

**January 8, 2024
Minutes**FAIRHAVEN TOWN CLERK
RCUD 2024 FEB 7 PM2:21

1. **Chairman's Welcome and Media Notification:** Karen Isherwood opened the meeting at 6:05p.m. Ms. Isherwood read the protocol for Zoom meetings and open Public Meeting Law.

Ms. Isherwood advised that the meeting was being conducted remotely, pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted in person and via remote means, in accordance with applicable law. This means that members of the public body as well as members of the public may access this meeting in person, or via virtual means. It is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of the public. MGL, Ch. 30A, § 20(f) requires anyone that intends to record any portions of a public meeting, either by audio or video, or both, to notify the Chair at the beginning of the meeting.

Chair, Jay Simmons took over as Chair at 6:07pm.

Quorum/Attendance: Jay Simmons, Karen Isherwood, Caroline Hawthorne, Jacob Galary, Ronnie Medina, Anthony Couto

Absent: Andrew Saunders

2. Approval of the November 20, 2023 meeting minutes

Karen Isherwood made a motion to approve the minutes for November 20, 2023. The motion was seconded by Caroline Hawthorne and passed (6-0).

3. Continuances requested in advance

- a) **CON 023-372: 29 Silver Shell Beach Drive, Map 41, Lot 53 (Continued until April 2024)**
- b) **SE 023-1391, CON 023-291: Bridge Street, Map 36, Lot 15J**
- c) **SE 023-14__, CON 023-371: 217 Alden Road, Map 36, Lot 085 (Continued until March 18, 2024)**
- d) **SE 023-1385, CON 023-279: 27 Silver Shell Beach Drive, Map 41, Lot 54**

4. Attorney, Marc Deshaies to discuss the Conservation Restriction at the G. Bourne Knowles property
- *Postponed*

5. **Requests for Certificates of Compliance**

- a) **SE 023-1312, CON 023-113: 12 Almond Street, Map 43B, Lots 8, 9 & 10**

The Conservation Agent stated there are still minor outstanding issues, including the fence still in place. Electrical wiring and plumbing within the breakaway walls have been removed by the applicant.

Karen Isherwood made a motion to issue a Certificate of Compliance for a complete certification under the Wetlands Protection Act and Fairhaven Wetlands Bylaw for SE 023-1312, CON 023-113, 12 Almond Street, Map 43B, Lots 8, 9 and 10, with the following ongoing conditions, CHM-1, DER-4, and Condition Number 52, as listed in the order of conditions, with the changes as reflected in the As Built Plan dated December 1, 2023. The motion was seconded by Caroline Hawthorne and passed (6-0).

b) SE 023-1368, CON 023-252: 184 Balsam Street, Map 43B, Lot 41

This COC for a dock; still need an engineer's letter. Discrepancy on length of the dock on the two plans.

Karen Isherwood made a motion to continue SE 023-1368, CON 023-252, 184 Balsam Street, Map 43B, Lot 41, to the January 22, 2024 meeting for further information. The motion was seconded by Caroline Hawthorne and passed (6-0).

c) SE 023-1411, CON 023-348: 184 Balsam Street, Map 43B, Lot 41

This COC for a deck.

Karen Isherwood made a motion to continue SE 023-1411, CON 023-348, 184 Balsam Street, Map 43B, Lot 41, to the January 22, 2024 meeting for further information. The motion was seconded by Caroline Hawthorne and passed (6-0).

d) SE 023-1421, CON 023-361: 2 Bayside Street, Map 42, Lot 34

Bruce Webb stated this is an after-the-fact application for completed repairs to a seawall. The area to the south of the property had been excavated (2-3 feet by 6 feet). This area needs restoration, i.e., seeded and vegetated. It is currently eroded and lacks erosion control.

Dave Davignon of Schneider, Davignon, and Leone stated the applicant will be filing an additional NOI for separate work on the site to resolve open area susceptible to erosion during storms.

Karen Isherwood made a motion to continue SE 023-1421, CON 023-361, 2 Bayside Street, Map 42 Lot 34, to the first regularly scheduled meeting in March at the applicant's request. The motion was seconded by Caroline Hawthorne and passed (6-0).

6. Public Hearings pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and/or the Code of the Town of Fairhaven Chapter 192, Wetlands:**Request for Abbreviate Notice of Resource Area Delineation****a. SE 023-1389, CON 023-284: Ebony Street, Assessor's Map 43C, Lots 389-400**

Request for Abbreviated Notice of Resource Area Delineation filed by Michael Ristuccia to delineate wetlands located at Ebony Street, Assessor's Map 43C, Lots 389-400.

John Rockwell spoke on the original submittal reviewed by himself and the former agent. Mr. Rockwell rechecked the wetland line in January 2023.

Mr. Rockwell confirmed that once the line is accepted, it will be valid for 3 years; this permit does not pertain to any actual work. Any proposed project would come back to the Commission for approval.

