

Conservation Commission April 28, 2025

1. **Chairman's Welcome and Media Notification:** Brandon Estrella opened the meeting at 6:00pm. Mr. Estrella read the protocol for Zoom meetings and open Public Meeting Law.
2. **Mission statement:** Diane Tomassetti read the mission statement.
Conservation by definition is the careful maintenance and upkeep of our natural resources to prevent them from disappearing. A natural resource being the physical supply of something that exists in nature, such as soil, water, air, plant and animal. Any perceived or plausible endangerments to these areas and sites shall fall before The Conservation Commission under the laws of Fairhaven and The State. We as a Committee will strive to make mindful and educated decisions with the assistance of our appointed conservation agents.
3. **Quorum/Attendance:** Brandon Estrella, Wendy Drumm, Diane Tomassetti, Karyn Ferreira, Karen Goodhue.
Zoom: Anthony Couto (7:02pm in Town Hall) Absent: Jake Galary

Conservation and Sustainability Coordinator, Kelly Camara and Recording Secretary, Barbara Paczosa were present in Town Hall.
4. **Approval of the March 24, 2025 meeting minutes:** Mr. Estrella made a motion to approve the minutes from March 24th, 2025. The motion was seconded by Ms. Drumm and passed (5-0).
5. **Approval of the following Executive Session Minutes:** (*Record Request - only to be released once litigation has ended & Open Meeting Law review*)
 - a. **September 5, 2023**
 - b. **September 25, 2023**
 - c. **November 6, 2023**
Mr. Estrella tabled approval of Executive Session Minutes for September 5, 2023, September 25, 2023 and November 6, 2023 to the next meeting.
6. **Request for Extension**
 - a. **SE 023-1383, CON 023-274: 14 Harbor View, Map 2, Lot 172**
Mr. Estrella made a motion for an extension for SE 023-1383, CON 023-274: 14 Harbor View, Map 2, Lot 172. The motion was seconded by Ms. Drumm and passed (5-0).
7. **Requests for Certificates of Compliance**
 - a. **SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207**

Bruce Webb gave a brief update to the Commission and stated that he will have a final restoration plan at the May 19, 2025 public hearing.

Mr. Estrella made motion to table SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207 to the May 19, 2025 public hearing. The motion was seconded by Ms. Ferreira and passed (6-0).

b. SE 023-1310, CON 023-112: 1 Windy Way, Map 19, Lot 19

Ms. Camara stated she went to the property to inspect the restored area and vegetation; everything looks to be in compliance. Ms. Camara received a letter from Rick Charron of Charon Associates stating everything was in compliance to the Order of Conditions and they are ready to close out the order. Mr. Charron gave an update to the Commission.

Mr. Estrella made a motion to approve SE 023-1310, CON 023-112: 1 Windy Way, Map 19, Lot 19. Motion passed (6-0).

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, February 24, 2025, March 24, 2025 & April 7, 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.

Ms. Camara stated the applicant has sent out abutter notifications and proposed his idea of creating a berm at the end of the driveway with some plantings. Ms. Camara received a letter from 25 Shore Drive's Attorney stating concerns with stormwater runoff and possible pollutants that are associated with recycled asphalt and the material's permeability.

Ms. Drumm expressed her concerns and the need for a more detailed engineering drawing and specifications.

Mr. Estrella would like to know what exactly is proposed to be planted.

Mr. Reis stated that it was his understanding that the Commission agreed upon the berm and he was going to plant seagrass on the edge between the sand and the driveway.

Attorney Mike McVeigh from Markey and Walsh Law, 50 Homers Warf, New Bedford spoke on behalf of his client, Judy Pacheco Young of 25 Shore Drive. Attorney McVeigh, the author of the letter, expressed his client's concerns in two parts. Attorney McVeigh requested this RDA be given a positive determination and the owner should go through the Notice of Intent process as his client had done.

The Commission discussed starting the process from the beginning to address all concerns raised.

Mr. Estrella made a motion to table CON 023-481: 29 Shore Drive, Map 29C, Lot 613. The motion was seconded by Ms. Tomassetti and passed (6-0).

b. CON 023-484: 2 Oxford Street, Map 13, Lot 001– Continued from February 24, 2025

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.

Ms. Camara stated the property owners had to withdraw their zoning application. They will be working with an engineer to develop a more detailed plan. They may have to withdraw the RDA and then submit an NOI.

