

**Conservation Commission**  
**October 21, 2024**

FAIRHAVEN TOWN CLERK  
ROD 2024 NOV 18 AM 11:12

1. **Chairman's Welcome and Media Notification:** Karen Isherwood opened the meeting at 7:00p.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, Erik Baumann, Jake Galary, Wendy Drumm & Anthony Couto  
**Absent:** Carrie Hawthorne

3. Approval of the October 7, 2024 minutes tabled to the November 4, 2024 meeting.

4. Continuances requested in advance:

- a. **CON 023-372: 29 Silver Shell Beach Drive, Map 41, Lot 53**
- b. **SE 023-1462, CON 023-430: 25 Shore Drive, Map 29C, Lots 615 & 616**
- c. **SE 023-1384, CON 023-277: 39 Nelson Avenue, Map 43, Lot 224**
- d. **SE 023-1308, CON 023-095: Huttleston Avenue, Map 31, Lots 115A & 117C**

5. **Requests for Certificates of Compliance**

- a. **SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207**  
- Continued to the November 4, 2024 meeting

- b. **SE 023-1385, CON 023-279: 27 Silver Shell Beach Drive, Map 41, Lot 54**  
- Continued to the November 4, 2024 meeting

- c. **SE 023-1373, CON 023-260: 182 Ebony Street, Map 43B, Lot 260, 262, 264, 266, 268**  
Dave Davignon of Schneider, Davignon & Leone represented Enrico & Linda Picozza and gave a brief overview of the project, which consisted of demolition and construction of a single-family dwelling. The two project deviations from the plan of record included omitting the proposed staircase on the easterly side of the house and the addition of two propane tanks installed along the easterly side of the house within the same footprint of the deck.

Structural design engineer, Richard Charon, submitted a letter to the Building Commissioner confirming the inspection of the breakaway walls and confirmed conformance with FEMA requirements in TB-9, including non-breakaway sections at gas piping. The letter also indicated construction was in conformance to the approved foundation plans.

Karen Isherwood questioned the propane tank and FEMA requirements.

Dave Davignon stated they were approved by the fire chief. FEMA suggests that they not to be installed above ground, but there is nothing written in the WPA stating this cannot be approved.

To place the tank underground, trees would need to be removed, which would create more disturbance. Mr. Davignon confirmed that the tanks across the street have similar design and comply with storm damage protection. Historically the Commission has not allowed above-ground tanks, but there are no regulations that prohibit the design.

**Action:** Kelly Camara to reach out to FEMA, DEP, and the Building Commissioner for advice on permissible propane tanks in Land Subject to Coastal Storm Flowage.

Karen Isherwood made a motion to continue SE 023-1373, CON 023-260: 182 Ebony Street, Map 43B, Lots 260, 262, 264, 266, 268 to the November 4, 2024 meeting at the applicant's request. The motion was seconded by Wendy Drumm and passed (6-0).

**d. SE 023-1302, CON 019-066: 6 Emerson Avenue, Map 29A, Lot 119-122**

James Marsh representing Natalie Reis with Jamie Bissonnette from Zenith Consulting.

Karen Isherwood made a motion to lift the Cease and Desist issued on January 29, 2021 and to lift the Enforcement Order issued on July 19, 2021, for failure to comply with conditions associated with the project permitted under SE 023-1302, CON 019-066: 6 Emerson Avenue, Map 29A, Lots 119-122. The motion was seconded by Jake Galary and passed (6-0).

Karen Isherwood made a motion to issue a Certificate of Compliance for a partial certification under the Wetlands Protection Act and Fairhaven Wetlands Bylaw for SE 023-1302, CON 019-066: 6 Emerson Avenue, Map 29A, Lots 119-122. The following work is subject to this partial certification that has been completed and is released from the order: (1) 24'x30' garage with an increase to 30.19'x24.29'; (2) the 12'x16' breezeway with an increase to 17.17'x19.7' and a 6'x6' bump out, (3) the 36'x15' flagstone patio with a new walkway was increased; and (3) the removal of the concrete pavement, with the following ongoing conditions, CHM-2, DER-4, and Section D condition number 52 as listed in the order of conditions. The motion was seconded by Jake Galary and passed (6-0).

