

**CONSERVATION COMMISSION**  
**MINUTES of MEETING**  
**Tuesday, April 18, 2023**  
**TOWN HALL ANNEX, 39 CENTRAL STREET**  
**APPROVED: 5/10/2023**

Present: Chair Daniel Shinnick, Vice Chair Sam Streiff, Jena Haag, Howard Terrien, and Howard Vogel  
Absent: 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 was held pursuant to Chapter 2 of the Acts of 2023 which extends the expiration of the provisions pertaining to the Open Meeting Law to March 31, 2025. The public could not physically attend this meeting, but every effort was made to allow the public to view the meeting in real time.

**Administrative:** Commissioners reviewed and authorized the payroll and reimbursement of various vendor bill requests.

**Acceptance of Minutes:** After the Commission reviewed the minutes of March 28, 2023, Terrien moved to accept the minutes. Vogel seconded and the motion passed by roll call vote.

**Acceptance of Minutes:** After the Commission reviewed the minutes of February 22, 2005, Streiff moved to accept the minutes with edit. Terrien seconded and the motion passed by roll call vote.

**Discussion(s):**

**81 Warehouse Lane Conservation Area (Map 26, Parcel 11)** – Discussion to declare a portion of Town-owned land at 81 Warehouse Lane Conservation Area be declared surplus for Town Landing Parking Expansion.

Streiff moved to declare pursuant to G.L. c. 40, § 15A that approximately 1.8 acres of 81 Warehouse Lane (Map 26, Parcel 11) Conservation Area was surplus for use for the Town Landing parking expansion. Terrien seconded and the motion passed unanimously by roll call vote.

**Request for Determination of Applicability at 54 Haverhill Street (Map 15, Parcel 88)**  
**Trevor LaLiberte:** Proposed construction of attached shed additions to previously permitted 24' x 24' shed by adding a 32' x 36' and 12' x 12' shed additions within the 100' Buffer Zone to Bordering Vegetated Wetlands. Mr. Trevor LaLiberte was in attendance and presented the

project. The Commission reviewed Agent Baeslack's memo dated April 18, 2023 with recommendations for conditions.

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

**Request for Determination of Applicability at 7 Boxford Road (Map 5, Parcel 86) Jaime Warren:** Proposed replacement of 24' round above-ground pool, recessing it approximately 3' with installation of approximately 30' round block retaining wall and replacement of existing retaining walls on west side of house with remaining disturbed areas to be seeded for lawn possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands. Ms. Jaime Warren and Mr. Travis Tobin were in attendance. Mr. Tobin presented the project. The Commission reviewed Agent Baeslack's memo dated April 18, 2023 with recommendations for conditions.

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

Haag **left** the meeting at 8:03 PM.

**Request for Determination of Applicability at 590 Wethersfield Street (Map 11, Parcel 6, Lot 11) Wayne & Kimberley Banks:** Proposed installation of a 14' x 20' shed set on a crushed stone pad within the 100' Buffer Zone to Bordering Vegetated Wetlands. Mr. Wayne Banks and Mrs. Kimberley Banks were in attendance. Mr. Banks presented the details of the project. The Commission reviewed Agent Baeslack's memo dated April 18, 2023 with recommendations for conditions. There was a brief discussion regarding the placement/removal of excavated materials. The Commission was satisfied with how those materials would be handled.

Streiff moved to issue a Negative Determination Option #3 with conditions discussed. Vogel seconded and the motion passed by roll call vote of four (4) yeas.

Haag **returned** to the meeting.

The Commission addressed the next two items concurrently.

