

**April 10, 2024
Minutes**FAIRHAVEN TOWN CLERK
RECD 2024 MAY 29 PM 1:52

1. **Chairman's Welcome and Media Notification:** Karen Isherwood opened the meeting at 6:02p.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, Caroline Hawthorne, Jake Galary, Ronnie Medina, and Anthony Couto

3. **Approval of the meeting minutes for March 4 & 18, 2024**

Jake Galary made a motion to approve the March 4, 2024 meeting minutes. The motion was seconded by Carrie Hawthorne and passed (5-0).

Caroline Hawthorne made a motion to approve the March 18, 2024 meeting minutes with an amendment under (7a) to change name from Jake Couto to Jake Galary. The motion was seconded by Tony Couto and passed (5-0).

4. **Continuances requested in advance**

- a) **SE 023-1451, CON 023-411: Cove Street, Map 28B, Lot Cove Street Right-of-Way**
- b) **SE 023-1453, CON 023-408: 29 Nakata Avenue, Map 43, Lot 119**

5. **Requests for Certificates of Compliance**

- a) **SE 023-1421, CON 023-361: 2 Bayside Street, Map 42, Lot 34**

Carrie Hawthorne made a motion to continue SE 023-1421, CON 023-361: 2 Bayside Street, Map 42, Lot 34 to the April 22, 2024 meeting at the applicant's request. The motion was seconded by Jake Galary and passed (5-0).

- b) **SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207**

(10:34) The agent reached out to Coastal Zone Management (CZM) and Chapter 91 Waterways and they suggested an Enforcement Order to ensure proper restoration of stonework. Both departments concurred that work on the stones exceeded the order and further advised the agent to reach out to Jamie Bogart and National Heritage.

Karen Isherwood would like the beach restored to a similar state prior to work and does believe they are currently out of compliance. The work should specify Chapter 91.

Bruce Webb confirmed via aerial photos from 2018 that there has been significant removal of stones and boulders. These boulders are compromising the groin to the northwest and southeast, along the property lines.

Anthony Couto questioned if beach alterations were due to storm damage?

Jake Galary asked if plumbing and electrical inspections were completed?

Action: Bruce Webb to check which inspections were issued with the Building Department.

Karen Isherwood made a motion to continue SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207 to April 22, 2024 for further information. The motion was seconded by Jake Galary and passed (5-0).

Karen Isherwood made motion to take item 7: Violations/Enforcement Orders/Cease & Desist Notices/Other applications out of order. The motion was seconded by and passed Caroline Hawthorne (5-0).

6. **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 023-1369, CON 023-255: 10 Diamond Street, Map 29, Lots 46 & 72

Amended Order of Conditions filed by Ruby & Jaime Medeiros to shift the previously approved paved driveway in closer proximity to the dwelling (depicted on revised plan). Work to take place in Land Subject to Coastal Storm Flowage (LSCSF) and the 100-foot Buffer Zone to BVW at Assessor's Map 29, Lots 46 & 72.

(1:13:40) Bruce Webb updated the Commission on the progress and stated Bob Field has been responsive and provided an updated plan with accurate square footage. The agent recommended approving the A-OOC.

Karen Isherwood made a motion to close the public hearing for SE 023-1369, CON 023-255, 10 Diamond Street, Map 29, Lots 46 & 72, and issue an Amended Order of Conditions under the Wetlands Protection Act and Fairhaven Wetlands Bylaw, with the conditions outlined in Attachment A dated April 10, 2024, and approve the plan titled "Site Plan" with the revision date of March 26, 2024 that reflects the proposed shift to the concrete driveway in closer proximity to the dwelling and increased to 974 square feet an additional 460 square foot crushed stone driveway in front of the reconstructed garage, an additional 68 square foot walkway in front of the house and with the following additional plantings, 5 sweet pepper bush and two 2 inch caliper Beech trees as depicted on revised plan. The motion was seconded by Caroline Hawthorne and passed (5-0).

