



4 TOWN OF

HARWICH

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HARWICH CONSERVATION COMMISSION-MEETING MINUTES

TOWN HALL – GRIFFIN ROOM

Wednesday, June 4, 2025 – 6:00 PM

RECEIVED
TOWN CLERK
HARWICH, MA

2025 JUN 20 P 1:30

Commissioners and Staff Present

Chairman John Ketchum, Mark Coleman, Viv Mulhall-Maguire, Sophia Pilling, Assistant Conservation Administrator Lily Gooding

Commissioners Absent:

Wayne Coulson

Call to Order

Chairman John Ketchum called the meeting to order at 6:00 PM and the Pledge of Allegiance was recited.

Change in Plans

Silver Shores Cape Cod, LLC, 69 Snow Inn Road, Map 15, Parcel P-3A, Driveway removal and deck and patio construction.

Sean Riley, Vice-President at Tighe & Bond, was present online representing the applicant to discuss the change in plans for 69 Snow Inn Road.

Mr. Riley stated that the project involves removal of the driveway and construction of a patio and an upper floor deck. He stated that most of the changes are within the 50–100-foot buffer zone and the patio material has been changed to an impervious patio surface. He explained that there is still a net reduction in hardscape within the 50–100-foot buffer zone.

Ms. Gooding confirmed that most of the changes are within the 50–100-foot buffer zone and that the patio material change is not an issue. She stated that questions involve the upper deck. Mr. Riley explained the upper deck expansion has an overhang, but it does not have any impact to the lower level or any of the resource or habitat areas below. He stated that the upper deck was part of the original building permit.

Ms. Gooding stated the Commission needs to decide if the upper deck overhang is considered coverage. She explained that Ms. Amy Usowski, Conservation Administrator, stated in her site summary that if there is no net increase in hardscape within the 0–50-foot buffer zone she recommends approval of the change in plan.

Mr. Coleman stated that the overhang is very slight and would recommend approval.

No further discussion from the Commission. No public comments.

MOTION

Mr. Coleman moved to approve the change in plans.

Ms. Mulhall-Maguire seconded.

Vote: 3-0-1. Ms. Pilling abstained.

Motion carried; Request for a Change in Plan approved.

The following applicants have filed a Request for a Determination of Applicability

Peter Fellman, 24 Dunes Road, Map 5, Parcel K1-32. Removal of a fish pond, garden shed construction, native plantings, and landscaping maintenance.

Mr. Daniel Croteau, Moran Engineering and Mr. Fellman and Ms. Fellman, homeowners, were present to discuss the Request for a Determination of Applicability for 24 Dunes Road.

Mr. Croteau explained that the proposed work entails removing the existing fish pond, constructing a 100 square foot garden shed, removing an existing retaining wall, installing native plantings, and landscape maintenance. He stated that the existing pitch pine trees will be removed and replaced with native cedar and dogwood trees. The front yard will be leveled out with fill and a new 3' high retaining wall will be installed to replace the existing retaining wall. The lawn area will be replanted with Ernst conservation grass mix. Mr. Croteau stated that since the total coverage area results in an additional 20 square feet, 60 square feet of mitigation plantings will be planted.

Ms. Gooding stated it was clear at the site visit that the owners take very good care of their property. She explained that Ms. Usowski suggested the Cornus florida variety of the native dogwood trees be planted, no fertilizer, herbicides or pesticides be used and all of the lawn area be composed of a native grass seed mix, to be approved before installation by the Conservation Administrator. Ms. Gooding stated that Ms. Usowski recommended approval with a negative 2 and a negative 3 determination as work will take place in the buffer zone to a wetland resource area and in a wetland resource area (flood zone), but it will not have a negative impact on the area or its interests.

No discussion from the Commission. No public comment.

MOTION

Mr. Coleman moved to approve the Request for a Determination of Applicability with a Negative 2 and a Negative 3 Determination. Ms. Pilling seconded.

Vote: 4-0

Motion carried; Request for a Determination of Applicability with a Negative 2 and a Negative 3 Determination. approved.

