



TOWN OF

HARWICH

732 Main Street

Harwich, MA 02645

HARWICH CONSERVATION COMMISSION - MINUTES

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

WEDNESDAY SEPTEMBER 20, 2023 – 6:30 PM

TOWN HALL - GRIFFIN ROOM – HYBRID PARTICIPATION

Commissioners and Staff Present: Chairman John Ketchum, Brad Chase, Mark Coleman, Sophia Pilling, Alan Hall and Conservation Administrator Amy Usowski

Commissioners Absent: Jim Atkinson, and Wayne Coulson

Audience and Representatives Present: Steve Labranche, Stephanie Sequin, Tom Smith, Bob Perry, Attorney Bill Riley and Mr. Patel.

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:

Katherine Green, 2257 Route 28-Head of the Bay Rd, Map 119 Parcel N2. RDA22-18. Addition of erosion control blanketing, planting of warm season grasses and removal of one pitch pine.

Ms. Usowski discussed relevant portions of the application and Site Summary, noting if the pine tree falls it will likely take some of the bank and revetment with it. She recommended approval with a Negative 2 determination.

Steve Labranche (remote), of Wilkinson, was present as representative and stated the area was hidden by vegetation that was removed which is why it wasn't included in the RDA to begin with.

Mr. Hall moved to approve the Change of Plan Request for RDA22-18 at 2257 Route 28, with a Negative 2 determination. Seconded by Mr. Coleman. No discussion from the Commission.

Vote 5-0. Motion carries; Request for Change of Plans is approved.

The following applicants have requested a Determination of Applicability:

47-52 North Road Realty Trust, 52 North Road, Map 19, Parcel S1. Installation of a Title 5 septic system with I/A technology to replace existing cesspools.

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

Tom Smith, 47 North Rd, Map 19 Parcel S2. SE32- 2373. Septic System Installation.

Mr. Ketchum read the notice for both the RDA and Extension/Change of Plans to SE32-2373 to discuss together.

Stephanie Sequin (remote), of Ryder and Wilcox, was present as representative and discussed relevant portions of the applications, noting previous approvals from the Commission for this project which have expired. She stated because the Board of Health is now requiring an I/A component on the septic a Change of Plans is needed.

Ms. Usowski recommended a one-year extension for SE32-2373 because it has been active since 2019 due to the Covid State of Emergency Extension and approval of the RDA with a Negative 2 and 3 determination.

Mr. Hall moved to approve the Request for Determination of Applicability for 52 North Rd, with a Negative 2 and Negative 3 determination. Seconded by Mr. Chase. No discussion from the Commission.

Vote 4-1. Mr. Coleman: Nay. Motion carries; Request for Determination of Applicability is approved.

Mr. Hall moved to approved a one-year extension at 47 North Rd, SE32-2373. Seconded by Mr. Chase. No discussion from the Commission.

Vote 4-1. Mr. Coleman: Nay. Motion carries; Request for Extension approved.

The following applicants have applied for an Extension Permit for an Amended Order of Conditions:

47-52 North Road Realty Trust, 47 North Road, Map 19 Parcel S2. SE32-2428. Bulkhead repair.

Stephanie Sequin (remote), of Ryder and Wilcox, was present as representative and stated the project will not be finished by the expiration date and that is why an extension is requested.

Ms. Usowski stated the bulkhead failed due to a severe rainstorm and because there was no as built received, there is no way to know if the bulkhead was installed as permitted or if field changes were made without notifying the Commission. She said Mr. Smith was issued an emergency permit after the bulkhead failure, which has expired, and has not received any more information or communication regarding the repairs needed. She recommended a 6-month extension of the permit, on the advice of Town Counsel.

Tom Smith was present remotely but could not unmute himself and asked Ms. Sequin to relay a message. She stated Mr. Smith is working with a professional to come up with a plan to repair the bulkhead and 6-month extension would be appreciated.

