

**January 22, 2024
Minutes**FAIRHAVEN TOWN CLERK
RCUD 2024 MAR 20 PM 1:18

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

Jay Simmons 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.

Quorum/Attendance: Jay Simmons, Karen Isherwood, Caroline Hawthorne, Jacob Galary, Anthony Couto, Andrew Saunders

Absent: Ronnie Medina

2. Approval of the December 11, 2023 meeting minutes
Jake Galary made a motion to approve the December 11, 2023 minutes and was seconded by Andrew Saunders and the motion passed (6-0).

Karen Isherwood made a motion to table Item 5. The motion was seconded by Andrew Saunders and passed (6-0).

3. Continuances requested in advance
 - a. **CON 023-372: 29 Silver Shell Beach Drive, Map 41, Lot 53 (April)**
 - b. **SE 023-1421, CON 023-361: 2 Bayside Street, Map 42, Lot 34 (March)**
 - c. **SE 023-1391, CON 023-291: Bridge Street, Map 36, Lot 15J**
 - d. **SE 023-1423, CON 023-364: Bridge Street, Map 30A, Lot 87 & 87A**
 - e. **SE 023-1410, CON 023-347: Bonney Street, Assessor's Map 28B, Lots 488 & 489**
 - f. **SE 023-14__, CON 023-371: 217 Alden Road, Map 36, Lot 085 (March)**
 - g. **SE 023-1432, CON 023-380: 18 Almond Street, Map 43B, Lot 012**
4. Attorney, Marc Deshaies to discuss the Conservation Restriction at the G. Bourne Knowles property
- *Postponed until a later date*
5. **SE 023-1429, CON 023-377: 270 Sconticut Neck Road, Map 29A, Lot 101 & 96:** Inform Board of the Planning Board decision which granted to approve Street Discontinuance for portion of Torrington Road, closest to Thompson Avenue and between Map 29A, Lots 96, 97 & 101-106.

Agent, Bruce Webb, spoke with the Assessor to confirm street discontinuance. Attachment A is updated to depict the most recent plan set with this change.

6. Requests for Certificates of Compliance**a) SE 023-1368, CON 023-252: 184 Balsam Street, Map 43B, Lot 41**

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 023-1368: CON 023-252, 184 Balsam Street, Map 43B, Lots 40 & 41, with the following ongoing conditions: Condition 34 & 35, CHM-2, and DER-4, as listed in the order of conditions. The motion was seconded by Jake Galary and passed (6-0).

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

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 023-1411, CON 023-348: 184 Balsam Street, Map 43B, Lots 40 & 41, with the following ongoing conditions, CHM-2 and DER-4, as listed in the order of conditions. The motion was seconded by Caroline Hawthorne and passed (6-0).

7. 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 Amended Order of Conditions****a. SE 023-1406, CON 023-335: 40 Nelson Avenue, Map 43, Lot 233**

An Amended Order of Conditions filed by Christopher Wolkowicz to install an emergency generator on a 5'x6' platform at the northwest corner of the deck. Two additional sono-tubes & footings will be needed, a 500-gallon capacity underground LP-gas storage tank installed to supply the generator, the rear access stairway has been re-configured to terminate on the west side versus the east, and a new stairway for beach access is proposed at the southwest corner of the seawall. Work to take place in Land Subject to Coastal Storm Flowage (LSCSF), Coastal Beach, 100 Foot Buffer Zone, FEMA Flood Zone VE (EI.19'), and Coastal Bank at Assessor's Map 43, Lot 233.

Jay Simmons conducted a site visit and clarified the deck height is compliant with FEMA codes.

Representative, Rick Charon, stated the first-floor level is (4) feet above flood elevation.

Abutter, Robert Veek suggested an alternate location for the propane tank to be considered.

Rick Charon stated the tank is proposed 10 feet from the property line, which is within state code (state code also requires the tank to be in a straight line from the house).

Mr. Veek requested the generator be in an area that will not obstruct water view.

Rick Charon will discuss an amendment with the owner.