**e. SE 023-1359, CON 023-232: 240 Alden Road, Map 23, Lots 175A & 175E**

John Palmieri represented Jeff White; the proposed work was never completed or started but the order has expired. The applicant is now required to close out the order so they may be issued a new Order of Conditions.

Karen Isherwood made a motion to issue a Certificate of Compliance for an invalid Order of Conditions under the Wetlands Protection Act and Fairhaven Wetlands Bylaw for SE 023-1359, CON 023-232: 240 Alden Road, Map 23, Lots 175A & 175E. The motion was seconded by Wendy Drumm and passed (6-0).

**f. SE 023-369: 35 Nakata Avenue, Map 43, Lot 115**

Attorney, Andrew Garcia, represented the owner and stated the approved plan was dated January 2, 1992.

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 023-369: 35 Nakata Avenue, Map 43, Lot 115. The motion was seconded by Jake Galary and passed (6-0).

**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:

**Requests for Determination of Applicability**

**a. 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.

Dave Davignon met with CZM and Conservation Staff on October 18, 2024 and all parties agreed for two additional transects and a profile for each; this will be depicted on a revised plan. Mr. Davignon requested permission for a mini excavator to conduct test holes no more than the width of a bucket to determine areas of Coastal Dune.

Karen Isherwood made a motion to allow test pits to establish a transect to identify the boundary of the coastal dune. The motion was seconded by Jake Galary and passed (6-0).

Karen Isherwood made a motion to continue CON 023-463: 25 Shore Drive, Map 29C, Lot 615 to the November 4, 2024 meeting at the applicant's request. The motion was seconded by Wendy Drumm and passed (6-0).

**b. CON 023-467: 10 Littleneck Road, Map 43A, Lot 86**

Request for Determination of Applicability filed by Paul Federico to construct a cobblestone apron (no concrete). Work to take place in Land Subject to Coastal Storm Flowage, FEMA Flood Zone AE (El. 14') at Assessor's Map 43A, Lot 086.

Karen Isherwood made a motion to close the public hearing for CON 023-467: 10 Littleneck Road, Map 43A, Lot 086, and issue a Negative Determination 3 and 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**

**c. SE 023-1391, CON 023-291: Bridge Street, Map 36, Lot 15J**

Notice of Intent filed by Fairhaven Properties, LLC to redevelop the site into a two-building self-storage facility. Development includes landscaping, as well as stormwater and utility infrastructure improvements. A portion of the proposed work is located within 100 feet of a wetland resource area, previously delineated and approved under an Order of Resource Area Determination (ORAD), issued in January 2022. Work located at Assessor's Map 36, Lot 15J.

*SE 023-1391, CON 023-291: Bridge Street, Map 36, Lot 15J continued to November 4, 2024*

**d. SE 023-1423, CON 023-364: Bridge Street, Map 30A, Lots 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 within 100 feet of a wetland resource area at Assessor's Map 30A, Lots 87 & 87A.

*SE 023-1423, CON 023-364: Bridge Street, Map 30A, Lots 87 & 87A to be continued to November 4, 2024*

**e. SE 023-1436, CON 023-390: 6 Emerson Avenue, Map 29A, Lots 119-122**

An after-the-fact Notice of Intent filed by Natalie Reis for the construction of 12'x16' breezeway between the house and garage, an outdoor shower (approximately 70' from the limit of Coastal Beach and in Land Subject to Coastal Storm Flowage (LSCSF), capping the existing stonewall, an outdoor fireplace, a 36'x15' flagstone patio area with new walkways to beach, artificial turf area, regrading, and a gravel driveway larger than proposed on original plan. Work to take place within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 16'), and work has occurred in Coastal Beach, Barrier Beach, and possibly the Marsh, located at Assessor's Map 29A, Lots 119-122.

*SE 023-1436, CON 023-390: 6 Emerson Avenue, Map 29A, Lots 119-122 to be continued to November 4, 2024*

**f. SE 023-1474, CON 023-412: 21 Goulart Memorial Drive, Map 42, Lot 22**

Notice of Intent filed by David & Jayne Lynch to redeposit sand that migrated during a storm and place crushed shell on the driveway. Proposing to install 165 ft. of dune fencing on the southeast side of the driveway. Work to take place within Barrier Beach, Coastal Dune, riverfront, and FEMA Flood Zone VE (El. 20') at Assessor's Map 42, Lot 22.

