

**CONSERVATION COMMISSION
MINUTES of MEETING
Tuesday, April 20, 2021
TOWN HALL ANNEX, 39 CENTRAL STREET
APPROVED: Approved 5/12/2021**

Present: Chair Daniel Shinnick, Vice Chair Sam Streiff, Robert Garner, Jena Haag,
Howard Terrien, and Ann Witzig
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 at 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 16 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: The Commission approved the vendor bills which had been distributed electronically for review prior to the meeting.

Acceptance of Minutes: After the Commission reviewed the minutes, Streiff moved to accept the Minutes of March 30, 2021. Witzig seconded and the motion passed unanimously by roll call vote.

Acceptance of Minutes: After the Commission reviewed the minutes, Garner moved to accept the Minutes of January 30, 2007. Haag seconded and the motion passed unanimously by roll call vote.

Hunsley Hills Conservation Area Clean Up - Agent Baeslack requested taking a vacation day on Earth Day, Thursday, April 22, 2021 so he and his wife could return to doing a roadside litter clean up at the Hunsley Hills Conservation Area which had been an annual activity up to 2019. The Commission authorized the vacation day.

Pingree Farm Boardwalk Surplus Lumber - The Commission discussed use of the Pingree Farm boardwalk surplus lumber at other conservation areas to construct bog bridge crossings or intermittent stream bridges. Lumber not so committed to other trail projects would be returned for credit to Yankee Pine Lumber. Agent Baeslack updated the Commission on the project status with only the ordering and installation of the required Mass Trails signage.

Request for Determination of Applicability at 35 Prospect Street (Map 15, Parcel/ Lot 77) filed by Michael McNiff of MPM Companies, LLC owned by Pine Tree Realty

Trust: Proposed soil evaluations possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands and an intermittent stream (un-named). Mr. Robert Griffin of Griffin Engineering was in attendance representing the Applicant and gave the Commission an overview of the proposed work. Baeslack noted that he had verified the delineation in the field. The Commission reviewed Agent Baeslack's memo dated April 19, 2021 with recommendations for plan revisions and project conditions.

Garner moved to issue a Negative Determination Option #3 with conditions as discussed contingent upon receipt and approval of revised plans. Witzig seconded and the motion passed unanimously by roll call vote.

Request for Determination of Applicability at 676 Newburyport Turnpike (Map 21, Parcel/Lot 21) filed by Benjamin Meade of Northeast Chapter of Trout Unlimited owned by Barry Cahill and Cheryl Forster-Cahill: Proposed temporary seasonal installation of a fish counting board in the Mill River possibly within the river and over land under waterways. Mr. James MacDougall of Northeast Chapter of Trout Unlimited was in attendance on behalf of the Applicant to give a project overview. Agent Baeslack gave a report on the pre-meeting site visit with displayed images and the Commission reviewed his memo of April 19, 2021. There was a brief discussion regarding the board anchoring and it was agreed it could be secured by a tether to a shrub near the installation site without any further disturbance.

Streiff moved to issue a Negative Determination Options #2 and #6 with findings. Terrien seconded and the motion passed unanimously by roll call vote.

Request for Determination of Applicability at 54 Haverhill Street (Map 15, Parcel/Lot 88) filed by Trevor Laliberte: Proposed construction of 28' x 38' addition to an existing shed (detached) possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands. Mr. Trevor Laliberte was in attendance to address the Commission. The Commission reviewed Agent Baeslack's memo dated April 19, 2021 with recommendations for project conditions.

Haag moved to issue a Negative Determination Option #3 with conditions as discussed. Witzig seconded and the motion passed unanimously by roll call vote.

Request for Determination of Applicability at 15 Taylor Lane (Lot 33) (Map 12, Parcel/Lot 3) filed by Robert Nixon of Falcon Ridge Associates LLC: Proposed restoration, grading, and establishment of maintained lawn possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands and the 100' Vernal Pool Habitat Area. Ms. Maureen Herald of Norse Environmental was in attendance on behalf of the Applicant and gave a brief description of the proposed work. The Commission reviewed Agent Baeslack's memo dated April 19, 2021 with recommendations for conditions and discussed the timing of installation of the resource area signage. A consensus was reached that the posts with signage could be installed prior to construction and would not be a hindrance or in danger of damage. The recommended conditions would be modified to reflect this change. Agent Baeslack noted that the site visit confirmed that the depicted gravel roadway on the plans wasn't actually

present on the lot and turned out to be a legal easement at that location and would not need to be subject to restoration activities.

Terrien moved to issue a Negative Determination Option #3 with conditions as discussed. Haag seconded and the motion passed unanimously by roll call vote.

Request for Determination of Applicability at 17 Taylor Lane (Lot 32) (Map 12, Parcel/Lot 3) filed by Robert Nixon of Falcon Ridge Associates LLC: Proposed restoration, clearing of forest cover, grading, and establishment of maintained lawn possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands. Ms. Maureen Herald of Norse Environmental was in attendance on behalf of the Applicant and gave a brief description of the proposed work. The Commission reviewed Agent Baeslack's memo dated April 19, 2021 with recommendations for conditions. As per the previous application, resource area posts with signage would be installed prior to construction site activity. Agent Baeslack discussed a condition requiring the felling of dead trees for safety purposes beyond the limit of work.

