to issue a Certificate of Compliance. Mr. Coulson seconded.

Vote: 7-0 Motion carried, certificate approved.

**Darryl J. Swanson, Trustee of Lwood Realty Trust, 9 Herring Run Road, Map 36, Parcel L1-1. SE32-2320.** Additions, renovations, and septic installation.

Ms. Usowski informed the Commission that several items at the site are not in compliance and recommended no action until more information is provided by the property owner.

No further discussion from the Commission.

No action taken.

**Order of Conditions:**

**David & Mary-Anne Schubert, 49 Sequattom Road, Map 101, Parcel T2-2 and T2-1. SE32-2543.** Proposed dock replacement with boat list, bench, and kayak rack within the waters of Long Pond. *(Continued from 10/18/23 meeting)*

No discussion from the Commission.

Mr. Atkinson moved to close the public hearing and issue an Order of Conditions. Seconded by Mr. Coulson.

Vote: 7:0 Motion carried, Order of Conditions approved.

**Ronald Haberkorn, 47 Vacation Lane, Map 72, Parcel L289. SE32-2544.** Pruning of vegetation for access to and view of the pond. *(Continued from 10/18/23 meeting)*

No discussion from the Commission.

Mr. Atkinson moved to close the public hearing and issue an Order of Conditions. Seconded by Mr. Coulson.

Vote: 7:0 Motion carried, Order of Conditions approved.

**David & Mary Tourigny, 4 Chase St, Map 4, Parcel N3-B. SE32-2542.** Replacement of dock and float in same footprint.

Ms. Pilling left the room. No discussion from the Commission.

Mr. Atkinson moved to close the public hearing and issue an Order of Conditions. Seconded by Mr. Coulson.

Vote: 6:0:1 Motion carried, Order of Conditions approved.

**Amended Order of Conditions:**

**James R. Sullivan & Helena E. Kadar, 39 Mill Rd previously 2 Brora Dr, Map 15, Parcel V1-3, SE32-2465.** Addition of vista corridor management.

Ms. Usowski described the minor change in conditions. No further discussion from the Commission.

Mr. Atkinson moved to close the public hearing and issue an Amended Order of Conditions. Mr. Coulson seconded.

Vote: 7:0 Motion carried, Amended Order of Conditions approved.

**Discussion and Possible Vote**

Update on violation at 435 Route 28

Ms. Usowski informed the Commissioners that the property owners have paid the \$600 fine and have hired an engineer and are expected to meet their deadline of December 19<sup>th</sup> to supply a plan.

Review Herring River Ecological Study Proposals and make recommendation to Select Board on which company to retain.

Ms. Usowski informed the Commission that three proposals were received, and one was eliminated because it was determined to fall short of expectations. The two remaining proposals are from BSC Group and TRC Environmental and were both determined to meet all requirements. Ms. Usowski gave an overview of the proposal selection process, noting that quality is the main focus not price, and informed the Commissioners that there is a 30 day window for selection.

Ms. Usowski summarized a comparison of the two proposals and recommended choosing TRC. The Commissioners discussed which proposal best met the criteria and agreed to reconvene if the price of the chosen proposal is over-budget.

No further discussion.

Mr. Atkinson moved to select TRC for the Herring River Study with the condition that the selection will be revisited if the proposal is over-budget. Seconded by Mr. Coulson.

Vote: 5:2 Motion carried.

**Minutes**

11/1/2023

Ms. Usowski noted that the minute-taker should add their name at the bottom of the minutes.

No further discussion.

Mr. Ketchum moved to approve the minutes. Seconded by Mr. Atkinson.

Vote: 7:0. Motion carried, minutes approved.

**Close Public Meeting**

Mr. Atkinson moved to close the public meeting at 8:23pm not to return and enter Executive Session.  
Seconded by Mr. Coulson.

Vote 7-0. Motion carries; meeting closed.

The Commission closed the public meeting and began Executive Session.

Minutes respectfully submitted by Kalea Trudeau, Executive Assistant.