

# DARTMOUTH CONSERVATION COMMISSION MINUTES – APRIL 8, 2020

*Area reserved for town clerk stamp →*

**THESE MINUTES WERE APPROVED BY THE COMMISSION ON:**

**ATTENDANCE:**

Present: Michael Kehoe, Patricia Sweriduk, Richard Golen, Joseph Burke, Kelly Wilbur

Absent: Chairman Richard Mallen, Kyle Ross

Michael O'Reilly, Environmental Affairs Coordinator, Marc Garrett Conservation, Office Administrative Assistant.

RECEIVED  
2020 JUL 10 PM 3:25  
DARTMOUTH TOWN CLERK

**Due to the COVID-19 outbreak and in conformance with the emergency order of the Governor of Massachusetts banning public gatherings the Town of Dartmouth office building is closed. This meeting was be held remotely. Public Hearings was accessible for live interactions by the public using the following information:**

**Join Zoom Meeting  
<https://zoom.us/j/662464899>**

**Meeting ID: 662 464 899  
Password: 008736**

Michael Kehoe opened the hearing of Tuesday, April 8, 2020 at 7:02 p.m.

Mr. Kehoe read the following statement:

**Statement Read for Remotely Conducted Conservation Commission Meeting**

Confirming Member Access:

As a preliminary matter, this is Michael Kehoe, Chair of the Dartmouth Conservation Commission. Permit me to confirm that all members and persons anticipated on the agenda are present and can hear me.

- Members, when I call your name, please respond in the affirmative. *Names of members.*
- Staff, when I call your name, please respond in the affirmative. *Name(s) of staff*
- Anticipated speakers on the agenda, please respond in the affirmative. *Names of applicants/representatives.*

*Remote participation by Commission members, staff and applicants representatives was confirmed by voice.*

Introduction to Remote Meeting:

Good evening. This Open Meeting of the Conservation Commission is being conducted remotely, consistent with Governor Baker's Executive order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of COVID-19.

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In order to mitigate the transmission of the virus, we have been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order suspended the requirement of Open Meeting Law to have all meetings in a publicly accessible physical location. Further, all members of public bodies are allowed and encouraged to participate remotely.

The Order allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will feature public comment.

For this meeting, the Conservation Commission is convening by telephone and video conference via Zoom with login information posted on the Conservation Commission agenda located on the Conservation Commission portion of the Town's website.

Please note that this meeting is being recorded and that attendees are participating by video conference.

Accordingly, please be aware that other participants or viewers may be able to see and hear you, and anything that you broadcast may be captured by the recording. You have the option to turn off your video if you are participating via computer. All participants should keep their microphones or phones muted unless recognized by the Chair to reduce background noise and feedback.

### Meeting Ground Rules

We are now turning to the first item on the agenda. Before we do so, permit me to cover some ground rules for effective and clear conduct of our business and to ensure accurate meeting minutes.

- The Chair will recognize Conservation Commission staff for comment as necessary.
- The Chair will introduce each speaker on the agenda. After they conclude their remarks, the Chair will go down the line of Members, inviting each by name to provide any comment, questions, or motions.
  - Please hold until your name is called.
  - Please remember to mute your phone or computer when you are not speaking.
  - Please remember to speak clearly and in a way that helps generate accurate minutes.
- For any response, please wait until the Chair yields the floor to you, and state your name before speaking.
- If members wish to engage in discussion with other members, please do so through the Chair, taking care to identify yourself.
- For items with public comment:
  - After applicants representatives and members have spoken, the Chair will afford public comment as follows:
    - The Chair will first ask members of the public who wish to speak to indicate their desire to do so using the "raise Hand" function of Zoom. Which I will described shortly. Anyone participating should identify themselves using their names and addresses only;
- For those individuals who present, please take care to speak loudly and clearly so the microphone associated with the webcam can effectively broadcast your comments to those participating remotely.
- **Finally, each vote taken in this meeting will be conducted by a roll call vote.**

How to raise your hand in Zoom:

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During a meeting, click on the icon labeled "Participants" at the bottom center of your PC or Mac screen. A list of participants will pop up. You may have to roll your cursor to the bottom of your screen to find it.