Requests for Determination of Applicability

b. CON 023-372: 29 Silver Shell Beach Drive, Map 41, Lot 53

Request for Determination of Applicability filed by Joyce Lopes to install 120 feet of FEMA compliant shadow box fencing along the south property line, consisting of approximately 15 cemented posts and 6 inches off the ground. Work to take place in Land Subject to Coastal Storm Flowage (LSCSF) and the 100-foot Buffer Zone to Coastal Dune at the property located at Assessor's Map 41, Lot 54.

CON 023-372: 29 Silver Shell Beach Drive, Map 41, Lot 53 continued to April 22, 2024 at the applicant's request.

c. CON 023-410: 168 Balsam Street, Map 43B, Lot 33 & 34

Request for Determination filed by Kirk & Rene Pinto to remove and replace a masonry foundation wall along the water side of the house and replace with concrete block wall; they also request to remove a concrete patio and replace with a post-supported timber deck. Work to take place within 100 ft. to the Buffer Zone of a Coastal Bank and Salt Marsh and within Land Subject to Coastal Storm Flowage at Assessors' Map 43B, Lot 33 & 34.

(1:52:06) Dave Davignon of Schneider, Davignon & Leone represented the owners. He stated the dwelling has undergone minor renovations and the owners are looking to remove the impervious concrete patio that wraps around the north side of the house.

Caroline Hawthorne made a motion to continue CON 023-410, 168 Balsam Street, Map 43B, Lots 33 & 34, to the April 22, 2024 meeting at the applicant's request. The motion was seconded by Jake Galary and passed (5-0).

Notices of Intent

d. SE 023-14__, CON 023-371: 217 Alden Road, Map 36, Lot 85

Notice of Intent filed by Shaun DeGrace for a concrete patio (13'x47') with drainage in the back of the house, an extension of the asphalt driveway (30'x15') and add a 6' fence within 100 ft. to the Bordering Vegetated Wetlands (BVW). Work to take place within Buffer Zone to BVW at Assessor's Map 36, Lot 85.

(1:18:04) Bruce Webb stated this restoration is still ongoing. He was on site during excavation and during delivery of soils onto the restoration area. The applicant is still working on updating plans to reflect the requested changes to the deck.

Caroline Hawthorne made a motion to continue SE 023-14__, CON 023-371: 217 Alden Road, Map 36, Lot 85 to April 22, 2024 at the applicant's request. The motion was seconded by Jake Galary and passed (5-0).

e. SE 023-1385, CON 023-279: 27 Silver Shell Beach Drive, Map 41, Lot 54

Notice of Intent filed by Nancy Blouin to upgrade the existing septic system to a Title 5-compliant system and associated site work. Work to take place in Land Subject to Coastal Storm Flowage (LSCSF) and the 100-foot Buffer Zone to Coastal Dune located at Assessor's Map 41, Lot 54.

(1:21:30) The agent confirmed the requested changes have been completed and this is currently an approvable project.

Attorney, Nicholas Gomes represented the owners of Silver Shell Beach Drive and gave an overview of the latest revised plan, dated March 26, 2024. The recent plan added the 5-1 slope around leaching field and top right indicated elevation details. This is a 3 Bedroom system, within the Buffer Zone to Coastal Dune, based on soil evaluations from December 2022.

Karen Isherwood made a motion to close the public hearing for SE 023-1385, CON 023-279: 27 Silver Shell Beach Drive, Map 41, Lot 54. The motion was seconded by Jake Galary and passed (5-0).

f. 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 to be continued to April 22, 2024

g. SE 023-1410, CON 023-347: Bonney Street, Assessor's Map 28B, Lots 488 & 489

Notice of Intent filed by David Menard to construct a single-family residence, sewer and water connections and associated site work located within the 100-year flood plain (F.E.M.A. Zone VE, El.16') and partially within the Buffer Zone of Bordering Vegetated Wetlands (BVW) located at Assessor's Map 28B, Lots 488 & 489.

