

Fairhaven Conservation Commission
May 19, 2014

Present: Chairperson, Jay Simmons, Louise Barteau, Simone Bourgeois, Amy DeSalvatore (arrived at 6:37pm), Janine Peccini, and Steven Perreira

Absent: Geoff Haworth

Also in attendance: John Rockwell & Wayne Fostin

Meeting called to order at 6:33pm

Jay Simmons advised everyone that the meeting was not being televised and recorded, as there was no one present to record.

Jay Simmons announced that Steve Perreira's meeting was his last, after 7 years of service. Mr. Simmons thanked Mr. Perreira for his service to the Town and the Commission.

Simone Bourgeois made a motion to approve the April 28, 2014 minutes, Steve Perreira 2nd. The motion passed unanimously.

1. Abbreviated Notice of Recourse Area Delineation Applicant Thomas & Barbara Ferreira
Location Island View Road. Plot 43, Lot 201 Verify wetland area.

Simone recused herself as she knows the applicant.

Engineer, Alan Ewing was present on behalf of the applicants. He said that the wetland flags have been set. The property is 5.2 acres, existing gravel road in by Sconticut Neck Road and their trying to get the line approved.

John Rockwell said he went down and took a look at the property and that some flags were missing along the wetland edge. Two of the flags were okay, however others didn't follow the vegetation line. He said the line is unviewable by overgrown brush. He recommended an onsite from the board.

Louise Barteau asked what the difference was with an "Abbreviated Notice of Recourse".

Mr. Rockwell explained.

Resident and abutter, Lydia Jacintho of 19 Nakata Avenue and her daughter Joanna were present and asked what the purpose of the delineation line was.

Abutter, Odelia Cardoso also had questions on the process of this delineation, would it lead to something else.

Jay Simmons this is the first step in perhaps deciding what the owners wanted to do with the lot, if it was buildable etc. But he made it clear to the abutters that was his 'assumption.'

Louise Barteau made a motion to continue the Public Hearing to June 2nd, with an onsite on May 25th and was seconded by Steve Perreira. The motion passed unanimously.

The cable access person arrived at 6:48 apologizing that he was late.

Steve Perreira made a motion for a five minute recess so the cable access person could set up and was seconded by Janine Peccini. The motion passed unanimously.

At 6:54, Steve Perreira made a motion to reconvene the meeting and was seconded by Janine Peccini, the motion passed unanimously.

Jay Simmons announced that the meeting was going out live on cable access and was being recorded.

2. **Notice of Intent**, Applicant Jose Valentim Location 8 Hathaway Street Plot 28B, lots 5,8,9. Purpose construct single family dwelling within 100' of BVW and within a VE flood zone.

Engineer, Dan Moniz was present on behalf of Mr. Valentim (who was also present). He said the wetland line has been provided and they were proposing to construct a single family dwelling.

John Rockwell advised the Commission he believes an onsite should be done. He pointed out a few things that needed to be included on the plan, including the interim stream, work area, and what land treatment was going to be done.

Janine Peccini asked if there would be concrete under the home.

Mr. Valentim said he was unsure.

Mr. Rockwell said that information needed to be put on the plans.

Louise Barteau made a motion for an onsite on May 25th, followed by the continuance of the public Hearing on June 2nd; and was seconded by Steve Perreira. The motion passed unanimously.

3. **Notice of Intent**, Applicant Town of Fairhaven Highway Department Location Seaview Avenue parking lot Plot 29C, lots 293-296 purpose rebuild stone wall within a VE flood zone and within 100' of coastal bank.

Steve Perreira made a motion to continue this hearing per the Applicant's request to June 2nd and was seconded by Simone Bourgeois. The motion passed unanimously.

4. **Request for Determination**, Applicant IMAC Management Group Inc. Location 67 Middle Street Plot 9/11 Lots 14/35, 36, 145 Purpose construct two commercial buildings and parking area.

