

**Conservation Commission**  
**January 30, 2023**  
**Minutes**

1. Chairman's Welcome and Media Notification: Mr. Haworth opened the meeting at 6:00p.m. Mr. Haworth read the protocol for Zoom meetings and open Public Meeting Law.

Mr. Haworth advised that the meeting was being conducted remotely, consistent with Chapter 22 of the Acts of 2022. The legislation suspends the requirement of Open Meeting Law to have all meetings in a publicly accessible physical location.

For this meeting, the Conservation Commission convened by telephone and video conference via Zoom as posted on the Town's website identifying how the public may join. The meeting was recorded and will be televised at a later date; some attendees participated by phone and video conference and used chat on Zoom.

2. Quorum/Attendance: Geoff Haworth, Karen Isherwood, Gary Lavalette, Amy DeSalvatore, Michael Kelly, Jake Galary, Corey Pietrasek. Non-voting: Carrie Hawthorne, Chelsea Isherwood, Ronnie Medina

3. Response to Open Meeting Violation – Nancy Blouin: 27 Silver Shell Drive

Karen Isherwood read her response to the alleged violation of June 14, 2022. Ms. Isherwood asserts that after her thorough examination of the Conservation meeting on June 14, 2022, she was unable to identify any violations of the Open Meeting Law, including the alleged text message she has been accused of sending to the Chair, Geoffrey Haworth. This violation was sent to the Conservation office via email on September 21, 2022. Ms. Isherwood stated she was informed of the violation on January 17, 2023.

4. Approval of the November 7, 2022, November 21, 2022 and December 12, 2022 meeting minutes

Karen Isherwood made a motion to amend the November 7, 2022 meeting minutes with the following amendment: strike item D, page 4 from the record, which includes the two motions made in paragraph 3 and 4. The motion was seconded by Michael Kelly and passed via roll call vote (6-0).

Karen Isherwood made a motion to approve the November 21, 2022 meeting minutes. The motion was seconded by Amy DeSalvatore and passed via roll call vote (6-0).

Karen Isherwood made a motion to approve the December 12, 2022 meeting minutes. The motion was seconded by Amy DeSalvatore and passed via roll call vote (6-0).

5. Continuances requested in advance

- a. SE 023-1389, CON 023-284: **Ebony Street, Assessor's Map 43C, Lots 389-400**
- b. SE 023-1391, CON 023-291: **Bridge Street, Map 36, Lot 15J**
- c. SE 023-1398, CON 023-315: **2 Starboard Drive, Map 42, Lots 9A, 9D, & 9E**
- d. SE 023-1385, CON 023-279: **27 Silver Shell Beach Drive, Map 41, Lot 54**

6. Meeting with Town Counsel in Executive Session Pursuant to Massachusetts General Laws, Chapter 30A, Sections 21(a)(3) to discuss strategy with respect to litigation, Morin v. Fairhaven, et al., 2173CV0374 (Bristol Superior Ct.).

Geoff Haworth closed the public hearing and was seconded by Amy Desalvatore. The motion passed with majority vote (5-0).

Geoff Haworth called the meeting to order at 6:55p.m. from Executive Session to Open Session and took roll call attendance; Jake Galary was absent.

7. **Certificates of Compliance**

- a. **SE 023-1008, CON 023-325:** 267 Huttleston Avenue, Map 31B, Lots 302, 302A, 302C  
The work had lapsed and looking to close out the 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 the Fairhaven Wetlands Bylaw for SE 023-1008, CON 023-325, 267 Huttleston Avenue, Map 31B, Lots 302, 302A, 302C. The motion was seconded by Amy DeSalvatore and passed unanimously via roll call vote (6-0).

- b. **SE 023-1305, CON 023-079:** 88 Fort Street, Map 5, Lot 4 & 5

Geoff Haworth inspected this seawall and any associated work. Mr. Haworth found damage to the adjacent wall and a hole that allows water to enter into the neighbor's yard. This has been causing erosion and undermining the adjacent seawall. Mr. Haworth also noted dirt and debris along the makeshift retaining wall.

