

PLYMOUTH CONSERVATION COMMISSION

508-747-1620 x10139

Minutes

February 14, 2023

Present: Randy Parker; Chair, Ann Burnham; Vice Chair and Commissioners, Karen Edwards, Lucas Nichols, Sean Andersen, and Jamie Carpenter.

Absent: Paul Churchill

Conservation Staff: Richard Vacca and Patrick Farah

Recording Secretary: Michele Rowe

This meeting may include topics not reasonably anticipated by the Chair 48 hours in advance of the meeting. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town's website, at <https://www.plymouth-ma.gov/conservation-commission>

Executive Session:

6:30 pm In House Counsel

Executive session under G.L. c.30A, §21(a)(3) to discuss strategy with respect to litigation:

Off Tihonet Road / Federal Road

Save the Pine Barrens v. AD Makepeace

Commission will return to Open Session

continued from January 31, 2023

24 Priscilla Beach Road

Parcel ID:044-006-557-000

Alan Oransky

Grady Consulting, LLC

A Post-Facto Notice of Intent for Deck Expansion of previously existing deck.

SE57-3294

PCC-23-01

The Commission received the following documentation for this review:

1. MassDEP NOI File Number
2. WPA Form 3 – Notice of Intent received January 6, 2023
3. Projective Narrative
4. Waiver Request for work within the 35' and 50' buffers to a resource area
5. Assessors' Office Abutter List Report dated December 15, 2022
6. Assessors' Office Map
7. Pictures of expanded deck, footings
8. Site Plan prepared by Grady Consulting, LLC, stamped by Kevin S. Grady, PE and Timothy R. Bennett, PLS revised February 8, 2022
9. Landscape Plan prepared by Grady Consulting, LLC, dated October 26, 2022

Tim Bennett, Grady Consulting, LLC was present as the representative for this project and presented the proposed plan to the Commission. Tim Bennett on behalf of client is proposing a mitigation plantings are an area of 160 square feet. Project meets the performance standards:

- projects shall not have an adverse effect due to wave action on the movement of sediment from the Coastal bank to coastal beaches. This coastal bank is an armored revetment for its lower half, no sediment is traveling to or from there.
- Shall not have an adverse effect on the stability of the Coastal bank. This has been in place since 2,005 and the Coastal Bank is heavily vegetated.
- minor activities shall not be subject to regulation, such as the conversion of lawns to accessory single-family dwellings, including decks, sheds, patios, etc. pool. This is part of the regulations.

They are proposing a mitigation and additional costs for post-facto. And propose to except a fine.

Ann Burnham feels it was willful. This was brought to the Commission in 2021 and ordered to remove the deck. This is an open order of conditions.

Lucas Nichols and Jamie Carpenter feel the deck is a rebuild, it needs to be looked at by the building inspector. Sean Andersen suggests Building Department look at the deck first, then come back to the Commission.

Ann Burnham and Karen Edwards believe it should be repaired to the original size of the deck.

Rich Vacca suggests the deck be brought back to the original size. Regulations state the conversion of deck to patio is allowed within the 50' away from the resource area and since this on top of the resource area this is not allowed.

The open Order of Conditions was voted by majority 4-1 that the unauthorized portion of the deck and footings will be removed and the area be re-vegetated with native species appropriate to the habitat. If the Commission decides to deny this notice of intent a request, then the existing orders, the condition would survive and the applicant would be under the obligation to comply with that or be in violation. If commission decides to do something different, approve it or come up with some other compromise, then we're still going to have to come and amend the existing order of conditions because these are two different issues.

Randy Parker suggests to remove the deck, refile and do the deck correctly.

Public Comment: None

Ann Burnham 1st motion to deny the post facto notice of intent.

Karen Edwards 2nd motion.

Sean Anderson, Lucas Nichols, Randy Parker – voted No

Ann Burnham, Jamie Carpenter, Karen Edwards – voted Yes

Vote does not carry

Sean Andersen 1st motion to approve project, close public hearing, special condition and with \$3,000 fine

No 2nd motion Sean Andersen withdraws the motion

Lucas Nichols 1st motion to close the public hearing with Condition: Any alternations or repairs that need to be made to the existing structure that they resubmit to the Conservation Commission

Sean Andersen 2nd motion

Voted 5 – 1 7:45 pm

Sean Andersen, Ann Burnham, Jamie Carpenter, Lucas Nichols, Randy Parker voted yes

Karen Edwards voted no

Jamie Carpenter 1st motion to Vote to rescind sections 8, 9, 10

Ann Burnham 2nd motion

Voted 5 -1 7:49 pm

Sean Andersen, Ann Burnham, Jamie Carpenter, Lucas Nichols, Randy Parker voted yes
Karen Edwards voted no

continued from February 7, 2023

72 Warren Avenue

Parcel ID:037-000-003A-003

Alan T. & Anne E. Haig

Coastal Engineering Co.

SE57-3292

PCC-23-02

A Notice of Intent to install a dock over an existing revetment, reconstruct the revetment, remove degraded sediment and rubble to help restore the patens salt marsh.

