

Mn August 2, 2022

CONSERVATION COMMISSION
MINUTES of MEETING
Tuesday, August 2, 2022
TOWN HALL ANNEX, 39 CENTRAL STREET
APPROVED: 8/23/2022

Present: Chair Daniel Shinnick, Vice Chair Sam Streiff, Jena Haag, and Howard Terrien
Absent: Howard Vogel and Ann Witzig
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). This remote meeting held pursuant to Governor Baker's March 12, 2020 Order, as Extended on July 16, 2022, with the Governor's signing of An Act Relative to Extending Certain State of Emergency Accommodations which extends the expiration of the provisions pertaining to the Open Meeting Law to March 31, 2023. The public may not physically attend this meeting, but every effort will be made to allow the public to view the meeting in real time.

Administrative: The Commission approved the payroll and/or vendor bills which had been distributed and reviewed prior to the meeting.

Acceptance of Minutes: After the Commission reviewed the minutes, Terrien moved to accept the Minutes of July 12, 2022. Haag seconded and the motion passed unanimously by roll call vote.

Acceptance of Minutes: After the Commission reviewed the minutes, Streiff moved to accept the Minutes of June 13, 2006. Haag seconded and the motion passed unanimously by roll call vote.

Administrative Discussion(s):

Pine Grove School 191 Main St (Map 25, Parcel/Lot 40) – Activity in Buffer Zone and wetlands/pond: Agent Baeslack reported on activities that occurred on municipal property that was part of the Pine Grove School Campus. He advised that the abutting pre-school property had been using the area for outdoor educational activities but had not sought permission from either the Board of Selectmen or the school to utilize this area. In addition, a report had been filed for vandalism in the area which included a mature Red Maple tree having its trunk stripped of bark, effectively killing it. Agent Baeslack had recommended to the Board of Selectmen that all activity be ceased to allow for the area to recover from the trampling and loss of ground cover and leaf litter. The Board of Selectmen would be posting signage restricting use of the area.

The next two hearings were opened concurrently:

Continued Notice of Intent at 236-240 Newburyport Turnpike (Map 13, Parcel/Lot 11 and Parcel 12, Lot 2) Filed by Kristin Carlson of Harborlight Community Partners:
Proposed construction of an infiltration basin, walkway, fencing, removal of invasive plant

species, and restoration planting of native species with grading associated with a Supportive Senior Housing Development possibly within the 100' Buffer Zone of Bordering Vegetated Wetlands. Agent Baeslack submitted a request from the Applicant's Representative, Ms. Evin Guvendiren, dated July 26, 2022 to continue the public hearing to the meeting of August 23, 2022 while plans are being revised.

Haag moved to continue the public hearing as requested by the Applicant to the meeting of August 23, 2022. Terrien seconded and the motion passed unanimously by roll call vote.

Continued Stormwater Management Permit at 236-240 Newburyport Turnpike (Map 13, Parcel 11 and Parcel 12, Lot 2) Filed by Kristin Carlson of Harborlight Community Partners: Proposed construction of a Supportive Senior Housing Development with demolition of an existing structure, four new buildings (20,550 sq. ft.), a garage, terraces, associated parking, access way, utilities and grading. Total site disturbance is approximately 115,000 square feet with approximately 800 square feet at a slope greater than 15%. Agent Baeslack submitted a request from the Applicant's Representative, Ms. Evin Guvendiren dated July 26, 2022 to continue the public hearing to the meeting of August 23, 2022 while plans are being revised.

Haag moved to continue the public hearing as requested by the Applicant to the meeting of August 23, 2022. Terrien seconded and the motion passed unanimously by roll call vote.

Terrien **recused** himself from the next agenda item.

Continued Request to Amend Order of Conditions DEP #63-0725 at land off Daniels Road (Map 9, Parcel/Lot 23) filed by James Decoulos of Danielsville LLC: Proposed Amendment to issued Order of Conditions for protection of proposed Open Space in an OSRD project. The request is that DEP #63-0725 Order of Conditions be struck or modified regarding Condition #33 addressing the method of protecting the Open Space. Attorney Jill Mann of Mann & Mann was in attendance on behalf of Danielsville LLC with Mr. James Decoulos of Decoulos & Co. Agent Baeslack advised that due to Commissioner Terrien recusing himself from this matter, there were only three sitting Commissioners available to hear the presentation. Attorney Mann agreed to continue with the Commissioners in attendance. A discussion was held regarding the use of a Conservation Restriction for open space protection. If the applicant was in agreement, Agent Baeslack explained that the language for the Conservation Restriction use would be included in the Amended Order of Conditions for DEP #63-0625, construction of nine (9) single family homes. In addition, a condition would be added that the Conservation Restriction had to be submitted to EEOA before any Building Permit Applications would be signed off by the Conservation Office. Attorney Mann agreed these were reasonable requests. Attorney Mann stated she would submit the required affidavit for the Title transfer but would like to record both the previously issued Order of Conditions and the Amended Order of Conditions for DEP #63-0725 concurrently to avoid any confusion regarding the Open Space protection. The Commission did not have a quorum to vote on the Amendment request and asked that the hearing be continued. Attorney Mann agreed to a hearing continuance to the August 23, 2022 meeting.