Mr. Estrella made a motion for a Positive Determination on CON 023-484: 2 Oxford Street, Map 13, Lot 001. The motion was seconded by Ms. Tomassetti and passed (6-0).

c. CON 023-492: 44 Bayview Avenue, Map 28A, Lot 524

Request for Determination of Applicability filed by Elizabeth DeMedeiros to erect a 6-foot fence and a driveway behind the house.

Ms. Camara stated the property is on the border of the flood zone. The owner wants to put up a fence for privacy along the perimeter of the property. The fence proposed would be FEMA compliant and allow water to flow freely.

The Commission discussed the driveway and requested for more clarification. Ms. Camara will inquire into the matter and update the Commission.

Mr. Estrella made a motion to approve the fence for CON 023-492: 44 Bayview Avenue, Map 28A, Lot 524 with a Negative Determination and the condition that no driveway will be placed until they have further information. The motion was seconded by Ms. Drumm and passed (6-0).

d. CON 023-493: 55 Bayview Avenue, Map 28A, Lots 464 & 465

Request for Determination of Applicability filed by Annette McDonald to construct a 8'x16' storage shed; concrete floor will not be used.

Ms. Camara updated the Commission and stated they need a more detailed plan to lay out all the existing impervious surfaces and to determine lot coverage percentage.

Ms. Drumm questioned if they are in a No Touch Zone and requested a more detailed plan with the boundaries and resource areas and all impervious areas depicted.

Mike and Sharon Power of 52 Bayview Avenue expressed concerns about the size of the structure within the velocity zone and stated the lot is already beyond 50% coverage. They expressed their concern with debris in the street or their property during extreme storms.

The Commission discussed another site visit with the Building Commissioner.

Mr. Estrella made a motion to table CON 023-493: 55 Bayview Avenue, Map 28A, Lots 464 & 465 to the next meeting post a site visit attended with the Building Commissioner. The motion was seconded by Ms. Tomassetti and passed (6-0).

e. CON 023-494: 5 Beachwood Street, Map 31B, Lot 001H

Request for Determination of Applicability filed by John Gomes to remove front steps and replace with pressure-treated deck.

Ms. Camara stated the front steps are in complete disrepair; the proposed work is within the flood zone, but no other resource area.

Mr. Estrella made a motion to approve CON 023-494: 5 Beachwood Street, Map 31B, Lot 001H with a Negative Determination. The motion was seconded by Ms. Ferreira and passed (6-0).

Notices of Intent

f. SE 023-1498, CON 497: 2 Bayside Street, Map 42, Lot 34

Notice of Intent filed by 2 Bayside LLC to enclose an 18'x21' area with break-away panels in compliance with FEMA and Mass Building Code and to obtain post construction authorization for various poured concrete pads. Additionally, the applicant requests an after-the-fact authorization for work which consisted of pouring a 5.5'x25.5' concrete walkway connected new permitted deck to the garage door, a concrete landing step, and a 10.7'x19.3' driveway expansion of the permitted driveway reconstruction. The site is protected from the bay by the existing stone/concrete seawall.

Dave Davignon from Schneider, Davignon and Leone represented 2 Bayside LLC and gave an update on the property. Mr. Davignon stated the owner would like to put in breakaway panels on a portion underneath the structure that is currently on concrete columns. Mr. Davignon did not feel an amendment was appropriate and filed a new Notice of Intent for the breakaway panels and incorporated the after-the-fact concrete areas.

Ms. Tomassetti questioned posts that were seen at the site visit. Mr. Davignon clarified that the posts that stick above the concrete wall are for an approved fence that are removed off season.

Mr. Estrella made a motion to close the public hearing and issue an Order of Conditions for SE 023-1498, CON 497: 2 Bayside Street, Map 42, Lot 34. The motion was seconded by Ms. Tomassetti and passed (6-0).

Commissioner Goodhue recused herself from items g,h and i.

Brandon Estrella opened items g, h and i concurrently.

g. SE 023-1500, CON 023-498: Bridge Street, Westerly Portion of Lot 15B (ANR Lot 1)

Notice of Intent filed by Karen Goodhue to permit the development of a vacant residential property and construct a single-family home with an attached garage, rear deck and front porch. The lot contains a barn structure with parking areas and lawn with Bordering Vegetated Wetlands (BVW) along its easterly side and also falls within the 100 ft. Buffer Zone of two offsite bordering vegetated wetland Systems.

h. SE 023-1501, CON 023-499: Bridge Street, Central Portion of Lot 15B (ANR Lot 2)

Notice of Intent filed by Karen Goodhue to permit the development of a vacant residential property and construct a single-family home with an attached garage, rear deck and front porch. The lot contains a barn structure with parking areas and lawn with Bordering Vegetated

Wetlands (BVW) along its easterly side and also falls within the 100 ft. Buffer Zone of two offsite bordering vegetated wetland Systems.