Karen Isherwood made a motion to close the public hearing for SE 023-1406, CON 023-335: 40 Nelson Avenue, Map 43, Lot 233, and issue an Amended Order of Conditions under the Wetlands Protection Act and Fairhaven Wetlands Bylaw, with the conditions outlined in Attachment A dated January 22, 2024, and approve the revised plan with the revision date of December 6, 2023, that reflects the proposed emergency generator to be installed on a 4 ft by 6 ft platform at the northwest corner of the deck with 2 additional sono-tubes and footings for

support, a 500 gallon capacity underground LP-gas storage tank anchored to a 4 ft by 11 ft concrete slab, 8 inches thick, behind the existing sea wall, the east side rear access stairway relocated to the west side, an additional stairway to the beach at the south west corner of the sea wall, and a revised location for the AX20 filter module of the denitrification system to be below the deck. The motion was seconded by Jake Galary and passed (6-0).

Requests for Determination of Applicability

b. CON 023-387: 251 Sconticut Neck Road, Map 29, Lot 032

Request for Determination of Applicability 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 032 to the next scheduled meeting, or until the applicant supplies sufficient information. The motion was seconded by Jake Galary and passed (6-0).

c. CON 023-392: 92 Seaview Avenue, Map 29C, Lot 629

Request for Determination of Applicability filed by Suzanne Foxwell to replace existing wood fence that was damaged during December 2023 windstorm. The fence will be an open picket (3-inch space) vinyl picket ornamental fence, set 6 inches above retaining wall (designed for water flow). Work to take place in Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE, (EL.17') Buffer Zone to Dune, Buffer Zone to BVW at Assessor's Map 29C, Lot 629.

Karen Isherwood made a motion to lift the Cease and Desist issued on December 20, 2023, for 92 Seaview Avenue, Map 29C, Lot 629 for unpermitted work on a fence on the property. The motion was seconded by Andrew Saunders and passed (6-0).

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 023-392, 92 Seaview Avenue, Map 29C, Lot 629. The motion was seconded by Andrew Saunders and passed (6-0).

Karen Isherwood made a motion to close the public hearing for CON 023-392: 92 Seaview Avenue, Map 29C, Lot 629, and issue a Positive 2b to Coastal Beach, Coastal Dune, and Buffer Zone to Coastal Beach and Coastal Dune, 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 Andrew Saunders and passed (6-0).

Jake Galary signed off.

Notices of Intent

d. 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.

Karen Isherwood made a motion to continue SE 023-1429, CON 023-377: 270 Sconticut Neck Road, Map 29A, Lots 101 & 96, to the February 5, 2024 meeting at the applicant's request. The motion was seconded by Andrew Saunders and passed (5-0).

e. 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.

Karen Isherwood made a motion to recess for 5 minutes. The motion was seconded by Andrew Saunders and passed (5-0).

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 023-1430, CON 023-376: 50 Fort Street, Map 5, Lot 16. The motion was seconded by Caroline Hawthorne and passed (5-0).

Karen Isherwood made a motion to close the public hearing for SE 023-1430, CON 023-376: 50 Fort Street, Map 5, Lot 16, approving the revised plan titled "Proposed Underground Utility" with the stamped revision date of January 2, 2024 and issue an Order of Conditions outlined in the revised Attachment A dated January 22, 2024 under the Wetlands Protection Act and the Fairhaven Wetlands Bylaw. The motion was seconded by Carrie Hawthorne and passed (5-0).

f. SE 023-1434, CON 023-388: 127 Balsam Street, Map 43A, Lots 96 & 98

Notice of Intent filed by Lauren O'Brien to remove existing deck & patio, renovate existing residence, construct new addition & deck on flood zone compliant foundation, and associated site work located within the 100-year coastal flood plain at Assessor's Map 43A, Lots 96 & 98.

Karen Isherwood made a motion to continue SE 023-1434, CON 023-388: 127 Balsam Street, Map 43A, Lots 96 & 98, to the February 5, 2024 meeting at the applicant's request. The motion was seconded by Carrie Hawthorne and passed (5-0).

g. SE 023-1437, CON 023-389: 1 Crow Island, Map 44, Lot 1

Notice of Intent filed by Dave Ellis & Melissa Cruz requesting to repair the existing failed on-site sewage disposal system servicing the single-family dwelling. The existing system will be abandoned, and a new system including a 1,500-gallon septic tank, distribution box, and Infiltrator Quick4 Plus Standard Leaching Chambers in a bed formation will be installed. The work being proposed fall within 100' feet from the top of a Coastal Bank. The system is proposed to be about 30' from the top of the Coastal Bank and is sited in similar area as existing located at Assessor's Map 44, Lot 1.