**Notice of Intent at 614 Main Street (Map 31, Parcel 18) Mark Savory for The Savory Residential Realty:** Proposed soil testing possibly within 100' Buffer Zone to Bordering Vegetated Wetlands, Land Subject to Coastal Storm Flowage and 100' Buffer Zone to the Great Marsh ACEC. Mr. John Dick was in attendance on behalf of the applicant. Mr. Mark Savory was also present. Mr. Dick explained to the Commission the various resource areas present on the site and that, at this time, only soil testing was to be completed. Agent Baeslack advised that during the pre-meeting site inspection, he had observed test pits and clearing for access had already occurred which was why a Notice of Violation had been issued. The Commission discussed how to proceed. Mr. Dick advised that he would get the necessary measurements to have the test pit locations added to the submitted plan. The

Commission agreed to a site visit to determine where the tests pits are located and have them added to the plan. All agreed that both matters would be continued to the next meeting on May 10, 2023.

Vogel moved to continue the public hearing to the meeting of Wednesday, May 10, 2023. Terrien seconded and the motion passed unanimously by roll call vote.

**Notice of Violation at 614 Main Street (Map 31, Parcel 18) Mark Savory for The Savory Residential Realty:** Soil testing possibly within 100' Buffer Zone to Bordering Vegetated Wetlands, Land Subject to Coastal Storm Flowage and 100' Buffer Zone to the Great Marsh ACEC without appropriate prior permitting. See discussion above.

Vogel moved to continue this item to the meeting of Wednesday, May 10, 2023. Terrien seconded and the motion passed unanimously by roll call vote.

**Request for Certificate of Compliance DEP #63-0676 at 137 Hillside Street (Map 19, Parcel 1, Lot 11) Rocco & Luci DiTullio:** Proposed construction of a 60' x 28' L-shaped addition, expansion of existing driveway, demolition of the existing deck, rebuilding of same, and regrading of the existing infiltration basin with the 100' Buffer Zone to Bordering Vegetated Wetlands. Agent Baeslack presented a request from the applicant's representative to continue this item to May 10, 2023.

Haag moved to continue this item to the meeting of Wednesday, May 10, 2023. Streiff seconded and the motion passed unanimously by roll call vote.

The Commission addressed the next two items concurrently:

**Request for Certificate of Compliance DEP #63-0669 623 Wethersfield Street et al. (Map 11, Parcel/Lots 53, 58, 58-1, 58-2, 58-2A) Rowley Solar LLC:** Proposed construction of a twelve (12) acre solar photovoltaic system, construction of gravel access drive, stormwater facilities, utilities, and grading partially within wetland resource areas subject to regulation (state WPA and local Wetlands Protection Bylaw) as part of a solar power generation project. Attorney Thomas Beatrice, present for the applicant/property owner, made a brief statement that the owner objected to the continuance of these matters since the permits were expired and PowerFund 1 as tenant was in default of the lease. Mr. Dirk Michaels of PowerFund 1 was present and responded to Mr. Beatrice that his statement was misleading and incorrect. Agent Baeslack read for the record the items that needed to be finalized in order for the Certificates of Compliance/Completion to be issued. He also advised that the purpose of having the two items on the agenda was to obtain an update from Mr. Michaels regarding the status of the compliance issues and when those tasks might be undertaken. The Chairman advised those present that no further public comment would be taken on this administrative item. Mr. Beatrice again stated for the record that the permits were expired. Agent Baeslack advised that the policy of the Commission was that minor activities could proceed to complete the compliance issues. Mr. Beatrice stated that the applicant/property owner was willing to complete those items. Mr. Michaels disagreed, stating that as the Leasee, PowerFund1 could complete the work under the Lease. Chairman

Shinnick asked that no further comment be made and that the matter be continued. The Commission agreed to continue the hearing until June 20, 2023.

Haag moved to continue this item to the meeting of June 20, 2023. Terrien seconded and the motion passed unanimously by roll call vote.

**Request for Certificate of Completion SMP #30-2017 623 Wethersfield Street et al. (Map 11, Parcel/Lots 53, 58, 58-1, 58-2, 58-2A) Rowley Solar LLC:** Proposed construction of a twelve (12) acre solar photovoltaic system, construction of gravel access drive, stormwater facilities, utilities, and grading partially within wetland resource areas subject to regulation (State WPA and local Wetlands Protection Bylaw) as part of a solar power generation project. (See previous agenda item DEP #63-0669 Wethersfield Street et al (Map 11), Parcel/Lots 53, 58, 58-1, 58-2, 58-2A).

