

**CONSERVATION COMMISSION MEETING MINUTES**

**August 3, 2023**

**Members Present:** Ed Hoopes (Chairman), Ellie Lawrence (Vice Chairman), David Bernstein, Rick Bishop entered at 6:39 pm, Paul Huggins, Patricia Mulhearn

**Staff:** Brittany DiRienzo

**Start Time:** 5:00 pm

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**1. Discussion with Town of Yarmouth DPW and Recreation staff regarding Seagull Beach raking**

Presenting: Jeff Colby, Director of DPW

The Commission wanted to review raking protocols because this year parts of the beach were colonized with vegetation which if left to grow would help add dune resilience and shorebird habitat. Shorebirds have been observed using the plants for shelter and forage in the past few weeks. After a discussion, it was decided to allow raking in areas that have been raked previously this summer, and to protect the area west of the boardwalk with fencing where high densities of vegetation occur. The existing Audubon fencing will remain in place at least through October 10 to protect these plants along the rest of the beach. DPW and recreation will apply for an official permit through DEP and the endangered species program for future raking, to be submitted this fall.

No vote was needed.

**Request for Determination of Applicability**

**2.** Daniel Kennedy, [225 Route 28](#), proposed construction of electric vehicle chargers in the riverfront area, land subject to coastal storm flowage, and the buffer zone to a salt marsh

Presenting: Daniel Kennedy

4 electric chargers to be installed in the rear of the back parking lot. Only questions were about moving the chargers to other areas. Mr. Kennedy answered all those concerns.

Commissioner Bernstein made a motion to issue the permit with a negative 2 and negative 3 determination. The motion was seconded by Commissioner Huggins, and the motion carried 5-0.

**3.** Daniel Ojala, Down Cape Engineering Inc., for Lewis Bay Management LLC, [7 Franklin Street](#) proposed addition over existing deck, and replacement of existing wooden stairway in the buffer zone to a bordering vegetated wetland and land subject to coastal storm flowage

Presenting: Dan Ojala, Down Cape Engineering

Replacing a deck and stairs with an addition within the same footprint.

Commissioner Lawrence made a motion to issue the permit with a negative 2 and negative 3 determination. The motion was seconded by Commissioner Bernstein, and the motion carried 5-0.

On 8/17/2023, on a motion by Commissioner Bernstein, seconded by Commissioner Lawrence, the Commission voted 5-0, to approve these minutes as written.

**Continued Notice of Intent**

4. **SE83-2392** Paul Mancuso, BSC Group, for Carl Valeri **138 Crowell Road** proposed dredging and beach nourishment, in land under the ocean, coastal beach, land containing shellfish, and land subject to coastal storm flowage

Presenting: Paul Mancuso, BSC Group

The beach association would like to dredge the creek to relocate the channel, which has meandered through their beach. They propose to straighten the creek's channel into the bay, and nourish the beach below mean high water to enlarge the usable beach area. The petitioners would like to dredge and nourish annually to maintain straight configuration of the inlet and protect the beach.

Commissioner Lawrence said this is a disruption to the system and the stream will just come back as it has in the past. Chairman Hoopes commented that the marsh is healthy, and the stream is flowing and meandering naturally, the proposed project is more about getting a better beach. Mr. Mancuso said the dredging could decrease the chances of sediment covering the healthy marsh system and clogging the stream, reducing tidal flushing. Chairman Hoopes explained that it is natural for sand to cover the marsh and migrate, especially with sea level rise, and there doesn't seem to be a need to dredge. CA clarified that the reviewer made comments on how to maintain the beach if action was taken on this project, but also commented on the potential negative impacts of the project.

The CA pointed out that the need to dredge hasn't been justified and is usually permitted for improving access to docks, piers, or boat ramps or improving a navigable channel. The nourishment also doesn't meet the two types described in the DEP beach nourishment guide and does not conform to their guidelines to only nourish above mean high water. There was further discussion about how the stream will continue to meander, and this is an effort in futility. Mr. Mancuso addressed a concern saying that surveys would be done each time before work was done to determine exactly how much sand would need to be removed to meet the determined grade. Commissioner Lawrence stated that this project was more for beach improvement than protecting the property.

From the Audience comments:

Nancy Vileniskis an abutter has seen the creek go left and right. She does not understand how an association would have any right to manage this parcel. She is against the project.

Jack Perrone: Said that mother nature is going to do what mother nature is going to do.

Chairman Hoopes told the Commission that 7 emails were received with 2 being in favor and 5 opposed.

Carl Valeri, the President of the Association said that there are 20 home owners with deeded rights to the beach. Previously Town Counsel has given the association standing rights to file the application. He also said that the nourishment will help to stabilize the bulkhead.

Tom Houston, a home owner and civil engineer, reviewed the revised plan that was updated to respond to peer reviewer and sees no issues with the project.

Carmen Comite, in response to an earlier question about the possible effect of the land on the other side of the creek (right side) said erosion has not occurred.

Commissioner Bernstein made a motion to issue an order of conditions with special conditions. The motion was seconded by Commissioner Lawrence, and the motion did not carry. 2 for, and 3 against.