

CONSERVATION COMMISSION
MINUTES of MEETING
Tuesday, October 3, 2023
TOWN HALL ANNEX, 39 CENTRAL STREET
APPROVED: 10/24/2023

Present: Vice Chair Howard Vogel, Nancy Miller, Sam Streiff, Howard Terrien (arrived 8:30 PM), and Ann Witzig
Absent: Chair Daniel Shinnick
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.

In the absence of Chairman Shinnick, Vice Chair Vogel chaired the meeting.

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

Acceptance of Minutes: After the Commission reviewed the minutes of September 12, 2023, Witzig moved to accept the minutes. Miller seconded and the motion passed unanimously by roll call vote.

Acceptance of Minutes: After the Commission reviewed the minutes of June 14, 2005, Streiff moved to accept the minutes. Witzig seconded and the motion passed unanimously by roll call vote.

Acceptance of Minutes: After the Commission reviewed the minutes of October 26, 2010, Streiff moved to accept the minutes. Witzig seconded and the motion passed unanimously by roll call vote.

Discussion:

Dodge Reservation at 390 Wethersfield Street YMCA Camp regarding gate access – Agent Baeslack advised that the gate padlock for access to Dodge Reservation by the kiosk at #3 trail marker had been misplaced. He replaced it with a spare padlock from the office. He would be distributing new keys and asked that a gate usage protocol be put in place to help insure that the gate(s) are secured appropriately. Mr. Chris Bevilacqua of the Ipswich Northshore YMCA was in attendance and advised that the YMCA had a protocol for keeping the gate secured. He stated the YMCA would work with the Commission regarding any protocols they wished to implement. The Commission agreed that Agent Baeslack could prepare the protocols to be adopted for future access.

The following two hearings were opened simultaneously:

Continued Notice of Intent DEP #63-0748 at land off Forest Ridge Drive (Map 7, Parcel 17) Gateway II Realty Trust of 1997: Proposed construction of portions of a parking area, grading, and stormwater facilities associated with two new commercial buildings possibly within 100' Buffer Zone to Bordering Vegetated Wetlands. Mr. Charles Wear of Hancock Associates was in attendance on behalf of the Applicant and briefly reviewed the plan revisions made in response to Mr. Larry Graham of HL Graham Associates review comments. He advised that Mr. Graham had recently submitted a letter noting that his concerns had been addressed by the plan revisions. The Commission reviewed Agent Baeslack's email memo dated October 3, 2023 with recommendations for project permit conditions.

Witzig moved to issue an Order of Conditions DEP #63-0748 with conditions. Streiff seconded and the motion passed unanimously by roll call vote.

Continued Stormwater Management Permit Application SMP #59-2023 at land off Forest Ridge Drive (Map 7, Parcel 17) Gateway II Realty Trust of 1997: Proposed construction of two new commercial buildings, paved parking area, stormwater drainage facilities, associated grading, and utilities with total site disturbance of approximately 280,000 sq. ft. Mr. Charles Wear of Hancock Associates was in attendance on behalf of the Applicant and briefly reviewed the plan revisions made based on review comments from Mr. Larry Graham of HL Graham Associates. He advised that Mr. Graham had submitted a letter with recommending final plan approval. The Commission reviewed Agent Baeslack's email memo dated October 3, 2023 with recommendations for project permit conditions.

Witzig moved to issue a Stormwater Management Permit #59-2023 with conditions. Streiff seconded and the motion passed unanimously by roll call vote.

The following two hearings were opened simultaneously:

Request for Certificate of Compliance for DEP #63-0691 at 491 Main Street now Bella Way (Map 31, Parcels 26 and 27A) Paul Vorrias: Proposed construction of a common driveway, a single family dwelling 28 x 64, and a garage 28 x 36, stormwater facilities, grading and utilities possibly within 100' Buffer Zones, Bordering Vegetated Wetlands, Salt Marsh, Land Subject to Coastal Storm Flowage, and the Great Marsh ACEC. Agent Baeslack presented a request from the Applicant's representative, Kristan Farr of Hancock Associates, to continue this agenda item to the meeting of October 24, 2023 to allow for finalization of an As-Built Plan.

Streiff moved to continue this agenda item to the meeting of October 24, 2023 as requested by the Applicant. Witzig seconded and the motion passed unanimously.

Request for Certificate of Completion for SMP 35-2019 at 491 Main Street now Bella Way (Map 31, Parcels 26 and 27A) Paul Vorrias: Proposed construction of a common

driveway, a single family dwelling 28 x 64, a barn 30 x 60 and two garages 24 x 24 and 28 x 36, stormwater facilities, grading and utilities with total site disturbance of approximately 34,000 square feet. Agent Baeslack presented a request from the Applicant's representative, Kristan Farr of Hancock Associates, to continue this agenda item to the meeting of October 24, 2023 to allow for finalization of an As-Built Plan.