The following applicants have filed a Notice of Intent

James & Jarmila Sullivan, 31 Mill Rd & 6 Brora Dr, Map 15, Parcels U3 & U2-2. Reconstruction of existing joint use dock and maintenance dredging. *Continued from May 21, 2025.*

Mr. Mark Burgess, Engineer/Owner-Shorefront Consulting, was present to discuss the project with the Commission.

Mr. Burgess stated that at the first hearing it was recommended that dredging be done underneath the floats for clearance, thereby increasing the dredge footprint. He informed the Commission that all of the dredge work should fall under the previously approved dredge permit issued in 1995 and that MassDEP and the Department of Marine Fisheries (DMF) be made aware that the dredging to be done is to maintain the previously dredged footprint.

Ms. Gooding stated that no decisions on the project were to be made at this meeting and that Mr. Burgess needs to revise the plan and come back before the Commission on July 2, 2025. She stated that Ms. Usowski did not give a concrete recommendation but did express concern about how close the dredging will be to the edge of the marsh and at what slope. Mr. Burgess stated that until he draws out the revised plan, he won't know the exact distance to the marsh, but the goal is to stay as far away as possible. Mr. Burgess explained that for water quality purposes they need to stay 25 feet away from the marsh. Burgess stated that if they cannot get 3 feet under the float, per the requirements, a variance is needed. Mr. Burgess expressed that the area is not significant shellfish habitat.

Commissioners confirmed that in Ms. Usowski's summary of the project, Ms. Usowski expressed concerns about dredge proximity to the marsh as well as the structural integrity of the marsh. He explained that if the Commission agrees with the revised plan, he will add wording in the letter to DMF stating that the proposed work is all within a previously dredged footprint.

Mr. Ketchum stated that the previously approved dredge permit is over 30 years old and town by-laws regulate that dredging permits expire after 10 years. He stated that this project will require a new dredging permit. He expressed that the original dredging work would never be allowed to be permitted today and the Commission should not grant a permit for a project that threatens the salt marsh, dredges in an intertidal zone, and results in a float that is aground at low tide. He stated that Mr. Burgess needs to find a way to solve the issue without asking for a variance. Mr. Burgess stated that in order to make the floats float he needs to do intertidal dredging. Mr. Burgess stated that the project is considered maintenance dredging per the original permit. He stated that he will submit the original proposal to DMF and Southeast Regional DEP Office (SERO) and see what they have to say. Mr. Burgess stated that the clients are on board with the extra dredging and the biological testing.

No further discussion from the Commission. No public comment.

MOTION

Mr. Ketchum moved to continue the hearing to July 2, 2025. Mr. Coleman seconded.

Vote: 4-0

Motion carried; Continuance of the hearing to July 2, 2025 approved.

Jeffrey Lang, 11 River Bend Rd, Map 1, Parcel G1-9. House demolition and rebuilding, septic system installation, bulkhead repairs and replacement, and mitigation plantings. *Continued from May 21, 2025.*
Applicant has requested a continuance to June 18, 2025 to continue to work with the Zoning Board of Appeals on Zoning questions.

The applicant has requested a continuance to the June 18, 2025 Conservation Commission meeting.

No discussion from the Commission. No public comment.

MOTION

Mr. Coleman moved to approve the continuance of the hearing to June 18, 2025.

Ms. Viv Mulhall-Maguire second.

Vote: 4-0

Motion carried; Request for continuance of the hearing to June 18, 2025 approved.

Lauren McCabe, 11 Nons Rd, Map 6, Parcel C1-10. Reconstruction of an existing dock. *Continued from May 21, 2025. Applicant has requested a continuance to July 2, 2025 so that they may go to the Waterways Committee in June.*

The applicant has requested a continuance to the July 2, 2025 Conservation Commission meeting so that they may go to the Waterways Committee meeting.

No discussion from the Commission. No public comment.

MOTION

Mr. Coleman moved to approve the continuance of the hearing to July 2, 2025.

Ms. Pilling seconded.

