

**CONSERVATION COMMISSION
MINUTES of MEETING
Tuesday, May 28, 2019
TOWN HALL ANNEX, 39 CENTRAL STREET
APPROVED: 6/18/2019**

Present: Chair Daniel Shinnick, Vice Chair Sam Streiff, Robert Garner, Judy Kehs, and Howard Vogel
Absent: N/A
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).

Administrative

Acceptance of Minutes: After the Commission reviewed the minutes, Streiff moved to accept the Minutes of May 7, 2019. Garner seconded the motion and the motion passed unanimously.

Acceptance of a donation of 23.9 acres of land off Kathleen Circle from the Gateway II Trust of 1997 and forwarding to Board of Selectmen with recommendation – Agent Baeslack advised the Commission that upon review of the proposed deed to transfer the property off Kathleen Circle to the Town there were some revisions he would recommend before the Commission signed. The Commission agreed to table this matter to the next meeting.

Garner moved to continue the discussion to the June 18, 2019 meeting. Streiff seconded the motion and the motion passed unanimously.

New Request for Determination of Applicability at 811 Haverhill Street (Map 5, Parcel/Lot 95) Louis Barretto: Proposed construction of a 26' x 30' two car garage, gravel driveway and walkway possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands. The applicant, Louis Barretto, was in attendance to present the project to the Commission. Agent Baeslack gave a verbal report on his application review and made recommendations for project conditions and suggested consideration of a Negative Determination of Applicability.

Garner moved to close the public hearing and issue a Negative Determination option #3 with conditions as discussed. Kehs seconded the motion and the motion passed unanimously.

New Request for Determination of Applicability at 157 Boxford Road (Map 2, Parcel/Lot 27) Richard Caram, Jr.: Proposed installation of an 18' diameter above ground pool on a sand base possibly within the DEP Approved Groundwater Protection Area Zone II. The applicant, Mr. Richard Caram, Jr., was in attendance to address the

Commission. Agent Baeslack gave a verbal report on the project with recommendations for conditions and suggested consideration of a Positive Determination of Applicability.

Garner moved to close the public hearing and issue a Positive Determination options #5 and #6 with conditions as discussed. Streiff seconded the motion and the motion passed unanimously.

New Request for Determination of Applicability at 28 Tenney Road (Map 5, Parcel 48, Lot 3) Earle and Deborah Chesley: Proposed demolition of a 14' x 14' addition and construction of a 22' x 19' garage addition with 10' x 19' deck possibly within the 100' Buffer Zone of Isolated Vegetated Wetlands and the DEP Approved Groundwater Protection Area Zone II. The applicant, Mr. Earle Chesley, was in attendance to address the Commission. Agent Baeslack gave a verbal report on the project with recommendations for conditions and suggested consideration of a Positive Determination of Applicability.

Vogel moved to close the public hearing and issue a Positive Determination options #5 and #6 with conditions as discussed. Kehs seconded the motion and the motion passed unanimously.

Commissioner Garner **recused** himself from the next agenda item.

New Request for Determination of Applicability at 46 Christopher Road (Map 8, Parcel 19, Lot 5) Vincent D'Amato: Proposed construction of a 30' x 24' garage with 16' x 24' deck possibly within 100' Buffer Zone of Bordering Vegetated Wetlands. The applicant, Vincent D'Amato, was in attendance to address the Commission. Agent Baeslack gave a verbal report on the project with recommendations for conditions and suggested consideration of a Negative Determination of Applicability.

Vogel moved to close the public hearing and issue a Negative Determination option ## with conditions as discussed. Streiff seconded the motion and the motion passed by four votes.

Commissioner Garner **returned** to deliberations.