- i. **SE 023-1502, CON 023-500: Bridge Street, Easterly Portion of Lot 15B (ANR Lot 3)**
Notice of Intent filed by Karen Goodhue to permit the development of a vacant residential property and construct a single-family home with an attached garage, rear deck and front porch. The lot contains a barn structure with parking areas and lawn with Bordering Vegetated Wetlands (BVW) along its easterly side and also falls within the 100 ft. Buffer Zone of two offsite bordering vegetated wetland Systems.

Dave Davignon from Schneider, Davignon and Leone represented property owner, Karen Goodhue. These three lots were part of a large parcel divided through the ANR process. Mr. Davignon stated Field Engineering processed the ANR through the Planning Board to divide the property into 3 legal buildable lots and the Commission has seen this project in the past under a Notice of Intent for a sewer main to be brought to the properties from the intersection on Mill Street.

Mr. Estrella made a motion to close the public hearing for SE 023-1500, CON 023-498: Bridge Street, Westerly Portion of Lot 15B (ANR Lot 1) with the approved buffer requirements and issue an Order of Conditions. The motion was seconded by Ms. Drumm and passed (5-0).

Mr. Estrella made a motion to close the public hearing for SE 023-1501, CON 023-499: Bridge Street, Central Portion of Lot 15B (ANR Lot 2) and issue the Order of Conditions. The motion was seconded by Ms. Tomassetti and passed (5-0).

Mr. Estrella made a motion to close the public hearing for SE 023-1502, CON 023-500: Bridge Street, Easterly Portion of Lot 15B (ANR Lot 3) with the condition and approval of the buffer zone requirement and issue an Order of Conditions. The motion was seconded by Ms. Ferreira and passed (5-0).

- j. **SE 023-1494, CON 023-485: Ebony Street, Map 43C, Lots 389-400**
Notice of Intent filed by Mike Ristuccia for proposed septic with wastewater denitrification system. Property contains Bordering Vegetated Wetlands, Land Subject to Coastal Storm Flowage, FEMA Flood Zone VE (El. 17'), and NHESP Priority Habitats at Assessor's Map 43C, Lots 389-400.

Ms. Camara stated the applicant requested a continuance after the agenda had been stamped and posted.

- k. **SE 023-1496, CON 023-490: 0 Perry Street, Map 31A, 434 (Earle Street)**
Notice of Intent filed by David Vermette to construct a single-family home with associated driveway, grading, and utilities. The applicant also proposes to stabilize a portion of the lot previously disturbed and cleared. The parcel contains NHESP Priority Habitat and Buffer Zone to Bordering Vegetate Wetlands at Assessor's Map 31A, Lot 434.

Ms. Camara reached out for peer review proposals but has not received any to present to the Commission at this time.

Steve Gioiosa from SITEC Engineering represented the applicant and discussed the changes to the plan, including the addition of a 25 foot no disturbed zone and a 50-foot buffer zone. Mr. Gioiosa mentioned the previous authorization for invasive species removal and the proposal to apply a conservation seed mix to the disturbed area. He also addressed the accuracy of the plan relative to a property line raised by the westerly abutter and the identification of minor encroachments by the contractor.

Ms. Drumm questioned the square footage of the house and if the correct name is on the deed. Mr. Gioiosa stated he was not involved with the original foundation permit, so he did not know what was presented. He stated the Notice of Intent included and a copy of the deed confirming ownership. Ms. Camara stated there are a few different deeds at the registry and it goes back and forth between two contractors. Mr. Gioiosa stated he can give copies of the historical deeds on the property.

The Commission agreed to have a site visit with the new plan and to continue the search for a peer reviewer.

