

**CONSERVATION COMMISSION
MINUTES of MEETING
Tuesday, September 15, 2020
TOWN HALL ANNEX, 39 CENTRAL STREET
APPROVED: 10/6/2020**

Present: Chair Daniel Shinnick, Vice Chair Sam Streiff, Robert Garner, Jena Haag, and Howard Terrien
Absent: Howard Vogel
Attending: Brent Baeslack, Conservation Agent

Opening Statement: Authorized by Wetlands Protection Act, Town of Rowley Wetlands Protection Bylaw, and the Stormwater Management and Erosion Control Bylaw. Meeting convened 7:30 PM (all Legal ads were read to open new agenda items at time noticed).

Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law and banning gatherings of more than 10 people due to the COVID-19 pandemic, this meeting was conducted by remote participation to the greatest extent possible. The Commission and the public did not physically attend this meeting, but every effort was made to allow the public to view the meeting in real time. Persons who wished to do so were invited to watch the meeting on Rowley Community Media TV or to join the meeting from a computer, tablet or smartphone by using a link for GoToMeeting, or by dialing in by phone.

Administrative: There were no payroll or Vendor Bill requests which had been presented prior to the meeting for review.

Acceptance of Minutes:

After the Commission reviewed the minutes, Shinnick moved to accept the Minutes of August 25, 2020. Terrien seconded and the motion passed unanimously by roll call vote.

After the Commission reviewed the minutes, Streiff moved to accept the Minutes of April 22, 2008. Haag seconded and the motion passed unanimously by roll call vote.

Discussion:

The Commission invited Ms. Ann Witzig, candidate for the open Commissioner appointment, to attend the meeting to discuss her interest in the position. Ms. Witzig was in attendance and reviewed her background, qualifications, and the reasons for her interest in serving on the Conservation Commission.

Shinnick moved to submit a letter to the Board of Selectmen recommending Ms. Witzig to fill the vacancy on the Conservation Commission. Terrien seconded and the motion passed unanimously by roll call vote.

New Request for Determination of Applicability application at 54 Haverhill Street (Map 15, Parcel Lot 88) Trevor LaLiberte - proposed construction of a 35' x 32' existing slab, 6' x 16' staircase exterior, 6' x 24' slab extension, raised bed planter and fence and 14' x

24' detached shed possibly within the 100' Buffer Zone of Bordering Vegetated Wetlands. Mr. Trevor LaLiberte was in attendance to present the project and answer questions from the Commission. Agent Baeslack reviewed his memo dated September 15, 2020 and provided photographs of current conditions. Mr. Timothy Toomey asked if the project met the criteria for an RDA under the guidelines mentioned in the Handbook For Conservation Commissions published by MACC (Massachusetts Association of Conservation Commissions). He referenced his submittal of MACC's Handbook (year 2000 edition) section that discusses a Commission's review of activities applied for using a Request to Determine Applicability application under the Wetlands Protection Act. Agent Baeslack advised that the policy was actually a Wetlands Program Policy issued by DEP as guidance but it is not part of the Regulations. Therefore it was at the discretion of the Commission to determine if this policy should be followed. Chairman Shinnick advised that he had received the referenced email but had not had a chance to review the materials submitted. Chairman Shinnick stated that it was his opinion that the policies of the Rowley Conservation Commission were in accordance with current standards. Chairman Shinnick thanked Mr. Toomey for his input.

Streiff moved to issue a negative Determination option #3 with recommended conditions. Haag seconded and the motion passed unanimously by roll call vote.

