



APPROVED MINUTES
COHASSET CONSERVATION COMMISSION
MEETING: THURSDAY, 4/27/23 TIME: 6:30 PM
PRESENTED ON A ZOOM PLATFORM

IN ATTENDANCE:

Chris Macfarlane (CM), Chair
Tom Bell (TB), Vice Chair
Kathy Berigan (KB), Secretary
Christopher McIntyre (CI), Member
Eric Eisenhauer (EE), Member

ABSENT

Will Ashton, Member

STAFF IN ATTENDANCE:

Charlotte Pechtl (CP), Conservation Agent
Carolyn Murray (CR), KP Law – Town Counsel
Angela Geso, Recording Secretary

ABBREVIATIONS USED IN HEARING; Notice of Intent (NOI); Stormwater Permit (SWP); Sandy Beach Association (SBA); Right of Way (ROW)

Meeting was called to order at 6:30 pm by CM.

Roll Call Attendance: T. Bell – Aye; K. Berigan – Aye; C. McIntyre – Aye; E. Eisenhauer – Aye;
C. Macfarlane - Aye

APPROVAL OF MINUTES:

MOTION: By Chair Macfarlane to approve the minutes of 2/2/23, 2/16/23, 3/2/23 and 4/6/23.
SECOND: Member Eisenhauer
ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye; C. Macfarlane-Aye
MOTION PASSES: 5-0-0 Unanimous

RDA 23-04: Sandy Beach Planting Project – Finn Yemini

In attendance: Finn Yemini (FY)

Documents presented: Site Plan, Planting Plan

The applicant proposes to plant 300 plugs of American beach grass at Sandy Beach. He is planting in three (3) areas, doing all the work by hand and will target three (3) patchy areas with the highest risk of erosion. FY has reworked the site and is installing a sign. CP said the planting will happen in the fall as we've missed the planting schedule for this spring. FY said no maintenance will be needed once the beach grass is planted. It has started to erode so he wants to replant and revitalize the area.

MOTION: By Chair Macfarlane to issue a Negative 3 Determination for RDA 23-04 at Sandy Beach with conditions as listed:

- All planting will be done by hand

- The area will be monitored every six (6) months by staff

SECOND: Member Eisenhower

ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhower-Aye; C. McIntyre-Aye;
C. Macfarlane-Aye

MOTION PASSES: 5-0-0 Unanimous

RDA 23-05: 55 Gammons Road – Tree Removal – William Earon

In attendance: William Earon (WE) / Applicant

Documents presented: Site Plan, Letter of Request, Photos

The applicant proposes to remove a black cherry tree and a black oak tree that have been affected by fungal disease and over-saturation of the root system and plant two (2) new trees. Some work will be done in the 50-ft. buffer zone. The trees will be cut down by an arborist and arranged in piles that will eventually turn into soil. CI suggested planting more than two (2) smaller trees and WE said that was fine. TB asked to use salt-tolerant trees.

MOTION: By Chair Macfarlane to issue a Negative 3 determination for RDA 23-05 for 55 Gammons Road with the condition that four (4) new trees will be planted to replace the two (2) trees being felled and that the new trees shall be planted by hand.

SECOND: By Member Eisenhower

ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhower-Aye; C. McIntyre-Aye;
C. Macfarlane-Aye

MOTION PASSES: 5-0-0 Unanimous

MOTION: By Chair Macfarlane to issue a variance for work being done in the 50-ft. buffer zone.

SECOND: Member Eisenhower

ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhower-Aye; C. McIntyre-Aye;
C. Macfarlane-Aye

MOTION PASSES: 5-0-0 Unanimous

RDA 23-01: 31A Mill Lane – Right-of-Way Kevin Sargent (con't from 1/19/23)

In attendance: Kevin Sargent (KS) / Applicant; Donna Holland (DH) / Applicant;
Gregory Morse (GM) / Morse Engineering; Shannon King (SK) / Abutter