Karen Isherwood made a motion to close the public hearing for SE 023-1389, CON 023-284, Ebony Street, Map 43C, Lots 389-400 and to accept the Findings as stated in the Staff Report by John Rockwell, dated December 10, 2023, and issue an Order of Resource Delineation under the

Wetlands Protection Act and the Fairhaven Wetlands Bylaw, as drafted. The motion was seconded by Jake Galary and passed (6-0).

Requests for Determination of Applicability

b. CON 023-381: 58 Balsam Street, Map 43C. lot 012

Request for Determination of Applicability filed by Adam Gibson to construct an open deck along the north and west sides of the existing house to connect a landing to an existing open deck. The property is located within Land Subject to Coastal Storm Flowage (LSCSF), Land Under the Ocean and within FEMA Flood Zone VE (El.19'). Work to take place at Assessor's Map 43C, Lot 012.

Terry McGovern, of Zenith Consulting stated a note was added that the deck will be supported by sono-tubes and that the area beneath the deck will be open.

Karen Isherwood made a motion to close the public hearing for CON 023-381, 58 Balsam Street, Map 43C, Lot 012, and issue a Positive 2b for Buffer Zone to Coastal Dune and Coastal Beach and a Negative Determination 3, and Negative Determination 6, with the added conditions CAP-3, and FZ-1, under the Wetlands Protection Act and Fairhaven Wetlands Bylaw. The motion was seconded by Ronnie Medina and passed (6-0).

c. CON 023-385: 120 Balsam Street, Map 43A, Lot 023

Request for Determination of Applicability filed by Sarah DeWalt to install an 8-foot by 14-foot shed secured with four helical piles elevated 6" above the pre-existing lawn. Also requesting to relocate parking area from the front of the house to the right with crushed stone; will add native perennial garden and a pervious paver walkway with cobblestone edge. Work to take place in Land Subject to Coastal Storm Flowage (LSCSF), FEMA Flood Zone VE (El.18'), Coastal Beach and Coastal Bank at Assessor's Map 43A, Lot 023.

The agent stated this is an after-the-fact that started with a shed placed in between the house and beach on existing lawn. In the permit process, it was decided to move the existing driveway and add landscaping. An abutter reached out and expressed concern over potential sheet flow on their property. The applicant then decided to shift the location of the shed and support with helical piles.

Owner, Sarah DeWalt was present and was satisfied with the presentation of the agent.

Jake Galary does not have an issue with the brick pavers the applicant originally requested.

Anthony Couto concurred with Mr. Galary, but is open to more clarification from DEP regarding pavers.

Mr. Simmons would like the shed elevated by 6-inches.

Karen Isherwood stated the CZM and technical bulletin (p. 19) states decks and patios must be designed that when subject to flooding they will not cause significant damage during storms.

Bruce Webb confirmed the shed will be raised 6 inches above the lawn; it will need to be moved and lifted for the helical piles. He did not feel that bricks (baked clay and sand) are detrimental

to the resource area. Mr. Webb did not feel that paving bricks would have the ability to damage the adjacent structure.

Karen Isherwood made a motion to grant the "Buffer Zone Regulations Variance Request" under the Fairhaven Wetlands Bylaw, Chapter 192, Section 8, of the Buffer Zone Regulations, for CON 023-385, 120 Balsam Street, Map 43A, Lot 023. The motion was seconded by Ronnie Medina and passed (6-0).

Karen Isherwood made a motion to close the public hearing for CON 023-385, 120 Balsam Street, Map 43A, Lot 023, and issue a Positive 2b for Coastal Dune, Coastal Beach, and Buffer Zone to Coastal Dune and Coastal Beach and a Negative Determination 3, and Negative Determination 6, with the added conditions CAP-3 and FZ-1 under the Wetlands Protection Act and Fairhaven Wetlands Bylaw. The motion was seconded by Ronnie Medina and passed (6-0).

d. CON 023-386: 110 Middle Street, Map 12, Lot 17

Request for Determination of Applicability filed by Uday Patel for the installation of twelve sonotubes with "Big Foot" footings. The sonotubes will anchor a new tent at the outdoor function location adjacent to the marina at the end of the rear parking lot. Work to take place within FEMA Flood Zone AE (EL.6') and Land Subject to Coastal Storm Flowage (LSCSF) at Assessor's Map 12, Lot 17.

Bruce Webb stated this is an after-the-fact installation for tent post footings on previously disturbed area. During the site visit, additional unpermitted work was discovered.

Karen Isherwood made a motion to close the public hearing for CON 023-386, 110 Middle Street, Map 12, Lot 17, and issue a Positive Determination 2b for Coastal Beach and Buffer Zone, a Negative Determination 3, and a Negative Determination 6, with the added conditions CAP-3 and FZ-1 under the Wetlands Protection Act and Fairhaven Wetlands Bylaw. The motion was seconded by Jake Galary and passed (6-0).

Notices of Intent

e. SE 023-1410, CON 023-347: Bonney Street, Assessor's Map 28B, Lots 488 & 489

Notice of Intent filed by David Menard to construct a single-family residence, sewer and water connections and associated site work located within the 100-year flood plain (F.E.M.A. Zone VE, EL.16') and partially within the Buffer Zone of Bordering Vegetated Wetlands (BVW) located at Assessor's Map 28B, Lots 488 & 489.

