

Conservation Commission

Minutes

December 2, 2024

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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 & Carrie Hawthorne
- 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 023-1462, CON 023-430: 25 Shore Drive, Map 29C, Lots 615 & 616**
 - d. **SE 023-1480, CON 023-464: 67 Nakata Avenue, Map 43, Lot 100**
 - e. **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**

Rick Charon spoke on behalf of his client, Mr. Albuquerque and explained how recent storms disrupted the beach and shore line. The owner has engaged an additional consultant, Rich Rheaume of Prime Engineering, Inc. to assist in the restoration plan to rearrange all stones and rip rap. Data indicated 1 foot to 1.5 feet of sand has washed out of the beach. Prime Engineering is now gathering data on what rocks were relocated on the beach.

Carrie Hawthorne made a motion to continue SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207 to the January 6, 2024 meeting at the applicant's request. The motion was seconded by Wendy Drumm and passed (5-0).
 - b. **SE 023-1308, CON 023-095: Huttleston Avenue, Map 31, Lot 115A & 117C – Continued to January 6, 2025**
 - c. **SE 023-1385, CON 023-279: 27 Silver Shell Beach Drive, Map 41, Lot 54**

Carrie Hawthorne made a motion to continue SE 023-1385, CON 023-279: 27 Silver Shell Beach Drive, Map 41, Lot 54 to the January 6, 2025 meeting for lack of information. The motion was seconded by Jake Galary and passed (5-0).

d. SE 023-53: 10 Wilbur's Point Drive, Map 43, Lots 81, 82 & 83

Karen Isherwood made a motion for a Complete Certificate of Compliance for SE 023-53: 10 Wilbur's Point Drive, Map 43, Lots 81, 82 & 83, under the WPA and the Fairhaven Wetlands Bylaw. The motion was seconded by Tony Couto and passed (5-0).

5. Issue Order of Conditions

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

Carrie Hawthorne made a motion to grant the Buffer Zone Variance request under Chapter 192 for SE 023-1464, CON 023-424: 23 Eaton Road, Map 29B, Lot 110. The motion was seconded by Wendy Drumm and passed (5-0).

Carrie Hawthorne made a motion to approve the plan titled "Plan of Site – Proposed House & Utilities" (L-1), with the revised date of November 15, 2024 and "Plan of Site – Proposed House & Utilities Sheet" (L-2), with the revised date of September 16, 2024, and issue an Order of Conditions outlined in Attachment A dated November 30, 2024, under the WPA and the Fairhaven Wetlands Bylaw for SE 023-1464, CON 023-424: 23 Eaton Road, Map 29B, Lot 110. The motion was seconded by Wendy Drumm and passed (5-0).

e. SE 023-1486, CON 023-475: 164 Main Street, Map 12, Lot 7

Carrie Hawthorne made a motion to approve the plan titled "Seawall Improvement Plan," dated October 23, 2024 and issue an Order of Conditions outlined in Attachment A dated November 29, 2024, under the WPA and the Fairhaven Wetlands Bylaw for SE 023-1486, CON 475: 164 Main Street, Map 12, Lot 7. The motion was seconded by Wendy Drumm and passed (5-0).

f. SE 023-1488, CON 023-471: 167 Balsam Street, Map 43B, Lot 133

Carrie Hawthorne made a motion to approve the site plan with the revised date of November 18, 2024 and issue an Order of Conditions outlined in Attachment A dated December 2, 2024, under the WPA and the Fairhaven Wetlands Bylaw for SE 023-1488, CON 023-471: 167 Balsam Street, Map 43B, Lot 133. The motion was seconded by Jake Galary and passed (5-0).

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:

Abbreviated Notice of Resource Area Delineation

a. SE 023-1482, CON 023-472: Alden Road, Map 28, Lot 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, Lot 22B.

– SE 023-1482, CON 023-472: Alden Road, Map 28, Lot 22B & 22D continued to January 6, 2024

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 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.

The Commission and staff visited the property in October with Coastal Zone Management to discuss the Coastal Dune. Mr. Davignon discussed the fine limits of the Coastal Beach and Coastal Dune and presented his revised plan dated November 11, 2024, which reflects 14 test pits conducted by ECR.

(40:00) Stan Humphries, Coastal Geologist, concludes that the proposed area of work consists of glacial till. In his opinion, sediments have migrated over glacial deposits; merely a veneer that does not function as a Coastal Dune.

(48:50) Owner, Judith Young spoke to the Commission regarding her proposal for construction.

Commission members wanted to wait for a written review of the test pits by CZM.