Karen Isherwood made a motion to continue SE 023-1437, CON 023-389: 1 Crow Island, Map 44, Lot 1, to the February 5, 2024 meeting at the applicant's request. The motion was seconded by Andrew Saunders and passed (5-0).

h. SE 023-1436, CON 023-390: 6 Emerson Avenue, Map 29A, 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, Lot 119-122.

Jake Galary returned.

Karen Isherwood made a motion department staff to solicit peer review quotes, which will be to be coordinated between the Administrative Assistant, the Chair, and Vice Chair. The peer reviewer will determine the resource area boundaries on the property as well as ensure compliance to the Wetlands Protection Act and the Fairhaven Wetlands Bylaw under MGL Chapter 44, Section 53G for SE 023-1436, CON 023-390: 6 Emerson Avenue, Map 29A, Lots 119-122. The motion was seconded by Caroline Hawthorne and passed (5-0, with 1 abstention).

Karen Isherwood made a motion to continue SE 023-1436, CON 023-390: 6 Emerson Avenue, Map 29A, Lots 119-122, to the February 5, 2024 meeting at the applicant's request. The motion was seconded by Caroline Hawthorne and passed (5-0 with 1 abstention).

i. SE 023-1435, CON 023-391: 689 Scoticut Neck Road, Map 42, Lot 014A.

Notice of Intent filed by Michael Perez to remodel the existing 3-season room, replace 3-porch footings and propose new footings to support the new deck. Work located within FEMA Flood Zone (El.17' & El.19') at Assessor's Map 42, Lot 14A.

Karen Isherwood made a motion to continue SE 023-1435, CON 023-391: 689 Scoticut Neck Road, Map 42, Lot 014A, to the February 5, 2024 meeting at the applicant's request. The motion was seconded by Andrew Saunders and passed (6-0).

j. SE 023-1438, CON 023-393: 685 Scoticut Neck Road, Map 42, Lot 014B

Notice of Intent filed by Steven Koczera to replace existing deck (8'x12') with new 14'x16' deck on 12, 8" sono-tubes, with staircases. Will also place loam/topsoil in low area of the land on the north side of the house in an area of existing lawn; remove (4) trees blown down in the recent storm and remove from site; add 25'x28' foundation in driveway and add garage (25'x28') with breakaway walls within FEMA Flood Zone (El.17' & El.19') at Assessor's Map 42, Lot 014B.

Karen Isherwood made a motion to continue SE 023-1438, CON 023-393: 685 Scoticut Neck Road, Map 42, Lot 014B, to the February 5, 2024 meeting at the applicant's request. The motion was seconded by Carrie Hawthorne and passed (6-0).

8. Violations/Enforcement Orders/Cease and Desist Notices**a. 4 Jeannette Street, Map 34A, Lot 062D: Ratify Enforcement Order**

This item will be placed on the February 5, 2024 meeting agenda.

b. 29 Nakata Avenue, Map 43, Lot 119: Unpermitted work on seawall and patio

Bob Rogers from G.A.F. Engineering has submitted a preliminary site plan that will accompany a future Notice of Intent.

c. 293 Mill Road, Map 39, Lot 22C: Outstanding restoration plan

This property has a large number of derelict vehicles on the property. The building inspector has a yearly court-mandated visit. The agent would like to give the Commission full disclosure to discuss any concerns.

9. General Business**a. Next scheduled site visits: January 23, 2024**

To be rescheduled; site visits for the current meeting were delayed and only took place last week.

b. Next Scheduled Public Hearing Date: February 5, 2024**c. Discuss additional February meeting (Violations/Continuances only)**

To be discussed at the February 5th meeting.

d. Discuss upcoming educational opportunities/trainings

MACC Annual spring conference will be held March 2, 2024.

Action: Commission members to notify staff on trainings they wish to attend.

Action: All Members to complete the Conflict-of-Interest training to be submitted to the Town Clerk.

e. SE 023-1403, CON 023-330: Rear Arsene Street, Map 28, Lot 008: Notice to correct Book and Page number for proper recording (Book: 1490, Page 201).

Proper recoding is resolved at the Registry of Deeds.

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**

Andrew Saunders made a motion to adjourn at 10:44pm. The motion was seconded by Jake Galary and passed (6-0).

Jay Simmons, Chair

Fairhaven Conservation Commission

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