Mr. Haworth suggested 88 Fort Street to be continued to the February 21, 2023 meeting.

- c. **SE 023-1294, CON 019-042:** 9 Goulart Memorial Drive, Map 42, Lot 15G

Karen Isherwood made a motion to issue a Certificate of Compliance for Complete Certification under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw for SE 023-1294, CON 019-042, 9 Goulart Memorial Drive Map 42, Lot 15G, with one ongoing condition: (Item R) as listed in the Order of Conditions, which states if any of the plantings should fail to establish, the Conservation Commission reserves the right to require additional plantings. The motion was seconded by Gary Lavalette and passed via roll call vote (6-0).

8. Request from owner, Mary Mullen, to move EO 023-022: 344 & 346 New Boston Rd, Map 40, Lots 023B & 023C up on the agenda
9. **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:
  - A. **SE 023-1389, CON 023-284: Ebony Street, Assessor's Map 43C, Lots 389-400 – Continued from August 8, 2022**  
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.

**Requests for Determination of Applicability****B. CON 023-333: 38 Reservation Road, Map 29A, Lot 235**

Request for Determination of Applicability filed by Michael Mikitarian to perform maintenance on the seawall consisting of filling the voids with small stones and mortar, at the property located at 38 Reservation Road, Assessor's Map 29A, Lot 235. All work to take place with Coastal Beach and Coastal Bank and falls within Land Subject to Coastal Storm Flowage, FEMA Zone VE, EL.16' & 19'.

Dave Davignon of Scheider, Davignon & Leone presented the project, which consists of filling in voids to provide additional protection to the home's integrity. The concrete patio retains the site. The wall will be accessed via the existing patio in order to bring in stone by wheelbarrow. The construction methodology is detailed on the plans and has indicated that machinery is not proposed in the project; therefore, the proposed maintenance did not rise to the level of a NOI

Karen Isherwood made a motion to close the public hearing for CON 023-333, 38 Reservation Road, Map 29A, Lot 235 and issue a Positive 2B Determination for Coastal Beach, Coastal Bank, and Land Subject to Coastal Storm Flowage (LSCSF) and a Negative 2, for work described in the plan Dated December 2, 2022, and a Negative Determination 6 with the added CAP-3 condition and that all work shall comply with local, state, and Federal Flood Zone regulations under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw. The motion was seconded by Amy DeSalvatore and passed via roll call vote (6-0).

**C. CON 023-334: 157 Balsam Street**

Request for Determination of Applicability filed by Donna Olney to replace existing gravel driveway measuring 40 feet by 13 feet with a concrete driveway to remain within the footprint of the present driveway, at the property located at 157 Balsam Street, Assessor's Map 43B, Lot 121. Work to take place within Land Subject to Coastal Storm Flowage (LSCSF).

Attorney, Anne Gundersen represented 159 Balsam Street. The neighboring property has concerns that the driveway is encroaching on their property.

Geoff Haworth stated the Commission does not consider property disputes. This is a civil matter not to be handled by the Commission.

Karen Isherwood made a motion to close the public hearing for CON 023-334, 157 Balsam Street and issue a Negative 2 for work described in the staff report dated January 24, 2023 and a Negative 6 Determination with the added CAP-3 condition, and that all work must comply with local, state, and Federal Flood Zone regulations, under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw. The motion was seconded by Amy DeSalvatore and passed via roll call vote (6-0).

**D. CON 023-336: 14 Nelson Ave, Map 43, Lot 32**

Request for Determination filed by Daniel Braga to construct 10'x20' patio in side yard (north side of house) that is more than 50 feet from the water. Additionally, the bluestones plan to be embedded into cement, for the property located at 14 Nelson Ave, Assessor's Map 43, Lot 32. Work to take place within FEMA Zone VE, EL.19'.

Dan Braga, owner of 14 Nelson Avenue presented his project.

Karen Isherwood stated the project is more than 50 feet from the resource area.