At the bottom of the window on the right side of the screen, click the button labeled "Raise Hand." The Chair will unmute your microphone to allow you to talk.

You can lower it by clicking the same button, now labeled "Lower Hand."

### **ADMINISTRATIVE:**

MINUTES of the February 18, 2020 meeting were unanimously approved by the Commissioners present.

Approval of the FIELD TRIP REPORTS of February 18, 2020 meeting was unanimously accepted by those Commissioners present.

Receipt of the Minutes of March 2, 2020 meeting.

### **FIELD TRIP REPORTS:**

1. *CONTINUED Request for Determination of Applicability for Robert and Jane Sylvia to confirm the wetland line on land located at Map 23, Lots 48-1 and 48-2 on Horseneck Road. (SITEC)*

Mr. O'Reilly explained that this request is for the purpose of a wetland delineation verification. He explained that there were some problems with the accuracy of the base plan. We are waiting on SITEC to submit a new plan. Mr. O'Reilly recommended continuing the request until the next scheduled meeting to allow time to receive the new plan and discuss the plan with the applicants surveyor.

Patricia Sweriduk motioned to continue the request for determination until April 21, 2020, Richard Golen seconded the motion. It was unanimously voted.

1. Request for Determination of Applicability for Josh Family Limited Partnership to confirm the wetland line on land located at Map 42, Lot 46 on 339 Chase Road (Boucher & Associates, Inc.)

Patty Sweriduk motioned for a positive determination for the purposes of wetlands delineation verification, Kelly Wilbur seconded, unanimously voted.

2. Request for Determination of Applicability for Scott Sherwood to install ground mounted solar array on land located at Map 28, Lot 4 on 107 Slades Corner Road (Trinity Solar)

Patty Sweriduk motioned for a negative determination, Kelly Wilbur seconded, unanimously voted.

3. Request for Determination of Applicability for Paul & Cheryl Fournier to demolish an existing detached garage/shed and construct a proposed house addition on land located at Map 171, Lot 49 on 51 Sherbrooke Road (Heureux Engineering, LLC)

Patty Sweriduk motioned for a negative determination, Kelly Wilbur seconded, unanimously voted.

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4. Request for Determination of Applicability for Buzzards Bay National Estuary Program Install elevation marker and 4 PVC pipes to mark vegetation plots on land located at Map 10, Lot 6 on 115 Barneys Joy Road.

Patricia Sweriduk motioned for a negative determination, Richard Golen seconded, unanimously voted.

5. Request for an Extension on the Order of Conditions for DEP File #15-529 for Davis & Tripp at Map 117, Lot 7 on 1 Bridge Street.

Patty Sweriduk motioned to issue a 3 year Extension Permit, Kelly Wilbur seconded, unanimously voted.

6. Request for an Extension on the Order of Conditions for DEP File # 15-2362 for Robert Mello at Map 172. Lot 21 on Rhode Island Avenue (SITEC)

Richard Golen motioned to issue a 3 year Extension Permit, Kelly Wilbur seconded, unanimously voted.

7. Request for a Certificate of Compliance for DEP File #15-2353 for Stephen & Kathleen Meeker at Map 96, Lot 13 on 8 Washburn Lane. (Site Design Engineering)

Patty Sweriduk motioned to issue a Certificate of Compliance, Richard Golen seconded, unanimously voted.

8. Request for a Certificate of Compliance for DEP File #15-2353 for Stephen & Kathleen Meeker at Map 96, Lot 13 on 8 Washburn Lane. (Site Design Engineering)

Kelly Wilbur motioned to issue a Certificate of Compliance, Richard Golen seconded, unanimously voted.

