

On 1/7/2019, on a motion by Commissioner Durkin, seconded by Commissioner Lawrence, the Commission voted unanimously, 4-0, to approve these minutes as amended.

## CONSERVATION COMMISSION MEETING MINUTES

January 3, 2019

**Members Present:** Rick Bishop (Chairman), Tom Durkin, Philip Johnston, Ellie Lawrence, and Paul Huggins

**Member(s) Absent:** Cris Luttazi

**Staff:** Dawn-Marie Flett – Conservation Administrative Assistant

**Start Time:** 6.30pm

YARMOUTH TOWN CLERK

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### Notice of Intent:

John Foran, **25 Wharf Lane**, Yarmouth Port, MA, proposed pool, fence, tree work, and restoration plantings within the buffer zone to a coastal bank and the riverfront area. Mr. Kieran Healy of BSC Group represented the applicant and presented the proposed work and green cards. The majority of work will be at the outer limits of the buffer zones. There is a 200-foot riverfront that just touches the proposed grading at the rear of the property. There is also a 100-foot buffer to a coastal bank. No work is proposed less than 50 feet to any resource area. The grading is proposed to provide a level area adjacent to the pool, the pool slab, and then grading down to meet the natural grade at a 3:1 slope. The fence around the pool is required by building code. A straw wattle line is proposed all the way around anyplace subject to runoff. Mr. Healy acknowledged that there are areas beyond the property line that were cleared by the client. The pool fence will prevent any future encroachment onto the Town or neighbor's property.

Commissioner Lawrence noted that during the site visit debris was observed in northwest corner, which must be cleared. Also, the cleared area should be revegetated with native trees and bushes to prevent invasives from overtaking. Mr. Healy stated that revegetation was not included in the plan so as to avoid having the Town of Yarmouth be participant in the NOI; however, he believes the client would agree to revegetating the area. Commissioner Bishop suggested that the landscape plan could be worked out with the Conservation Administrator. Commissioner Durkin concurred. Commissioner Bishop advised that the CA's recommendation included native plantings on the Town-owned land.

Commissioner Durkin made a motion to issue an Order of Conditions approving the project with the following conditions: 1-6, 7, 8, 9, 10, 11, 12, 16, 17, 29, which deals with the conservation parcel, 30, 31, 32, 36, 37. The motion was seconded by Commissioner Lawrence. The motion carries unanimously.

Mr. Healy asked to have Condition 16 removed because it is regarding runoff; the property is on the side of a hill, so they only way to redirect runoff would be to build something. Commissioner Bishop noted that the proposed grading does try to mitigate the runoff. Commissioner Durkin also noted that the condition requires that runoff will not be increased, and the project will not substantially increase runoff.

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Mr. Healy also asked for clarification of Condition 29; specifically how many years the applicant will be responsible to maintain the plantings on town-owned land. Commissioner Bishop advised Mr. Healy to consult with the CA.

**Request for Certificate of Compliance:**

**SE83-942**, 11 Elizabeth Lane, West Yarmouth.

Commissioner Lawrence made a motion to issue a Certificate of Compliance with the recommended ongoing condition that the area beyond the fence be allowed to naturalize, and no further cutting shall take place in the area. The motion was seconded by Commissioner Durkin. The motion carries unanimously.

**SE83-385**, 104 River Street, South Yarmouth.

Commissioner Bishop noted that the structure was built approximately 4 inches lower than the approved plan, but the only consequence will be increased risk of washover. Commissioner Durkin made a motion to issue a Certificate of Compliance. The motion was seconded by Commissioner Johnston. The motion carries unanimously.

**SE83-1945**, 29 Lewis Bay Blvd., Unit 7, West Yarmouth.

Commissioner Bishop noted that this request is for the pool and patio, but there was an issue with a boat and rack. He pointed out the CA's report which indicates that during the site visit, a violation of SE83-1982 was identified, which is the next agenda item.

Commissioner Bishop commented that the applicant removed the winch and boat in order to get the COC for SE83-1982. The Commission discussed the Conditions of the respective permits and viewed photos of the existing conditions. Commissioner Durkin reviewed his recollection of the site visit. Commissioner Lawrence asked that if the applicant is in violation of one COC, why another one would be issued. Commissioner Bishop expressed concern over what would happen if the property were sold. Commissioner Huggins asked if the two permits should be considered separately; however, Commissioner Bishop noted that it is one property and Commissioner Lawrence added that there is a violation on the property. Commissioner Durkin suggested that the two projects should be considered together. The Commission also considered issuing a fine for the violation, and ultimately concurred that the applicant is in violation of a pre-existing Order.

Commissioner Lawrence made a motion to issue a Certificate of Compliance. The motion was seconded by Commissioner Durkin. The motion does not carry.

**Violations:**

**SE83-1982**, 29 Lewis Bay Blvd., Unit 7, West Yarmouth

Having reviewed the CA's report, Commissioner Durkin made a motion that a violation notice be issued. The motion was seconded by Commissioner Lawrence. The motion carries unanimously.

**Meeting Minutes:**

12/20/2018, Commissioner Durkin made a motion to approve the minutes as written. The motion was seconded by Commissioner Lawrence. The motion carries 5:0.