Karen Isherwood made a motion to close the public hearing for CON 023-336, 14 Nelson Ave, Map 43, Lot 32 and issue a Positive Determination 2B for Buffer Zone to Coastal Beach, Coastal Bank, Rocky Intertidal Shore, and Land Subject to Coastal Storm Flowage (LSCSF) for the plan and work described in the staff report dated January 24, 2023 and a Negative Determination 7 under the Wetlands Protection Act and Fairhaven Wetlands Bylaw, with the added CAP-3 condition, and that all work shall comply with local, state, and Federal Flood Zone regulations. In addition, no work shall begin until the previous violation of removing vegetation in the resource area has been remedied and approved by the Conservation Commission, under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw. The motion was seconded by Amy DeSalvatore and passed via roll call vote (6-0).

#### **Notices of Intent**

- E. SE 023-1403, CON 023-330: **Rear Arsene Street, Map 28, Lot 008** – *Continued from December 12, 2022*

Notice of Intent filed by Vincent Furtado (Board of Public Works) for various improvements to the Water Pollution Control Facility to replace aging infrastructure and install additional treatment to comply with regulatory nitrogen limits, issued by the EPA and the current NPDES permit requirements, located at Rear Arsene Street, Assessor's Map 28, Lot 008. The proposed activities are subject to the Town of Fairhaven Wetlands Bylaw, work to impact Bordering Vegetated Wetlands (BVW), 0-25 Foot Buffer Zone, 25-50-foot Buffer Zone, and the 50-100 Foot Buffer Zone Resource Area.

Amanda Houle from Tighe and Bond, representing the Board of Public Works (BPW), summarized recent revisions and concerns brought up during the December 12, 2022 meeting. The Planning Board will do an abbreviated stormwater review; this will include aesthetics of the facility and the layout. Ms. Houle displayed two site plans. Improvements to the north side of the property are outside of the Buffer Zone and consist of maintenance and improvements to the existing facility. The second figure depicted the southern half, which experiences more Buffer Zone impacts and is the location for the new structure. The rear of the property is where the new nitrogen treatment building and stormwater facility will be built. Tighe and Bond were able to digitize a second Bordering Vegetated Wetland (BVW) that were flagged to the south of the stormwater facility. They estimated the 100-foot Buffer Zone and do not see an appreciable effect, in terms of increasing jurisdiction on the site. The offsite wetlands more extensive than what DEP site depicted on Mass Mapper.

Jake Galary back online 8:54pm; 7-member Commission at this time.

Vincent Furtado of the BPW stated the stormwater review will satisfy Chapter 65. Tighe and Bond are only extending/changing the limits, etc.

Ms. Houle stated these wetlands are groundwater fed. They do not rely on collection via precipitation. Water will get directed to the stormwater basin, infiltrate, and recharge into the

ground water table. The wetland's water quality will be improved; hydrology and inputs into the system should not change.

Kayla Larson of Tighe and Bond provided further clarification. She informed the Commission that the new impervious surface will infiltrate back into the ground, or into piping.

Vinnie Furtado added this is a self-contained pipe system.

Dave Davignon, of Schneider, Davignon, and Leone stated there is an error in the overlay of the wetlands that abut the plant on the north side. The scale or overlay was misinterpreted when matching up the plan.

Karen Isherwood made a motion for SE 023-1403, CON 023-330, Rear Arsene Street, Map 28, Lot 008 requesting peer review funds of \$2,500 be deposited for a storm water peer review report and the wetland line delineation. The motion was seconded by Amy DeSalvatore and passed via a unanimous vote (7-0).

Geoff Haworth suggested a peer review, once Tighe and Bond modifies the plan and overlay.

Karen Isherwood made a motion to continue SE 023-1403, CON 023-330, Rear Arsene Street, Map 28, Lot 008 to the March 13, 2023 meeting at the applicant's request. The motion was seconded by Amy DeSalvatore and passed via roll call vote (7-0).

- F. SE 023-1395, CON 023-319: **1 Island View, Map 43, Lot 201** – *Continued from November 7, 2022*  
Notice of Intent filed by Peter Armanetti to construct a single-family dwelling with associated gravel driveway, grading and utilities located at Map 43, Lot 201. Work to take place within 100 feet of a Bordering Vegetated Wetland (BVW) and Bordering Land Subject to Flooding – FEMA Zone VE, EL.18' & 19'.