9. Request for a Partial Certificate of Compliance for DEP File #15-715 for Brian Glover, PC at Map 60, Lot 20 on 3 Nichole Megan Way.

Patty Sweriduk motioned to issue a Partial Certificate of Compliance, Richard Golen seconded, unanimously voted.

10. Request for a Partial Certificate of Compliance for DEP File #15-1130 for Bradley and Patricia Howes at Map 129, Lot 22 on 31 Hidden Bay Drive

Kelly Wilbur motioned to issue a Partial Certificate of Compliance, Richard Golen seconded, unanimously voted.

### **END OF FIELD TRIP REPORT**

### **PUBLIC HEARINGS:**

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**CONTINUED PUBLIC HEARING  
NOTICE OF INTENT  
PETER VIEIRA  
MAP 27, LOT 21\_34  
3 SLADES FARM LANE  
DEP FILE 15-2487**

There was a Conservation Commission hearing held in accordance with the provisions of M.G.L.ch. 131§ 40, the Wetlands Protection Act and the Dartmouth Wetlands Protection Bylaw on a Notice of Intent for Peter Vieira who wishes to restore the Bordering Vegetated Wetlands on land located at Map 27, Lot 21-34, 3 Slades Farm Lane. The public hearing was held on April 8, 2020. The public hearing was held by publically accessible teleconference as described in opening section of the meeting minutes of the date of this Hearing.

Present: Michael Kehoe, Patricia Sweriduk, Richard Golen, Joseph Burke, Kelly Wilbur

Absent: Chairman Richard Mallen, Kyle Ross

Michael O'Reilly, Environmental Affairs Coordinator, Marc Garrett Conservation Officer, Karen Aho, Administrative Assistant.

It was voted to waive the reading of the public notice.

Mr. O'Reilly explained that this Notice of Intent is for the purposes of restoring the bordering vegetated wetlands. Mr. O'Reilly reviewed the wetland line and made some adjustments several weeks ago. New plans were received within the 5-day review time.

Patricia Sweriduk asked whether a required time for completion of the project was necessary. Michael O'Reilly explained that no restoration is being requires so it is not necessary. Michael O'Reilly and Marc Garrett started that this site will be monitored regularly.

Patricia Sweriduk motioned to close the Public Hearing, Richard Golen seconded, unanimously voted. Kelly Wilbur motioned to issue a standard Order of Conditions according to the latest plan, Richard Golen seconded, unanimously voted.

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**CONTINUED PUBLIC HEARING  
NOTICE OF INTENT  
BRIAN STORER, WINDSONG, LLC  
MAP 125, LOTS 19, 19-1 THRU 19-7  
OFF JASON DRIVE  
DEP FILE 15-2491**

There was a Conservation Commission hearing held in accordance with the provisions of M.G.L. ch.131§ 40, the Wetlands Protection Act and the Dartmouth Wetlands Protection Bylaw, on a Notice of Intent for Brian Storer, Windsong LLC, who proposes a five lot open space residential development on land located at Map 125, Lots 19, 19-1 through 19-7 Off Jason Drive. The public hearing was held by publically accessible teleconference as described in opening section of the meeting minutes of the date of this Hearing.

Present: Michael Kehoe, Patricia Sweriduk, Richard Golen, Joseph Burke, Kelly Wilbur

Absent: Chairman Richard Mallen, Kyle Ross

Michael O'Reilly, Environmental Affairs Coordinator, Marc Garrett Conservation, Officer, Karen Aho, Administrative Assistant.

It was voted to waive the reading of the public notice.

The applicant has requested a continuance to April 21, 2020.

Patricia Sweriduk motioned to continue the Public Hearing until April 21, 2020. Richard Golen seconded the motion.

It was unanimously voted.