New Request for Determination of Applicability application at 862 & 866 Haverhill Street (Map 4, Parcel Lot 1 and 2) Karl Boesen - proposed construction of a replacement subsurface sewage disposal system with tree clearing possibly within the 100' Buffer Zone of Bordering Vegetated Wetlands and DEP Approved Groundwater Protection Area Zone II. Mr. Vaclav Talacko of Hancock Associates was in attendance on behalf of the applicant to present the project and answer questions from the Commission. He advised that he had received Agent Baeslack's memo dated September 15, 2020 which recommended some revisions to the plans. Since he had just received the memo and had not been in attendance at the first site inspection, he asked that another site inspection be scheduled to address the trees that would be removed. A request to continue the hearing to allow for the site inspection was submitted. Mr. Timothy Toomey again asked if the RDA met the guidelines issued by MACC (DEP policy). Chairman Shinnick advised that this matter had been addressed previously and would not be addressed at this time. Agent Baeslack stated again that this was DEP policy or guidance and not regulations. Mr. Toomey asked if the guidelines were being followed for this project specifically. Chairman Shinnick again stated that he had not reviewed Mr. Toomey's email with the guidelines but would be doing so. The current hearing would proceed.

Haag moved to continue the public hearing, with the applicant's permission, to the meeting of October 6, 2020 to allow scheduling of a site visit. Terrien seconded and the motion passed unanimously by roll call vote.

New Notice of Intent application at 245 Wethersfield Street (Map 23, Parcel 84 Lot 1) Andrew Brewin - proposed construction of an approx. 40' x 32' addition to a single family home possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands and an Intermittent Stream. Prior to opening the public hearing, Agent Baeslack asked if a representative of Hancock Associates was in attendance. Mr. David Cowell of Hancock

Associates stated that he was in attendance on behalf of the applicant. Agent Baeslack asked about the submittal of proof of notification to abutters. Mr. Cowell advised that they had received the green cards from the certified mail/return receipt mailing and he could have them scanned and emailed or have the originals mailed. Agent Baeslack advised that an email of the scanned forms would be sufficient if the Chairman agreed. Chairman Shinnick agreed and proceeded to open the public hearing. Also in attendance was the applicant, Mr. Andrew Brewin. Mr. Cowell proceeded to give a brief overview of the project. Agent Baeslack gave a brief report with photographs of the site inspection. The Commission discussed removal of the shed and clearing of some of the invasive species to allow for removal of the surface man-made debris that appeared to be obstructing the inlet of the driveway culvert. The consensus was reached that the shed would need to be removed to allow for construction and did not involve removal or excavation of a concrete slab or foundation. Once some of the clearing of the invasive species had been completed, an additional consultation with Agent Baeslack could be scheduled on how to proceed based on the conditions at the culvert inlet. Agent Baeslack also advised that he would be issuing a memo with requested revisions to the plans. Agent Baeslack recommended that the hearing be continued to allow for further consideration of the No Cut/No Disturb Zone and the status of the culvert. Ms. Margery Densmore, an abutter to the property, asked about the flow of the water when the culvert is cleared. Her concern was with the culvert that runs under Bennett Hill Road and if the water from the culvert on this site would affect the Bennett Hill culvert. Agent Baeslack advised that concerns with the Bennett Hill culvert should be addressed to the Rowley Highway Department. Mr. Timothy Toomey asked if the project met the MACC guidelines for permitting. Chairman Shinnick stated that he believed it did. Mr. Brewin asked if he should proceed with the removal of the shed. Agent Baeslack advised that this should wait until the issuance of a permit but the surface man-made debris could be removed. The Commission moved to continue the hearing.

Streiff moved to continue the public hearing, with the applicant's permission, to the meeting of October 6, 2020. Haag seconded and the motion passed unanimously by roll call vote.

Extension Request:

Request for one year Extension for DEP #63-0664 29 Boxford Rd. (Map 5, Parcel/Lot 84) and 60 Pingree Farm Rd. (Map 4, Parcel/Lot 12) Rowley Conservation Commission - Pingree Farm Boardwalk Project expiring 10/24/2020. Agent Baeslack updated the Commission on the status of the project and presented the request to extend.

Garner moved to issue a one (1) year Extension for DEP #63-0664. Terrien seconded and the motion passed unanimously by roll call vote.