Garner moved to issue a Negative Determination Option #3 with conditions as discussed. Haag seconded and the motion passed unanimously by roll call vote.

Request for Determination of Applicability at 19 Taylor Lane (Lot 31) (Map 12, Parcel/Lot 3) filed by Robert Nixon of Falcon Ridge Associates LLC: Proposed clearing of forest cover, grading, and establishment of maintained lawn possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands. Ms. Maureen Herald of Norse Environmental was in attendance on behalf of the Applicant and gave a brief description of the proposed work. The Commission reviewed Agent Baeslack's memo dated April 19, 2021 with recommendations for conditions. As per the previous application, resource area posts with signage would be installed prior to construction site activity. Agent Baeslack discussed the conditions for felling of dead trees for safety purposes beyond the limit of work.

Streiff moved to issue a Negative Determination Option #3 with conditions as discussed. Witzig seconded and the motion passed unanimously by roll call vote.

Request for Determination of Applicability at 21 Taylor Lane (Lot 30) (Map 12, Parcel/Lot 3) filed by Robert Nixon of Falcon Ridge Associates LLC: Proposed clearing of forest cover, grading, and establishment of maintained lawn possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands. Ms. Maureen Herald of Norse Environmental was in attendance on behalf of the Applicant and gave a brief description of the proposed work. Agent Baeslack requested that page 2 of the plan be resubmitted due to an issue with the printing. The Commission reviewed Agent Baeslack's memo dated April 19, 2021 with recommendations for conditions. As per the previous application, resource area posts with signage would be installed prior to construction site activity. Agent Baeslack discussed the conditions for felling of dead trees for safety purposes beyond the limit of work.

Garner moved to issue a Negative Determination Option #3 with conditions as discussed. Terrien seconded and the motion passed unanimously by roll call vote.

Request for Determination of Applicability at 23 Taylor Lane (Lot 29) (Map 12, Parcel/Lot 3) filed by Robert Nixon of Falcon Ridge Associates LLC: Proposed clearing of forest cover, grading, and establishment of maintained lawn possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands. Ms. Maureen Herald of Norse Environmental was in attendance on behalf of the Applicant and gave a brief description of the proposed work. The Commission reviewed Agent Baeslack's memo dated April 19, 2021 with recommendations for conditions. Agent Baeslack discussed the conditions for felling of dead trees for safety purposes beyond the limit of work.

Haag moved to issue a Negative Determination Option #3 with conditions as discussed. Witzig seconded and the motion passed unanimously by roll call vote.

Extension(s):

Request for three year Extension to the Order of Resource Area Delineation DEP #63-0674 issued April 4, 2018 at 548 Wethersfield Street (Map 11, Parcel 18, Lot 5) Lucia Herrick Realty Trust, William H. Herrick III, Trustee – The Commission reviewed the written request to Extend the Order of Resource Area Delineation DEP #63-0674 for an additional three (3) years. Mr. Bill Manuel of Wetlands and Land Management was in attendance to answer any questions from the Commission. The request was being made due to delays in the OSRD approval process. The Commission reviewed Agent Baeslack's email and advised that this is the first extension requested and that the ORAD was a resource area delineation and did not allow any activity in resource areas. A consensus was reached to issue a three (3) year extension.

Terrien moved to issue a three (3) year Extension for DEP #63-0674. Garner seconded and the motion passed unanimously by roll call vote.

Certificate of Compliance Request(s):

Request for Certificate of Compliance for DEP #63-0689 at 590 Wethersfield St. (Map 11, Parcel 6, Lot 11) Bitterroot LLC filed by North Coast Contracting - Proposed construction of a single family dwelling (50' x 60'), including garage, porch, & deck, with driveway, subsurface sewage disposal system, infiltrators, retaining wall, associated grading and utilities. Agent Baeslack provided a report on the field inspection and advised that the wrong signage had been installed on the NCNDSZ posts, the downspouts lacked overflow outlets, and the perimeter drain outlet pipe lacked a crushed stone discharge area. The Applicant is to make the necessary changes.

Witzig moved to issue a Complete Certificate of Compliance DEP #63-0689 contingent upon field verification of the installation of the correct signage, appropriate overflow for the downspouts, and perimeter drain outlet pipe with crushed stone discharge. Haag seconded and the motion passed unanimously by roll call vote.

Request for Certificate of Compliance for DEP #63-0688 at 600 Wethersfield St. (Map 11, Parcel 6, Lot 10) Bitterroot LLC filed by North Coast Contracting – Proposed

construction of a single family dwelling (50' x 60'), including garage, porch, & deck, with driveway, subsurface sewage disposal system, infiltrators, retaining wall, associated grading and utilities. Agent Baeslack provided a report on the field inspection and advised that the downspouts lacked overflow outlets and the perimeter drain outlet pipe lacked a crushed stone discharge area. The installed swale allowed by the Amended Order had encroached on the 25' No Cut/No Disturb area. There were other noncompliance issues including the lack of recording the Amended Order of Conditions for the swale installation, no wetlands professional report that the vegetation had rebounded in an area that had been crossed to access the 590 Wethersfield Street lot, and no submittal of a swale restoration plan for the portion that had encroached on the 25' No Cut/No Disturb Area. Due to noncompliance issues, Agent Baeslack could not recommend the issuance of the Certificate of Compliance. Agent Baeslack recommended an open continuance.