Engineer, Bob Rogers of Tibbett's Engineering was present. He explained they had filed a RDA and were Requesting a -3 with conditions (SIL fencing) and any the Commission felt for being 100' buffer zone to the Harbor. Mr. Rogers explained the proposed site plan.

Jay Simmons asked Wayne Fostin if he had any issues with the -3?

Mr. Fostin said he did not.

John Rockwell explained that this was a buffer zone project and the water flows downhill to Middle Street or lower points on Main Street, so the question is storm water. Mr. Rockwell said that this is not reviewable under the RDA filing and the applicant should do a NOI filing.

Steve Perreira said there was a lot of runoff.

Mr. Rogers explained it was for mix use, a commercial building and a gravel boat storage area. He said it was not going to be a boat yard, and they are currently in dialogue with the Planning Board about that enforcement. He said there is no proposed maintenance, or scraping to be allowed.

Mr. Rogers explained that the storm water is being reviewed by the Planning Board's expert.

Discussion ensued.

Mr. Rogers said yes they do have storm water issues but it was not an unreasonable plan.

Simone Bourgeois said it would be better than what's there presently.

Again, Mr. Rockwell said it was not reviewable under an RDA filing.

More discussion ensued.

Wayne Fostin said that in the last seven years or so, the Conservation Commission has relied on the Planning Board review in a case like this.

John Rockwell said that it was dangerous to rely on another Town Board to get the answers and that in his experience it was not 100% accurate.

Discussion on whether to approve as a -3 as requested or to not approve and have the applicant file the NOI.

Mr. Rogers said he didn't file an RDA so that he could save his client money.

Louise Barteau said that they should follow procedure that governs their Board only, and if a NOI needs to be filed then we should request that from the applicant.

Jay Simmons said he was not sure if they had to have the applicant file an NOI, if Planning Board was looking into the storm water, he believed it should just be a discussion with them.

Wayne Fostin said it's always been they rely on that Board in the past.

Mr. Rogers asked for a continuance to June 2nd.

Jay Simmons asked for a motion for the continuance as the applicant's request. No one offered.

Janine Peccini said that it would probably prolong the project.

John Rockwell said he didn't have any input on review process if there's nothing to review.

Louise Barteau made a motion as a +4 and Janine Peccini seconded the motion.

On the question, Amy DeSalvatore asked for an onsite as well.

Steve Perreira said that a +4 does not need an on-site at this stage.

John Rockwell said that he was an advocate of doing an onsite before the hearing for the NOI.

The motion passed 4-1 with Jay Simmons in opposition.

Amy DeSalvatore is still an associate member and not allowed to vote.

ENFORCEMENT ORDERS:

41 Bayview Avenue

Wayne Fostin said this is a house near the water and they removed loam and soil and replanted with no filing at all. Louise Barteau signed the enforcement order with the recommendation of the Conservation Agent.

Steve Perreira made a motion to ratify the Enforcement Order and was seconded by Janine Peccini. The motion passed unanimously.

53 Goulart Memorial Drive

Rod Taylor was present and read a letter apologizing that he put shells on the beach. He explained that he lost 20' of topsoil and grass during Hurricane Sandy. He researched viable material and was concerned about erosion, therefore used the shells.

Steve Perreira said that even beach nourishment has to be followed and in this case he didn't follow it.

Simone Bourgeois asked specific questions about what kind of shells were used.

Steve Perreira suggested the Commission discontinue this conversation and that the applicant be required to file a NOI. He said there was a process and Mr. Taylor has to follow it.

John Rockwell explained how the process works and that the Commission can't prejudge a project without the process being followed.

Louise Barteau read the enforcement order.

Steve Perreira explained that the applicant has to create a restoration plan.

Discussion ensued.

Resident, Frank Coelho was present and explained he has lived in Fairhaven and on West Island for 50 years, he said there is no erosion on that part of the island. He asked where the shells came from, Fairhaven or Mattapoisett and asked whether it's been confirmed where the shells were dumped, on his property??

Mr. Taylor and Mr. Coelho went back and forth for a few minutes in argument.