Mr. Ketchum visited the site and is concerned with sediment runoff and safety issue. He requested the Town provide a third party to report on the risks if nothing is done at the property, especially because this project is usually behind schedule, and he is hesitant to approve any extension give the history of the property. Mr. Chase stated his concern using Town funds for surveying a private property. The Commissioners discussed obtaining a third party review and it was not supported. The Commissioners asked what engineering firm is working on the project. Ms. Sequin responded that Mr. Smith texted it is the same person who did the plan previously. The Commissioners and Ms. Usowski discussed options on how to move forward, including giving a 6-month extension with a condition that an engineering plan is received within two months and obtaining documentation stating what work was done previously. Mr. Ketchum asked if the Commission continues the hearing, will plans be available with a month. Ms. Sequin responded that Mr. Smith text he expects plans within one month. Ms. Usowski suggested continuing the hearing to October 18th and it was agreed by Mr. Smith.

Mr. Hall moved to continue the hearing for SE32-2428 to October 18th, 2023. Seconded by Mr. Coleman. No discussion from the Commission.

Vote 5-0. Motion carries; hearing continued.

The following applicants have filed a Notice of Intent:

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 the updated plans from the last meeting, including 800 sq. ft. of mitigation plantings.

Ms. Usowski discussed the Site Summary noting the 36 sq ft reduction in hardscape within the 0'-50' buffer and mitigation requirements and plant species. She stated ideally more lawn would be removed for mitigation, but the proposal meets the standards for state and local bylaws. She recommended approval with special conditions that all plants in the 0'-50' buffer be native, all lawn is to be a native grass seed mix, and no fertilizers or chemicals.

Mr. Chase wanted to confirm the unpermitted patio was not included in the calculations. Ms. Usowski responded that only permitted structures are being used in the calculations. Mr. Perry responded that the site plan from 2012 was used which shows all permitted work, instead of the new site, for all calculations.

Mr. Ketchum asked if the pruning of oak trees on the adjacent lot to establish a view corridor for 25 Davis Ln is permitted because it has obviously been maintained by the previous owner. Mr. Perry stated there is a pruning easement conveyed to the current owners that states pruning is for view purposes only and must be done in accordance with the Massachusetts Wetlands Protection Act and Harwich Bylaws. He said the owner will come before the Commission prior to any further pruning.

Ms. Usowski stated the Commission does not allow the topping of trees, and recommended the owners get a full assessment done to determine the health of the trees and best method moving forward and no further work can be done on the bank.

Mr. Hall moved to approve the Notice of Intent for 25 Davis Ln, SE32-2539, with Ms. Usowski's recommendations. Seconded by Mr. Coleman. No further discussion for the Commission.
Vote 5-0. Motion carries; Notice of Intent approved.

Mr. Hall moved to close the hearing and issue the Order of Conditions for SE32-2539 with Ms. Usowski's recommendations. Seconded by Mr. Hall. No discussion from the Commission
Vote 5-0. Motion carries; hearing closed and Order of Condition issued.

The following applicants have requested a Certificate of Compliance:

Steve Hassett, 46 Indian Trail, Map 34, Parcel K3-2, SE32-2419. New Single-Family Dwelling.

Ms. Usowski stated no work has been performed under this permit and a new permit has been issued. They have not applied for building permit yet, but the new permit has two years left before it expired. She recommended a Certificate of Compliance for work not done.

Mr. Ketchum moved to approve and issue the Certificate of Compliance for work not done for SE32-2419 at 46 Indian Trail. Seconded by Mr. Chase. No discussion from the Commission.
Vote 5-0. Motion carries; Certificate of Compliance issued.

William & Nancy Doherty, 20 Chase St, Map 4, Parcel N2-2, SE32-2488. Relocation of driveway, installation of new shed, and plantings.

Ms. Usowski stated the property is in full compliance and the plantings are doing very well. She recommended approval with ongoing conditions about no fertilizers or chemicals.

Mr. Ketchum moved to approve and issue the Certificate of Compliance for SE32-2488 at 20 Chase St. Seconded by Mr. Coleman. No discussion from the Commission.
Vote 5-0. Motion carries; Certificate of Compliance issued.

Mercan LLC, 29 Walther Rd, Map 16, Parcel T7, SE32-2230. Repair Existing Bulkhead.

Ms. Usowski stated the bulkhead has been installed as permitted and recommended approval.

Mr. Ketchum moved to approve and issue the Certificate of Compliance for SE32-2230 at 29 Walther Rd. Seconded by Mr. Coleman. No discussion from the Commission.
Vote 5-0. Motion carries; Certificate of Compliance issued.