Haag moved to continue this item until such time as the noncompliance issues are addressed. Terrien seconded and the motion passed unanimously by roll call vote.

Request for Certificate of Compliance for DEP #63-0677 at 610 Wethersfield St. (Map 11, Parcel 6, Lot 9) Bruce Tompkins, Sarah Tompkins and Stephanie Desjardins filed by North Coast Contracting – Proposed construction of a single family dwelling (56' x 28' envelope), deck, driveway, utilities, and associated grading. Agent Baeslack gave a report on the field inspection. The only outstanding issues were the trimming of the perimeter foundation drain, the installation of crushed stone at the outlet, and that the downspouts lacked overflow outlets. Agent Baeslack recommended issuance of a Complete Certificate of Compliance contingent upon the correction and field verification of the outstanding issues.

Streiff moved to issue a complete Certificate of Compliance with ongoing conditions contingent upon field verification of the correction of issues discussed. Witzig seconded and the motion passed unanimously by roll call vote.

Request for Certificate of Compliance for DEP #63-0644 at 29 Boxford Rd. (Map 5, Parcel/Lot 84) Town of Rowley Conservation Commission – Proposed construction of a 300' elevated boardwalk crossing the Mill River within the former ford of Mill River at Pingree Farm Road to provide public foot and non-motorized passage between the east and west Pingree Farm Conservation Areas. Agent Baeslack gave a project report, submitted an affidavit on project completion, and advised there would be no ongoing conditions.

Haag moved to issue a Complete Certificate of Compliance with no ongoing conditions. Terrien seconded and the motion passed unanimously by roll call vote.

Status Reports: Permits & Enforcement

Notice of Noncompliance for DEP #63-0688 at 600 Wethersfield St. (Map 11, Parcel 6, Lot 10) Grant and Sharon Baxter – Lack of recording of Issued Amended Order of Conditions and omission of letter from qualified wetland scientist regarding restoration of impacted BVW. This matter was discussed under the review of the Request for Certificate of Compliance for #600 Wethersfield St. No further action is required at this time.

The Commission did not entertain a motion on this matter.

Notice of Noncompliance for SMP #34-2019 at 590 Wethersfield St. (Map 11, Parcel 6, Lot 11) Cameron and Taylor Dawson – Lack of Certificate of Completion for construction of a single family dwelling (50' x 60'), including garage, porch, & deck, with driveway, subsurface sewage disposal system, infiltrators, retaining wall, associated grading and utilities. See Commission discussion on Certificate of Compliance DEP #63-0689.

Haag moved to issue Complete Certificate of Completion with ongoing conditions upon field verification of corrective actions completed. Witzig seconded and the motion passed unanimously.

Notice of Noncompliance for SMP #33-2019 at 600 Wethersfield St. (Map 11, Parcel 6, Lot 10) Grant and Sharon Baxter – Lack of Certificate of Completion for construction of a single family dwelling (50' x 60'), including garage, porch, & deck, with driveway, subsurface sewage disposal system, infiltrators, retaining wall, associated grading and utilities.

Streiff moved to issue Complete Certificate of Completion with ongoing conditions upon field verification of corrective actions completed. Haag seconded and the motion passed unanimously.

Notice of Noncompliance for DEP #63-0688 at 610 Wethersfield St. (Map 11, Parcel 6, Lot 9) David and Christina Kennedy – Construction of swale disturbed and altered 120 sq. ft. of 25' No Cut/No Disturbance Zone which has not been restored nor replanted. This matter was discussed under the review of the Request for Certificate of Compliance for #600 Wethersfield St. No further action is required at this time.

The Commission did not entertain a motion on this matter.

Enforcement Order 600 Newburyport Turnpike (Map 19, Parcel/Lot 15) William H. Stanley owner Jay C. Stanley – Failure to obtain valid written permit and DEP file number for paving of expanded truck parking area 72 feet wide by 52 feet deep. Mr. Jay Stanley was present and offered that he was waiting for Wetlands & Land Management to work on application submittal but failed to communicate anything to the Commission concerning status and neglected deadlines. Chair Shinnick reminded Mr. Stanley he was solely responsible for addressing the Enforcement Order and that he had fourteen days to communicate the status of his efforts to address the noncompliance matters.

Witzig moved to amend the Enforcement Order with the 14 day status response deadline. Terrien seconded and the motion passed unanimously by roll call vote.

Adjournment:

Mn April 20, 2021

Accomplished at 10:30 PM by a motion made by Witzig. Streiff seconded and the motion passed unanimously by roll call vote.

Submitted by Brent Baeslack, Conservation Agent