



TOWN OF

HARWICH

732 Main Street

Harwich, MA 02645

HARWICH CONSERVATION COMMISSION - MINUTES

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

WEDNESDAY SEPTEMBER 6, 2023 – 6:30 PM

TOWN HALL - GRIFFIN ROOM – HYBRID PARTICIPATION

Commissioners and Staff Present: Chairman John Ketchum, Jim Atkinson, Mark Coleman, Sophia Pilling, Alan Hall (remotely), Wayne Coulson, and Conservation Administrator Amy Usowski

Commissioners Absent: Brad Chase

Audience and Representatives Present: Taria McGrail, Krista Plante, Mark Dibb, Josh Corey, Kyle Milbier, Bob Perry, and Michael Lach

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 Change of Plan:

William L & Caroline C Counselman Jr, 5 Fiddlers Landing, Map 6, Parcel A1-8, SE32-2469. Demo existing and reconstruct single-family dwelling and make site improvements.

Taria McGrail (remotely), of Coastal Engineering, was present as representative and discussed relevant portions of the request, noting the utilities needed to be relocated to comply with FEMA Floodplain regulations and installation of new steps. Ms. Usowski and Ms. McGrail discussed how the total increase of square footage was calculated.

Ms. Usowski stated the steps have already been installed without approval from the Commission and asked for specifics on the planting bed installed within the 50' buffer and re-seeding the lawn because it appeared, at the site visit, the site was being prepped for sod. She is concerned the property may continue to do work without proper approval and would like to prevent future issues. She recommended approval for the Change of plan.

Ms. Pilling stated there should be only native plantings, and no sod, within the 50' buffer. The Commissioner and Ms. Usowski discussed the planting bed and adding a condition to require native plantings only.

Mr. Atkinson moved to approve Change of Plan Request for 5 Fiddlers Landing, with the conditions that all plantings within the 0-50' buffer will be native plants approved by the Conservation Administrator and all conditions on the original approved must be maintained, especially with regards to no fertilizers or chemicals. Seconded by Mr. Coulson. No discussion from the Board.

Vote 6-0. Motion carries; Change of Plan Request is approved.

The following applicants have requested a Determination of Applicability:

Krista Plante, 12 Aaron's Way, Map 60 Parcel G7-5. RDA-23-14. Proposed addition.

Krista Plante was present and discussed relevant portions of the application, noting the addition was already approved by the Commission. However, the project was put on hold due to price increases during Covid and the permit expired. There are no changes from the expired application.

Ms. Usowski stated the property owner is reapplying to do the same work with the same conditions and recommended approval with a negative three determination.

No discussion from the Commissioners.

Mr. Atkinson moved to approve the Request for Determination of Applicability for 12 Aarons Way, with a negative 3 determination. Seconded by Mr. Coleman. No discussion from the Commission.

Vote 6-0. Motion carries; Request for Determination of Applicability is approved.

Boulderport, LLC., 11 Dunes Rd, Map 5, Parcel K1-1, RDA-23-15. Replace and reconfigure existing pool and driveway.

Mark Dibb, of Cape & Islands Engineering, was present as representative and discussed relevant portions of the application and explained the resources areas on the property. He stated the increase of driveway is 1300 sq. ft. and 1:1 mitigation is proposed because it is in already disturbed area, there is a roadway between the resource area and the driveway area, and the asphalt will be removed and replaced with a permeable material, such as shells.

Ms. Usowski summarized the Site summary, noting the unique resources areas on the property and the Coastal Bank abutting the roadway does not function fully as bank due to the roadway. She asked construction specifics of the driveway so runoff and shells are not flowing into the roadway. Mr. Dibb stated grading the driveway to the east could be a possibility. Josh Corey, of Cape & Island Construction, stated a cobblestone apron near the road is planned to stop shells from moving down into the roadway. She recommended approval from a negative three.

Ms. Pilling asked what the planting plan is for the ornamental shrubs that will be removed for construction. Mr. Corey responded there is no detailed planting plan yet, but there will likely be a combination of ornamental and native plantings. The Commission requested all plantings in the 0-50' buffer be all native plantings, and all plants to be approved by the Conservation Administrator. Mr. Corey agreed.

Mr. Atkinson moved to approve the Request for Determination of Applicability for 11 Dunes Rd, with a negative 3 determination and with the conditions that when any pool water needs to be removed it be trucked off site and disposed of properly not in any wetland, that the exact number/type/spacing of plants needs to be approved by Conservation Administrator, that no fertilization or chemical application occur on the property within any wetland resource area or buffer zone thereto and the driveway is to be crowned to prevent runoff.