Kenneth P. Tomasian, 17 Indigo Ln, Map 80, Parcel, D112, SE32-2471. New Single-family Dwelling.

Ms. Usowski stated the house has been built, native plantings look good and a split rail fence has been installed to demarcate the “No Disturb Zone.” She recommended approval with ongoing conditions about no fertilizers or chemicals.

Mr. Ketchum moved to approve and issue the Certificate of Compliance for SE32-2471 at 17 Indigo Ln. Seconded by Mr. Coleman. No discussion from the Commission.

Vote 5-0. Motion carries; Certificate of Compliance issued.

Order of Conditions:

Garrett S. Peterson, 4 Novotny Ln, Map 29, Parcel N1-2. SE32-2540. Removal of 20 hazardous trees and site improvements.

No discussion or edits on the Draft Conditions.

Mr. Hall moved to close the hearing and issue the Order of Conditions for SE32-2540 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

435 Route 28 Violation

Ms. Usowski stated a new fence was installed without any approval from the Conservation Commission at 435 Route 28 and upon inspection a new structure was attached to the Value Mart without any permits either. She stated there are two violations of the Act and Harwich Bylaw.

Attorney Bill Riley and Mr. Patel, nephew of the property owner, were present as representatives. Attorney Riley stated the Patels had problems with litter and the fence was erected to mitigate litter. He said the Patels called the town to see if a permit was required for a fence or shed and was told no permit is needed for fences under 6 feet or sheds under 200 sq. ft. So the Patels were unaware they needed any approval because the property is in the floodplain. He furthered to say the shed is used as storage to be in compliance with their Seasonal Liquor License. He suggested the Patel hire an engineer to apply for a Notice of Intent.

Ms. Usowski responded in addition to being within a floodplain, the property is within feet of a wetland and there is a strict prohibition of new structures within 50’ of a resource area. Because of this, an after the fact Notice of Intent may not be best avenue, although it is their right to file an application. She asked what was involved with the survey done in January 2023.

Mr. Patel responded it was to mark the property line and not formal survey.

Ms. Usowski recommended fining the property owners \$300 for the fence, \$300 for the new structure, suggested the property owners find another location for storing materials further away from the wetland and an enforcement order to produce a Site Plan within 60 days.

The Commissioners discussed the violation, including the issue of a new structure within the 50’ buffer and decided a complete survey is required to make any determinations.

Mr. Chase moved to issue an enforcement order on 435 Route 28 to include a \$300 fine for unauthorized fences, \$300 for unauthorized shed and a Site Plan within 60 days. Seconded by Ms. Pilling. No further discussion from the Commission.

Vote 5-0. Motion carries; Enforcement order issued.

25 Bonnie Lane Conservation Restriction

Mr. Usowski stated they would like to be taken off the Agenda because the Conservation Restriction will be held by the Harwich Conservation Trust. She said the Commission should see the document to approve the language because the most recent draft alluded to 10' perimeter behind the split rail fence, which is the limit of work and was subject to the restriction. There is no action required for this meeting but will provide the draft was received.

Minutes

No edit or comments on the minutes for September 6th, 2023.

Mr. Hall moved to approve the minutes for the September 6th, 2023. Seconded by Mr. Atkinson. No further discussion.

Vote 5-0. Motion carries; minutes approved.

Other Business

Ms. Usowski updated the Commission on the Herring River Study RFP, the new Americorps cohort, and the Cold Brook Restoration project, which officially started. The Commissioner requested an on-site visit of the Cold Brook Project. Ms. Usowski said she would schedule an on-site visit.

Ms. Usowski discussed a new potential project for Robbins Pond, in cooperation with Harwich Conservation Trust to remove the old flume, which would include a hydrology study. The Commission discussed the need for a hydrology study and funding.

Ms. Pilling asked if Ms. Usowski was able to contact anyone regarding the erosion at the Azalea bridge project. Ms. Usowski stated she has left messages and will continue to try.

Adjournment

Mr. Hall moved to adjourn at 8:10pm. Seconded by Mr. Chase.

Vote 5-0. Motion carries; meeting adjourned.

Respectfully submitted by Lecia McKenna, Assistant Conservation Agent.