

On 10/7/2021, on a motion by Commissioner Durkin, seconded by Commissioner Mulhearn, the Commission voted unanimously, 6-0, to approve these minutes as written.

## CONSERVATION COMMISSION MEETING MINUTES

September 16, 2021

**Members Present:** Ed Hoopes (Chairman), Tom Durkin (Vice Chairman), Patricia Mulhearn, Ellie Lawrence, David Bernstein and Paul Huggins

**Member(s) Absent:** Rick Bishop

**Staff:** Kelly Grant

**Start Time:** 5:00pm

YARMOUTH TOWN CLERK  
'21OCT12AM10:01 REC

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### **Request for Determination of Applicability**

1. *Continued from 9/2/2021* Town of Yarmouth, **669 Route 28**, Yarmouth, proposed geotechnical soil borings required to design a future pedestrian boardwalk, four within land containing salt marsh and three within land subject to coastal storm flowage and buffer zone.

Presenting: Arek Galle, BETA Group

Commissioner Durkin made a motion to approve with a Negative 2 and 3, with any conditions from DMF included in Determination. The motion was seconded by Commissioner Lawrence. The motion carried unanimously 6-0.

### **Continued Notice of Intent**

2. *Continued from 9/2/2021* **SE83-2295** Joseph Toppi, **27 Angus Avenue**, Yarmouth, proposed single-family dwelling and associated site work within the buffer zone to a bordering vegetated wetland and coastal bank, and within land subject to coastal storm flowage.

Presenting: Kieran Healy, BSC Group

No comments or questions.

Commissioner Bernstein made a motion to approve with conditions. The motion was seconded by Commissioner Durkin. The motion carried unanimously 6-0.

### **Notice of Intent**

3. **SE83-2299** Lisa & James Valone, **63 Smiths Point Road**, Yarmouth, proposed renovation of garage/guest house, hardscape and landscape reconstruction, and septic tank replacement within the buffer zone to a coastal bank.

Presenting: Matt Eddy, Baxter Nye Engineering

Commissioner Lawrence asked if the porches were to be enclosed. Mr. Eddy responded no, they are farmer's porches. Commissioner Lawrence asked about the purpose of the wall by the driveway. Mr. Eddy responded that it is to improve drive access. Commissioner Mulhearn asked about mitigation plantings. Mr. Eddy responded that there are none proposed as credit resulted

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from the removed hardscape. Commissioner Bernstein stated that he'd like to see trees saved. Chairman Hoopes stated that they've never "banked" mitigation and won't consider this. The Conservation Administrator suggested replacement of the tree that is to be removed above the bank.

Commissioner Bernstein made a motion to approve with revised plan to remove mitigation table and added tree. The motion was seconded by Commissioner Lawrence.

The motion carried unanimously 6-0

#### **Emergency Certification**

4. **24 Charles Street**, Yarmouth – emergency oil spill cleanup

Presenting: Kieran Healy, BSC Group

BSC Group will be amending the Order of Conditions.

Commissioner Huggins made a motion to ratify the Emergency Certification, requiring an Amendment to the existing Order of Conditions to cover any additional required work. The motion was seconded by Commissioner Lawrence. The motion carried unanimously 6-0

#### **Certificate of Compliance**

5. **SE83-1477 63 Smiths Point Road**, Yarmouth

Presenting: Matt Eddy, Baxter Nye Engineering

Discussion: Conservation Administrator explained the deviation from the approved plan and suggested moving steps back; and suggested continuing the request for Certificate of Compliance until a certain date to require the work to be completed under administrative review. Chairman Hoopes suggested an as-built for the stairs as part of the Certificate of Compliance. Matt Eddy stated he could do a proposed/as-built plan for the stairs.

Commissioner Durkin expressed concern with activities on Great Island that he thought have increased sediment movement and impacted the navigability of Lewis Bay. He suggested a closer look at how this project has contributed to erosion issues.

Mr. Eddy responded that he would have to look into the jetties, but this is a Certificate of Compliance request from 1999, which was for the raised walkway and stairs, and he doesn't think that Commissioner Durkin's comments on the jetties were relevant to the COC request.

Commissioner Durkin stated that he does think it's relevant to the thinking that is going on with the properties on Great Island, and if any work is going to be done on the beach, it is absolutely necessary that a significant engineering and design study be conducted.

Commissioner Huggins asked how many feet the original permit was for. Conservation Administrator responded that the permitted length was 180 feet and it is now about 215 feet. Commissioner Huggins stated that this COC had not been applied for in 20 years, and asked if the property has changed hands. Matt Eddy stated yes, that he believed it had gone into foreclosure. Commissioner Huggins stated that it was able to be conveyed with no concern for the open Order. Given the fact that it went so long without any attention to the regulations, he