

**CONSERVATION COMMISSION
MINUTES of MEETING
Tuesday, June 2, 2020
TOWN HALL ANNEX, 39 CENTRAL STREET
APPROVED: 6/23/2020**

Present: Chair Daniel Shinnick, Vice Chair Sam Streiff, Robert Garner, Judy Kehs,
Howard Terrien and Howard Vogel
Absent: Jena Haag
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).

Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law and banning gatherings of more than 10 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 dialing in by phone.

Administrative: Commissioners reviewed and authorized the payroll. There were no Vendor Bill requests for review.

Acceptance of Minutes: After the Commission reviewed the minutes, Garner moved to accept the Minutes of May 12, 2020. Streiff seconded and the motion passed unanimously by roll call vote.

Discussion(s):

Open Meeting Law Complaint filed by Timothy Toomey dated May 12, 2020 and received May 18, 2020 – The Commissioners, having received and reviewed the OML complaint filed by Mr. Timothy Toomey prior to the public meeting, discussed a draft of a proposed response. Chairman Shinnick confirmed that all the Commissioners had received and read the OML complaint and the draft response letter. Agent Baeslack requested that the Commission authorize the Chairman to sign the response and authorize the Agent to issue.

Garner moved to have the Chairman sign and the Agent issue the response letter to the Open Meeting Law Complaint filed by Mr. Timothy Toomey. Vogel seconded and the motion passed unanimously by roll call vote.

New Request for Determination of Applicability at 929 Haverhill Street (Map 4, Parcel/Lot 32) William Mandell of Granitz Family Trust LLC - proposed demolition of 25' x 35' garage and installation of replacement sewage disposal system possibly within the 100' Buffer Zone of Bordering Vegetated wetlands and the 200' Riverfront Area of Muddy Creek. Mr. Tony Capachietti of Hayes Engineering presented the project to the Commission. Mr. James Cooke, as representative for the applicant, was also available for questions. The Agent summarized his memo dated June 2, 2020 which included recommendations for conditions and revisions to the plans. The control of invasive species on the property was briefly discussed. The applicant agreed to adhere to the plan provided by Hayes Engineering when the Notice of Intent was filed for restoration work.

Streiff moved to issue a Negative Determination option #3 with conditions as discussed and Positive Determination option #1 for invasive plant species control. Terrien seconded and the motion passed unanimously by roll call vote.

New Request for Determination of Applicability at Stackyard Rd., Patmos Rd., and various locations in the Great Marsh (see Rowley Landowners listing) filed by Lauren Healey of the US Fish & Wildlife Service - proposed invasive plant control by mechanical and chemical techniques possibly within the Salt Marsh, Land Subject to Coastal Storm Flowage and the Great Marsh ACEC. Ms. Lauren Healey of US Fish & Wildlife Service presented the project to the Commission. The Commission discussed the waiving of the fee for this application as allowed in the Bylaw for government agencies. The Agent gave a verbal report and discussed possible conditions as previously applied to this ongoing project.

Garner moved to issue a Negative Determination options #2 and #3 with conditions as discussed. Terrien seconded and the motion passed unanimously by roll call vote.

Agent Baeslack acknowledged the work of Elizabeth Duff of Mass. Audubon who recently passed away and was instrumental in starting community involvement with mapping and control of invasive species (Perennial Pepperweed) combined educational outreach.

New Request for Determination of Applicability at 993 Haverhill Street (Map 4, Parcel 23) C. Blake Liebert DVM on behalf of Muddy Creek Animal Care Center owned by Calico Muddy Creek LLC - proposed repaving of existing parking lot and conversion of landscaped area to gravel parking with curbing to accommodate additional employees/clients possibly within the 100' Buffer Zone of Bordering Vegetated Wetlands. Mr. Blake Liebert presented the project to the Commission. The Agent gave a verbal report with recommendations for conditions.

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

New Notice of Intent application at 430 Wethersfield Street (Map 12, Parcel/Lot 4) owned by Moran & Simon and the Public Right of Way Wethersfield St. owned by the Town of Rowley filed by Robert Nixon of Taylor Lane LLC - proposed construction and

realignment of a roadway intersection with stormwater facilities, utilities and associated grading possibly within 3,938 square feet of 200' Riverfront Area and 8,900 square feet of 100' Buffer Zone to Bordering Vegetated Wetlands. Attorney Jill Mann of Mann & Mann, Mr. Robert Nixon of Taylor Lane LLC, and Ms. Maureen Herald of Norse Environmental presented the project on behalf of the applicant. The Agent gave a verbal report and discussed recommendations for conditions which included guidelines for erosion controls. He also requested a number of revisions to the plans. The Commission agreed to the incursion into the 25' No Cut/No Disturbance Area for the installation of a stormwater BMPs to control runoff.

Terrien moved to issue an Order of Conditions with conditions as discussed contingent upon receipt and approval of revised plans. Kehs seconded and the motion passed unanimously by roll call vote.

New Stormwater Management Permit application at 430 Wethersfield Street (Map 12, Parcel/Lot 4) owned by Cheryl J. Moran and Patricia A. Simon and the Public Right of Way Wethersfield St. owned by the Town of Rowley filed by Robert Nixon of Taylor Lane, LLC - proposed construction and realignment of a roadway intersection with stormwater facilities, utilities and associated grading. Total site disturbance is approximately 37,694 square feet. Attorney Jill Mann of Mann & Mann, Mr. Robert Nixon of Taylor Lane LLC, and Ms. Maureen Herald of Norse Environmental presented the project on behalf of the applicant. The Agent gave a verbal report and discussed recommendations for conditions which included a number of revisions to the plans. The Commission also requested an updated SWPP and O&M Plan.