Documents presented: Site Plan

CM asked if there is a document that legally says the area in question is a deeded right-of-way (ROW) as his information says the ROW is owned by the town. The commission is being asked to make a determination on a piece of property with no proof that KS has the right to be on the property. KS said that GM did title research, but GM said he did not do any title research on the site. CP said the purpose of the RDA is to determine the impact of wetlands on a site and if the applicant has to file an NOI. CP stated it is awkward to make a decision when we don't have jurisdiction to property rights. CM said we cannot speak for counsel as we are out of our jurisdiction and the only item we can rule on is the placement of stones in conflict with the Wetland Protection Act (WPA). CP said boulders and a mail box KS wants to install are within a 200-ft. riverfront and 50-ft. buffer zone. CM said there is no regrading proposed and no surfacing, just the replacement of boulders. Abutter SK says nothing suggests KS having ownage of her area. The purpose of the boulders is to delineate the ROW. DH says it's a deeded private way. CM said we have to rule purely on placement of rocks, removal of shrubs and a mailbox with the understanding this may or may not be an exclusive easement or wait until the parties involved make

the final decision. Property lines cross the easement but if the easement is truly an easement the property lines would end there. EE said there is major work within the 50-ft. buffer zone that we are not supposed to allow. CI cited another ROW and asked if it is exclusively for 25 Mill Lane. KS said it's the only access to the home. CM said the project should be shown as a whole and not as pieces. DH said that KS just wants to delineate the ROW and use it to drive on as it's the only way to get to 31A Mill Lane. EE asked why the project requires stones and DH said to delineate the edge and property line of the ROW. The commission is requesting an NOI be filed. TB said an ROW is a type of easement on your property granting someone else the right to use it. KS said he can prove the ROW is solely his.

MOTION: By Chair Macfarlane to issue a Positive 4 determination for RDA 23-01 and to submit a Notice of Intent for proposed work at 31A Mill Lane.
SECOND: Member Eisenhauer
ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye; C. Macfarlane-Aye
MOTION PASSES: 5-0-0 Unanimous

NOI 23-06: 85 Jerusalem Road – Landscaping - Munro (con't from 4/6/23)
Member Eisenhauer recused himself; didn't attend the first meeting.
In attendance: Bart Lipinski (BL) /Grady Engineering
Documents presented: Existing and Revised Plans

BL showed a rendering of current conditions with selected updates. The applicant removed a firepit and patio in the 50-ft. buffer zone that is now almost entirely out of the 50-ft. buffer zone. By moving the firepit and patio, he created a new area with lawn and native plantings. Larger step stones were added to the lawn area. Work underneath the deck was approved.

MOTION: By Chair Macfarlane to close the public hearing for 85 Jerusalem Road and issue an Order of Conditions for NOI 23-06 with a variance for work within the 50-ft. buffer zone.
SECOND: Vice Chair Bell
ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye;; C. McIntyre-Aye; C. Macfarlane-Aye
MOTION PASSES: 4-0-1 *Member Eisenhauer recused*

NOI 23-13: 83 Spring Street – Raze and Rebuild – Won (con't from 3/23/23)
In attendance: David Won (DW)/ Applicant; Gregory Morse (GM) / Morse Engineering
Documents presented: Revised Plan with Delineation

GM said this is a raze and rebuild project with the existing home to the rear of the property. The new home will be in the same location, but it will be moved 2-in. from the side lot as it was not compliant before. The dwelling sits on a 650 ft. footprint. Erosion controls are in place and there is a slight increase in impervious surface when two (2) outbuildings were removed. There is a crushed stone trench to capture roof runoff. The parking layout utilizes the existing area, and two (2) trees were cut down to accommodate two (2) parking spaces outside the 50-ft. buffer zone. Vegetation cutting and removal are minimal. CP the main issue is devaluating disturbance in the 50-ft. buffer zone. Tree removal is limited. CM said it would be easy to dismantle if you wanted to and you'd be left with bare but buildable earth. DW is open to a site visit to create some constructive suggestions.

CONTINUE PUBLIC HEARING TO 5/11/23 WITH A SITE VISIT PRIOR TO THE HEARING

NOI 23-12: 63 Nichols Road – Damaged Wall - (con't from 4/6/23)

In attendance: Sean Papich (SP) / Landscape Architect;

Documents presented: Updated Site Plan

Member Eisenhauer recused himself

A new section of the wall has been completed. There will be some temporary disturbance to construct the rest of the wall. CP talked to Brendan Sullivan of Merrill Engineering and John Zimmer of South River Environmental to make sure the area was flagged and outside the edge of work. SP said there have been plantings proposed, some in narrow zones. There is currently one (1) tree up the north end of the site and we could add another. CM said the trees chosen will be something that will grow and take the place of the trees being removed.

