

On 6/15/2023, on a motion by Commissioner Bernstein, seconded by Commissioner Lawrence, the Commission voted 5-0, to approve these minutes as written.

YARMOUTH TOWN CLERK

CONSERVATION COMMISSION MEETING MINUTES

June 1, 2023

'23JUL12AM9:02 REC

Members Present: Ed Hoopes (Chairman), Ellie Lawrence (Vice Chairman), Thomas Durkin, David Bernstein, Rick Bishop, Paul Huggins, Patricia Mulhearn

Staff: Brittany DiRienzo

Start Time: 5:00 pm

Request for Determination of Applicability

1. James McGrath, Pine Harbor Wood Products, for James McGrath, [91 South Street](#) Demolish existing structure and rebuild a 22'x26' garage in land subject to coastal storm flowage

Presenting: James McGrath

Discussion: Building a freestanding garage. He is raising the foundation one foot above existing house foundation. Garage will have flood vents.

Commissioner Bishop made a motion to issue a negative 2 determination. The motion was seconded by Commissioner Lawrence, and the motion carried 7-0.

2. John Shea, [37 Tanglewood](#) proposed deck replacement in buffer zone to a wetland and land subject to coastal storm flowage

Presenting: John Shea

Discussion: Building a new deck including stairs along the entire width of the house at 28X12ft. The owner agreed to move the steps to the side. The proposed mitigation will remain the same as moving the stairs decreases new structure within the 35' buffer.

Before issuance of the DOA, the owner will need to submit a revised plan.

Commissioner Lawrence made a motion to issue a negative 3 determination upon receipt of a revised plan with a condition that the staging area be moved to either side of the house. The motion was seconded by Commissioner Durkin, and the motion carried 7-0.

3. Tom Dwyer, [160 Mayflower Terrace](#) proposed shed in land subject to coastal storm flowage, and buffer zone to a coastal bank

Presenting: Tom Dwyer

Discussion: The land is steeply sloped and therefore the owner needs a variance to construct a shed 31 feet from the top of the coastal bank. Chairman Hoopes felt that the shed should be at the top of the property, but because of building/zoning regulations and the fact the zoning board of appeals rarely approves variances, the alternative is to build it within the 35 foot buffer and ask a variance of conservation.

Commissioner Lawrence made a motion to issue a negative 3 determination. The motion was seconded by Commissioner Bernstein, and the motion carried 6-1.

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4. Amanda Houle, Tighe and Bond Inc., for James Clancy, Eversource Energy [484 Willow Street](#) proposed construction of a vehicle staging lot in the riverfront area

Presenting: Amanda Houle

Discussion: Developing a part of their property for emergency response so it serves as a centralized staging area. There is 870 sq feet of tree removal and disturbance within the outer riparian area.

Commissioner Bishop made a motion to issue a negative 2 determination. The motion was seconded by Commissioner Lawrence, and the motion carried 7-0.

Request Approval of a Revised Plan

5. **SE83-2303** [40 Mayflower Terrace](#) proposed fence, regrading, and patio in the 35' buffer to the coastal bank

Presenting: Rodolfo Benavides

Discussion: Mitigation is needed with native plantings at a 3 to 1 ratio if a patio is desired beneath the deck. The patio must be made of pervious material. The original plan did not approve any re-grading or a retaining wall that now exist. The owner asked for a privacy fence, but the Commission decided that a split rail fence may be allowed 0-35 feet from the top of coastal bank and a privacy fence may be allowed landward of the 35 ft buffer as long as there is at least 6 inches of clearance to allow for wildlife to go under. The Commission also wants to see a solution to the erosion issue created by the retaining wall. A revised plan incorporating these changes is required for review at the continued meeting.

Commissioner Bishop made a motion to continue to July 6, 2023. The motion was seconded by Commissioner Lawrence, and the motion carried 7-0.

Continued Notice of Intent

6. **SE83-2394** Jean Duff-Still, Cape and Islands Engineering, for William Mackey and Lucinda Abrecht [4 Malfa Road](#) proposed beach and dune stabilization in a coastal beach, coastal dune, and land subject to coastal storm flowage

Continued by applicant to June 15, 2023

7. **SE83-2393** Roy Okurowski, WRS Engineering, for Jeffrey Cutter [33 Prince Road](#) after the fact NOI filing for enforcement order for deck expansion, unpermitted patio, and 30' x 8' float, in land subject to coastal storm flowage

Presenting: Roy Okurowski, WRS Engineering and Jeffrey Cutter

Discussion: The proposal is to remove 86 sq ft of patio and seek permitting for the 114 sq ft deck addition. The plan also proposes to remove the Rosa rugosa and replace with native plantings.

The Commission responded with the following:

- a. Replacing the Rosa rugosa is not considered mitigation, and those plants should stay. A new plan is needed to show the proper amount of mitigation in addition to the rosa rugosa. It was also noted that mitigation for activity within the 35 foot buffer zone should be 3 to 1. Proper spacing must be utilized in the revised plan, proposed are too far apart to achieve cover.

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- b. The float is 8X30 and was permitted to be 8X16. The owner removed the two 8x5 floats per the EO and requested to keep the oversized float. The original enforcement order was issued in January 2022 (REVISED February, 2022) to be resolved by May 5, 2022. It is now June 2023, so it has been in violation for 1.5 years. The owner would like to apply for an amended order for a 200 sq ft dock instead of the permitted 128 sqft float.
- c. Commission asked for a revised mitigation plan
- d. Commission gave owner 2 months to remove the oversized float.

Commissioner Bernstein made a motion to continue to June 15, 2023. The motion was seconded by Commissioner Bishop, and the motion carried 7-0.

Notice of Intent

- 8. **SE83-2395-** John Bologna, Coastal Engineering Co. Inc., for RJ Resorts Beach Resort Owner LLC, [28 South Shore Drive](#) proposed demolition of existing pool and walkways, renovation and additions to existing hardscape and buildings, and stormwater management facilities in the riverfront area, coastal dune, coastal bank, and land subject to coastal storm flowage

Presenting: John Bologna and Damir Von Rohrbach, Coastal Engineering and Ian Peach, Wilkinson Ecological (Zoom)

Discussion: Mr. Bologna went over the plans for changes in quite some detail. The Commission appreciated the details of the plans which includes dune restoration and plantings, mitigation plantings that replace lawn, a new pool and pavilion, and a landscape palette of native plants.

Waiting for NHESP comments before we can vote.

An abutter spoke mostly in favor of the project but reminded the owners to make sure the easement for easy access to the beach is maintained. He also wanted to make sure there is control of debris from the building. He was assured by the Chairman that wind blown debris control be included in the order of conditions.

Commissioner Bishop made a motion to continue to June 15, 2023 for sole purpose of addressing NHESP comment. The motion was seconded by Commissioner Bernstein, and the motion carried 7-0.

Continued Stormwater Management Permit Application

- 9. **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.

Continued to June 15th by applicant

Continued Request for Certificate of Compliance

- 10. **SE83-2088** [28 Aunt Edith's Road](#), Down Cape Engineering

Tabled to June 15 meeting.

Request for Certificate of Compliance

- 11. **SE83-623** [63 Partridge Valley Road](#)

Commissioner Lawrence made a motion to issue the COC with ongoing conditions. The motion was seconded by Commissioner Mulhearn, and the motion carried 7-0.