*SE 023-1474, CON 023-412: 21 Goulart Memorial Drive, Map 42, Lot 22 to be continued to November 4, 2024*

**g. SE 023-1464, CON 023-424: 23 Eaton Road, Map 29B, Lot 110**

Notice of Intent filed by Michael & Hayden Linley to raze existing house and construct a new residence on FEMA Flood Zone compliant foundation, sewer & water connections and associated site work. Work to take place within Coastal Dune, Barrier Beach, Coastal Beach, BVW, Land Subject to Coastal Storm Flowage and FEMA Flood Zone VE (El. 20') at Assessor's Map 29B, Lot 110.

*SE 023-1464, CON 023-424: 23 Eaton Road, Map 29B, Lot 110 to be continued to November 4, 2024*

**h. SE 023-\_\_\_\_, CON 023-387: 251 Sconticut Neck Road, Map 29, Lot 032**

Notice of Intent filed by Robert Faria for an after-the-fact shed within FEMA Flood Zone AE (EL.16') located at Assessor's Map 29, Lot 032.

Karen Isherwood made a motion to continue CON 023-387: 251 Sconticut Neck Road, Map 29, Lot 32 to the November 4, 2024 meeting, due to lack of a Mass DEP# and lack of information. The motion was seconded by Wendy Drumm and passed (6-0).

**i. SE 023-1476, CON 023-454: 27 Silver Shell Beach Drive, Map 41, Lot 54**

Notice of Intent filed by Nancy Blouin to place u-shaped driveway in front yard with a garden in the center. Work to take place in Land Subject to Coastal Storm Flowage, FEMA Flood Zone VE (El.19'), Buffer to Coastal Dune and Buffer to Coastal Beach at Assessor's Map 41, Lot 54.

*SE 023-1476, CON 023-454: 27 Silver Shell Beach Drive, Map 41, Lot 54 continued in advance to the November 4, 2024 public hearing.*

**j. SE 023-1480, CON 023-464: 67 Nakata Avenue, Map 43, Lot 100**

Notice of Intent filed by Joseph Dupre to excavate, grade area at seawall & install 90' x 10' x 6" concrete slab with pitch; slab to be poured on top of existing sea wall. Lot falls within Land Subject to Coastal Storm Flowage, FEMA Flood Zone VE (El. 19'), Buffer Zone to BVW and Coastal Beach at Assessor's Map 43, Lot 100.

Karen Isherwood made a motion to continue SE 023-1480, CON 023-464: 67 Nakata Avenue, Map 43, Lot 100 to the November 4, 2024 meeting at the applicant's request. The motion was seconded by seconded by Jake Galary and passed (6-0).

**k. SE 023-1481, CON 023-465: 69 Nakata Avenue, Map 43, Lot 99**

Notice of Intent filed by Joseph Dupre to excavate, grade area at seawall & install 90' x 10' x 6" concrete slab with pitch; slab to be poured on top of existing sea wall. Lot falls within Land Subject to Coastal Storm Flowage, FEMA Flood Zone VE (El.19'), Buffer Zone to BVW and Coastal Beach at Assessor's Map 43, Lot 99.

Karen Isherwood made a motion to continue SE 023-1481, CON 023-465: 69 Nakata Avenue, Map 43, Lot 99 to the November 4, 2024 meeting at the applicant's request. The motion was seconded by Jake Galary and passed (6-0).

**l. SE 023-1478, CON 023-466: Starboard Drive, Map 42, Portion of 9A, Subdivision Lot #1.**

Notice of Intent request filed by John Mathieu to allow the placement of an on-site septic system. The applicant is proposing to install a 1,300-gallon septic tank with a denitrification system, a 1,000-gallon pump chamber and raised Eljien In-drain chamber pressure dosed leaching area. The lot falls within Land Subject to Coastal Storm Flowage, Flood Zone VE (El.17' & El.19') and does not have any other resource areas on it or within 100 feet at Assessor's Map 42, Portion of 9A, Subdivision Lot #1.

