

On 4/20/2023, on a motion by Commissioner Bishop, seconded by Commissioner Lawrence, the Commission voted 5-0, to approve these minutes as written.

YARMOUTH TOWN CLERK  
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## CONSERVATION COMMISSION MEETING MINUTES

March 16, 2023

**Members Present:** Ellie Lawrence (Vice Chairman), Patricia Mulhearn, David Bernstein, Rick Bishop, Paul Huggins

Absent: Ed Hoopes (Chairman); Tom Durkin

**Staff:** Brittany DiRienzo

**Start Time:** 5:00 pm

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### Request for Determination of Applicability

1. Ed Stafford, Lewis Bay Management LLC, [25 Deerfield Road](#), proposed 3' x 38' front addition and 10' x 4' rear addition in land subject to coastal storm flowage

Presenting: Ed Stafford

Commissioner Bishop made a motion to issue a negative 2 determination.

The motion was seconded by Commissioner Huggins, and the motion carried 5-0.

### Continued Notice of Intent

2. **SE83-2371** Bob Perry, Down Cape Engineering, for Susan and Dewitt Davenport, [62A Pleasant Street](#) Proposed swimming pool in the riverfront area (inner riparian zone), land subject to coastal storm flowage, and the buffer zones to a salt marsh and coastal bank

Bob Perry sent a letter requesting a continuance to April 6. Commissioner Bernstein made a motion to continue to April 6

The motion was seconded by Commissioner Mulhearn

The motion carried 5-0

### Notice of Intent

3. **SE83-2378** Bob Falzarano, Fraser Construction Company, Inc., for Jeffrey Gabriels [18 Roads End](#) Proposed removal and replacement of 21' x 10' deck with 21' x 12' deck in the buffer zone to a bordering vegetated wetland and freshwater pond

Commissioner Bernstein made a motion to continue to April 6, 2023, on site requirements were not completed.

The motion was seconded by Commissioner Huggins, and the motion carried 5-0.

4. **SE83-2382** Christopher M. Lucas, Lucas Environmental LLC, for Diane Morris & Julie French, [1044 Route 28](#) proposed construction of a telecommunications facility and gravel driveway within land subject to coastal storm flowage.

Commissioner Bernstein made a motion to continue to April 6, 2023, on site requirements were not completed.

The motion was seconded by Commissioner Bishop, and the motion carried 5-0.

5. Christopher Gilbert, Farland Corp. Inc., for Lisa George [41 Short Way](#) proposed addition with partial basement, attached deck, fence, driveway expansion and walkway within the buffer zone to a bordering vegetated wetland

On 4/20/2023, on a motion by Commissioner Bishop, seconded by Commissioner Lawrence, the Commission voted 5-0, to approve these minutes as written.

Commissioner Huggins made a motion to continue to April 6, 2023, on site requirements were not completed.

The motion was seconded by Commissioner Bernstein, and the motion carried 5-0.

6. Michael D. Ball, Marsh Matters Environmental, for Gary and Elaine Roy [277 Buck Island Road](#) proposed in-ground pool within the buffer zone to an inland bank, bordering vegetated wetland, and freshwater pond.

Presenting: Michael Ball

Discussion: Commissioner Bishop asked if the pool could be moved closer to the house. CA told the applicant's representative that the owners needed to remove the unpermitted dock and the boat. A conversation about the definition of the inland bank took place.

Commissioner Bernstein made a motion to continue to April 6, 2023 to wait for the DEP number and NHESP comment.

The motion was seconded by Commissioner Mulhearn, and the motion carried 5-0.

7. John Lavelle, Baxter NYE Engineering & Surveying, for Lisa and James Valone [63 Smith's Point Road](#) proposed modifications to existing boardwalk within land subject to coastal storm flowage and coastal dune.

Presenting: Mathew Eddy

Discussion: DEP # received today. SE83-2383. No Natural Heritage comments received.

Mr. Eddy said that the OOC from 1999 was never closed. The owners are modifying the existing boardwalk. Among the changes are a shortened boardwalk by 16 ft. The boardwalk will be raised in places and one of the two benches will be removed.

Commissioner Bishop made a motion to issue an order of conditions with special conditions, including any conditions from Natural Heritage. The motion was seconded by Commissioner Mulhearn, and the motion carried 5-0.

### **Stormwater Management Permit Application**

8. **SW2023-002** Robert Reedy, J.M. O'Reilly & Associates for Christian Davenport, The Davenport Companies Inc. [Lot 2a Route 6a](#) Proposed development of a 14-lot cluster subdivision in Yarmouth Port.

Commissioner Bernstein made a motion to continue to April 6, 2023, awaiting response material to the peer review comments.

The motion was seconded by Commissioner Mulhearn, and the motion carried 5-0.

9. **SW2023-003** Emily Williamson, Shive-Hattery, Inc. for Jason St. Martin, Eversource Energy, Inc. [484 Willow Street](#) Proposed emergency use parking lot and site improvements for energy emergencies and storm response vehicles

Commissioner Bishop made a motion to continue to April 6, 2023, awaiting peer review comments. The motion was seconded by Commissioner Bernstein, and the motion carried 5-0.

### **Certificate of Compliance**

10. **SE83-2201** [15 North Cove Landing](#), South Yarmouth

11. **SE83-2202** [30 Homer Ave](#), South Yarmouth

12. **SE83-2203** [11 North Cove Landing](#), South Yarmouth

All three COC's were ok to issue and taken in one vote.

On 4/20/2023, on a motion by Commissioner Bishop, seconded by Commissioner Lawrence, the Commission voted 5-0, to approve these minutes as written.

Commissioner Bernstein made a motion to issue the COC's. The motion was seconded by Commissioner Bishop, and the motion carried 5-0.

13. **SE83-2216 148 Wendward Way**, West Yarmouth

Presenting: Dennis Aceto

Discussion: CA gave a summary: vegetation removal was done abutting the wetland, and the driveway was required to remain pervious, and was paved. An EO was issued requiring erosion control and a restoration plan is to be filed by April 13, 2023. Since receiving the enforcement order, straw was thickly applied to the disturbed area. Mr. Aceto told the commission that this was a foreclosed property and the vegetation work and paving was done before he took over. Commissioner Bernstein is concerned that the runoff from the driveway will go into the wetland.

Commissioner Bishop made a motion to continue to April 20, 2023 to review the restoration plan and decide about the hardscape and driveway. 2 to 1 mitigation ratio to be included in the plan for all hardscape, in addition to restoring disturbed areas.

The motion was seconded by Commissioner Bernstein, and the motion carried 5-0.

**Enforcement**

14. Great Island Homeowners Association, **0 Great Island Road** Unpermitted fill deposited on a coastal dune, coastal beach, and land subject to coastal storm flowage.

Commissioner Bernstein made a motion to continue to April 6, 2023, NHESP has not returned comment yet. The motion was seconded by Commissioner Bishop, and the motion carried 5-0.

**Other Business**

15. Approval of Meeting Minutes: February 2, 2023 and March 2, 2023 Both minutes were taken in one vote- Commissioner Bernstein made a motion to approve the minutes as written with minor revisions and seconded by Commissioner Mulhearn. Feb 2 passed 5-0 and March 2 passed 4-0.

16. Other business not reasonably anticipated.

Adjourned at 5:56