Vote: 4-0

Motion carried; Request for continuance of the hearing to July 2, 2025 approved.

Kyle L. and Patricia Marles Lissack, 10 Harwich Pines, Map 103, Parcel S1A-11. Timber step removal and stone step reconstruction, vegetation management and landscaping.

Mr. Mike Tanis, Restoration/Landscape Designer-Blueflax Designs, Theresa Sprague, Owner-Blueflax Designs, was present representing homeowners Kyle and Patricia Lissack to discuss the Notice of Intent for 10 Harwich Pines.

Mr. Tanis explained the look, landscaping and vegetation of the current property. He stated that the main goal of the project is to improve the value and function of the pond and bordering vegetative wetland by removing structure from the buffer zone. He stated that the concrete spillway will be removed and replaced with a catch basin to collect the runoff and capture the sediment while allowing the water to flow over, thereby reducing erosion and letting native plantings intercept the runoff and allow it to percolate. The existing timber walkways down the slope will be removed and replaced with one walkway of inground stone steps. He stated that the second goal of the project is to improve wildlife habitat function within the buffer zone by removing approximately 4,015 square ft of invasive plants and replanting with native species. He added that an additional 510 square foot of lawn within the buffer zone will be converted to native plantings.

Mr. Tanis explained that the restoration process will entail the removal of invasive species and herbicide will be applied directly to the cut stump with the roots left in the ground to decompose. He stated that native vegetation will be protected during the removal process, however, if any is damaged from vines or the invasive vegetation, they may be flush cut or pruned to promote healthy growth. Pea gravel will be removed from the slope, the beach, and in between the timber walkways. Sand will be brought in to fill in the excavated areas and to bring the beach back up to grade, and the concrete spillway will be removed and replaced. He stated that after the invasive species management is completed, the project area will be seeded with a custom mix of native grasses and native wildflowers. He stated that biodegradable erosion control blankets will be installed on the slope to prevent any erosion. Woody vegetation will be planted in the fall after the intensive invasive plant management phase is complete and they will be replanting with 102 native shrubs that are appropriate. He added that temporary irrigation will be required for the first two to three growing seasons while the plants establish; follow-up invasive species management will be ongoing over the next three growing seasons to prevent the return of any invasive species.

Ms. Gooding stated that the project is an overall benefit to the resource area. Positive changes are the removal of the existing concrete spillway that directs water and runoff into the pond, the minimizing of hardscape coverage and the removal of the English ivy on the hillside with native vegetation replanting. Ms. Gooding stated that the applicant is asking for a variance to do work within the 50-foot buffer zone, which she stated Ms. Usowski would see fit for this project.

Ms. Gooding stated that Ms. Usowski questioned whether the staircase would need a retaining wall due to the steepness of the slope. Mr. Tanis answered that the staircase will not need a retaining wall and explained the plan for that area.

Ms. Gooding stated that the beach area is mostly weeds and invasives and the plan of putting in native sand is acceptable provided the Massachusetts Endangered Species Act (MESA) approves because the area is in priority habitat zone.

Ms. Gooding stated the project should be conditioned that the dock materials currently stored on the shoreline be removed and stored in an area where it is not lying on vegetation. She stated that along with that condition and all of the other conditions regularly noted, approval of the project is recommended.

Mr. Coleman asked if the beach is to be substantially larger. Mr. Tanis stated the beach will not be larger and there will be no increase into the vegetated area.

Ms. Mulhall-Maguire stated the plan is an overall improvement from the existing.

Ms. Pilling stated that she is happy to see the leather leaf on the plan.

Mr. Ketchum stated that the material stacked on the landing and the dock components lying on vegetation should be removed. Ms. Theresa Sprague explained that the previous owners were going to build a dock that was not permitted. She stated that the old dock components will be removed and if the new dock is approved, it will be installed seasonally and removed seasonally.