MOTION: **By Chair Macfarlane to close the public hearing for 63 Nichols Road and issue an Order of Conditions for NOI 23-12 with the addition of one (1) shade tree in the area of trees being removed.**

SECOND: **Vice Chair Bell**

ROLL CALL VOTE: **T. Bell – Aye; K. Berigan-Aye;; C. McIntyre-Aye; C. Macfarlane-Aye**

MOTION PASSES: **4-0-1 Member Eisenhauer recused**

MOTION: **By Chair Macfarlane to issue a variance for work within the 50-ft. buffer zone for 63 Nichols Road.**

SECOND: **Vice Chair Bell**

ROLL CALL VOTE: **T. Bell – Aye; K. Berigan-Aye;; C. McIntyre-Aye; C. Macfarlane-Aye**

MOTION PASSES: **4-0-1 Member Eisenhauer recused**

NOI 23-07: Sandy Beach Association (SBA)– Clean Up (con't from 4/6/23)

In attendance: Adam Brodsky (AB) / Environmental Attorney; Carmen Hudson (CH) / Merrill Engineering

Documents presented:

The plan has been modified. No heavy equipment is allowed on the beach. Greater detail is needed for seaweed being raked. The commission must be notified in writing before any equipment is being used. Photos were sent to the Woods Hole Oceanographic Institute to identify materials. CH showed a plan that located burying holes: the bottom of the hole was filled with seaweed and the top is filled with sand to keep the seaweed down. After discussing the beach plan CP had the following comments:

- 1) There are activities existing in seasonal fencing;
- 2) There may be other requirements from the state regarding mean high water;
- 3) The SBA is allowing seasonal dune fencing.

AB said a special condition requires updating the site plan to show the location of dune fencing and they will go along with special conditions issued by the Town Counsel. CH said the beach will be cleaned before opening, the DPW cleans the parking lot and dumps clean sand on the beach.

MOTION: **By Chair Macfarlane to close the public hearing and issue an Order of Conditions for proposed work at Sandy Beach with the following conditions:**

- **A new plan is provided to locate the dune fence.**
- **Any work below mean high water is contingent upon state and federal jurisdiction.**

SECOND: **Member Eisenhauer**

ROLL CALL VOTE: **T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye; C. Macfarlane-Aye**

MOTION PASSES: **5-0-0 Unanimous**

MOTION: By Chair Macfarlane to issue a variance for work associated with seaweed removal at Sandy Beach.
SECOND: Member Eisenhauer
ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye; C. Macfarlane-Aye
MOTION PASSES: 5-0-0 Unanimous

SHOW CAUSE HEARINGS

508C Beechwood Street – Tree Clearing Activity – Joseph Iantosca (JI)

Abutters reported that tree removal was being done at a lot on Beechwood Street owned by Joseph Iantosca. Over 5,000 sq. ft. of land area has been disturbed. CP said it's hard to estimate the number of trees taken down but estimates it to be 20 to 25 trees. Some of the work occurred in the 50-ft. and 100-ft. buffer zones. In October 2021 several trees were damaged that fell on other properties and into a pond on Carbone Lane and had to be removed. JI installed a pipe that ran from the properties to wetlands and is supposed to allow for pipe maintenance and monitors outfall of the pipe. CP issued an Enforcement Order to stabilize the site to original conditions. JI worked with wetland scientists to come up with a mitigation plan. He did not see anything in writing that was ongoing after the Certificate of Compliance was issued and he hired an engineer and wetlands representative to come up with a plan to present in front of the commission. CM asked about preventative measures against bad storms and JI said he lost a lot of trees in October 2021. He is working with Wetlands Scientist and Arborist Brad Holmes to clean up and stabilize the property and will have a planting plan to bring to Conservation. CP will lift the 'cease and desist' and JI said if he can get mobilized in May he will fill ruts, smooth out the area and have it germinated. He stated he didn't clear-cut but selectively cut 18 trees. The following will be done:

- Get an accurate measurement of the site.
- Issue an Enforcement Order.
- Lift the 'Cease and Desist' order.
- Do a minimum 2-to-1 replacement on trees for starters.
- Measure the diameter of all stumps.
- Submit plans for mitigation, restoration, and replacement with the diameter of all trees removed.
- File a tree replacement plan with the commission

MOTION: By Chair Macfarlane to issue an Enforcement Order for tree clearing activities on 508C Beechwood Street.
SECOND: By Vice Chair Bell
ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye; C. Macfarlane-Aye
MOTION PASSES: 5-0-0 Unanimous

MOTION: By Chair Macfarlane to lift the 'Cease and Desist' order to allow for the start of restoration at 508C Beechwood Street.
SECOND: By Member Eisenhauer
ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye; C. Macfarlane-Aye
MOTION PASSES: 5-0-0 Unanimous