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**CONTINUED PUBLIC HEARING  
NOTICE OF INTENT  
MICHAEL PANAGAKOS  
MAP 167, LOT 55  
385 STATE ROAD  
DEP FILE 15-2501**

There was a Conservation Commission hearing held in accordance with the provisions of M.G.L.ch. 131§ 40, the Wetlands Protection Act and the Dartmouth Wetlands Protection Bylaw on a Notice of Intent for Michael Panagakos who wishes to demolish an existing structure and construct a new commercial building with associated parking, drainage and utilities on land located at Map 167, Lot 55 on 385 State Road. The public hearing was held by publically accessible teleconference as described in opening section of the meeting minutes of the date of this Hearing.

Present: Michael Kehoe, Patricia Sweriduk, Richard Golen, Joseph Burke, Kelly Wilbur

Absent: Chairman Richard Mallen, Kyle Ross

Michael O'Reilly, Environmental Affairs Coordinator, Marc Garrett Conservation, Officer, Karen Aho, Administrative Assistant.

It was voted to waive the reading of the public notice.

Mr. Steven Gioiosa from SITEC Engineering appeared on behalf of the applicant. He explained the subject property is a redevelopment of an older site with a small commercial building proposed. The stormwater consultant submitted comments in January and has since been addressed. Subsequently, DPW sent a comment letter and appropriate revisions were made to the plan. The technical details have been resolved. The applicant has agreed to remove invasive species from stream bank.

Michael Kehoe asked for clarification on the soil evaluation that was submitted. Mr. Gioiosa explained that the newly defined water table has the bottom of the infiltration system further above ground water that previously proposed.

Patricia Sweriduk motioned to close the Public Hearing, Richard Golen seconded, unanimously voted. Patricia Sweriduk motioned to issue a standard Order of Conditions according to the latest plan, Richard Golen seconded, unanimously voted.

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**PUBLIC HEARING  
NOTICE OF INTENT  
GEORGE S. & PENELOPE R. BAILEY  
MAP 79, LOT 13 & 14  
PINE ISLAND ROAD  
DEP FILE 15-2508**

There was a Conservation Commission hearing held in accordance with the provisions of M.G.L.ch. 131§ 40, the Wetlands Protection Act and the Dartmouth Wetlands Protection Bylaw on a Notice of Intent for George S. & Penelope R. Bailey who proposes to construct a single family house on land located at map 79 lots 13 & 14, Pine Island Rd. The public hearing was held by publically accessible teleconference as described in opening section of the meeting minutes of the date of this Hearing.

Present: Michael Kehoe, Patricia Sweriduk, Richard Golen, Joseph Burke, Kelly Wilbur

Absent: Chairman Richard Mallen, Kyle Ross

Michael O'Reilly, Environmental Affairs Coordinator, Marc Garrett Conservation, Officer, Karen Aho, Administrative Assistant.

It was voted to waive the reading of the public notice.

Alan Heureux P.E. of Heureux Engineering represented the applicant. He described the site and the proposal. There is only Buffer Zone work proposed with the limit of work, as defined by erosion control measures, is proposed to be located 10 feet from the nearest wetlands.

Michael O'Reilly stated that this is a fairly standard single family house in the Buffer Zone, no wetlands alteration proposed.

Patricia Sweriduk motioned to close the Public Hearing, Richard Golen seconded, unanimously voted. Patricia Sweriduk motioned to issue a standard Order of Conditions according to the latest plan, Richard Golen seconded, unanimously voted.



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**PUBLIC HEARING  
NOTICE OF INTENT  
PER LOFTBERG  
MAP 108, LOT 1, 2 & 3  
ELM ST.  
DEP FILE 15-2509**

There was a Conservation Commission hearing held in accordance with the provisions of M.G.L.ch. 131§ 40, the Wetlands Protection Act and the Dartmouth Wetlands Protection Bylaw on a Notice of Intent for Per Loftberg who proposes to who proposes selective clearing and removal of nuisance vegetation and install a yard inlet and drain pipe in the buffer zone and Land Subject to Coastal Storm Flowage on land located at map 108 lots 1, 2 & 3, at 39 & 39 Elm St. The public hearing was held by publically accessible teleconference as described in opening section of the meeting minutes of the date of this Hearing.