Carrie Hawthorne made a motion to continue CON 023-463: 25 Shore Drive, Map 29C, Lot 615 to the January 6, 2025 public hearing at the applicant's request. The motion was seconded by Tony Couto and passed (5-0).

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.

(31:40) Steve Gioiosa gave a final overview of project and recent changes, based on peer review reports.

Karen Isherwood made a motion to close the public hearing for SE 023-1391, CON 023-291: Bridge Street, Map 36, Lot 15J and issue an OOC subject to findings and special conditions as stipulated in Attachment A, dated December 1, 2024, pursuant to the WPA and the Fairhaven Wetlands Bylaw. The motion was seconded by Carrie Hawthorne and passed (4-0; 1 abstention).

d. 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.

Carrie Hawthorne made a motion to continue SE 023-1476, CON 023-454: 27 Silver Shell Beach Drive, Map 41, Lot 54 to the January 6, 2025 public hearing due to lack of representation. The motion was seconded by Karen Isherwood and passed (5-0).

e. 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.

(55:50) Robert Rogers of G.A.F. Engineering presented the project that proposes repairs to a portion of the parking lot on the south side of Bridge Street. The renovations will include vegetative remediation, between the beach and the existing parking lot, and the installation of granite curbing to channel runoff to the vegetative buffer strip.

Carrie Hawthorne made a motion to continue SE 023-1490, CON 023-478: 110 Middle Street, Map 11, Lot 2 to the January 6, 2024 public hearing at the applicant's request. The motion was seconded by Tony Couto and passed (5-0).

f. SE 023-____, 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.

(1:06:53) Peter Cruz from CAB Engineering Solutions presented the project to allow time for feedback from the Commission by the next meeting. A portion of the proposed garage will fall within the 50-foot Buffer Zone. The applicant is requesting a Buffer Zone variance request under Chapter 192, Section 5.1 & 5.4. Alternatives to move away from the 50-foot Buffer Zone were analyzed, but they encountered site constraints: the east side contains underground utilities; the south side contains the existing dwelling; and the west and north sides contain the BVW. There will be no negative impacts to private water supplies of groundwater.

Carrie Hawthorne made a motion to continue SE 023-____, CON 023-479: 11 Delmont Street, Map 28B, Lot 715 due to lack of a DEP file number. The motion was seconded by Jake Galary and passed (5-0).

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.

Karen Isherwood requested a revised plan to be titled "plan to accompany a restoration order."

- b. EO 023-022: 344-346 New Boston Road, Map 40, Lots 023B & 023C:** Violations notices have been sent to EO recipients; fines mailed out to EO recipients; Magistrate's hearing November 26, 2024.

Bruce Webb, Christian Farland, Chris Gilbert, and Patrick Mullen appeared at New Bedford District Court to update the magistrate on the reasoning for the issued fines. The matter was continued to March 11, 2025, in hopes that the parties come to an agreement.

- 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; EO sent October 2024. Owner reached out for site visit.

Staff met with the owners onsite on November 27, 2024; the owners have hired SITEC for a delineation.

Karen Isherwood made a motion to lift the EO sent May 2024 for 17 Diamond Street, Map 29, Lot 45. The motion was seconded by Carrie Hawthorne and passed (5-0).

- 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; proposal for Phases 3,4 & 5 submitted. Proposal was agreed upon and signed by Bruce Webb on October 22, 2024.

Bruce sent an email to the owner, Brian Lopes, and requested that he contact Goddard Consulting.

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

The Commission would like a site visit in the Spring.

- f. **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.

The office is still waiting on COC applications.

- g. **EO 023-017: 29 Mangham Way, Map 31A, Lots 300 & 300A:** Site visit conducted October 2, 2024; Site visit conducted on November 25, 2024.

The Commission conducted a site visit and determined the vegetation is in good condition.

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

Staff is working with the owners to coordinate a site visit.

- i. **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.

The property owner would like to file in the spring.

- j. **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 to file spring 2025.

The property owner would like to file in the spring.

- k. **SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207:** Noncompliance with OOC; waiting on restoration plan.

December 16, 2024 – Commission will conduct a site visit with Rick Charon to discuss the current restoration plan.

- l. **51 Cedar, Map 4, Lot 155:** Unpermitted clearing in the BVW; wetland restoration report submitted November 5, 2024, prepared by Stephen Chmiel.

Restoration plan has been made available to the Commission.

8. General Business

- a. Next scheduled site visits: December 16, 2024
- b. Next Scheduled Public Hearing Date: January 6, 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 made a motion to adjourn at 7:36pm. The motion was seconded by Carrie Hawthorne and passed (5-0).

Karen Isherwood, Chair

Fairhaven Conservation Commission

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