(1:43:04) Rick Charon of Charon Associates spoke on owner's behalf. He has submitted a revised plan depicting the replication area (approximately 480 sq. ft.).

The agent expressed satisfaction with the proposed replication.

Caroline Hawthorne made a motion to continue SE 023-1410, CON 023-347: Bonney Street, Assessor's Map 28B, Lots 488 & 489 to the April 22, 2024 meeting at the applicant's request. The motion was seconded by Jake Galary and passed (5-0).

h. 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 continuance requested in advance.

i. 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.

(2:08:46) Jamie Bissonnette of Zenith Consulting gave update on status. Ecosystem Solutions, Inc. delineated the wetland resource areas and the flags were located by the survey crew.

The Conservation office is waiting on the revised plan at this time.

Caroline Hawthorne made a motion to continue SE 023-1436, CON 023-390, 6 Emerson Avenue, Map 29A, Lots 119-122, to the April 22, 2024 meeting at the applicant's request. The motion was seconded by Jake Galary and passed (5-0).

j. SE 023-1440, CON 023-394: 833 Sconticut Neck Road, Map 42, Lot 15N

Notice of Intent filed by Nazem & Kathleen Abdalla to construct a 3-bedroom single family house in compliance with the requirements of FEMA and Mass Building Code for construction within a Velocity Zone. The house will be located within Flood Zone VE (El.17) and work to take place within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El.17, 19 & 20), and a Bordering Vegetated Wetland (BVW) in the southerly and easterly portion at Assessor's Map 42, Lot 15N.

(2:13:27) Dave Davignon stated the applicants are looking to remove the patio area and replace with a deck on the west side of the house.

The agent confirmed conditions for machinery and erosion control.

Jake Galary made a motion to close the public hearing and approve the project for SE 023-1440, CON 023-394: 833 Sconticut Neck Road, Map 42, Lot 15N with conditions to follow. The motion was seconded by Ronnie Medina and passed (5-0).

k. SE 023-1439, CON 023-395: 831 Sconticut Neck Road, Map 42, Lot 15M

Notice of Intent filed by A.M.K. Trust c/o Nazem & Kathleen Abdalla to construct a 3-bedroom single family house in compliance with the requirements of FEMA and Mass Building Code for construction within a Velocity Zone. The house will be located within Flood Zone VE (El.17') and Land Subject to Coastal Storm Flowage (LSCSF) at Assessor's Map 42, Lot 15M.

Jake Galary made a motion to close the public hearing and approve SE 023-1439, CON 023-395: 831 Sconticut Neck Road, Map 42, Lot 15M with conditions to follow. The motion was seconded by Ronnie Medina and passed (5-0).

l. SE 023-1395, CON 023-319: 1 Island View Road, Map 43, Lot 201

Notice of Intent filed by Peter Armanetti to construct a single-family dwelling with associated gravel driveway, grading and utilities. Work to take place within 100 feet of a Bordering Vegetated Wetland (BVW), and borders Land Subject to Flooding - FEMA Flood Zone VE (El.18 & 19') at Assessor's Map 43, Lot 201.

(2:36:18) Attorney, James Marsh requested approval of the project by the Commission.

Kelly Moura of 25 Nakata Avenue asked to see records of the wetland data forms.

The agent and Farland Corp. both agreed that these forms are not a requirement for permitting and were not submitted to the Conservation office.

Stevie Carvalho of Farland Corp. confirmed that his office does not have data forms.

Ms. Moura stated that on February 5th Andrew Saunders requested a document granting an easement for the 15-foot retaining wall from the abutter at 841 Sconticut Neck Road.

Bruce Webb suggested an official request to the Town Clerk's office for these documents.

Ms. Moura also stated the abutters asked to see the submission of the flood plan at the March 4th meeting that was prepared by an engineer and evaluated by an environmental planner, to ensure that soil erosion and sedimentation does not occur.

The Commission is not familiar with this document.