John Rockwell said there was a few issues and they probably need to do an onsite to confirm shells and where they were placed.

Louise Barteau made a motion for an onsite on May 25th and was seconded by Janine Peccini. The motion passed unanimously.

John Rockwell explained to the audience that an onsite is limited to the Commission and third parties would need to go through the private parties.

Steve Perreira made a motion to ratify the enforcement order and was seconded by Louise Barteau. The motion passed unanimously.

CERTIFICATE OF COMPLIANCE:

Wayne Fostin explained this was a 1997 project repair of seawall, done years ago at 18 Balsam Street.

Janine Peccini made a motion to issue the certificate of compliance for 18 Balsam Street and was seconded by Steve Perreira. The motion passed unanimously.

BILLS:

1. \$50 to Fhn. Neigh. News.

Steve Perreira made a motion to pay \$50.00 to the Fhvn. Neighborhood News and was seconded by Janine Peccini. The motion passed unanimously.

2. \$215.43 Staples

Steve Perreira made a motion to pay the \$215.43 to Staples and was seconded by Janine Peccini. The motion passed unanimously.

In other business, Alan Decker of the Buzzards Bay Coalition was present to speak to the Commission about the Nasketucket Bay project which spans Fairhaven and Mattapoisett. He, in no order, explained each of the parcels that had Conservation restrictions.

Parcel #10-Newlands Neck as it is called has no change in terms, just to add 6 acres of field. Mr. Decker said he was not looking for any action from Commission this evening, but to come back to seek authorization and signatures at another meeting. He said that a municipal certification would be needed for this parcel and the Commission's support to add the 6 acre Conservation restriction.

Parcel #2 – Quahog Hill – Salt marsh with small hummitt, proposed co-holding (Nasketucket & Conservation) over 14 acres. Fantastic Conservation value and the state reviewer has this but hasn't responded yet.

John Rockwell explained there are two different types of decisions needed. That parcel #10 was a private party who owns with Conservation Restrictions and the Selectman have to approve this as well. And with Parcel #2 co-holders of Quahog Hill, terms as a co-holder.

Mr. Decker explained that Buzzards Bay Coalition would be principal contact for Phillip Denormandy (as land holder).

Mr. Decker than went on to explained the 3rd Parcel is called Nasketucket Fields, known as the corn fields/hay fields between Mariner Soccer and Nasketucket Woods. Co-hold with the Town, federal farm money is in it, agricultural based. He said there would be an element of public access with trails (an easement).

Mr. Decker said they were anticipating closing these transactions by end of June.

John Rockwell had some concerns with Welcome Street and a replication.

There was discussion on the layout of Welcome Street subdivision.

John Rockwell asked Mr. Decker to get a copy of the survey plan.

More discussion ensued.

A few more questions regarding the trail easements were discussed.

Mr. Decker agreed to get the information over to Mr. Rockwell to pass to the Commission for future reference at the next meeting.

Steve Perreira made a motion to adjourn and was seconded by Louise Barteau. The motion passed unanimously.

The meeting adjourned at 8:52 pm.

Respectively submitted,

Patricia A Pacella
Recording Secretary

3. Notice of Intent, Applicant Fairhaven Board of Public Works Location Scoticut Neck Road Plot 29 Lot 1 Purpose repair 2 12" RCP drainage pipe within a wetland area.

John Charbonneau of the BPW was present. He said they would go through an old clearing area.

Lauren Francis, the actual property owner, was present and she stated that she didn't want to see the Conservation Commission restrain the BPW for just 12" if they got in there and it required more work.

Steve Perreira made a motion to permit the repair with the following conditions: 1) within Plot 29, Lot 1, (2) boundary delineations of the following resource area described on the referenced plan(s) are confirmed as accurate. Therefore the resource area boundaries confirmed in the Determination are binding as to all decisions rendered pursuant to the Wetland Protection Act and its regulations regarding such boundaries for as long as this Determination is valid. And (3) DEB-1 and was seconded by Simone Bourgeois. The motion passed unanimously.

