

Conservation Commission

Minutes

February 24, 2025

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1. **Chairman's Welcome and Media Notification:** Jake Galary opened the meeting at 6:05p.m. Mr. Galary read the protocol for Zoom meetings and open Public Meeting Law. Mr. Galary 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.
1. **Quorum/Attendance:** Jake Galary, Anthony Couto, Wendy Drumm, Brandon Estrella, Diane Tomassetti, Karyn Ferreira, and Karen Goodhue
2. Jake Galary welcomed newly appointed members: Diane Tomassetti, Karyn Ferreira, and Karen Goodhue

Jake Galary took Item 10. a. out of order.

The Marine Resources Department proposed installing a pole for an Osprey nest adjacent to the boat launch located at 55 Goulart Memorial Drive (Hoppy's Landing) (6-foot hole / 30 feet tall).

Harbor Master, Tim Cox stated an osprey caused concern last summer on the gangway where recreational boats launched. Mr. Cox reached out to the state on proper procedure to provide a safe habitat for Osprey nesting grounds. He proposed to install a platform for a nest on the back side of the property. They will pour concrete offsite into a six-foot tall, 30-inch round plastic cylinder and then have it delivered. The BPW will then dig and place the cylinder in the ground and bolt an aluminum 30-foot pole on top with a wooden pallet on top.

Diane Tomassetti made a motion to accept the osprey nest at 55 Goulart Memorial Drive. The motion was seconded by Wendy Drumm and passed (6-0; 1 abstention).

3. Reorganization of the Board

Jake Galary made a motion to appoint Brandon Estrella as Chair. The motion was seconded by Wendy Drumm and passed (7-0).

Brandon Estrella made a motion to appoint Wendy Drumm as Vice Chair. The motion was seconded by Diane Tomassetti and passed (7-0).

Brandon Estrella made a motion to appoint Jake Galary as Board Clerk. The motion was seconded by Karyn Ferreira and passed (7-0).

4. Approval of the January 27, 2025 meeting minutes

Jake Galary made a motion to approve the January 27, 2025 minutes. The motion was seconded by Tony Couto and the motion passed (4-0; 3 abstained).

5. Open meeting vote with respect to *(Christian & Feck Development Corporation and Stanley B. Feck v. Town of Fairhaven Conservation Commission (Docket Number: 2473CV00735)*. – **Tabled to a later date**

6. Continuances requested in advance:

- a. **CON 023-372: 29 Silver Shell Beach Drive, Map 41, Lot 53 – *Denial for inactivity***
- b. **SE 023-___, CON 023-387: 251 Sconticut Neck Road, Map 29, Lot 032 – *Denial for inactivity***
Brandon Estrella made a motion for denial and to remove both items a and b from the continuances for inactivity beyond six months. The motion was seconded by Diane Tomassetti and passed (7-0).
- c. **SE 023-1495, CON 023-480: 17 Shore Drive, Map 29C, Lots 619 & 620**
- d. **SE 023-1494, CON 023-485: Ebony Street, Map 43C, Lot 389-400**
- e. **SE 023-1480, CON 023-464: 67 Nakata Avenue, Map 43, Lot 100**
- f. **SE 023-1481, CON 023-465: 69 Nakata Avenue, Map 43, Lot 99**

7. Requests for Certificates of Compliance

- a. **SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207 – *Continued to March 2025***
- b. **SE 023-1385, CON 023-279: 27 Silver Shell Beach Drive, Map 41, Lot 54**

Attorney, Nicholas Gomes represented applicants, Nancy & Barry Blouin. Initially this upgraded septic was required for the occupancy load. Farland Corp. designed the layout and submitted the recent As-Built, which shows compliance. A Coastal Geologist had been hired in the process to review the entire site and determine the Coastal Beach and Coastal Dune lines. Additionally, a third-party soil evaluator was hired to conduct soil evaluations. The newly installed unit consists of bottomless sand filtration for nitrogen removal.

Diane Tomassetti made a motion for a complete Certificate of Compliance SE 023-1385, CON 023-279: 27 Silver Shell Beach Drive, Map 41, Lot 54. The motion was seconded by Wendy Drumm and passed (7-0).

- c. **SE 023-1315, CON 023-023-119: 333 Bridge Street, Map 30C, Lot 60**

William Madden from G.A.F. Engineering and Kevin Kelly from Acushnet Company presented the scope of the site improvements. William Madden stated the project has been completed in substantial compliance with the approved plans and Order of Conditions. A copy of the Post-Construction Operation and Maintenance Plan and the O&M Compliance statement were included with this request.