Brandon Estrella made a motion to continue SE 023-1496, CON 023-490: 0 Perry Street, Map 31A, 434 (Earle Street) to the may 19, 2025 public hearing. The motion was seconded by Wendy Drumm and passed (6-0).

l. SE 023-1497, CON 023-495: 35 Welcome Street, Map 31B, Lot 001H

Notice of Intent filed by Ana Miranda to construct a 16' x 18' addition with attached deck and French drain on the lawn. Property located within Buffer Zone to riverfront & Bordering Vegetated Wetlands (BVW).

Ms. Camara stated the applicant spoke to Bruce Webb, the Land Use and Planning Director to update the plan. Ms. Camara presented the revised plan showing the distance from the edge of the wetland and where the proposed French drain would be located.

Mr. Estrella made a motion to close the public hearing for SE 023-1497, CON 023-495: 35 Welcome Street, Map 31B, Lot 001H and issue an Order of Conditions. The motion was seconded by Ms. Drumm and passed (6-0).

m. SE 023-1499, CON 496: 110 Middle Street, Map 12, Lot 17

Notice of Intent filed by Mark Patel for alteration/repairs to the existing parking lots on the route 6 side of the property. The repairs consist of approximately 31,926 S.F. (6,826 S.F. in the buffer zone) new pavement to be installed. Additionally, requests for installing 2.5 ft solar light, a garden brick planter (53 ft of which is in the buffer zone), a new awning, and (2) accessible ramps and 476 S.F. of pavers over the current cement pad at entryway.

The Commission discussed the issue of owner Mr. Patel making changes without consulting the town. The Commission emphasized the need for Mr. Patel to follow proper procedures and not pursue projects without their knowledge.

Mr. Estrella made a motion to close the public hearing for SE 023-1499, CON 496: 110 Middle Street, Map 12, Lot 17 and issue an Order of Conditions with the added condition that a letter

will be sent to the owner outlining expectations for future projects. The motion was seconded by Ms. Tomassetti and passed (6-0).

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

- a. **EO 023-022: 344-346 New Boston Road, Map 40, Lots 023B & 023C:** Magistrate's hearing regarding fines imposed on violators scheduled for March 11, 2025. Farland Corporation signed agreement with the owners; Restoration walkthrough conducted April 15th with Christian Farland.
- b. **28 Whisper Lane, Map 42A, Lot 178:** Unpermitted clearing in Buffer Zone to Salt Marsh/LSCSF; site visit conducted on April 22nd – staff to work with owner to restore cleared area.
- c. **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 has met with staff and is in the process of filing an RDA.
- d. **59 Reservation Road, Map 29B, Lot 59:** Verbal Cease & Desist on July 22, 2024 by Bruce Webb for unpermitted work in the Buffer Zone to Bordering Vegetated Wetland, Coastal Dune, and VE (El.20'). Staff reached out to owner regarding filing with the conservation office on April 10, 2025.
- e. **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 fall 2025.
- f. **SE 023-1127 & SE 023-1340: 1 Bella Vista, Map 43B, Lots 326, 359 & 360:** Provide updates on monitoring efforts. Site inspection with engineer Rich Rheume and owner of the property was conducted on April 10th – Rich Rheume to present at an upcoming meeting to give overview of the restoration progress.
- g. **SE 023-1333, CON 023-181: 18 Point Street, Map 28B, Lot 207:** Bruce Webb to coordinate meeting with Rick Charon & property owner to agree on restoration plan.
- h. **0 Perry Street, Map 31A, 434 (Earle Street):** Unpermitted clearing, disturbance, and foundation installation in parcel located within the Buffer Zone to Bordering Vegetated Wetlands and NHESP Priority Habitat. Owner submitted an after-the-fact Notice of Intent on March 17, 2025 to construct single-family dwelling, driveway, and associated utilities. A Cease and Desist was issued on April 7, 2025 when there was evidence of continued work and additional fill brought to the site.
- i. **138 Alden Road, Map 24, Lot 007:** Unpermitted clearing the Buffer Zone to BVW; office sent certified notice of violation on March 13, 2025.
- j. **Mill Road, Map 39, Lot 36:** Notice of Violation sent out April 1, 2025 for multiple abandoned vehicles, construction equipment/machinery, and diesel/oil containers dispersed throughout the wetlands.

10. General Business

- a. Next scheduled site visits: May 5, 2025
- b. Next Scheduled Public Hearing Date: May 19, 2025

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

Mr. Estrella made a motion to adjourn at 8:17pm. The Motion was seconded by Ms. Drumm and passed (6-0).

Brandon Estrella, Chair

Fairhaven Conservation Commission

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