Mr. Ketchum agreed that the conditions specify that the old dock components be removed and there should be no debris. He asked how the poison ivy and other debris is to be removed. Ms. Sprague answered that the poison ivy as well as the pea stone will be removed by hand and the gravel that has migrated down will be shoveled out. Ms. Sprague stated that sand will be incorporated to bring the area up to existing grade. The invasives to be removed may need to be pulled up again in the future. She stated they will submit the annual monitoring reports and if there is any sprouting of invasives they will hand-pull it.

No further discussion from the Commission. No public comment.

MOTION

Ms. Pilling moved to approve the NOI with the condition that the construction debris be removed as soon as possible.

Ms. Mulhall-Maguire seconded.

Vote: 4-0

Motion carried; NOI approved with the condition that the construction debris be removed as soon as possible.

Renato Carniero, 54 Main Street Extension, Map 55, Parcel E1-2. After the fact lot clear cutting and proposed restoration plan.

Mr. Daniel Croteau, Engineer-Moran Engineering and Mr. Renato Carniero, homeowner, were present to speak with the Commission. Mr. Croteau stated that Mr. Carniero's landscaper was also in attendance.

Mr. Croteau explained that Mr. Carniero bought the property last year and clear cut the lot this past winter. He explained that the property is mostly a cape cod lawn with a few trees and a pre-existing chain-link fence located at the back of the property. Mr. Croteau explained the proposed plans to restore the area, noting that Mr. Carniero wishes to commence work as soon as possible.

Ms. Gooding explained that the Commissioners must make two decisions, the first regards the approval of the NOI and the second regards the \$1,500 fine for the clear-cutting of the lot.

Starting with the lot restoration plan, Ms. Gooding stated Ms. Usowski recommends a split-rail fence installed at the area where the thicker vegetation meets the yard area in order to denote the no-mow zone, the metal container on the 50' buffer line be removed, the hardening be stripped, loam brought in to cover the entire cleared area, and grass and wildflower seed be put down immediately. Ms. Usowski also recommends the trees to be planted are at least 1.5 inches in Diameter at Breast Height (DBH). Ms. Gooding stated that Ms. Usowski does not see a problem with maintaining the area as is and not replanting. She recommends bi-annual monitoring reports for 2 years to detail the progress of remediation. These remediation reports would be due December 1, 2025 & 2026 and June 1, 2026 & 2027.

Ms. Pilling expressed that the remediation plan is a good plan of action.

There was a discussion regarding the stone parking area, the hardening that was installed, the possibility of installing boulders instead of split-rail fencing to denote the no-mow zone, the newly installed berm, and the removal of the chain-link fence at the back of the property.

Mr. Ketchum expressed concern that the pre-existing no-mow zone is only 35 feet from the wetland resource area. He stated that even if a no-disturb zone was previously mowed by the former property owner, it is not a reason to allow the new owner to continue to disturb the same area. He asked if Mr. Carneiro will move the no-mow zone to 50-feet from the wetland resource. Mr. Croteau stated that Mr. Carneiro is amenable to moving the no-mow zone 50-feet from the wetland, noting this will greatly improve the area.

Mr. Coleman asked if the parking lot within the 100-foot setback is going to be permissible. He asked Mr. Carneiro what vehicles are to be parked there. Mr. Carneiro answered that he will possibly park a plow, trailer or boat. Mr. Carneiro explained that he is not going to use the lot for commercial purposes.

Mr. Croteau explained that the pre-existing chain-link fence located between the wetland and the backyard will be removed as it currently prohibits wildlife from accessing the natural areas.

Mr. Ketchum stated that the plan needs to be revised, and the applicant needs come back before the Commission.

Mr. Croteau stated he would like a decision made at this meeting.

No further discussion from the Commission. No public comment.

MOTION

Mr. Ketchum moved to approve the plan with the condition that the no-mow zone be moved back to the 50-foot line, the fence and berm shown along the Main Street extension be moved to the 50-foot line, the no-mow zone be marked by 2 to 3-foot sized stones separated by four feet each, and the chain-link fence that runs from the Route 6 fence down to Main Street Extension be removed.

Vote: 4-0

Mr. Coleman seconded.