Karen Isherwood made a motion to close the public hearing for SE 023-1478, CON 023-466: Starboard Drive, Map 42, Portion of Lot 9A, Subdivision Lot #1, approving the plan titled "Site Plan Subdivision Lot #1 at Starboard Drive Estates, Sheets 1 and 2, dated February 8, 2024, revised September 16, 2024, and issue an Order of Conditions outlined in Attachment A dated

October 21, 2024, under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw. The motion was seconded by Jake Galary and passed (5-0; 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 plan to accompany RDA.

Attorney, James Marsh, stated there were concerns raised onsite. He submitted changes to the engineer and is hopeful to have revised plans by the November 4, 2024 meeting.

- b. **EO 023-022: 344-346 New Boston Road, Map 40, Lots 23B & 23C:** Violations notices have been sent to EO recipients; fines mailed out to EO recipients.

Karen Isherwood made a motion to put a stay on the \$300.00 a day fines and for the office to reach out to the Department of Environmental Protection for further guidance for 344-346 New Boston Road, Map 40, Lots 23B & 23C in regards to the Enforcement Order 023-022. The motion was seconded by Wendy Drumm and passed (6-0).

- c. **17 Diamond Street, Map 29, Lot 45:** Unpermitted clearing in the Buffer Zone to Land Subject to Coastal Storm Flowage (LSCSF) – Notice of Violation sent May 2024; Update on EO sent October 2024.

- d. **EO 023-014: 20 Yankee Lane, Map 39, Lot 16:** Agent to provide updates on phases 1 & 2 and correspondence with the peer reviewer; Discuss proposal from BSC Group dated September 4, 2024 for phases 3, 4, and 5.

Karen Isherwood made a motion to accept the proposal by BSC Group for phases 3, 4, and 5. The motion was seconded by Wendy Drumm and passed (6-0).

- e. **SE 023-309, 023-1101, 023-1127, 023-1161: 1 Bella Vista, Map 43B, Lots 326, 359 & 360:** Updates on monitoring efforts

**Action:** Reach out to Rich Rheaume for a site visit.

- f. **20 Bass Creek Road, Map 43C, Lot 403:** Unpermitted vegetative clearing in the Buffer Zone to the Bordering Vegetated Wetlands.

The owner expressed concerns regarding privacy.

- g. **SE 023-1296, CON 023-307: Alves Way, Map 28, Lot 24:** The developer has been notified in July of the Operation and Maintenance Plan and monitoring requirements in accordance with the issued Army Corps of Engineers General Stormwater Permit.

Bruce Webb confirmed with the Highway Department that they are responsible for stormwater maintenance.

- h. **EO 023-017: 29 Mangham Way, Map 31A, Lots 300 & 300A:** Last site visit conducted October 2, 2024

Plan another site visit before the November 4, 2024 meeting.

- i. **19 Hacker Street, Map 28A, Lot 132:** Notice of Violation and letter to appear was sent out August 2024.

- j. **28 Whisper Lane, Map 42A, Lot 178:** Unpermitted clearing in Buffer Zone to Salt Marsh/LSCSF; in process of scheduling site visit.

Working with the owner on scheduling a site visit.

- k. **364 Huttleston Avenue, Map 34A, Lot 22:** Cease & Desist issued July 20, 2024 for unpermitted work in the Buffer Zone to Bordering Vegetated Wetland

Staff to reach out to the owner on application progress.

- l. **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 (El.20').

Owner will file in Spring 2025.

- n. **SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207:** Noncompliant with the OOC.

#### 8. General Business

- a. Discuss next site visit date: Monday the 28<sup>th</sup>
- b. Next Scheduled Public Hearing Date: November 4, 2024
- c. Discuss recent department personnel changes and review staff roles, responsibilities, and goals.
- d. Discuss proposed 2025 schedule for meetings, site visits, and application deadlines.

- 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 made a motion to adjourn at 9:25pm. The motion was seconded by Jake Galary and passed (6-0).

**Karen Isherwood, Chair**

Fairhaven Conservation Commission

Posted by the Town Clerk: [www.fairhaven-ma.gov](http://www.fairhaven-ma.gov)