OTHER BUSINESS:

3 Hidden Drive, Sub lot division #2

Abutter, Brian Wotten of 2 Hidden Drive was present and he said this was the third time this was in front of the Board.

Steve Grosio of Sitech Engineering was present and he explained this falls within the NRB and not within the wetlands. He said it's off Mill Road, on the West side. He explained the lot had been before the Commission with previous owners in the past. He said the home was previously going to be a 4 bedroom and much larger; but now is going to be a 3 bedroom, less fill, smaller septic. Smaller dwelling. Mr. Grosio said he got the BOH's approval stamp.

John Rockwell said it was all good.

Brian Wotten had some concerns about the water and drainage flow problem in that area. He showed a video with the Commission that shows his property under water in a rainstorm of 2". He said this had never been a problem before. Mr. Wotten said he wasn't oppose to the house being built, but the water.

Simone Bourgeois asked what could be done to help eliminate the water runoff.

Mr. Wotten suggested a retention wall.

Discussion ensued.

John Rockwell explained that the Commission didn't have a wetlands act jurisdiction on this project, just an NRB issue. He explained this would go in front of the ZBA and they would address a lot of the conditions.

Mr. Gioso said that he has buffer space to pronounce swails to move the water consistently. He agreed to have a discussion with Brian Wotten and revise the plans to show such.

8 & 10 Janette Street

James Dillon 10 Janette Street was present.

John Rockwell asked if Mr. Dillon was aware there was an order of conditions existing on the home. And Mr. Dillon said he did not.

Mr. Rockwell explained that in 2005 there was a permit pulled to construct the home and there was a set of conditions put on at that time. He said there were alterations done in the wetland area and that if they wanted to sell the home, they would need Conservation commission to sign off on it.

James Dillon explained that his neighbor cuts the grass in his area in the wetland area. He said that he has never put any fill in so shouldn't have to replicate an area.

Mr. Rockwell advised that he would need to see Mr. Fostin for copy of the plans and the list of conditions that are on this property.

Re: 8 Janette Street

Mr. Rockwell explained there is a lot of violations to that property and there was nothing ever permitted. He said that he would be able to draw up paperwork for the next meeting to send an enforcement order to the owner.

Simone Bourgeois asked what could be done immediately.

Mr. Rockwell said they could send an enforcement order, but it seems like there are a lot more issues.

Mr. Dillon explained with pictures the water in his yard and in a retention pond, and that the neighbors put a pipe from their yard to his to push the water into his yard. He said the pipe was very concerning to him.

Mr. Rockwell said he would have to write an extensive letter and will write it up to send to 8 Janette Street and he will work on a draft enforcement order.

EO: 4 Newton Street

Salim Kaliff was present regarding this EO. He said the house was built for his cousin, actually not built but remodeled about a year ago. He said they cleaned some brush but did not fill anything.

John Rockwell recommended a site visit.

Jay Simmons asked if brush and trees were cleared.

Mr. Kaliff said, "Yes."

The Commission agreed to an on-site on May 4, 2014 at 9:00 a.m.

BILLS:

Neighborhood News - \$150.00

Steve Perreira made a motion to pay the Neigh News \$150.00 and was seconded by Simone Bourgeois. The motion passed unanimously.

CERTIFICATE OF COMPLIANCE:

182 Ebony Street – Garage that was built

Janine Peccini made a motion to issue the certificate of compliance for 182 Ebony Street and was seconded by Steve Perreira. The motion passed unanimously.

74 Nakata Avenue – installation of septic

Steve Perreira made a motion to issue the certificate of compliance and was seconded by Janine Peccini. The motion passed unanimously.

Janine Peccini made a motion to adjourn and was seconded by Louise Barteau. The motion passed unanimously.

Meeting adjourned at 8:12 p.m.

Next meeting on May 19, 2014.

Respectively submitted,

Patricia A Pacella
Recording Secretary