Nick Dufresne of Farland Corporation stated wetlands were confirmed. John Rockwell provided review and comments on the wetland line and addressed flag locations.

John Rockwell stated a plan from 1988 indicated wetlands on the north side; 100 feet from any proposed activity. The wetland boundaries on lot 1 are sufficient for writing an Order of Conditions.

John Rockwell stated the Commission will need information on the septic design plan approved by the Board of Health (BOH) and FEMA. If the plan does not meet the regulation, then the burden of proof is on the applicant to confirm storm damage prevention. Structural plans by an engineer are required to demonstrate compliance with FEMA regulation. Vertical structural walls in a velocity zone should not reflect or refract wave energy.

Karen Isherwood does not want to condition a project until further information provided.

John Rockwell recommended that the applicant look first at the free of obstruction requirements under FEMA. If these requirements cannot be met, then the project may not be economically worth pursuing.

Karen Isherwood made a motion to continue SE 023-1395, CON 023-319, 1 Island View, Map 43, Lot 201 to the February 21, 2023 meeting at the applicant's request. The motion was seconded by Amy DeSalvatore and passed via roll call vote (7-0).

- G. SE 023-1396, CON 023-320: **2 Island View, Map 43, Lot 201** – *Continued from November 7, 2022*  
Notice of Intent filed by Peter Armanetti to construct a single-family dwelling with associated gravel driveway, grading and utilities located at Map 43, Lot 201. Work to take place within 100 feet of a Bordering Vegetated Wetland (BVW) and Bordering Land Subject to Flooding – FEMA Zone VE, EL. 18' & 19'.

Karen Isherwood made a motion to continue SE 023-1395, CON 023-319, 1 Island View, Map 43, Lot 201 to the February 21, 2023 meeting at the applicant's request. The motion was seconded by Amy DeSalvatore and passed via roll call vote (7-0).

- H. SE 023-1398, CON 023-315: **2 Starboard Drive, Map 42, Lots 9A, 9D, & 9E** – *Continued from November 7, 2022*  
Notice of Intent filed by Dennis Asrenault for the construction of a residential 8-lot subdivision, including the demolition of 1 existing dwelling, a paved roadway, and grading and site development within the 100-foot Buffer Zone and Land Subject to Coastal Storm Flowage (LSCSF), FEMA Zone VE, EL.20', located at Map 42, Lots 9A, 9D, and 9E.
- I. SE 023-1402, CON 023-328: **58 Fort Street, Map 5, Lot 15** – *Continued from December 12, 2022*  
Notice of Intent filed by Wilson & Sherry Lopes to construct a Redi-Rock precast, concrete, block (retaining) seawall, at the property located at 58 Fort Street, Assessor's Map 5, Lot 15. Work to take place within Land Subject to Coastal Storm Flowage, Zone AE-6, with adjacent Coastal Bank.

John Rockwell presented a summary of the project, stating this is an eroding Coastal Beach and Coastal Bank. This is an allowed project under the wetland regulations. A letter was received from the Division of Marine Fisheries (DMF). Mr. Rockwell advised Karen Isherwood to incorporate DMF recommendations into the motion. Mr. Rockwell noted no work is being done on the beach, with the exception of beach nourishment every 3 years.

Dave Davignon, of Davignon, Schneider and Leone summarized the changes from the last meeting. He has removed the pre-cast, concrete block seawall and changed to a sloped stone rip rap wall. The location of the seawall was modified, so that the base of the slope graph follows the base of the bank. Notation was added for future beach nourishment.

Karen Isherwood made a motion to close the public hearing for SE 023-1402, CON 023-328, 58 Fort Street, Map 5, Lot 15 and issue an Order of Conditions under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw, approving plans dated December 21, 2022, with the conditions and findings outlined in Attachment A dated January 10, 2023, and the added condition that beach nourishment shall not take place from May 1st to July 31st of any year. The motion was seconded by Amy DeSalvatore and passed via roll call vote (7-0).