Seconded by Mr. Coleman. No discussion from the Commission.

Vote 6-0. Motion carries; Request for Determination of Applicability is approved.

The following applicants have filed a Notice of Intent:

Garrett S. Peterson, 4 Novotny Ln, Map 29, Parcel N1-2. Removal of 20 hazardous trees and site improvements.

Kyle Milbier, of Flagship Landworks, was present as representative and discussed relevant portions of the application, noting the tree removal is for hazardous trees.

Ms. Usowski summarized the Site Summary, noting the letter from Mike Roma, Certified Arborist, detailing the declining health of the trees and the property is heavily wooded so removing 20 trees will not negatively impact the

resource area, especially considering the amount of mitigation plantings in the proposal. She recommended approval of the project.

No discussion from the Commission.

Mr. Atkinson moved to approve the Notice of Intent for the 4 Novotny Ln with the conditions that replacement planting or any planting on the property be approved by the Conservation Administrator and no fertilization or chemical be used within the 100' buffer zone. Seconded by Mr. Coulson. No discussion from the Board
Vote 6-0. Motion carries; Notice of Intent approved.

Linda S. Simard, 25 Davis Ln, Map 8, Parcel N5-1. Raze and replace a single-family dwelling.

Bob Perry, of Cape Cod Engineering, was present as representative and discussed relevant portion of the application, including a description of the resource area and surrounding properties, proposed mitigation by removing a privet hedge and the unpermitted installation of a portion of the patio by the previous owners. He stated the project will have 399 sq ft of expansion in the 50'- 100' buffer, 90 sq ft of expansion in the 0'-50 buffer and is fairly straightforward.

Ms. Usowski discussed the Site Summary and stated a 2:1 mitigation is required. She stated the removal of the Privet hedge on the lot line, may or may not be considered mitigation by the Commissioners and suggested mitigation closer to limit of work. Mr. Perry stated the owner would prefer to keep the site as is without new plantings closer to the resource area and polled the Commissioner on their thoughts regarding mitigation. All Commissioners agreed mitigation should be closer to the limit of work.

Mr. Ketchum stated the front of the property appeared to be aggressively managed, including pruning of scrub pines, which would require permitting from the Commission. Mr. Perry responded that area has a view easement and Ms. Usowski stated there may be an easement but there may not be approval by Conservation Commission to maintain said view. Mr. Perry requested the case be continued with an Order of Conditions prepared to close the hearing next meeting. The Commissioners and Ms. Usowski agreed.

Mr. Atkinson moved to continue the hearing for 25 Davis Ln to Sept 20th. Seconded by Mr. Coulson. No discussion from the Commission.

Vote 6-0. Motion carries; hearing continued.

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

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

Ms. Usowski stated the applicant requested a continuance to October 4th because a post-dredge survey was never received, which is a condition in the Order of Conditions.

Mr. Atkinson moved to continue the hearing for an Extension to the Order of Conditions for SE32-2269 to October 4th. Seconded by Mr. Coleman. No discussion from the Commission.

Vote 6-0. Motion carries; hearing continued.

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.

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

Mr. Ketchum announced the requests for Certificate of Compliance for SE32-2383 and SE32-2387, at 23 Snow Inn Rd will be heard at the October 4th meeting.

Steve Walsh, 9 Fiddler's Landing, Map 6 Parcel A1-9, SE32-2336. Dwelling modification, deck replacement with patio and other site improvements

Steve Walsh, 9 Fiddler's Landing, Map 6 Parcel A1-9, SE32-2446. Vegetation management to remove invasive plants and enhance existing native plantings.

Bette Swanton, 9 Fiddler's Landing, Map 6 Parcel A1-9, SE32-1262. Confirmatory Certificate of Compliance.

Mr. Ketchum announced all the three Certificate of Compliance requests for 9 Fiddlers Landing. Ms. Usowski stated she found all items in compliance during review and SE32-1262 is a confirmatory certificate due to a recording error. She recommended approval for all 3 requests.

Mr. Atkinson moved to approve and issue the Certificate of Compliance for SE32-2336, SE32-2446 and SE32-1262 at 9 Fiddlers Landing. Seconded by Mr. Coulson. No discussion from the Commission.
Vote 6-0. Motion carries; 3 Certificate of Compliance issued.

Order of Conditions:

Town of Harwich, Skinequit Pond, Map 25, DEP SE32-2538. Proposed Alum treatment of pond.

Mr. Ketchum recused himself from the hearing because he is an abutter to Skinequit pond.