Present: Michael Kehoe, Patricia Sweriduk, Richard Golen, Joseph Burke, Kelly Wilbur

Absent: Chairman Richard Mallen, Kyle Ross

Michael O'Reilly, Environmental Affairs Coordinator, Marc Garrett Conservation, Officer, Karen Aho, Administrative Assistant.

It was voted to waive the reading of the public notice.

Alan Heureux P.E. of Heureux Engineering represented the applicant. He described the site and the proposal. He explained that selective clearing and removal of nuisance vegetation is proposed in three separate areas. In addition a small drain inlet is proposed under the existing driveway to alleviate a ponding problem in the existing lawn.

Michael O'Reilly explained that he and Conservation Officer Marc Garrett had walked the site with Mt Heureux and the wetlands Consultant.

Joseph Burke asked for clarification on the drain inlet and where it would discharge to. Mr. Heureux explained the pipe would discharge rainwater into a swale that would eventually discharge into the adjacent wetland.

Patricia Sweriduk motioned to close the Public Hearing, Kelly Wilbur seconded, unanimously voted. Patricia Sweriduk motioned to issue a standard Order of Conditions according to the latest plan, Richard Golen seconded, unanimously voted.

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**PUBLIC HEARING  
NOTICE OF INTENT  
JASON & GISELE HUTCHENS  
MAP 107, LOT 19  
SMITH NECK RD.  
DEP FILE 15-2510**

There was a Conservation Commission hearing held in accordance with the provisions of M.G.L.ch. 131§ 40, the Wetlands Protection Act and the Dartmouth Wetlands Protection Bylaw on a Notice of Intent for Jason & Gisele Hutchins who proposes to construct a timber pier on land located at Map 107, Lot 19. The public hearing was held by publically accessible teleconference as described in opening section of the meeting minutes of the date of this Hearing.

Present: Michael Kehoe, Patricia Sweriduk, Richard Golen, Joseph Burke, Kelly Wilbur

Absent: Chairman Richard Mallen, Kyle Ross

Michael O'Reilly, Environmental Affairs Coordinator, Marc Garrett Conservation, Officer, Karen Aho, Administrative Assistant.

It was voted to waive the reading of the public notice.

David Davignon P.E. of Schneider, Davignon & Leone, Inc represented the applicant. He described site and project. The proposal is a timber pier which would be an accessory use to single family house. It is proposed to be 4' w 190' long with a multi-float system and swim ladder. The Pier length and location determined by location of rocks along the shore. The end of the pier would terminate in 3 – 4.4 feet of water. The structure would be pile supported. An Eelgrass study done with none found. Division of Marine Fisheries had no comment. Mass Natural Heritage Program had no comment. He described the location and relative position of the adjacent docks and structures. Dartmouth Harbormaster comments were received. Per the Harbormaster request a float will be installed at end of proposed pier. Adjacent moorings will be located. A 5' separation between bottom stringer and ground at end of pier is proposed to allow for public access under the pier. Construction will take place using a barge with equipment and materials storage located across the street in a lawn area. Mr. Davignon understands that a continuance will be necessary..

Mike Kehoe commented that the harbormaster has submitted a detailed memo on project. He questions the pier as it relates to shellfish resources and whether shellfish relocation or money for seeding would be appropriate.

Michael O'Reilly commented that this is a very extensive dock, very long with a large and elaborate float system. He asked if the dock complies with Massachusetts Department of Environmental Protection docks and pier construction standards.

Mr. Davignon explained that it does not comply with the standards in that there are more plies than required by the guidance due to bottom conditions. He was concerned about proper penetration of the driven piles due to extensive ricks.

Michael O'Reilly commented that the Harbormaster has valid points.

Harbormaster, Steve Melo stated that the area where the dock s proposed is within an area designated by the town as a recreational, non-commercial shell harvesting area known as the "family beach". This area has been designated to keep recreational shellfishing alive. He also commented that the moorings near the proposed dock

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have a swing radius that must be taken into account. He requested that each mooring point provided to him. He will need to calculate swing not just points. He has GPSs points of moorings and swing circle.