Brandon Estrella made a motion for a complete Certificate of Compliance for SE 023-1315, CON 023-023-119: 333 Bridge Street, Map 30C, Lot 60. The motion was seconded by Karyn Ferreira and passed 6-0; 1 abstention).

8. **Public Hearings** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and/or the Code of the Town of Fairhaven Chapter 192, Wetlands:

Requests for Determination of Applicability

a. CON 023-481: 29 Shore Drive, Map 29C, Lot 613 – *Continued from January 27, 2025*

After-the-fact Request for Determination of Applicability filed by Brian Reis to raise flooded driveway area with gravel located within Flood Zone VE (El.17') at Assessor's Map 29C, Lot 613.

Owner, Brian Reis explained the flooding issues he experienced on his property, which created difficulties getting in and out of the driveway. He stated that the material placed on the driveway is not asphalt, but a loose mixture of gravel and asphalt, which has not been sealed. Mr. Reis claimed the Reclaimed Asphalt Pavement (RAP) material is pervious.

The Commission and staff were not familiar with this material and how it weathered in the dune. They feared it may become impacted enough from the migrating dune to inhibit drainage.

Brandon Estrella made a motion to continue CON 023-481: 29 Shore Drive, Map 29C, Lot 613 to the March 24, 2025 public hearing. The motion was seconded by Jake Galary and passed (7-0).

b. CON 023-484: 2 Oxford Street, Map 13, Lot 001

Request for Determination of Applicability filed by Robert & Nina Weeks to install an in-ground pool, spa, and pool house. Portion of property located in Land Subject to Coastal Storm Flowage, FEMA Flood Zone VE (El. 6') and Buffer Zone to Coastal Beach at Assessor's Map 13, Lot 001.

Owner, Nina Weeks spoke of the proposed pool and pool house.

Diane Tomassetti asked how close the proposed pool and pool house would be to the right-of-way?

Ms. Weeks answered 10 feet back from Oxford Street.

The Weeks are in the process of submitting a Special Permit application to the Board of Appeals.

They have also considered buying the paper street and have asked the Harbormaster if he needs the right-of-way for river access.

The applicant will also be removing pavement in the front of the house that used to serve as a parking lot when the home was a bed & breakfast.

They will be bringing the yard up the grade with a 9.5-foot elevation.

Motion: Kelly to add 2 Oxford to the site visit list for April.

Jake Galary made a motion to continue CON 023-484: 2 Oxford Street, Map 13, Lot 001 to the April 28, 2025 public hearing. The motion was seconded by Brandon Estrella and passed (7-0).

c. CON 023-486: 40 Whisper Lane, Map 42A, Lot 164

Request for Determination of Applicability filed by Jeremy & Aislinn Ewing to enclose 14' x 8' open patio in rear of house. Portion of lot located within Land Subject to Coastal Storm Flowage, FEMA Flood Zone VE (El.17') at Assessor's Map 42A, Lot 164.

Brandon Estrella made a motion to approve CON 023-486: 40 Whisper Lane, Map 42A, Lot 164 and issue a Negative Determination. The motion was seconded by Diane Tomassetti and passed (7-0).

Notices of Intent

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. Attorney, Nicholas Gomes represented Nancy Blouin and presented the plan for the proposed driveway and plantings. Both openings will be 13 feet wide pursuant to the BPW regulations. There will be horseshoe portion with main driveway to extend 87 feet toward the house. The u-shaped portion will have plantings in the center for drainage protection.

Wendy Drumm expressed concerns regarding the percentage of impervious surface within the Buffer Zone to the Coastal Dune.

Brandon Estrella suggested minimizing the area of impervious; the upper half towards the entrance to the home could stay asphalt but the front u-shaped portion remain pervious.

Brandon Estrella made a motion to continue SE 023-1476, CON 023-454: 27 Silver Shell Beach Drive, Map 41, Lot 54 to the March 24, 2025 public hearing at the applicant's request. The motion was seconded by Diane Tomassetti and passed (7-0).

e. SE 023-1492, CON 023-482: 10 Wilbur's Point Drive, Map 43, Lots 81-83

Notice of Intent filed by Lars Vinjerud to demolish existing cottage and build a dwelling in compliance with FEMA and Mass Building Code for construction within FEMA Flood Zone VE (El. 19') at Assessor's Map 43, Lots 81-83.