Streiff moved to continue the public hearing as requested by the Applicant to the meeting of August 23, 2022. Haag seconded and the motion passed by a roll call vote of three (3) yeas.

Howard Terrien **returned** to the meeting.

Continued Notice of Intent DEP #63-0734 at 40 Independent St. & 47 Summer St. (Map 15, Parcel/Lots 3 & 16) filed by Deborah Eagan, Town Administrator, Town of Rowley: Proposed construction of stormwater infiltration Best Management Practices (BMPs) and fill and stabilize an area of eroded bank at an outfall possibly within 100' Buffer Zone to Bordering Vegetated Wetlands and 200' Riverfront Area of Ox Pasture Brook. Mr. Nick Cristofori of CEI was in attendance and reviewed plan revisions made in response to DEP comments. The DEP response regarding the revisions had not been received by the meeting time. Agent Baeslack recommended that the hearing be closed contingent upon acceptance of revised plans and calculations by DEP within fourteen (14) days.

Terrien moved to issue an Order of Conditions contingent upon DEP acceptance of revised plans. Haag seconded and the motion passed unanimously by roll call vote.

Certificate of Compliance Request(s):

Request for Certificate of Compliance DEP #63-0694 at 155 Newburyport Turnpike (Map 14, Parcel/Lot 14) McDonald's USA, LLC – Proposed improvements to existing building including reconfiguration of drive-thru features, parking lot, site accessibility upgrades, and exterior building remodeling. Mr. William Lucas of Bohler Engineering was in attendance on behalf of the Applicant. Agent Baeslack reported on his August 1, 2022 site inspection. He advised that there were no ongoing project conditions and recommended issuance of a Complete Certificate of Compliance.

Haag moved to issue a Complete Certificate of Compliance. Streiff seconded and the motion passed unanimously by roll call vote.

Continued Request for Certificate of Completion SMP #25-2017 at 34 Dodge Road (Map 5, Parcel 104, Lot 3) Giuseppe Giugliano – Construction of a residential dwelling, subsurface sewage disposal system, and access driveway, grading, well and other utilities. Agent Baeslack advised that the Enforcement Order had been recorded at the Registry of Deeds and all parties, including the new owner, had been notified, but there had been no contact with the office.

Shinnick moved to continue the matter to the meeting of August 23, 2022. Terrien seconded and the motion passed unanimously by roll call vote.

Continued Request for Certificate of Compliance DEP #63-0579 at 63 & 79 Main Street (Map 25, Parcels 97 & 98) Charles Construction Company - Proposed construction of an access driveway, multi-unit dwellings, with associated garages, parking, utilities, village green common area, and site grading. As previously discussed, the knotweed suppression will be

conducted as required under the Order of Conditions. This matter was previously continued to the meeting of October 25, 2022.

Enforcement Status:

Notice of Violation at 50 Independent Street (Map 15, Parcel/Lot 4) Michael & Sara Lord - Placement of fill within the channel of Ox Pasture Brook (Townhouse) and trenching of the stream channel (land Under Waterways) without proper permitting (Wetlands). Agent Baeslack advised that the Notice of Violation had just been submitted and that there was no further information available at this time.

Cease and Desist at 37 Bob Merry Lane (Map 12, Parcel 3, Lot 13) Tim McManus - Proposed construction of a single family home (portion), subsurface infiltrators (s), clearing, grading and associated utilities possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands. Agent Baeslack reported on a verbal Cease-and-Desist issued for discrepancies between the issued Determination, Approved Plan, and the recently Revised Plans indicating construction of the structure now within the 100' Buffer Zone to Bordering Vegetated Wetlands. Agent Baeslack stated he had informed Mr. McManus that a Notice of Intent Application should be completed and submitted to the Commission to account for the portion of the structure now being within the 100' Buffer Zone to Bordering Vegetated Wetlands. The property owner was considering going back to the approved plans under the Determination or would submit a new Notice of Intent for the re-located dwelling.

Chairman Shinnick advised that he would be unavailable for the next meeting. The Conservation office will confirm that the appropriate quorum will be in attendance.

Tree Canopy Issue - The Commission had a brief follow up on the tree canopy discussion, which had been initiated at the last meeting. Commissioner Haag advised that she had a discussion with Town Planner Kirk Baker, who advised that it was an issue that could be addressed. Chairman Shinnick reported that he had been researching other communities to see how the matter was being addressed. Haag also offered to do more research.

Adjournment:

Accomplished 9:01 PM by a motion made by Streiff. Haag seconded and the motion passed unanimously.

Submitted by Brent Baeslack, Conservation Agent