Status Reports: Permits & Enforcement

623 Wethersfield St. et al (Map 11, Parcel/Lots 58, 53, 58-1, 58-2, & 58-2A) Rowley Solar Facility operator PowerFund 1 owned by Maven Revocable Trust – site compliance and site visit August 11, 2020. Mr. Dirk Michaels of PowerFund 1 was in attendance. Agent Baeslack gave a verbal report on this matter to the Commission. He

advised that Mr. Michaels had submitted a request to rescind the Notice of Non-Compliance issued for the placement of reprocessed asphalt (as fill) on the site. Agent Baeslack advised that documentation on the removal of the material had not been received as requested. He also advised that a site inspection would also be appropriate. Mr. Michael's expressed his disagreement with the issuance of the Notice of Non-Compliance one day after the material had been removed and the removal had been reported to the Planning Board. Chairman Shinnick advised that reporting to the Planning Board did not meet the requirements of the Conservation Commission. Chairman Shinnick also advised that the issuance of the Notice of Non-Compliance did not hinder the ongoing work and PowerFund 1 still needed address the concerns of the Conservation Commission. Mr. Michaels agreed to comply with the Notice of Non-Compliance and agreed to schedule a site inspection. Attorney Thomas Beatrice requested to speak on behalf of the landowner. He advised that there is still a pile of fill on the site which tested higher for contaminants than the previous testing. Mr. Beatrice informed the Commission that his client and the Environmental Police had observed a representative of PowerFund1's contractor burying the material on site. Chairman Shinnick advised that the Commission did not require that soil sampling be done and if a site visit confirmed compliance with the Notice of Non-Compliance, the Commission would not have further input in this matter. Mr. Beatrice stated that his client could provide the Commission with an affidavit with testing results to verify that although contaminated fill could not be seen it was still present on site. Mr. Michaels advised that if this information was provided to him, he would be the first to address this with their contractor and engineer. Mr. Beatrice stated that PowerFund 1 had already been informed. Mr. Michaels stated that he did not have the information and believed that the contaminated fill had been removed. Chairman Shinnick advised Mr. Beatrice that the affidavit and testing information should be provided to both the Conservation Commission and PowerFund 1. Chairman Shinnick stated that once the reports on the testing and burying of the fill were received and PowerFund1 had a chance to address them, the Commission would review materials submitted from PowerFund 1 relating to the removal of the fill. At this time, the Chairman considered the matter closed.

29 Wilkes Road (Map 6, Parcel 14, Lot 3) Filho Osvaldo Luiz & Ana Paula Tameirao – Notice of Violation for cutting and disturbance (altering) the restricted No Cut/ No Disturbance Zone within the 100' Buffer Zone to Bordering Vegetated Wetlands. Agent Baeslack gave a verbal update on this matter. No further action is needed at this time.

11 Rivers Edge Drive (Map 10, Parcel 3, Lot 5-3) John E. & Lauryn M. Deluise – Enforcement Order for alteration (clearing and removal understory) of 1000 sq. ft. plus of 100' Buffer Zone to BVW, 200' Riverfront Area and Covenant restricted area without obtaining a wetlands permit (WPA and local Bylaw). Agent Baeslack gave a verbal update on this matter. Work has been suspended pending investigation of complaints of further cutting on the site. Agent Baeslack is working with the property owner's representative and will update the Commission when further information is received.

Project Comments:

Hogg Island - issuance of a Shellfish Aquaculture License, as prescribed by Chapter 130 Section 57 and 58 of the Massachusetts General Laws, filed by Brenden Doyle and James B.

O'Connell of The Great Marsh Shellfish Company of 22 Hammond Street,. Rowley, MA. Mr. Brenden Doyle of The Great Marsh Shellfish Company was in attendance. Agent Baeslack advised that this matter was on the agenda simply to make the Commission aware that this project was moving forward. Mr. Doyle gave a brief update on the status of the project. He advised that a Notice of Intent application was being prepared for submittal to the Commission.

Adjournment:

Accomplished at 9:50 PM by a motion made by Streiff. Terrien seconded and the motion passed unanimously by roll call vote.

Submitted by Brent Baeslack, Conservation Agent