Dave Davignon, representing the owner, presented the project and plans depicting existing conditions and proposed construction. The existing dwelling, constructed in 1980 was built to different flood zone standards. The existing septic system contains two leaching trenches that passed a Title 5 inspection with the sale of the home. The new construction will include a new singular denitrification septic tank, and a pump chamber with a sand filter approved by the Board of Health. Two test pits were done in the northwest corner of the property. The property has a stone riprap seawall with a concrete cap on top to protect the dwelling in storm events. There will be adequate lawn area to store materials and install the septic system. Existing vegetated areas will be preserved.

Abutter, Robert Davis informed the Commission of a waterline that runs within Wilbur's Point Drive. Mr. Davis expressed concern with the loss of the brush area and would like to see silk screens along the edge of the road.

Brandon Estrella made a motion to grant a Buffer Zone variance for SE 023-1492, CON 023-482: 10 Wilbur's Point Drive, Map 43, Lots 81-83. The motion was seconded by Wendy Drumm and passed (6-0; 1 abstention).

Brandon Estrella made a motion to close the public hearing and approve the Order of Conditions for SE 023-1492, CON 023-482: 10 Wilbur's Point Drive, Map 43, Lots 81-83. The motion was seconded by Wendy Drumm and passed (6-0; 1 abstention).

9. Violations/Enforcement Orders/Cease and Desist Notices – Updates

- a. **EO 023-022: 344-346 New Boston Road, Map 40, Lots 023B & 023C:** The Commission motioned to issue fines at the September 16, 2024 meeting with a motion to put a stay on fines at the October 21, 2024 meeting; Fines have been appealed and will be heard at New Bedford District Court March 11, 2025.
- b. **EO 023-014: 20 Yankee Lane, Map 39, Lot 16:** Peer review for Phases 3,4 & 5 submitted and agreed upon and signed by Bruce Webb on October 22, 2024. Goddard Consulting submitted the proposal for phases 3, 4 & 5 dated January 20, 2025.
- c. **SE 023-1127 & SE 023-1340: 1 Bella Vista, Map 43B, Lot 326, 359 & 360:** Plan site inspection spring 2025.
- d. **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.
- e. **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.
- f. **51 Cedar, Map 4, Lot 155:** Unpermitted clearing in the BVW; wetland restoration report submitted November 5, 2024, prepared by Stephen Chmiel. Commission to conduct a site inspection in spring 2025.
- g. **SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207:** Restoration proposal submitted January 3, 2025; revised restoration plan expected early March 2025.

10. General Business

- a. Next scheduled site visits: **March 10, 2025**
- b. Next Scheduled Public Hearing Date: **March 24, 2025**
- c. Discuss the need for an additional meeting in March, or to reschedule the March public hearing to an earlier date.
- d. Member, Wendy Drumm discussed Fairhaven financial vulnerability due to coastal flooding, wetland management, and sea level rise based on a wetland study from the World Economic Forum.

Wendy presented photos and discussed damaging erosion and loss of her property. She warned of other neighboring properties experiencing the same fate and are at a high risk of losing property value. In lieu of constructing a stone wall, Wendy recently installed coconut fibers as a temporary buffer to aid in building soil layers to provide vegetation a stable place to take root.

She described her design as a “living shoreline” and offered its concept as an alternative to hard concrete barriers, which have limited lifespans and hinder development of coastal ecosystems.

Ms. Drumm also discussed a study commissioned by the Massachusetts Metropolitan Area Planning Council which examined of property and tax revenue due to serious storms. Ms. Drumm warned that Fairhaven is in danger of losing tax dollars. According to the town Assessor, 46% of town revenue is based on tax revenue, with 20% of the properties at-risk from coastal damage. A recent study at Cornell University, Department of City and Regional Planning, examined the relative risk of climate-driven property tax devaluation in 99 Massachusetts municipalities. Fairhaven has the potential loss of 7.6 million in tax revenue.

Ms. Drumm further discussed a resilience study in Virginia that had success in blending nature-based solutions with traditional building approaches. They were able to raise \$100 million in grant funding for restoration and mitigation in Virginia coastal wetlands. She emphasized how grant funding is dependent on Buffer Zone research and municipalities having a valid Hazard Mitigation Plan.

- 11. Any other business** that may properly come before the Commission not reasonably anticipated 48 hours in advance of the meeting.

12. Motion to adjourn

Brandon Estrella made a motion to adjourn at 8:26pm. The motion was seconded by Wendy Drumm and passed (7-0).