Michael O'Reilly suggested that the swing circle be shown on plan.

Mr. Davignon pointed out that the GPS coordinates are shown on the plan.

Mike Kehoe asked if the GPS coordinates shown on plan are enough to coordinate swing circle. Mr. Melo answered yes.

Marc Garrett expressed concern about Sou'easter storms and the potential effect on the pier. He asked whether the pier can withstand big blow from the southeast.

Mr. Davignon commented that that is why he proposes 12 rather than recommended 20 piles plus a batter pile to help prevent uplift. Deck sections will be removed in winter.

Patricia Sweriduk wanted more information on shellfishing area. Mr. Melo further described the "family beach" shellfishing area. He stated that the town is required set aside areas for recreational harvesting with no commercial harvesting. This site has easy access. Shell fisherman can walk shoreline to access the area. The proposed structure also crosses sandbar which would be an obstruction of traditional harvesting area. Seed placed in this area disbursts northward. He is concerned that the pier will obstruct harvesting of shellfish.

Michael Kehoe has same concern as the Harbormaster. The town has done a lot to develop recreational harvest in this area and the Harbormasters concerns are legitimate.

Patricia Sweriduk agrees. She has great reservations to impacts to family beach and potential impacts to moorings.

Mr. Davignon asked for suggestions. Harbormaster stated that he can't design the project and that it may be inappropriate in this area.

Michael O'Reilly shares the concerns about potential impacts to shellfish. The loss of shellfishing area from extensive system of floats seems excessive. Overall size of the pier and float system seems excessive. He agrees with the concerns expressed by the Harbormaster and Commissioners.

Richard Golen commented that the pier and floats are half the length of a football field, almost the size of a small house. It covers large amount of area.

Patricia Sweriduk agrees the area coverage is outrageously large but impacts to shellfish are her main concern.

Marc Garrett concurs on impacts disruptive to aerial habitat of shell. Town has made significant effort to develop shellfishing in this area. He suggested limiting degree of impacts.

Mr. Davignon described the floats in more detail.

Steve Mello expressed concerns regarding impacts to Smith Neck Rd. If and when dock gets dislodged due to long southeast etch across Buzzards Bay.

Michael O'Reilly mentioned that the Wetlands Protection Act has a statutory interest of storm damage prevention and that this pier is very exposed. He is concerned about storm damage..

Mr. Davignon requested a 4 week continuance for 4 weeks to May 5, 2020.

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Patricia Sweriduk motioned to continue the Hearing to May 5, 2020 with Kelly Wilbur seconding, unanimously voted.

### **ITEMS FOR DISCUSSION:**

A. Bills:

Conservation Commission Receipts book

Payment of \$400 bill was approved. Michael O'Reilly allowed to sign the voucher for payment per authorization to do so from Dartmouth Financial Director Greg Barnes provided that a vote of the Conservation Commission authorized such payment.

It was unanimously voted to pay the invoice.

B. Chapter 61 Forestry Land Hathaway Road (time frame for response by Conservation Commission has been suspended per Chapter 53 of the Acts of 2020)

C. Audubon Letter on Fencing at Conservation Commission Beach on Smith Neck Rd

Conservation Commission authorized Massachusetts Audubon Society to erect enclosure fencing on Conservation Commission beach on Smith Neck Rd.

D. Other Items not Reasonably Anticipated by the Chair

E. This time is reserved for discussion on any topic(s) by commissioners

These minutes were transcribed from the video recording and are stored digitally in the Town of Dartmouth network folder: G:\CONCOM\MINUTES\2020\April 8, 2020 Conservation Minutes; and located in the Conservation Commission Office for listening purposes upon verbal request.

Transcribed By,

Michael O'Reilly, Environmental Affairs Coordinator

For the Commission