Motion carried; NOI approved with the conditions as noted.

The Commission discussed the fine schedule recommended by Ms. Usowski. The fines are categorized by activity and the total fine amounts to \$1,500. Ms. Usowski had noted the fines as follows: \$300 for tree removal, \$300 for removal of other native and non-native vegetation, \$300 for removal of topsoil/grading, \$300 for addition of hardening, \$300 for installation of a fence

The Commission discussed the fine schedule, concluded they were not in favor of reducing the fine and agreed to hold Mr. Carniero accountable for the full amount.

Ms. Pilling and Ms. Mulhall-Maguire were amenable of reducing the fine.

No further comments from the Commission. No public comment.

MOTION

Mr. Coleman moved to approved to assess the full \$1,500 fine.

Mr. Ketchum seconded

Motion carried; Charging the full \$1,500 assessed fine approved.

Mr. Croteau stated he will submit the revised plan to the Conservation office for the June 18, 2025 meeting.

Amended Orders of Conditions

Harwich Conservation Trust, 10 Headwaters Drive, Map 80 Parcel 81, SE32-2566. Hinckley's Pond Herring River Headwaters Eco-Restoration Project.

Mr. Tom Evans, President of the Harwich Conservation Trust and Nick Nelson, Fluvial Geomorphologist from Inter-fluve, were present to discuss the project and the amended orders of conditions.

This hearing was had to review, sign, and issue the amended order of conditions.

Ms. Gooding stated that there are two added conditions to the order. The first condition allows for the construction of a 4-foot wide 15-20 foot long boardwalk over the channel between Hinckley Pond and the bike path. The second entails the decommissioning of the old dirt road located north of the new approved boardwalk.

No further discussion from the Commission. No public comment.

MOTION

Mr. Ketchum moved to approve the Amended Order of Conditions.

Mr. Coleman seconded.

Vote: 4-0

Motion carried; Amended Conditions approved.

Certificate of Compliance

Harwich Conservation Trust, 0 Bank Street, 0 Hoyt Road, 10 Hoyt Road, Map 23, Parcels C1-0, C1-1 and C3-2, SE32-2505, Cold Brook Eco-Restoration Project.

Mr. Tom Evans, President of the Harwich Conservation Trust and Nick Nelson, Fluvial Geomorphologist from Inter-fluve, were present. Mr. Nelson stated construction was completed December 2024 and requested a certificate of compliance.

Ms. Gooding stated the as-built plans show minor modifications made. She stated Ms. Usowski noted that since the project has recently been completed, the Commissioners want to see more monitoring reports submitted before deciding to issue the certificate of completion. Another option to this was to issue the certificate of compliance with the ongoing condition that the monitoring reports be submitted.

There was a discussion about the salt marsh to be developed at the southern end of the project, the possible replacement of the culvert under Route 28 by the State, and the replacement of the culvert under Hoyt Road by the Town of Harwich.

Mr. Ketchum stated he has no doubt they will submit the requested and conditioned monitoring reports and recommended approval.

No further discussion from the Commission. No public comment.

MOTION

Mr. Coleman moved to approve the Certificate of Compliance.

Ms. Mulhall-Maguire seconded.

Vote: 4-0

Motion carried; Request for Certificate of Compliance approved.

Discussion and Possible Vote

None

Minutes

5/7/25 and 5/21/25

MOTION

Ms. Mulhall-Maguire moved to approve the minutes of May 7, 2025 and May 21, 2025.

Ms. Pilling seconded.

Vote: 4-0

Motion carried; Minutes of May 7, 2025 and May 21, 2025 approved.

MOTION TO ADJOURN

Ms. Mulhall- Maguire moved to adjourn the meeting at 7:57pm.

Ms. Pilling seconded.

Vote: 4-0

Motion carried; Meeting adjourned at approved.

Meeting Attendance

Theresa Sprague Lori Jurkowski Tom Evans

Peter Fellman Dan Croteau Nick Nelson

Minutes taken and transcribed by Lisa Shaw, Executive Assistant