- J. SE 023-1405, CON 023-329: **8 Morey Lane, Map 4, Lot 81** – *Continued from December 12, 2022*  
Notice of Intent filed by Madeira Construction to construct a single-family dwelling with gravel driveway, and shed in addition to the installation of a propane tank and underground utilities

and associated placement of fill, including the alteration and replication of a Bordering Vegetated Wetland (BVW), at the property located at 8 Morey Lane, Assessor's Map 4, Lot 81.

John Rockwell stated there was an issue with gas tanks and a limited stamped plan of the foundation from a structural engineer. These issues have been corrected.

Dave Davignon submitted a cover letter, which outlined all changes.

Karen Isherwood made a motion to close the public hearing for SE 023-1405, CON 023-329, 8 Morey Lane, Map 4, Lot 81 and issue an Order of Conditions under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw, approving plans dated December 27, 2022 and with the conditions and findings outlined in Attachment A with the staff report dated January 10, 2023. The motion was seconded by Gary Lavalette and passed unanimously via roll call vote (7-0).

K. SE 023-1404, CON 023-332: **74 Reservation Road, Map 29B, Lots 8, 9, and 10**

Notice of Intent filed by Eric Berg to remove and reconstruct a stone/concrete seawall, at the property located at 74 Reservation Road, Assessor's Map 29B, Lots 8, 9, and 10. Work to take place on a Coastal Beach and within Land Subject to Coastal Storm Flowage, FEMA Zone VE, EL.23'.

Karen Isherwood made a motion to assign John Rockwell as peer reviewer for SE 023-1404, CON 023-332, 74 Reservation Road, Map 29B, Lots 8, 9, and 10. The motion was seconded by Amy DeSalvatore and passed via roll call vote (7-0).

John Rockwell explained there was a plan revision submitted, which addressed some concerns, including the small Coastal Dune south of the property. Everything has been addressed and OOC has been written.

Dave Davignon added the property is out in a rough area, susceptible to winds and waves. The south side of the wall is in need of repair. Mr. Davignon is proposing removal and replacing with the same footprint; he will obtain a Chapter 91 license for the wall.

Karen Isherwood made a motion to close the public hearing for SE 023-1404, CON 023-332, 74 Reservation Road, Map 29B, Lots 8, 9, and 10 and issue Order of Conditions under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw approving plans dated December 9, 2022 with the conditions and findings outlined in Attachment A dated January 16, 2023. The motion was seconded by Gary Lavalette and passed unanimously via roll call vote (7-0).

L. SE 023-1385, CON 023-279: **27 Silver Shell Beach Drive, Map 41, Lot 54** – Continued from July 25, 2022

Notice of Intent filed by Nancy Blouin to upgrade the existing septic system to a Title 5-compliant system and associated site work at the property located at 27 Silver Shell Beach Drive, Assessor's Map 41, Lot 54. Work to take place in Land Subject to Coastal Storm Flowage and the 100-foot buffer zone to Coastal Dune.

M. SE 023-1406, CON 023-335: **40 Nelson Avenue, Map 43, Lot 233**

Notice of Intent filed by Christopher Wolkowicz to raze existing house and build new house on flood-compliant foundation with new septic system, town water supply and associated site

work; located within buffer zone of coastal bank and within 100-year flood plain (FEMA Zone VE, EL.19'). Proposed septic system to include secondary treatment unit for di-nitrification of wastewater.

Rick Charon gave a brief summary of the proposed project. The owners are looking to upgrade the home and make fully flood compliant (V Zone). Plans show the existing home 26 feet from the seawall, with the proposed house almost the same footprint. The percolation test has been completed and the septic system design has been approved by the BOH. Mr. Charon stated he will be using an advanced system with denitrification. The system is completely flush with the ground and easy to disguise. The system flows by gravity into a leaching field, running along the left-hand side of the house.

There is a retaining wall along the entire left-hand side of the property; 2 feet high ready rock without mortar. There is a slight increase in grade, in order to facilitate drainage around the new slab. No pavement is proposed in the driveway.

The Commission would like a site visit with Rick Charon.