Karen Isherwood reiterated to the abutters that the Commission must adhere to the current regulations. She recommended a continuance to the April 22 meeting to ensure the abutters received all requested documents.

Kelly Moura stated that Fairhaven's 2018 Hazard Mitigation Plan lists coastal erosion, sea level rise, coastal storms, floods, severe weather, and severe winter storms among the hazards faced by the town. In 2019 the town took part in a grant program called the Municipal Vulnerability Program (MVP), which provides support for cities and towns in MA to begin planning for climate change resiliency and implementing priority projects and that Fairhaven has received a grant from the MA Executive Office of Environmental Affairs (EEA). At the October 2019 MVP meeting, sea level rise and severe storms were identified as the main hazards affecting roads, bridges, and utilities. Sconticut Neck Road, West Island, Poverty Point, and Wilbur's Point were listed as vulnerable neighborhoods. She declared this is evidence that the town is concerned about flooding and sea level rise. She questioned why the Conservation Department cannot be proactive and deny this project? She stated the abutters of 7, 11, 15, 19, 25 and 27 Nakata Avenue are asking the Board to deny this project.

Karen Isherwood stated Commission must adhere 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 at this time.

Karen Isherwood made a motion to continue SE 023-1395, CON 023-319: 1 Island View Road, Map 43, Lot 201 to the April 22, 2024 meeting at the applicant's request. The motion was seconded by Caroline Hawthorne and passed (5-0).

m. SE 023-1396, CON 023-320: 2 Island View Road, Map 43, Lot 201

Notice of Intent filed by Peter Armanetti to construct a single-family dwelling with associated gravel driveway, grading and utilities. Work to take place within 100 feet of a Bordering Vegetated Wetland (BVW), and borders Land Subject to Flooding - FEMA Flood Zone (El.18 & 19') at Assessor's Map 43, Lot 201.

Karen Isherwood made a motion to continue SE 023-1396, CON 023-320: 2 Island View Road, Map 43, Lot 201 to the April 22, 2024 meeting at the applicant's request. The motion was seconded by Carrie Hawthorne and passed (5-0).

- n. **SE 023-1442, CON 023-397: Starboard Drive (Subdivision Lot #1), Map 42, Portion of Lot 9A**
Notice of Intent filed by Starboard Drive Nominee Trust, C/O John Mathieu, Trustee to construct a 2-bedroom single-family home in compliance with FEMA requirements & Mass Building Code for construction within Flood Zone VE (El.19'). The applicant proposes to install fill around the perimeter of the house to direct stormwater away from the foundation; additionally, a 10'x10' utility shed will be anchored to slab or sono-tubes. The lot falls within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 17' & 19'), with no other resource areas on or within 100 feet at Assessor's Map 42, Lot 9A.

Karen Isherwood made motion to close the public hearing and approve SE 023-1442, CON 023-397: Starboard Drive (Subdivision Lot #1), Map 42, Portion of Lot 9A with conditions to follow. The motion was seconded by Caroline Hawthorne and passed (4-0; 1 recusal).

- o. **SE 023-1443, CON 023-398: Starboard Drive (Subdivision Lot #2), Map 42, Portion of Lot 9A**
Notice of Intent filed by Starboard Drive Nominee Trust, C/O John Mathieu, Trustee to construct a 3-bedroom single-family home in compliance with FEMA requirements & Mass Building Code for construction within Flood Zone VE (El.19'). The applicant proposes to install fill around the perimeter of the house to direct stormwater away from the foundation; additionally, a 10'x10' utility shed will be anchored to slab or sono-tubes. The lot falls within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 17' & 19'), with no other resource areas on or within 100 feet at Assessor's Map 42, Lot 9A.

Karen Isherwood made motion to close the public hearing and approve SE 023-1443, CON 023-398: Starboard Drive (Subdivision Lot #2), Map 42, Portion of Lot 9A with conditions to follow. The motion was seconded by Anthony Couto and passed (4-0; 1 recusal).