Garner moved to issue an SMP contingent upon receipt and approval of revised plans with construction sequence. Kehs seconded and the motion passed unanimously by roll call vote.

Continued Request to Amend an Order of Conditions DEP #63-693 for 430 Wethersfield St. (Map 12, Parcel/Lot 3 & 4) Moran & Simon, Taylor Ln. (Map 12, Parcel/Lot 2) Seaside Realty Trust, and Daniels Rd. (Map 9, Parcel/Lot 23) Tompkins-Desjardins Trust filed by Robert Nixon of Taylor Lane LLC – proposed demolition of existing structures (farmhouse and garage) and construction of additional 960 feet subdivision roadway, utilities, grading, and stormwater facilities possibly within 36,124 square feet of 200' Riverfront Area and 173,630 square feet of 100' Buffer Zone to Bordering Vegetated Wetlands. Attorney Jill Mann of Mann & Mann, Mr. Robert Nixon of Taylor Lane LLC, and Maureen Herald of Norse Environmental Engineering were all available to address this matter with the Commission. The Commission discussed the use of rainfall data and agreed that the calculations did not need to be updated to the NOAA Atlas 14 data in this instance where a conservative approach was applied. The Agent gave a verbal report and make recommendations for conditions. Agent Baeslack also offered suggestions for improvement of public access that could be addressed during construction prior to transfer of the open space to the Town. Mr. Nixon acknowledged that he had discussed these improvements with the Agent and agreed with the conditions being added to the Order of Conditions.

Vogel moved to amend Order of Conditions for DEP #63-0693 contingent upon receipt and approval of revised plans. Garner seconded and the motion passed unanimously by roll call vote.

Continued Request to Amend a Stormwater Management Permit #36-2019 for 430 Wethersfield Street (Map 12, Parcel/Lot 3 and 4), owned by Cheryl J. Moran and Patricia A. Simon, at land off Wethersfield Street and Taylor Lane (Map 12, Parcel/Lot 2), owned by Seaside Realty Trust and at Daniels Road (Map 9, Parcel Lot 23), owned by Tompkins Desjardins Trust Taylor Lane, LLC - proposed construction of additional 960 feet OSRD subdivision roadway, stormwater facilities, utilities and associated grading. Total site disturbance is approximately 10.8 +/- acres. Attorney Jill Mann of Mann & Mann, Mr. Robert Nixon of Taylor Lane LLC, and Maureen Herald of Norse Environmental Engineering were all available to address this matter with the Commission. The Agent requested the SWPP and minor revisions to the plans.

Streiff moved to amend SMP #36-2019 contingent upon receipt and approval of revised plans. Terrien seconded and the motion passed unanimously by roll call vote.

Certificate of Compliance Request(s):

Continued Request for a Certificate of Compliance 305 Newburyport Turnpike (Map 17, Parcel 20, Lot 47) Ed Surette, Trustee of Prime Realty Trust – No one was available for this item. No further action can be taken at this time.

Status Reports: Permits & Enforcement

Enforcement Order 11 Rivers Edge Drive (Map 10, Parcel 3, Lot 5-3) John & Lauryn Deluise – Mrs. Lauryn Deluise was available to answer questions from the Commission. Mr. Peter Levitt also addressed the Commission on behalf of the property owners. He advised that the property owners had not been advised of the restrictions on the property. Mrs. Deluise advised that photos of the current conditions on the site would show that the areas that had been cleared were already revegetating. The Agent provided a verbal report with photographs. The Commission reviewed the issued Enforcement Order. Mr. Levitt advised that the property owners had already scheduled a site inspection with Ms. Mary Rimmer of Rimmer Environmental. The Commission advised that any work outside the restoration and mitigation work would require that a Notice of Intent application be filed.

Vogel moved to ratify the Enforcement Order issued May 12, 2020. Terrien seconded and the motion passed unanimously by roll call vote.

Enforcement Order 325 Wethersfield Street (Map 19, Parcel 8, Lot 17) Dominic & Jennifer Baraiolo – Enforcement Order for alteration (clearing, stumping) and filling of 100' Buffer Zone to BVW and Bordering Vegetated Wetlands (BVW), installation of subsurface drainage and discharge to BVW without obtaining a wetlands permit (WPA and local Bylaw) and violation of conditions of Hazardous Tree Removal Permission dated April 16, 2020. The Agent gave a verbal report on the work that had been done on site without

permitting. He also reviewed the Enforcement Order issued. Mr. Dominic Baraiolo and Ms. Jennifer Baraiolo were available to answer questions from the Commission. Mr. Baraiolo explained that they were experiencing drainage issues and the work was done to alleviate these issues. He also explained that a letter of intent to comply would be submitted and he was waiting for a response from DeRosa Environmental to complete the work as outlined in the Enforcement Order.

Garner moved to confirm issuance and ratify the Enforcement Order. Terrien seconded and the motion passed unanimously by roll call vote.

53 Emily Lane (Map 9, Parcel 23, Lot 23) Pavel N. Bukhovko – failure to resolve compliance matters and obtain a Certificate of Compliance DEP #63-0434 and #63-0564. The Agent advised that a request for additional time to complete the necessary compliance issues due to circumstances beyond his control. Mr. Pavel Bukhovko was available to address the Commission. Photographs of the work already completed were also reviewed.

Streiff moved to allow extension to June 29, 2020. Terrien seconded and the motion passed unanimously by roll call vote.

Adjournment:

Accomplished at 10:35 PM by a motion made by Kehs. Streiff seconded and the motion passed unanimously by roll call vote.

Submitted by Brent Baeslack, Conservation Agent