



TOWN OF

HARWICH

*732 Main Street**Harwich, MA 02645***HARWICH CONSERVATION COMMISSION - MINUTES****PHONE (508)-430-7538 FAX (508)430-7531****WEDNESDAY June 7, 2023 – 6:30 PM****TOWN HALL - GRIFFIN ROOM – HYBRID PARTICIPATION**

Commissioners and Staff Present: Chairman John Ketchum, Jim Atkinson, Alan Hall (remote participation which was unreliable so he did not vote), Wayne Coulson, Stanley Pastuszak, Mark Coleman, Brad Chase, Sophia Pilling and Conservation Administrator Amy Usowski

Commissioners Absent: None

Audience and Representatives Present: Michael Lack, Kelly Grand, Jim Distasio and Karen Carpenito

Call to Order

Chairman John Ketchum called the meeting to order at 6:30PM.

Conservation Restriction:

Discussion and vote to accept holding a Conservation Restriction on approximately 67.1 acres of land located off Spruce Road.

Michael Lach, of Harwich Conservation Trust and Kelly Grant, Land protection Specialist with The Compact of Cape Cod Conservation Trusts, were present. Mr. Lach discussed the restriction noting the Town Counsel has reviewed the proposal.

Ms. Usowski said CPC funds were used to help purchase the land, which is adjacent to other conservation lands and is in a water recharge area and recommended the Commission approve holding the Restriction.

Mr. Atkinson moved to accept the holding of a conservation restriction on approximately 67.1 acres of land location off Spruce Rd. Seconded by Mr. Pastuszak. No further discussion from the Board.
Vote 6-0. Motion carries.

The following applicants have requested a Certificate of Compliance:

61 Bells Neck Road, DEP SE32-2377. Construction of a single-family home.

Michael Lach, of Harwich Conservation Trust and Kelly Grant, Land protection Specialist with The Compact of Cape Cod Conservation Trusts, were present.

Ms. Usowski stated work was never done and Harwich Conservation Trust is purchasing the property. The property will remain in its natural state and she recommends issuing a Certificate of Compliance for work not done to clear the deed.

Mr. Atkinson moved to issue the Certificate of Compliance for work not done for SE32-2377. Seconded by Mr. Coleman. No discussion from the Board.

Vote 6-0; Motion carries; Certification of Compliance issued.

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

4 Quason Lane, DEP SE32-2367. Demolition of home and construction of new home with pool.

Ms. Usowski stated the project has not met the 90% survival rate of the plantings due to drought last year and the application would like another year to replant. She recommended at one year extension.

Swavi Osev (remote participation), of S&E Landscaping, was present and gave a project update.

Mr. Atkinson moved to extend for the period of one year the Order of Conditions for SE32-2367. Seconded by Mr. Coleman. No discussion from the Board.

Vote 6-0. Motion carries; Order of Conditions extended for one year.

Orders of Conditions

Michelle Mann Abel, 18 Bob White Ln, Map 17 Parcel G4. Raze and replace single-family dwelling,

Mr. Atkinson moved to issue year the Order of Conditions for 18 Bob White Ln. Seconded by Mr. Coleman. No discussion from the Board.

Vote 6-0. Motion carries; Order of Conditions issued.

Discussion and Possible Vote:

Proposed Change to Conservation Restriction for 25 Bonnie Lane

Mark Coleman recused himself from the discussion.

Ms. Usowski gave a brief overview of the property noting that in 2018 the Conservation Commission permitted the construction of a home, with the condition a Conservation Restriction be place on 3 lots. The conservation restriction was drafted but never finalized or recorded with Registry of Deeds. The applicant would like to change the restricted area, carving out a small portion.

Attorney William Crowell, Jim Distasio, Frank Carpenitio (Remote participation) and Karen Carpenito were present. Attorney Crowell discussed the proposed changes to the Conservation Restriction. He referenced the letter from the property owner and gave the Board a plan of all 3 lots and the location of Schoolhouse Ice Cream. He stated the proposed walking path will be informal and they would like the parcel that has the house to be excluded from the Conservation restriction as well. Mr. Distasio gave a history of his property and the dangers of walking on Route 28 with his grandchildren to get to the ice cream store.

Ms. Usowski stated the property already went through a difficult approval process in 2018 and while the Commission wouldn't prohibit people walking on their properties for passive recreation, the creation of a formalized 6' path with woodchips would need to be discussed. Furthermore, decreasing the restricted area by 1/3 of an acre to give to a neighbor that could potentially use it for yard area or development is not something that is typically seen by the Board. Because of these factors, she said, she cannot make a positive recommendation.