Haag moved to continue this item to the meeting of June 20, 2023. Terrien seconded and the motion passed unanimously by roll call vote.

The Commission addressed the next two items concurrently:

**Request for Certificate of Compliance DEP #63-0663 at 42 Newbury Road (Map 5, Parcel 40) John P. Sullivan, Jr.:** Demolition of an existing building, construction of a portion of subdivision roadway and installation of an infiltration basin possibly within 100' of Bordering Vegetated Wetlands and DEP Approved Groundwater Protection Area Zone II. Agent Baeslack advised that he had received an update that the installation of the posts and signage would be completed as of the April 18, 2023, meeting, however, no confirmation of this has been received and no revised plans have been submitted. He recommended that both requests be continued to the meeting of May 10, 2023.

Streiff moved to continue this item to the meeting of Wednesday, May 10, 2023. Haag seconded and the motion passed unanimously by roll call vote.

**Request for Certificate of Completion SMP #22-2017 at 42 Newbury Road (Map 5, Parcel 40) John P. Sullivan, Jr.:** Demolition of an existing barn and portions of another building, removal of existing driveway, construction of a subdivision roadway, 2-unit dwelling, maintenance building, and stormwater facilities. (See previous agenda item DEP #63-0663 42 Newbury Road (Map 5, Parcel 40).

Streiff moved to continue this item to the meeting of Wednesday, May 10, 2023. Haag seconded and the motion passed unanimously by roll call vote.

The Commission addressed the next two items concurrently:

**Request for Certificate of Compliance DEP #63-0362 at 22 Ice Pond Drive (Map 5, Parcel 9, Lot 5) Nancy Judge:** Installation of an in-ground pool in Riverfront Area. Agent Baeslack provided the Commission with history on the issuance of the Notice of Violation and the current Request for Certificate of Compliance. He gave a verbal report on the

compliance inspection and advised of a landscaping debris pile that needed to be relocated from the Bordering Vegetated Wetlands. He recommended that the Commission vote to issue the Certificate of Compliance contingent upon field verification of removal of the debris.

Vogel moved to issue a Complete Certificate of Compliance for DEP #63-0362 contingent up removal of the debris. Streiff seconded and the motion passed unanimously by roll call vote.

**Notice of Violation DEP #63-0362 at 22 Ice Pond Drive (Map 5, Parcel 9, Lot 5)**

**Nancy Judge** – Lack of recording Order of Conditions and submitting Request for Certificate of Compliance. (See previous Request for Certificate of Compliance discussion.) Issuance of the Certificate of Compliance needs to meet the requirements of the Notice of Violation.

**Notice of Non-Compliance with Order of Conditions DEP #63-0718 at 600**

**Newburyport Turnpike (Map 19, Parcel 15) Jay and Jaime Stanley** – Agent Baeslack advised that work was continuing to bring the site into compliance, but a recent inspection had to be rescheduled. He asked that the matter be continued to the meeting of May 10, 2023.

Haag moved to continue this item to the meeting of Wednesday, May 10, 2023. Terrien seconded and the motion passed unanimously by roll call vote.

**Conservation Commissioners Term Expirations:** Chairman Shinnick advised that Commissioners, Jena Haag, Howard Vogel and Ann Witzig terms would be expiring on June 30, 2023. He asked that a request for reappointment to Commission be submitted to the Board of Selectmen if those Commissioners are willing to continue to serve.

Chairman Shinnick asked that the Commissioners complete the new State Ethics training.

**Adjournment:**

Accomplished 9:33 PM by a motion made by Vogel and duly seconded by Streiff which passed unanimously.

Submitted by Brent Baeslack, Conservation Agent