*SE 023-1410, CON 023-347: Bonney Street, Assessor's Map 28B, Lots 488 & 489
Continued to January 22, 2024*

f. SE 023-1423, CON 023-364: Bridge Street, Map 30A, Lot 87 & 87A

Notice of Intent filed by Carricorp Industries, Ltd. proposing a 5,850-sf commercial style building. A driveway and parking lot with approximately 34 parking spaces to service the proposed building. Stormwater from all proposed paved areas will be collected by deep sump catch basins sent to a subsurface infiltration system. Other proposed utilities include municipal water and sewer and an enclosed dumpster with pad. Work to take place at Assessor's Map 30A, Lots 87 & 87A.

SE 023-1423, CON 023-364: Bridge Street, Map 30A, Lot 87 & 87A continued to January 22, 2024

g. SE 023-1429, CON 023-377: 270 Sconticut Neck Road, Map 29A, Lot 101 & 96

Notice of Intent filed by Alexander & Jean Easterday to modify an elevated walkway over the Salt Marsh from house to Coastal Dune and beach, located within the 100-year flood plain at Assessor's Map 29A, Lot 101 & 96.

Bruce Webb stated the applicant obtained an engineer and the boardwalk design will not damage the salt marsh in the long term; the agent believes this boardwalk is now permissible.

Rick Charon revised the original plan and shifted the boardwalk to cover phragmite instead of wetland vegetation. The dimensions will be 2 feet wide and 2 feet above the marsh, with decent spacing between the planks for sunlight to reach vegetation. A section of Torrington Road consisted of two separate lots, which are now joined to create a continuous lot from Sconticut Neck to the waterfront.

Applicant, Al & Jean Easterday had no additional comments.

Karen Isherwood made a motion to grant the "Buffer Zone Regulations Variance Request" under the Fairhaven Wetlands Bylaw, Chapter 192, Section 8, of the Buffer Zone Regulations, for SE 023-1429, CON 023-377, 270 Sconticut Neck Road, Map 29A, Lot 101 & 96. The motion was seconded by Caroline Hawthorne and passed (6-0).

Karen Isherwood made a motion to continue SE 023-1429, CON 023-377, 270 Sconticut Neck Road, Map 29A, Lot 101 & 96, to the January 22, 2024 meeting at the applicant's request. The motion was seconded by Caroline Hawthorne and passed (6-0).

h. SE 023-1430, CON 023-376: 50 Fort Street, Map 5, Lot 16

Notice of Intent filed by Kevin McLaughlin to install (4) 4" electrical conduits encased in a concrete rack system and (1) 2" water pipe that will provide power and water to the existing fixed pier and floating docks. In order to install utilities, the contractor will need to excavate a 900 linear foot, 4-foot-wide trench to meet the requirements for the utility spacing. The proposed project will impact Land Subject to Coastal Storm Flowage (LSCSF) and the 25', 50', and 100' Buffer Zones of Coastal Beach located at Assessor's Map 5, Lot 16.

SE 023-1430, CON 023-376: 50 Fort Street, Map 5, Lot 16 continued to January 22, 2024

i. SE 023-1432, CON 023-380: 18 Almond Street, Map 43B, Lot 012

Notice of Intent filed by Jeffrey White to install a concrete pad within the 100-foot Buffer Zone to the Coastal Bank, Salt Marsh, Coastal Beach, and Land Subject to Coastal Storm Flowage (LSCSF), and FEMA Flood Zone VE, (El. 16' & 17'), located at Assessor's Map 43B, Lot 012.

SE 023-1432, CON 023-380: 18 Almond Street, Map 43B, Lot 012 continued to January 22, 2024

7. Violations/Enforcement Orders/Cease and Desist Notice

- a. 1 Bella Vista Island – Follow up

- b. 29 Shore Drive – upcoming filing

8. Correspondence

- a) SE 023-1329, CON 023-167: 108 Sycamore Street – Extension granted by the MassDEP

The agent will visit to ensure they are compliant with their order.

9. General Business

- a. Next scheduled site visits: January 11, 2024
- b. Next Scheduled Public Hearing Date: January 22, 2024
- c. Discuss possible (additional) meeting Tuesday, February 20, 2024
- d. Training Opportunities
All Commissioners are to complete Conflict of Interest training
- e. Storm Damage Update
The area adjacent to Fort Phoenix and Goulart Memorial Causeway were damaged in a recent storm; several impacted residents are preparing applications.

- 10. Any other business** that may properly come before the Commission not reasonably anticipated 48 hours in advance of the meeting.

11. Motion to adjourn

Jake Galary made a motion to adjourn at 8:31pm. The motion was seconded by Ronnie Medina and passed (6-0).

Jay Simmons, Chair

Fairhaven Conservation Commission

Posted by the Town Clerk: www.fairhaven-ma.gov