Mr. Hall said he is concerned about fertilizers being used on the property and has no issue with the path being created naturally without woodchips. Mr. Pastuszak stated Restrictions are meant to be held in perpetuity. Ms. Pilling said a path is reasonable, but not a 6ft wide path. Mr. Ketchum said the lot was cleared, according to Google Earth, in 2018 and the Restriction should have been in place at that time. He said there is irrigation and evidence of herbicides/fertilizers, and he would not be in favor of the proposal. The Commissioners continued to discuss the potential path and what would be appropriate for the property.

Frank Carpenito said he has no plans to develop the property that he would receive from Mr. Distasio, the 1/3 acre. He said his plans are to add a 2-car garage which would only encroach a few feet into the new property. He asked if the protections on the property would transfer to him if the land swap happened.

The Board, Attorney Crowell and Ms. Usowski discussed the transfer of property, how that would affect the Conservation Restriction and Attorney Crowell Mr. Ketchum suggested finalizing the Conservation Restriction because without that in place, its difficult to make any decisions.

Mr. Ketchum summarized the applicants 2 requests to modify the Conservation Restriction: 6' foot path with woodchips and conveying 1/3 of an acre land to the neighbor for possible development. The Commission continued discussed the how the 2 requests would impact the surrounding wetlands and decided more information would be needed, such as a formalized plan.

Mr. Carpenito asked if the reason the Conservation Restriction was never recorded because the language of the was never finalized.

Attorney Crowell responded that communication between the applicant and the Conservation Department stopped during the beginning of the Pandemic in April of 2020. Ms. Usowski read portions of the Order of Conditions to clarify the requirements. Mr. Ketchum said the property needs to be in compliance with the original Order of Conditions to transfer any property, which it is not. Attorney Crowell responded the Applicant is not looking for any votes, but feedback from the Commissioners about the proposal and having heard the Board's comments will discuss the next steps with Mr. Distasio and Mr. Carpenito.

Mr. Pastuszak moved the Conservation Restriction for 19, 21, and 25 Bonnie Ln be completed by September 1, 2023. Seconded by Mr. Atkinson who amended the motion, adding the Conservation Restriction be signed and recorded. No further discussion from the Board.

Vote 5-0. Motion carries.

Bells Neck Land Management Plan Amendments

The Commission, including Alan Hall (remotely), discussed the current draft of the Bell Neck Land Management Plan Amendments, why it's not completed, such as the appendix on Water Management and decided to review the document comment by comment. Ms. Usowski and the Commissioners discussed the Plan Amendments with Ms. Usowski taking notes for each revision. Mr. Hall commented on the complexities of the Cranberry Bogs, such as Cranberry Marketing Order and Water Withdrawal Permit. The Commissioners finished discussion at the end of section 5 and will continue discussion next meeting.

Possible changes to permit and community garden plot fees.

Ms. Usowski discussed the Garden Plot fees saying the Town provides water, compost and tills the field, which is significant for the fee. She furthered to say the fees collected go to General Fund, but the water bill is paid through

the Conservation Department's budget and last year the fees did not cover the cost to the Town. She proposed to raise the fees from \$40 to \$60 for plots and from \$15 to \$25 for the garden beds.

The Board and Ms. Usowski discussed why Conservation pays a water bill when the fees go into the General Fund. Mr. Ketchum suggested a request is made directly to the Select Board to change the arrangement so the either the water bill is not paid by the Conservation Department, or the fees collected do not go into the General Fund. Ms. Usowski said she would not need to raise Garden Fees if a change is made. The Commission requested Ms. Usowski talk to Administration about the issue and follow-up with the Board next meeting.

Ms. Usowski moved on to discuss permitting fees, which have not been reviewed since 2012. The increases would reflect the amount of time staff required to fully review projects. She explained fee structures for other towns for a Notice of Intent. The Board and Ms. Usowski discussed the amount of time required to review projects and the difference between NOI categories and if a progressive fee structure is a better option.

Mr. Atkinson moved to increase the permitting fees proposed to be approved by the Selectboard. Seconded by Mr. Chase. No further discussion from the Board. Allen hall participated remotely.
Vote 7-0. Motion carries.

Minutes

Mr. Ketchum moved to approve the minutes for May 10, 2023. Seconded by Mr. Atkinson.
Vote 7-0. Motion Carries

Executive Session

Mr. Atkinson moved to enter into Executive session to discuss ongoing litigation and that following the conclusion of that discussion the Board will not return to Open Session. Seconded by Mr. Coleman. Allan Hall did not participate.
Vote by roll call: 6-0

Adjournment

Meeting adjourned after Executive Session.