New ANRAD for Land off Daniels Road (Map 9, Parcel/Lot 23) Taylor Lane LLC owned by The Tompkins - Desjardins Trust: Proposed delineation of regulated wetland resource areas. Ms. Maureen Herald of Norse Environmental Services was in attendance representing the applicant and presented the delineation plan. Mr. Robert Nixon of Taylor Lane LLC was also in attendance. Agent Baeslack requested additional time to finalize the review of the remaining 51 flags and allow for minor plan revisions.

Garner moved to issue an ORAD after field review with a fourteen (14) day contingency to receive revised plans. Kehs seconded the motion and the motion passed unanimously.

Continued Notice of Intent application at 491 Main Street (Map 31, Parcel/Lots 26 & 27A) Paul Vorrias: Proposed construction of a private road and common driveway, a single family dwelling 28x 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 Great Marsh ACEC. Shinnick advised that the applicant had requested a continuation of the hearing to the meeting of June 18, 2019.

Vogel moved to continue the public hearing to the meeting on June 18, 2019. Garner seconded the motion and the motion passed unanimously.

Continued Stormwater Management Permit application at 491 Main Street (Map 31, Parcel/Lots 26 & 27A) Paul Vorrias: Proposed construction of a private road and 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; total site disturbance is approximately 34,000 square feet. Shinnick advised that the applicant had requested a continuation of the hearing to the meeting of June 28, 2019.

Vogel moved to continue the public hearing to the meeting on June 18, 2019. Streiff seconded the motion and the motion passed unanimously.

New Business

Discussion of Attorney Sousa letter dated March 27, 2019 and Mr. Steve Comley letter dated April 29, 2019 regarding 285 Central Street (Map 28, Parcel/Lot 6) - Town Counsel, Attorney Thomas Mullen, was in attendance to assist the Commission with the issues to be discussed. Mr. Steven Comley, Jr. was also in attendance. Shinnick explained that the Commission would be addressing the issue of work done at 285 Central Street but would not be ruling on any exemptions at this time. The Commission would not be discussing any previous actions by the Commission or the status of Town employees. Attorney Mullen addressed the issue of the work proposed at 285 Central Street and recommended that the Commission require a Request for Determination of Applicability (RDA) be filed to determine if the project in question is exempt under the Wetlands Protection Act and/or other regulations. The Commission directed a request to Mr. Comley that he file an RDA to determine if the project in question was exempt from the regulations. Mr. Comley advised that he would not be filing an RDA because in his opinion the project was exempt from any filing with the Commission. Attorney Mullen advised the Commission that the filing of an RDA would allow the Commission to determine the project's exemption status. If Mr. Comley did not file an RDA, Attorney Mullen recommended that an Enforcement Order be issued. Mr. Comley suggested that the Enforcement Order be issued. Attorney Mullen advised that the minutes should reflect that the Commission has requested that an RDA be filed and if an application was not received by the next meeting that it would consider the issuance of an Enforcement Order.

Mr. Comley asked the Commission how it would be addressing the questions in his letter submitted to the Commission. The Commission advised it considered Mr. Comley's letter a

public record request and that request had been fulfilled. Questions regarding possible dumping on land abutting Mr. Comley's land would not be addressed at this meeting.

Vogel moved to respectfully request that a Request for Determination be submitted by the next meeting and, if not received, the Commission then consider the issuance of an Enforcement Order. Kehs seconded the motion and the motion passed with a vote of four (4) yeas with one Commissioner abstaining.

Hunting request for comment Travis Kneeland – Agent Baeslack informed the Commission there would be no action required because Mr. Travis Kneeland had withdrawn his hunting request due to the expiration of the turkey hunting season.

MVPC Pictometry Flight for 2020 – Agent Baeslack explained that the Town of Rowley is a member of the Merrimac Valley Planning Commission (MVPC). He explained the difference between the pictometry provided by MVPC's vendor and other resources online. The pictometry is used by police, fire, the Conservation Department and other Town Departments. Agent Baeslack explained that the Town now pays for participation in the flight costs and was looking for the Commission's support for the proposed flight in 2020.