Karen Isherwood made a motion for peer review to be assigned and coordinated between the Chair and the Conservation Agent for SE 023-1406, CON 023-335, 40 Nelson Avenue, Map 43, Lot 233. The motion was seconded by Amy DeSalvatore; Gary Lavalette opposed (6-1).

Karen Isherwood made a motion to continue SE 023-1406, CON 023-335, 40 Nelson Avenue, Map 43, Lot 233 to February 21, 2023 at the applicant's request. The motion was seconded by Amy DeSalvatore and passed via roll call vote (7-0).

## **8. Violations/Enforcement Orders/Cease and Desist Notices**

### **A. EO 023-014: 20 Yankee Lane, Map 39, Lot 016: Discussion on Phase 2 timeline**

Tom Schutz of Goddard Consulting represented the applicant and stated he is taking over the project for Tim Maguire. He is looking to begin phase 2 in April 2023. Currently, waiting on the existing conditions plan from Atlantic, which will be submitted shortly for Phases 3 and 4.

The Commission decided to place 20 Yankee Lane on the February 21, 2023 meeting, to discuss modifications. Goddard Consulting is to submit a revised timeline.

Karen Isherwood made a motion for a revised timeline and the site plan with preexisting conditions for EO 023-014, 20 Yankee Lane, Map 39, Lot 016 to be submitted for the February 21, 2023 meeting. The was seconded by Amy DeSalvatore and carried unanimously (7-0).

### **B. EO 023-015: 217 Alden Road, Map 36, Lot 085: Commission to review the submitted report (Phase 1, Revision 2) from Ivas Environmental, which addresses the Enforcement Order issued August 19, 2021; this report was received from Ivas Environmental on December 27, 2022.**

Karen Isherwood made a motion to approve Revision 2 Restoration Plan by Ivas Environmental dated December 27, 2022, for EO 023-015, 217 Alden Road, Map 36, Lot 085 and allow the applicant to begin the process of removing fill, following an inspection of the erosion controls by the Commission with the added condition: The commission shall inspect and approve the



erosion control and removal of fill and verify delineated line's accuracy based on the more precise identification of the pre-disturbance surface layer, under the Wetlands Protection Act and The Fairhaven Wetlands Bylaw. The motion was seconded by Amy DeSalvatore and passed via roll call vote (7-0).

- C. **SE 1333, CON 023-181: 18 Point St, Map 28B, Lot 207:** Alteration of coastal engineering structure; review revised plan, which was submitted January 17, 2023.

Rick Charon shared the revised site plan, which consists of three portions. The left consists of a preexisting plan before the project began in September 2019. There was a lot of armoring on the southerly side and rocks strewn in between. This came before the Board in order to clean up rocks in the area between the groin and southerly area. There are no new structures to be created, since there is no Chapter 91 license.

The owner removed stones and placed them up on the shoreline; buttressing the shoreline where the Coastal Dune is located. The owner has proposed to correct that by taking stones out of the area and placing them in the gaps within the groin. Mr. Charon would like the area between the Coastal Beach and Coastal Dune back to the original condition.

Chair, Geoff Haworth, read a letter sent in by abutter Robert Clarke at 10 Point Street. Mr. Clarke was opposed to further removal of rocks in the groin location, which provides protection to the Coastal Beach and Coastal Dunes for multiple properties.

Rick Charon does not believe rocks were taken from the southerly area bordering 10 Point Street.

Shellfish Warden, Tim Cox, to review plan and give approval.

An in-depth discussion of the groin ensued.

Michael Kelly signed off at 11:17pm

18 Point Street will to be continued to the February 21, 2023 meeting.

- D. **EO 023-022: 344 & 346 New Boston Rd, Map 40, Lots 023B & 023C:** Unpermitted vegetation clearing in a wetland; the Commission to review proposed restoration memo, submitted by Cameron Larson, Wetland Scientist with Environmental Consulting & Restoration, LLC.