- p. **SE 023-1444, CON 023-399: Starboard Drive (Subdivision Lot #3), Map 42, Portion of Lot 9A**
Notice of Intent filed by Starboard Drive Nominee Trust, C/O John Mathieu, Trustee to construct a 3-bedroom single-family home in compliance with FEMA requirements & Mass Building Code for construction within Flood Zone VE (El.19'). The applicant proposes to install fill around the perimeter of the house to direct stormwater away from the foundation; additionally, a 10'x10' utility shed will be anchored to slab or sono-tubes. The lot falls within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 17' & 19'), with no other resource areas on or within 100 feet at Assessor's Map 42, Lot 9A.

Karen Isherwood made motion to close the public hearing and approve SE 023-1444, CON 023-399: Starboard Drive (Subdivision Lot #3), Map 42, Portion of Lot 9A with conditions to follow. The motion was seconded by Caroline Hawthorne and passed (4-0; 1 recusal).

- q. **SE 023-1452, CON 023-400: Starboard Drive (Subdivision Lot #4), Map 42, Portion of Lot 9A**
Notice of Intent filed by Starboard Drive Nominee Trust, C/O John Mathieu, Trustee to construct a 2-bedroom single-family home in compliance with FEMA requirements & Mass Building Code for construction within Flood Zone VE (El.19'). The applicant proposes to install fill around the perimeter of the house to direct stormwater away from the foundation; additionally, a 10'x10'

utility shed will be anchored to slab or sono-tubes. The lot falls within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 17' & 19'), with no other resource areas on or within 100 feet at Assessor's Map 42, Lot 9A.

Karen Isherwood made motion to close the public hearing and approve SE 023-1452, CON 023-400: Starboard Drive (Subdivision Lot #4), Map 42, Portion of Lot 9A with conditions to follow. The motion was seconded by Caroline Hawthorne and passed (4-0; 1 recusal).

- r. **SE 023-1448, CON 023-401: Starboard Drive (Subdivision Lot #5), Map 42, Portion of Lot 9A**
Notice of Intent filed by Starboard Drive Nominee Trust, C/O John Mathieu, Trustee to construct a 2-bedroom single-family home in compliance with FEMA requirements & Mass Building Code for construction within Flood Zone VE (El.19'). The applicant proposes to install fill around the perimeter of the house to direct stormwater away from the foundation; additionally, a 10'x10' utility shed will be anchored to slab or sono-tubes. The lot falls within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 17' & 19'), with no other resource areas on or within 100 feet at Assessor's Map 42, Lot 9A.

Karen Isherwood made motion to close the public hearing and approve SE 023-1448, CON 023-401: Starboard Drive (Subdivision Lot #5), Map 42, Portion of Lot 9A with conditions to follow. The motion was seconded by Anthony Couto and passed (4-0; 1 recusal).

- s. **SE 023-1447, CON 023-402: Starboard Drive (Subdivision Lot #6), Map 42, Portion of Lot 9A**
Notice of Intent filed by Starboard Drive Nominee Trust, C/O John Mathieu, Trustee to construct a 2-bedroom single-family home in compliance with FEMA requirements & Mass Building Code for construction within Flood Zone VE (El.19'). The applicant proposes to install fill around the perimeter of the house to direct stormwater away from the foundation; additionally, a 10'x10' utility shed will be anchored to slab or sono-tubes. The lot falls within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 17' & 19'), with no other resource areas on or within 100 feet at Assessor's Map 42, Lot 9A.

Karen Isherwood made motion to close the public hearing and approve SE 023-1447, CON 023-402: Starboard Drive (Subdivision Lot #6), Map 42, Portion of Lot 9A with conditions to follow. The motion was seconded by Anthony Couto and passed (4-0; 1 recusal).

