

Conservation Commission

Minutes

January 6, 2025

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1. **Chairman's Welcome and Media Notification:** Karen Isherwood opened the meeting at 6:00p.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.

2. **Quorum/Attendance:** Karen Isherwood, Ronnie Medina, Jake Galary, Wendy Drumm, Anthony Couto, Brandon Estrella & Carrie Hawthorne

The Chair welcomed new member, Brandon Estrella. He is happy to be a part of the Commission to offer his knowledge and learn from his fellow members.

3. **Continuances requested in advance:**

- a. **CON 023-372: 29 Silver Shell Beach Drive, Map 41, Lot 53**
- b. **SE 023-____, CON 023-387: 251 Sconticut Neck Road, Map 29, Lot 032**
- c. **SE 023-____, CON 023-480: 17 Shore Drive, Map 29C, Lots 619 & 620**
- d. **SE 023-1476, CON 023-454: 27 Silver Shell Beach Drive, Map 41, Lot 54**
- e. **SE 023-1480, CON 023-464: 67 Nakata Avenue, Map 43, Lot 100**
- f. **SE 023-1481, CON 023-465: 69 Nakata Avenue, Map 43, Lot 99**

4. **Requests for Certificates of Compliance**

- a. **SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207 – Continued to January 27, 2025**
- b. **SE 023-1308, CON 023-095: Huttleston Avenue, Map 31, Lots 115A & 117C**
Karen Isherwood made a motion to issue a Certificate of Compliance for complete certification under the WPA and the Fairhaven Wetlands Bylaw for SE 023-1308, CON 023-095: Huttleston Avenue, Map 31, Lots 115A & 117C with the following ongoing conditions CHM-2, DER-4, SW-2, SW-9, RUN-3. The following changes will be included in the Order of Conditions, as reflected in the As-Built plan: the cantilever deck for building 3 was not constructed. This issuance is contingent upon the signature of the responsible party for the long-term pollution plan. The motion was seconded by Carrie Hawthorne and passed (6-0; 1 abstention).
- c. **SE 023-1385, CON 023-279: 27 Silver Shell Beach Drive, Map 41, Lot 54 – Continued to January 27, 2025**

6. **Public Hearings** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and/or the Code of the Town of Fairhaven Chapter 192, Wetlands:

Abbreviated Notice of Resource Area Delineation

- a. **SE 023-1482, CON 023-472: Alden Road, Map 28, Lots 22B & 22D**

Abbreviated Notice of Resource Area Delineation filed by Dennis Arsenault to confirm the location and classification of wetland resource areas on the site as identified on the ANRAD plan. This application is being submitted in accordance with the Massachusetts Wetlands Protection Act and the Town of Fairhaven Wetlands Bylaw. Property located at Assessor's Map 28, Lots 22B & 22D.

Cameron Larson or ECR was available to address any concerns expressed by the Commission.

Karen Isherwood made a motion to close the public hearing for SE 023-1482, CON 023-472: Alden Road, Map 28, Lots 22B & 22D and issue an Order of Resource Area Delineation under the WPA and the Fairhaven Wetlands Bylaw, approving the Wetland Resource Area Boundary and associated flags shown on the plan titled "Wetland Delineation Plan at Alden Road," dated September 27, 2024 and prepared by Brad Holmes of ECR for applicant, Dennis Arsenault. The motion was seconded by Wendy Drumm and passed (6-0; 1 abstention).

Requests for Determination of Applicability

- b. **CON 023-463: 25 Shore Drive, Map 29C, Lot 615**

Request for Determination of Applicability filed by Judith Pacheco-Young to confirm the limits of the Coastal Beach & Coastal Dune Resource Areas are as depicted on the plan. The entire site falls within Land Subject to Coastal Storm Flowage, FEMA Flood Zones VE (El.17') & VE (El. 19') located at Assessor's Map 29C, Lot 615.

Karen Isherwood made a motion to accept the withdrawal request for CON 023-463: 25 Shore Drive, Map 29C, Lot 615. The motion was seconded by Carrie Hawthorne and passed (6-0; 1 abstention).