Vogel moved to indicate support to the Board of Selectmen for the Town's participation in the 2020 MVPC pictometry flight. Garner seconded the motion and the motion passed unanimously.

Notice of Intent to Sell Land Subject to M.G.L.A. c. 61A at 600 Wethersfield Street (Map 11, Lot 6) Bruce E. Tompkins, Sara B. Tompkins, and Stephanie Desjardins – The Commission reviewed Agent Baeslack's memo dated May 28, 2019 with a recommendation to waive the right of first refusal on the three lots proposed for this property.

Streiff moved to recommend to the Board of Selectmen that the Town waive the right of first refusal. Garner seconded the motion and the motion passed unanimously.

Brent Baeslack Letter of April 18, 2019 to the Commission - The Commission discussed a letter received from Conservation Agent Brent Baeslack which requested a public and written apology published in a local paper for his treatment at the meeting held on March 26, 2019. Streiff commented that he did not feel a written apology should be published in the paper, but he would agree to a written apology to be read at the next public meeting and placed in Agent Baeslack's employment file. He felt that since the incident had taken place at a public meeting it should be settled at a public meeting. Vogel agreed with Streiff and offered his personal apology to Agent Baeslack. Shinnick asked for a vote on the issuance of a written apology to be drafted by him as Chair and approved and issued at the next meeting.

Streiff moved that a written apology to Agent Baeslack be prepared for discussion and possible issuance at the next meeting. Kehs seconded the motion and the motion passed unanimously.

Status Reports: Permits & Enforcement

34 Dodge Road (Map 5, Parcel 104, Lot 3) Guiseppe Guigliano, owner & Angelo Ciardiello of ERA Equipment LLC - Depositing fill containing construction and demolition debris in violation of issued permit SMP #24-2017. Shinnick read for the record a letter received from the Board of Health relating to the demolition debris. Agent Baeslack gave a verbal report on the conditions of the Stormwater Management Permit issued and the site inspection. The property owner, Guiseppe Guigliano was in attendance to address the Commission with Mr. Angelo Ciardiello of ERA Equipment. Mr. Ciardiello explained that the fill would be “sifted” to remove any construction debris which he believed would leave “clean” fill. The Commission discussed the definition of “clean” fill and the origins of the material used as fill on this site. Mr. Ciardiello advised that the fill had been tested before being placed on site and he could provide the test results to the Commission. The Commission expressed concerns that the remaining fill, after sifting, might be contaminated. It was noted that a chain of custody did not exist for the deposited fill so even if clean test results were provided, since it would not be certain that the fill at 34 Dodge Road was the material that had been tested and certified. Agent Baeslack also reminded the Commission that the plan submitted and approved did not show any filling in the area under discussion. The Commission offered two possibilities: 1) all of the fill was removed from the site; or 2) the fill was “sifted” and then tested. Mr. Guigliano addressed the Commission and stated that a mistake had been made and he intended to “clean it up.”

Streiff moved to ratify and confirm the Enforcement Order and that it be amended with the options to remove fill entirely or test the “sifted” material. Garner seconded the motion and the motion passed unanimously.

579 Wethersfield Street (Map 11, Parcel 58, Lot 6) Gregory Kassiotis owner - Depositing manure and stall sweepings in local regulated wetland resource areas. Shinnick read a letter from Mr. Gregory Kassiotis and Mrs. Sandra Kassiotis stating they wanted to work with the Agent to resolve the matter. Agent Baeslack gave a verbal report on his site inspection.

Vogel moved to confirm and ratify the Enforcement Order and directed the Agent to assess the site for an alternate location with work to be completed by July 31, 2019. Garner seconded the motion and the motion passed unanimously.

Adjournment:

Accomplished at 10:05 PM by a motion made by Garner. Kehs seconded the motion and the motion passed unanimously.

Submitted by Brent Baeslack, Conservation Agent