Ms. Usowski recommended monitoring the pond for 5 or 6 years instead of 10 years because a decade of monitoring could be cost prohibitive. The Board discussed Ms. Usowski's recommendation and agreed 5 years of monitoring is appropriate. No public discussion.

Mr. Coleman moved to close the hearing and issue the Order of Conditions for SE32-2538 with Ms. Usowski's recommendation. Seconded by Mr. Coulson.
Vote 5-0. Motion carries; hearing closed and Order of Condition issued.

Discussion and Possible Vote

Revised warrant article language for 61 & 77 Bells Neck Rd

Michael Lach, of Harwich Conservation Trust, was present as representative and stated the Town Meeting article for 61 & 77 Bells that was approved did not include language required by the state for conveyance of a conservation restriction to the Town Conservation Commission. He requested the Commissioners approve the revised language to be included at the 2024 Town Meeting and also be forwarded to the Community Preservation Committee. Ms. Usowski said she would forward the information to CPC.

Mr. Ketchum asked if any other boards or committees are aware of this error and how the mistake was made. Mr. Lach responded because he needs approval from the Conservation Commission first, he has not notified any other town committees. He also stated Town Counsel reviews all warrant article language. The Commissioners discussed the matter and requested legal counsel to review the revised warrant prior to approval. Ms. Usowski said she would send the document to Legal Counsel.

Request for Support for 3 Conservation Restrictions:

North Woods and Water Project – 0 Woodland Rd Red River Preserve (North) Project – Route 28

Michael Lach, of Harwich Conservation Trust, was present as representative and stated the first two projects, North Woods and Water Project and Red River Preserve (north) Project, are requesting a letter of support for the application to the Community Preserve Committee seeking funds for the acquisition of each properties. Ms. Usowski noted the error on the Agenda saying the request is for 3 conservation restrictions, not letters of support but readvertising is not required and the Commission can take a vote today.

Mr. Lach discussed each proposal individually and their importance to the Conservation and Land acquisition efforts. He also requested the Commission hold the Conservation Restrictions, in concept, for the properties. The Commissioners discussed the proposal, and most members were in favor, but Mr. Atkinson said he would like to wait to vote on any Conservation Restrictions until there is draft. Mr. Hall asked if hunting will be restricted on any of the properties. Mr. Lach responded Harwich Conservation Trust properties do not allow hunting. Mr. Ketchum said because request for CPC funds includes the land acquisition with a Conservation Restriction, he suggested the Board vote on both matters.

Mr. Ketchum moved to submit a letter of support to Community Preservation Committee supporting the applications for both projects, North Woods and Water Project and Red River Preserve (north) Project, which would include seeking a Conservation Restriction to be held by the Conservation Commission. Seconded by Mr. Atkinson. No further discussion from the Commission.

Vote 4:0:2. Mr. Hall and Mr. Coulson abstained. Motion carries.

Cold Brook Trailhead & Public Access Project – Bank St.

Mr. Lach stated this project is a proposed partnership with Harwich Conservation Trust, Harwich Fire association and CPC funding with the goal is to improve public access by renovating the parking lot and constructing a scenic overlook. He discussed relevant portions of the proposal, noting this project will be subject to review and approval by this Commission for any related work with the wetland buffer area. He requested a letter of support for acquisition of CPC Recreation Funds.

Mr. Atkinson asked the purpose of the pedestrian boardwalk in the Southwest portion. Mr. Lach responded the Commissioners received an older version of the map in error, and the walkway will be to the North to replace an earthen berm, and create more habitat connectivity.

Mr. Atkinson moved to submit a letter of support to Community Preservation Committee supporting the application for Cold Brook Trailhead and Public Access Project with the change of walkway location. Seconded by Mr. Coleman. No discussion from the Commission.

Vote 4:0:2. Mr. Hall and Mr. Coulson abstained. Motion carries.

435 Route 28 Violation

Ms. Usowski announced the property owners requested to be on the Sept 20th Agenda so their attorney could be present.

Minutes

Mr. Ketchum made one edit, to correct the name of the organization involved with the Skinequit Pond Alum Treatment, W.A.S.H. No further comments or edits from the Board.

Mr. Atkinson moved to approve the minutes for the August 16nd, 2023, meeting with one edit Mr. Coleman. Seconded by Mr. Atkinson. No further discussion.

Vote 6-0. Motion carries; minutes approved.

Close Public Meeting

Mr. Atkinson moved to close the public meeting not to return and enter executive session. Seconded by Mr. Coulson.

Vote 5-0 by roll call. Motion carries; meeting adjourned.

The Commission closed the public meeting began Executive Session

Respectfully submitted by Lecia McKenna, Assistant Conservation Agent.