Streiff moved to continue to the meeting of October 24, 2023 as requested by the Applicant. Witzig seconded and the motion passed unanimously.

Status Reports: Permits & Enforcement

Enforcement Order for 92 Leslie Road (Map 7, Parcel 19, Lot 10) DiBenedetto: Cutting, clearing, and grading (altering), placement of fill (filling), and ditching (removal) in the 100' Buffer Zone to Bordering Vegetated Wetlands (BVW) 310 CMR 10.02 of approx. 4,000 sq. ft. and Bordering Vegetated Wetlands (BVW) 310 CMR 10.55 approx. 800 sq. ft. (state & local) without application or an issued permit. Mr. James DiBenedetto was in attendance. Agent Baeslack briefly reviewed the conditions which had been observed during a site visit. Mr. DiBenedetto advised he had begun the process to engage a wetlands professional. Once that is accomplished, he would work with the Conservation office to resolve the enforcement issues. Mr. Christopher Thornton of Thornton Law was in attendance representing the abutter at 98 Leslie Road (Jeffers) and asked that the Commission consider both of the properties when determining any action going forward. Agent Baeslack stated that work conducted at 92 Leslie Road was different from the work at 98 Leslie Road in terms of the stated violations. The Commission and Agent Baeslack advised that Mr. Thornton could express his concerns relating to 98 Leslie Road when that matter was under consideration. The Commission moved to confirm and ratify the issued Enforcement Order.

Witzig moved to confirm and ratify the issued Enforcement Order. Miller seconded and the motion passed unanimously by roll call vote.

Terrien arrived at 8:30 PM.

Enforcement Order for 98 Leslie Road (Map 7, Parcel 19, Lot 9) Jeffers: Placement of fill (filling), and fill remaining in place in Bordering Vegetated Wetlands (BVW) 310 CMR 10.55 approx. 1,000 sq. ft. (state & local) without application or an issued permit. Mr. Christopher Thornton of Thornton Law and owner Jason Jeffers were in attendance. Agent Baeslack advised the Commission of the on-site conditions as determined through pictometry images and a site visit. He explained that the fill on the property was considered an ongoing violation of the WPA which was still within the Commission's jurisdiction even though done in the past with the property in the same ownership. Mr. Thornton stated the work at 98 Leslie Road had been an attempt to reduce property flooding issues and that the Enforcement Order requirements would be a financial hardship for the property owner. Agent Baeslack advised that without the resource area delineation, the Commission would not be able to determine the extent of work within areas of jurisdiction focused on Bordering Vegetated Wetlands (BVW). Mr. DiBenedetto advised the Commission that work done on 92 Leslie Road was to keep water from his property on his property. The problem was that work at 98

Leslie Road was diverting water to 92 Leslie Road. The Commission asked Agent Baeslack's opinion about a violation on 98 Leslie Road. Agent Baeslack stated there was a violation within BVW. The Commission agreed they needed to proceed in a manner that would avoid any further property violations. Mr. Thornton reiterated that the Commission did not have proof of a violation at this time. Agent Baeslack was again asked if there was a violation and he stated that there was a violation. Mr. Thornton asked the Commission to consider a "friendly" Enforcement Order to resolve this issue in a way that would not be a financial burden to the property owner. The Commission discussed having the restoration work completed under the Enforcement Order with an Enforcement Directive instead of submitting a Notice of Intent Application. Agent Baeslack advised that a plan would still be needed with a delineation to move forward under an Enforcement Directive. The Commission expressed their support of Agent Baeslack's determination of a violation on the property and agreed to proceed with the Enforcement Order confirmation and ratification.

Streiff moved to confirm and ratify the issued Enforcement Order. Witzig seconded and the motion passed unanimously by roll call vote.

Agent Baeslack gave a status update on the following three (3) items:

Notice of Violation for 4 Taylor Lane (Map 12, Parcel 3, Lot 2) Distaso: Non-Compliance with Order of Conditions DEP #63-0705 Lack of Certificate of Compliance.

Notice of Violation for 5 Taylor Lane (Map 12, Parcel 3, Lot 38) Chase: Non-Compliance with Order of Conditions DEP #63-0707 Lack of Certificate of Compliance.

Notice of Violation for 10 Taylor Lane (Map 12, Parcel 3, Lot 5) Schmidheiser: Non-Compliance with Order of Conditions DEP #63-706 Lack of Certificate of Compliance.

Agent Baeslack noted that the builder and property owners were taking steps to address outstanding conditions of the Orders and that Falcon Ridge was supporting efforts at post with signage installations as well as placing iron rods at property/lot corners with future open space areas.

No further action was taken by the Commission on the above three Notice of Violations since progress was being made in working toward compliance.

Adjournment:

Accomplished 9:20 PM by a motion made by Terrien. Witzig seconded and the motion passed unanimously.

Submitted by Brent Baeslack, Conservation Agent