Notices of Intent

- c. **SE 023-1462, CON 023-430: 25 Shore Drive, Map 29C, Lots 615 & 616**

Notice of Intent filed by Young Family Trust to construct a single-family dwelling with a 10' wide crushed shell driveway on the westerly side of the house and install a shadow box privacy fence along a portion of the northerly property line. Work to take place within Coastal Beach, Coastal Dune, FEMA Flood Zone VE (El.17') at Assessor's Map 29C, Lots 615 & 616.

Carrie Hawthorne made a motion to grant the Buffer Zone variance under the Fairhaven Wetlands Bylaw, Chapter 192, for SE 023-1462, CON 023-430: 25 Shore Drive, Map 29C, Lots 615 & 616. The motion was seconded by Wendy Drumm and passed (6-0; 1 abstention).

Carrie Hawthorne made a motion to close the public hearing for SE 023-1462, CON 023-430: 25 Shore Drive, Map 29C, Lots 615 & 616 and issue an Order of Conditions outlined in Attachment A, dated January 6, 2025 with the approved plan dated December 30, 2024, under the WPA and the Fairhaven Wetlands Bylaw. The motion was seconded by Tony Couto and passed (6-0; 1 abstention).

d. SE 023-1490, CON 023-478: 110 Middle Street, Map 11, Lot 2

Notice of Intent filed by Uday Patel to repair a portion of an existing parking lot. Approximately 2,730 sq. ft. of existing pavement will be removed to a depth of 12" below existing grade and as required to remove unsuitable material. Work to take place within Land Subject to Coastal Zone Flowage, FEMA Flood Zone AE (El.6') at Assessor's Map 11, Lot 2.

Carrie Hawthorne made a motion to grant the Buffer Zone variance under the Fairhaven Wetlands Bylaw, Chapter 192, for SE 023-1490, CON 023-478: 110 Middle Street, Map 11, Lot 2. The motion was seconded by Wendy Drumm and passed (6-0, 1 abstention).

Karen Isherwood made a motion to close the public hearing for SE 023-1490, CON 023-478: 110 Middle Street, Map 11, Lot 2 approving "Plan to Accompany Notice Intent" dated November 6, 2024 and issue an Order of Conditions outlined in Attachment A, dated January 6, 2025, under the WPA and the bylaw. The motion was seconded by Carrie Hawthorne and passed (6-0, 1 abstention).

Robert Rogers of GAF Engineering questioned the applicability of the town stormwater bylaw. This project does not fall within the purview of the stormwater bylaw, since there is no connection to the municipal stormwater system; the catch basin is independent and not connected to the Bridge Street drainage system. Mr. Rogers requested that condition 6, under Findings, Plans & Documents be removed from Attachment A.

Karen Isherwood rescinded the motion to close SE 023-1490, CON 023-478: 110 Middle Street, Map 11, Lot 2.

Karen Isherwood made a motion to close the public hearing for SE 023-1490, CON 023-478: 110 Middle Street, Map 11, Lot 2, approving the plan dated November 6, 2024 and issue an Order of Conditions outlined in Attachment A dated January 6, 2025, under WPA and Fairhaven Wetlands Bylaw. The motion was seconded by Carrie Hawthorne and passed (6-0; 1 abstention).

e. SE 023-1491, CON 023-479: 11 Delmont Street, Map 28B, Lot 715

Notice of Intent filed by Mark Blouin to construct a new 28'x28' garage, replace existing gravel driveway & walkways with proposed shells, and Buffer Zone enhancement. Work to take place within the Buffer Zone to Bordering Vegetated Wetlands and Land Subject to Coastal Storm Flowage, FEMA Flood Zone VE (El.16') at Assessor's Map 28B, Lot 715.

Peter Cruz from CAB Engineering represented the applicant and agreed with the proposed conditions.

Residents in favor:

Catherine Hanley of 239 Sconticut Neck Road

Dana Morris of 243 Sconticut Neck Road

Carrie Hawthorne made a motion to grant the Buffer Zone variance under Chapter 192 for SE 023-1491, CON 023-479: 11 Delmont Street, Map 28B, Lot 715. The motion was seconded by Jake Galary and passed (6-0; 1 abstention).