The Commission received the following documentation for this review:

1. MassDEP NOI File Number
2. Commonwealth of Massachusetts Division of Marine Fisheries, dated January 26, 2023
3. Letter dated January 10, 2023 by Coastal Engineering Co., signed by Carla A. Davis
4. WPA Form 3 – Notice of Intent received January 10, 2023
5. Introduction / Project Description
6. FEMA Firmette
7. ACEC Boundary for Project Locus
8. NHESP Habitat Border
9. Alternatives Analysis
10. NOI Wetland Fee Transmittal Form
11. Assessor's Abutter List
12. Locus
13. Proposed Dock and Revetment Improvements, prepared by Coastal Engineering Company, Inc.
14. General Notes, Legends and Abbreviations, prepared by Coastal Engineering Company, Inc., stamped by Catherine C. Ricks, PE, dated January 24, 2023
15. Plan showing proposed Site Improvements, prepared by Coastal Engineering Company, Inc., stamped by Catherine C. Ricks, PE, dated January 24, 2023
16. Plan Showing Proposed Site Improvements, prepared by Coastal Engineering Company, Inc., stamped by Catherine C. Ricks, PE, dated January 24, 2023
17. Letter dated February 8, 2023 from Coastal Engineering Co. to address the response from Division of Marine Fisheries Comment Letter dated January 26, 2023

Todd Turcotte, Coastal Engineering Company was present as the representative for this project and presented the proposed plan to the Commission. Coastal Engineering had just gotten the letter from Division of Marine Fisheries prior to meeting with return comments and hasn't been able to address all at this time. Ann Burnham would like the plan to be tweaked to include the DMF proposal. Todd has requested a continuance to March 14, 2023.

Public Comment: None

Lucas Nichols 1st motion to continue the hearing to March 14, 2023 at a time to be determined
Ann Burnham 2nd motion

Voted Unanimously 6 – 0 8:13 pm

MISCELLANEOUS:

- **Manomet Beach Sand Removal**

White Horse Beach - move all washed-up beach sand on Taylor Avenue Beach Side back out to the Beach.

Resident: Dean Dimartino, 133D Taylor Avenue, they have been using Ace Excavation for years to remove the sand around the homes. They are looking for Commission to allow them to move the sand back down to the beach.

Randy Parker, suggest a Determination of Non-significance for this maintenance. Have someone to watch over the heavy machinery. Administrative Assistant suggest a long-term maintenance plan.

Jamie Carpenter shared some pictures of what it looks like and thinks that it could be a simple yearly thing.

Greg DeCesare, DEP stated in email:

Notice of Intent doesn't meet the minimum submittal requirements in order for me to issue a file number. I did see the pictures and have an idea what you are trying to accomplish but your NOI needs to include a plan. The plan needs to show the jurisdictional resource areas such as dune, beach, etc. as well as a grading details. The NOI should include numeric volumes of material that will be moved. You need to explain how the activity meets Wetlands Protection Act performance standards for the resource areas (dune? Beach?) and likely Town bylaw standards.

Lucas Nichols suggested to do maintenance on an annual basis.

Ann Burnham left the meeting 8:26 pm

- Request for Cooperative Enforcement Order, 6 Boat House Lane

Cameron Larson, Environmental Consulting & Restoration, LLC, presented to the Commission. This is an expired Order of Conditions. Cameron states that they would like to work with the Commission to address the unpermitted activities at 6 Boat House Lane and perform another round of coastal stabilization activities at the Dunes at Ocean Point property as permitted in the Order of Conditions. The past round of coastal stabilization activities has eroded from past storm events leaving the area exposed. A cooperative Enforcement Order would allow us to complete these activities and bring the site into compliance. The Enforcement Order is an Order similar to an Order of Conditions, which allows work within resource areas. Our intent is to prepare and submit a compliance plan for review by the Commission in response to an anticipated Enforcement Order. A new Notice of Intent for the same work as permitted in the past Order of Conditions creates additional problems for the property's owners. More specifically, a new Order of Conditions for the same work requires additional filing fees, public hearing review, time delays, potential for appeals, etc. In the end, a Certificate of Compliance would be needed for this new Order of Conditions. They are trying to get the area handled quickly. They are working on the mitigation measures for the spring.

Lucas Nichols and Jamie Carpenter agree it is a good idea, they don't want to complicate the process and their intentions are genuine.

Randy Parker recused himself.

Public Comment: None

Rich Vacca, would like to review more before he makes a comment.

Lucas Nichols 1st motion to approve the Cooperative Enforcement Order

Jamie Carpenter 2nd motion

Voted 4 -1 8:37 pm

Sean Andersen, Jamie Carpenter, Lucas Nichols, Randy Parker voted – Yes

Karen Edwards voted - No

Karen Edwards stated she wanted staff to give their opinion first before she would vote.

Vote approved, Randy said to please proceed with your cooperative Enforcement Order and speak with Rich Vacca on how to proceed.

- **Repair Permit**

Lucas Nichols 1st motion to amend repair permit:

- Extend the Time Frame from 6 months to One Year
- Provided scope of work hasn't substantially change from original permit.

Sean Andersen 2nd motion

Voted 5 – 0 8:42 pm

PUBLIC COMMENT:

Katherine Harrelson, Community Land and Water Coalition and nonprofit based out of Plymouth Massachusetts, Pine Barrens and Plymouth-Carver Aquifer.

She is asking:

Conservation Commission for the you know the year 23 to enforce the strictest interpretation possible of the wetlands protected Bylaws Plymouth, particularly Section one purpose to protect and preserve the stores, rivers, ponds, wetlands, and other water bodies related to the resources in the town and also particularly subsection B protection of groundwater that refers public and private water supplies. And what are we charged to maintain and preserve water resources and to hold interpretation dear to your hearts and minds and we got through the course of 2023. And consider the larger implications of some of the large construction projects.

sand, removal, operations, and cranberry bogs in the town, and the potential impact on our aquifer here.

Steve Cornell, asked to come back at the next meeting.

ACTION ITEMS:

Minutes: February 7, 2023

Karen Edwards 1st motion to approve the minutes for as submitted.

Lucas Nichols 2nd motion

Voted Unanimously 5 – 0 8:44 pm

ADJOURN MEETING:

Lucas Nichols 1st motion to adjourn at 8:45 pm
Randy Parker 2nd motion
Voted Unanimously

These minutes approved on: February 28, 2023