John Rockwell reviewed the original Enforcement Order and the restoration plan submitted. Mr. Rockwell was able to take the schematic submitted and superimpose over the assessor's map and found 11,000 square feet of wetland alteration via hand held GPS. Some areas had been run over with machinery, some areas included excavation, and others included percolation tests.

Mr. Rockwell stated there were 4 percolation tests conducted on the property. The Commission needs a delineation on the property; they need to locate the limits of disturbance.

The Enforcement Order includes activity in a BVW, which is a violation under the WPA and a violation under the local bylaw. The EO will be sent to the previous owner, existing owner, and the firm that performed the work. A wetland specialist is needed to characterize the soil

conditions. Mr. Rockwell Requires a report of existing conditions on the property, which will be used to evaluate a restoration plan.

Amy DeSalvatore would like to see an unbiased report from a professional land surveyor.

Gary Lavalette mentioned an arborist went onto the property to evaluate what species of trees destroyed.

Christian Farland of Farland Corporation reached out to the owners and developer. There were successful dry percolations, under the supervision of the Soil evaluator and BOH. Mr. Farland added that Farland Corporation stopped as soon as they were notified.

Kathleen Mullen stated Attorney Gushue, representing the Mullen's, sent a letter requesting the Commission to reconsider its decision of 11/7/2022 to issue an Enforcement Order to Mrs. Mullen, and to delay further consideration of the enforcement course of action to be taken until the Commission's December 12, 2022 meeting. It further stated there is nothing in the record to justify issuing an Enforcement Order to Mrs. Mullen. Such an order from the Commission would almost certainly be appealed to Superior Court within the allowed 60-day appeal period.

Cameron Larson from LEC Environmental Consultants, Inc. presented the site restoration memorandum. Most disturbance was conducted around the test pits. Mr. Larson would like to minimize disturbance with machinery and proposed to plant native shrubs and saplings. Any disturbed soils will be planted with native wetland seed and monitoring at the end of each growing season.

Karen Isherwood made a motion to issue Enforcement Orders for 344 & 346 New Boston Road, Map 40, Lots 023B & 023C, as drafted by John Rockwell, which will supersede any previous Enforcement Order and have it issued to Mary Mullen, Not the Violator, LLC, Farland Corporation Inc., and Chris Gilbert for violations of the Wetlands Protection Act and the Fairhaven Wetlands Bylaw. The motion was seconded by Gary and passed via roll call vote (6-0).

- E. **SE 023-1302, CON 19-066: 6 Emerson Ave, Map 29A, Lot 119:** Unpermitted deviation from approved plan; awaiting a restoration plan.

**Action:** For the Conservation office to send a letter to appear and that fines will accrue.

- F. **43 Reservation Road, Map 29A, Lot 351:** Discuss after-the-fact filing for driveway.

There was a Positive Determination for an RDA, since this was an after-the-fact driveway. This project triggered the requirement for an NOI, which was never filed.

**Action:** For the Conservation office to send a letter to appear and that fines will accrue.

Karen Isherwood made a motion for 43 Reservation Road, Map 29A, Lot 351 to file with the Conservation Commission within 30 days or an after-the-fact filing for the unpermitted driveway, if the filing hasn't been received within 30 days, then a \$300 a day fine can be accrued from the January 30, 2022 meeting. The motion was seconded by Amy DeSalvatore and passed via roll call vote (6-0).

**9. Correspondence**

- A. **SE 023-1269, CON 019-007: 20 Yankee Lane:** Review the spring & fall monitoring report for the replication area constructed as part of the solar project.

**10. General Business****A. Bills**

\$41.49 Verizon  
\$24.99 Eversource  
\$120.00 Fairhaven Neighborhood News – legal ad  
\$1,372.50 EcoTech – Soil evaluation for 27 Silver Shell Drive  
\$13.48 W.B. Mason – 2023 Desk calendars  
\$3,982.00 John Rockwell – December peer reviews

- B. Next Meeting: Tuesday, February 21, 2023

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**

Karen Isherwood made a motion to adjourn at 11:32p.m. The motion was seconded by Amy DeSalvatore and passed via roll call vote with all remaining members present (6-0).

Respectfully submitted,

Kelly Camara, Recording Secretary