Carrie Hawthorne made a motion to close the public hearing for SE 023-1491, CON 023-479: 11 Delmont Street, Map 28B, Lot 715 approving "Proposed Site Plan" dated November 20, 2024, revised December 11, 2024 and issue an Order of Conditions outlined in Attachment A, dated January 6, 2025 (Revision 3), under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw. The motion was seconded by Tony Couto and passed (6-0; 1 abstention).

7. Violations/Enforcement Orders/Cease and Desist Notices

- a. **EO 023-019 & 023-020: 6 & 8 Jeannette Street, Map 34A, Lots 62K & 62P:** Agent to provide update on 7-29-2024 site visit with Attorney Marsh and Steven Chmiel; Zenith Land Surveyors provided revised replication plan dated January 6, 2025. Applicant and applicant's representative is requesting special conditions and approval of the replication plan.
- b. **EO 023-022: 344-346 New Boston Road, Map 40, Lots 023B & 023C:** Violation notices have been sent to EO recipients; fines mailed out to EO recipients; Magistrate's hearing at New Bedford District Court on November 26, 2024. Next scheduled court date – March 11, 2025.
- c. **EO 023-014: 20 Yankee Lane, Map 39, Lot 16:** Agent to provide updates on phases 1 & 2 and correspondence with the peer reviewer; proposal for Phases 3,4 & 5 submitted. Proposal was agreed upon and signed by Bruce Webb on October 22, 2024.
- d. **SE 023-309, 023-1101, 023-1127, 023-1161: 1 Bella Vista, Map 43B, Lot 326, 359 & 360:** Provide updates on monitoring efforts. Site Visit to be conducted in Spring 2025.
- e. **SE 023-1296, CON 023-307: Alves Way, Map 28, Lot 24:** The developer WAS notified July 2024 of the Operation and Maintenance Plan and monitoring requirements, in accordance with the issued Army Corps of Engineers General Stormwater Permit; office waiting on COC applications.
- f. **28 Whisper Lane, Map 42A, Lot 178:** Unpermitted clearing in Buffer Zone to Salt Marsh/LSCSF; in process of scheduling site visit.
- g. **364 Huttleston Avenue, Map 34A, Lot 22:** Cease & Desist issued July 20, 2024 for unpermitted work in the Buffer Zone to Bordering Vegetated Wetland; owner in process of filing with the office.
- h. **59 Reservation Road, Map 29B, Lot 59:** Verbal Cease & Desist on July 22, 2024 for unpermitted work in the Buffer Zone to Bordering Vegetated Wetland, Coastal Dune, and VE (EI.20'). Owner to file spring 2025.
- i. **SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207:** Noncompliance with OOC; Restoration plan prepared by Richard Charon, dated January 3, 2025.
- j. **51 Cedar, Map 4, Lot 155:** Unpermitted clearing in the BVW; wetland restoration report submitted November 5, 2024, prepared by Stephen Chmiel. Site Visit to be conducted
- k. **4 Bluepoint Road, Map 43B, Lot 30:** Unpermitted concrete wall; Letter sent to owner on December 19, 2024 and correspondence has taken place regarding a meeting to discuss the permitting process.

Owner, Eric Dawicki, presented clarification on the Building and Coastal Zone Floodplain permit requirements for a non-contiguous wall. Building Commissioner, Richard Forand, reviewed the documentation prepared by the Center for Ocean Policy & Economics (COPE) and concurred with the information presented.

The Commission requested a site visit to get a better understanding of where the wall is located. Land Use Director, Bruce Webb, suggested the Commission make a motion at the next meeting to officially acknowledge and approve the wall.

- l. 156 Balsam Street, Map 43B, Lot 20:** Unpermitted shed; Letter sent to owner on December 19, 2024. Site Visit to take place on January 16, 2025.
- m. 29 Shore Drive, Map 29C, Lot 613:** Owner has completed the RDA application for the January 27, 2025 public hearing.

8. General Business

- a.** Next scheduled site visits: **January 16, 2025**
- b.** Next Scheduled Public Hearing Date: **January 27, 2025**

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

10. Motion to adjourn

Karen Isherwood, Chair

Fairhaven Conservation Commission

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