- MOTION:** By Chair Macfarlane to issue a variance for work within the 50-ft. buffer zone at 508C Beechwood Street.
- SECOND:** By Member Eisenhauer
- ROLL CALL VOTE:** T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye; C. Macfarlane-Aye
- MOTION PASSES:** 5-0-0 Unanimous

151 South Main Street – Monitoring Wells in Buffer Zone – Peter Bernstein (PB)

This is the site of an auto body repair shop that had previously stored hazardous waste and oil that are now capped. There is the potential for storage and waste in the 100-ft. buffer zone. All tires have been moved offsite. PB said the monitoring wells go down eight (8) feet and the cap is bolted. The commission would like to see a submission of the wells. CP asked if the commission wants the monitoring well in the 100-ft. buffer zone or do we want it filled and removed to outside the 100-ft. buffer zone. TB said we need to follow the state regulations before getting rid of wells and that, if the wells are going used, we don't want to move them. PB has cleaned up a good portion of the site problems. There is no 'cease and desist' or enforcement order issued for the site.

NOI 21-10, SWP 21-18 – 147 South Main Street - Enforcement Order Schiavo (JS)

In attendance: Attorney Adam Brodsky; Greg Morse/Morse Engineering (GM); John Schiavo (JS)
The applicant has moved construction equipment outside the 50ft. buffer zone and submitted a mitigation planting plan. There should be no trees with massive root systems. CM asked about payment into the tree fund and CP said they are doing overall replacement mitigation and asked the tree warden to review our list of acceptable plantings. AB needs the town's permission to plant on their property and will comply with the town on the proposed plan. There was an enforcement order issued for this site and it has been handled. CM said there is a detention area between parking and the fence that could handle three (3) trees. GM said this is loam and seed and everything was moved when JS needed to clean the place up. There is a temporary fence that GM needs to know when it will go. CM said to have erosion control in the place where the fence was until grass establishes itself.

- MOTION:** By Chair Macfarlane to lift the Enforcement Order for 147 South Main Street with the conditions that the planting plan will be resubmitted to change the species to black gum and that erosion controls will be in place until the ground is stabilized.
- SECOND:** Vice Chair Bell
- ROLL CALL VOTE:** T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye; C. Macfarlane-Aye
- MOTION PASSES:** 5-0-0 Unanimous

692 Jerusalem Road – Renovations – Attorney Adam Brodsky (AB)

A letter updated on 4/24/23 confirmed the footprint of the addition at 522 sq. ft. with 22 sq. ft. of impervious surface. However, the owners removed a section of the home, addition and retaining wall that is less than 5,000 sq. ft. so no SWP was required. CP said it's up to the commission to consider front yard disturbance vs alteration. AB said there is no intention to change topography and the yard will be loamed and seeded.

- MOTION:** By Chair Macfarlane to close the Show Cause hearing for 692 Jerusalem Road.
- SECOND:** Vice Chair Bell

ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye;
C. Macfarlane-Aye
MOTION PASSES: 5-0-0 Unanimous

Certificate of Compliance

NOI 21-11- 187 Atlantic Avenue: The site plan was approved, the boardwalk was built and the removal of invasives was not done. If the permit is closed out, any other work in the buffer zone or with the invasives has to be filed.

MOTION: By Chair Macfarlane to issue a Certificate of Compliance under NOI 21-11 for work done at 187 Atlantic Avenue..
SECOND: Vice Chair Bell
ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye;
C. Macfarlane-Aye
MOTION PASSES: 5-0-0 Unanimous

Agent Updates:

- **60 Hobart Lane** – constructing a pervious patio.
- **70 Nichols Road** – protective fencing is being installed.
- **12 Hobart Lane** – work is almost done.
- **46 Black Rock Road** – the garage and addition are under construction.

392 South Main Street:

A 'cease and desist' letter was sent to the owners to prevent them from doing any additional work within the riverfront. The site has been stabilized. A letter to clarify activities was reviewed with Town Counsel. The owners can finish building but any other work within the riverfront will require an RDA or NOI.

With no further business to discuss a motion was made to adjourn.

MOTION: By Chair Macfarlane to adjourn the meeting for April 27, 2023.
SECOND: Vice Chair Bell
ROLL CALL VOTE: T. Bell – Aye; K. Berigan-Aye; E. Eisenhauer-Aye; C. McIntyre-Aye;
C. Macfarlane-Aye
MOTION PASSES: 5-0-0 Unanimous

Meeting adjourned at 10:45 pm.