- t. **SE 023-1446, CON 023-403: Starboard Drive (Subdivision Lot #7), Map 42, Portion of Lot 9A**
Notice of Intent filed by Starboard Drive Nominee Trust, C/O John Mathieu, Trustee to construct a 2-bedroom single-family home in compliance with FEMA requirements & Mass Building Code for construction within Flood Zone VE (El.19'). The applicant proposes to install fill around the perimeter of the house to direct stormwater away from the foundation; additionally, a 10'x10' utility shed will be anchored to slab or sono-tubes. The lot falls within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 17' & 19'), with no other resource areas on or within 100 feet at Assessor's Map 42, Lot 9A.

Karen Isherwood made motion to close the public hearing and approve SE 023-1446, CON 023-403: Starboard Drive (Subdivision Lot #7), Map 42, Portion of Lot 9A with conditions to follow. The motion was seconded by Anthony Couto and passed (4-0; 1 recusal).

- u. **SE 023-1445, CON 023-404: Starboard Drive (Subdivision Lot #8), Map 42, Portion of Lot 9A**
Notice of Intent filed by Starboard Drive Nominee Trust, C/O John Mathieu, Trustee to construct a 4-bedroom single-family home in compliance with FEMA requirements & Mass Building Code for construction within Flood Zone VE (El.19'). The applicant proposes to install fill around the perimeter of the house to direct stormwater away from the foundation; additionally, a 10'x10' utility shed will be anchored to slab or sono-tubes. The lot falls within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 17' & 19'), with no other resource areas on or within 100 feet at Assessor's Map 42, Lot 9A.

Karen Isherwood made motion to close the public hearing and approve SE 023-1445, CON 023-404: Starboard Drive (Subdivision Lot #8), Map 42, Portion of Lot 9A with conditions to follow. The motion was seconded by Anthony Couto and passed (4-0; 1 recusal).

- v. **SE 023-1449, CON 023-405: Starboard Drive (ANR #1), Map 42, Portion of Lot 9B**
Notice of Intent filed by Starboard Drive Nominee Trust, C/O John Mathieu, Trustee to construct a 4-bedroom single-family home in compliance with FEMA requirements & Mass Building Code for construction within Flood Zone VE (El.19'). The applicant proposes to install fill around the perimeter of the house to direct stormwater away from the foundation; additionally, a 10'x10' utility shed will be anchored to slab or sono-tubes. The lot falls within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 17' & 19'), with no other resource areas on or within 100 feet at Assessor's Map 42, Lot 9B.

Karen Isherwood made motion to close the public hearing and approve SE 023-1449, CON 023-405: Starboard Drive (Subdivision ANR #1), Map 42, Portion of Lot 9B with conditions to follow. The motion was seconded by Caroline Hawthorne and passed (4-0; 1 recusal).

- w. **SE 023-1450, CON 023-406: Starboard Drive (ANR #2), Map 42, Portion of Lot 9C**
Notice of Intent filed by Starboard Drive Nominee Trust, C/O John Mathieu, Trustee to construct a 4-bedroom single-family home in compliance with FEMA requirements & Mass Building Code for construction within Flood Zone VE (El.19'). The applicant proposes to install fill around the perimeter of the house to direct stormwater away from the foundation; additionally, a 10'x10' utility shed will be anchored to slab or sono-tubes. The lot falls within Land Subject to Coastal Storm Flowage (LSCSF), Flood Zone VE (El. 17' & 19'), with no other resource areas on or within 100 feet at Assessor's Map 42, Lot 9C.

Karen Isherwood made motion to close the public hearing and approve SE 023-1450, CON 023-406: Starboard Drive (Subdivision ANR #2), Map 42, Portion of Lot 9C with conditions to follow. The motion was seconded by Caroline Hawthorne and passed (4-0; 1 recusal).

- x. **SE 023-1454, CON 023-413: 188 Balsam Street, Map 43B, Lot 43**
Notice of Intent filed by John Elander/Fairhaven Realty Trust to remove deteriorating concrete vertical seawall and replace with a precast block wall. Work to be performed on a Coastal Bank and Land Subject to Coastal Storm Flowage at Assessors' Map 43B, Lot 43.

Action: Bruce Webb to contact CZM regarding the vertical seawall.

(3:18:14) Dave Davignon stated the property does not have the area for a sloped rip rap seawall.

Karen Isherwood made a motion to continue SE 023-1454, CON 023-413: 188 Balsam Street, Map 43B, Lot 43 to the April 22, 2024 meeting at the applicant's request. The motion was seconded by Jake Galary and passed (5-0).

7. Violations/Enforcement Orders/Cease and Desist Notices/Other Applications

a. 14 Oxford Street, Map 13, Lot 3: Agent to provide update

(32:40) Bruce Webb informed the Commission that questions on this property were sent to MA DEP.

The former Building Commissioner conducted an onsite inspection, but the agent has nothing to attest to the Building Commissioner's assessment of the property.

Attorney, Nicholas Gomes represented the property owner and requested the partial cease and desist be removed. He affirmed there is no violation with the WPA or the bylaw. He stated Deputy Chief, Joy Nichols confirmed there are no fire hazards on the property. Further, he attested that the information presented at the Select Board meeting was unlawfully attained which would not warrant an administrative warrant requested by the agent. He and his client met with town administration and were satisfied with the remediation plan. Any further decision from the Conservation Department would force the owner to take the matter to Superior Court. Attorney Gomes requested the fire department take over jurisdiction to resolve the issue.

Karen Isherwood stated the Commission has not had access in order to decide if there is a violation under the WPA or the bylaw. She understands other departments have identified their jurisdictions, but this does not satisfy conservation.

Jake Galary asked the reason conservation has been denied access to the property?

Attorney Gomes stated a visit would not be compliant with the enforcing manual.

Attorney, Nicholas Sylvia questioned the violation in the bylaw that gives the conservation department authority?

The agent expressed concerns of hydrocarbons and runoff capturing contaminants into the wetland. The Conservation agent has pursued similar properties and this denial of access may allow other properties with violations to deny access.

Karen Isherwood inquired if the Commission must wait for a wetland professional to determine jurisdiction.

b. 4 Jeannette Street, Map 34A, Lot 062D: Agent to provide update

(58:40) Waiting on a scheduled a site visit to ensure compliance with the permit.

c. EO 023-022: 344-346 New Boston Road, Map 40, Lots 023B & 023C: Agent to provide an update on restoration efforts

(1:00:15) Waiting on advice from Town Counsel - will remain on the April 22, 2024 agenda.

d. EO 023-014: 20 Yankee Lane, Map 39, Lot 16: Agent to provide updates on current conditions

(1:01:22) Progress is being made; remediation of stream completed. Intermittent stream discovered upon inspection; reviewing history of the stream prior to the disturbance.

Tom Schutz of Goddard Consulting would like permission to move forward with Phases 3, 4, 5.

Action: Bruce Webb to reach out to Matthew Burne of BSC Group, Inc. to determine what would affect phases 3, 4, 5 - will remain on the April 22, 2024 agenda.

e. 26 Rivet Street, Map 31A, Lot 51: Unpermitted work in the Buffer Zone to Bordering Vegetated Wetland

Waiting on an application from the owner; no further Enforcement at this time.

f. 7 Forestview Drive, Map 31A, Lot 600T: Altering Bordering Vegetated Wetland

Property owner has been responsive and cooperative; no need for further Enforcement action.

g. 251 Sconticut Neck Road, Map 29, Lot 32: Applicant to file Notice of Intent, agent to provide update

Owners are working on an application at this time.

8. General Business

a. Next Scheduled Public Hearing Date: April 22, 2024

b. Discuss returning to in-person meetings

Awaiting the Select Board policy to bring back in-person meetings.

Action: Agent to find answers on SB policy or state exemptions.

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

Jake Galary made motion to adjourn at 9:47pm. The motion was seconded by Karen Isherwood and passed (5-0).

Karen Isherwood, Vice Chair (Acting Chair)

Fairhaven Conservation Commission

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