

**Rochester Conservation Commission
September 19, 2017**

Present: Michael Conway, Chairman
Daniel Gagne
Laurene Gerrior
Maggie Payne
Christine Post
Rosemary Smith

Absent: John Teal, Vice Chairman
Margaret Gonneville, Board Administrator

Laurell J. Farinon, Conservation Agent

The meeting was held at the Rochester Town Hall Meeting Room. Chairman Conway called the meeting to order at 7:00 p.m. and announced that the meeting was being televised.

Public Meeting

DEP SE 272-0521

A Request for Certificate of Compliance was submitted by JC Engineering, Inc. for property owned by Daniel L. & Deborah Carr Clark located at 240 Mary's Pond Road as Lot 1A on Assessors' Map 9. An Order of Conditions was issued to Daniel L. & Deborah Carr Clark on December 18, 2015 allowing for the construction of a four (4) bedroom dwelling along with associated porch, deck, bituminous driveway, grading, landscaping, utilities, installation of a drinking water well, and the installation of a Title 5 septic system.

Documents submitted: September 5, 2017 Cover Letter and Request for Certificate of Compliance from JC Engineering, Inc., "*As-Built Site Plan Prepared for Daniel L. Clark & Deborah Carr Clark Located at 240 Mary's Pond Road, Rochester, MA 02770*" last revised September 5, 2017.

Agent Farinon explained that a previous Request for Certificate of Compliance and as built plan were submitted in August 2017, however, it was withdrawn when she expressed concern about the retention area that was not constructed. The retention basin has since been constructed and is shown on the newly submitted as-built plan. Agent Farinon distributed photos of her recent site visit.

Commission members compared the as-built plan with the approved plan of record, and had concerns about deviations and the unpermitted work that was done without prior Commission approval. Member Gagne motioned that the meeting be continued until such time as the applicant and/or representative comes before the Commission to address concerns, Member Smith seconded, all in favor. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0)**

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Public Hearing

DEP SE 272-0547 (Continued from September 5, 2017)

A Notice of Intent filed by John P. & Linda L. Gurney for property located at 2 New Bedford Road (aka 84 Long Plain Road, Mattapoisett), Rochester, MA 02770, designated as Lot 1 on Assessor's Map 1. The applicant proposes improvements to the existing driveway to satisfy requirements for use as a common driveway providing access to Lot 2 as shown on "Form A Plan of Land" dated December 16, 2008. The proposed work includes widening the gravel driveway to 16-feet with 2-foot wide stone swales on each side of the driveway, filling approximately 1,500 s.f. of bordering wetland and the replication of 1,900 s.f. The property owners of record are John P. & Linda L. Gurney Trustees, Gurney Family Revocable Trust, 84 Long Plain Road, Mattapoisett, MA 02739. The applicant's representative is Richard Charon, P.E., Charon Associates, Inc., 323 Neck Road, Rochester, MA 02770.

Documents submitted: "Plan of Site, Driveway Improvements and Wetlands Replication Plan Prepared for John P. & Linda L. Gurney, 2 New Bedford Road, Rochester, Mass. (AKA 84 Long Plain Road, Mattapoisett, Mass.)" Prepared by Charon Associates, Inc. last revised September 13, 2017.

Rick Charon of Charon Associates, Inc. and the applicant John Gurney were present at the public hearing.

Mr. Charon explained that as per the Commission's request, the wetland replication area has been relocated from the northwesterly limit of the bordering vegetated wetland to the southeasterly end of the driveway near Long Plain Road. Wetland scientist Sarah Porter extended the wetland delineation by adding flagging stations 1A – 1H. Mr. Charon stated that extending the line did not extend a 100 Foot Buffer Zone onto the neighboring property, however Mr. Gurney provided a letter from abutters James H. & Laurie J. Rollins stating that they have no objection to the location of the wetland replication area.

Discussion ensued about the viability of the proposed wetland replication area. Member Gerrior commented that she approves of the replication area species list. Mr. Gurney explained that there is an upland envelope on which his house and accessory building sits, and he has worked hard to keep his envelope clear and usable. He stated that the sweet pepperbush is so prolific that it takes over unless it is cut back regularly, and he is confident that the wetland replication area will have no problem revegetating fully.

Agent Farinon summarized that the NOI application is for alteration of approximately 1,500 square feet of bordering vegetated wetland in order to widen and improve the existing driveway access to meet Planning Board requirements. Said request qualifies as a Limited Project under the Wetlands Protection Act Regulations 310 CMR 10.53(3)(e). Agent Farinon recommended issuance of a positive Order of Conditions approving the project as shown on the most recent revised plan, with the following stipulations:

1. The wetland replication area shall be constructed prior to improvement/widening of the existing driveway.
2. A pre-construction meeting shall be held between the applicant, wetland scientist, and construction foreman prior to any construction activity on the subject property.

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3. The applicant shall retain a wetland scientist to supervise construction of the wetland replication area. The wetland scientist shall be on site at all times during the excavation, soil preparation and planting of the replication area. A written report (including photographs) detailing the appearance, species composition, and relative abundance shall be submitted to the Commission upon completion of the wetland replication area. Said report shall include recommendations for modifications or improvements if necessary. Monitoring reports, including photographs, shall be submitted by a wetland scientist twice a year until the Rochester Conservation Commission approves the wetland replication area.

Member Gerrior motioned approval of the project with the above referenced special conditions, Member Smith seconded, all in favor. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0)**

Commission Business

For Signature

Minutes

A motion to approve the minutes of September 5, 2017 was made by Member Smith and seconded by Member Post. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0)**

Old Business

Discussion with Peter Newton, Bristol Engineering Advisors regarding Decas Cranberry Company property off Neck Road

Mr. Newton of Bristol Engineering Advisors was in attendance, and reported that he continues with monthly data collection at the Decas Neck Road property. He summarized that overall the dewatering operations had depressed the area water table, and it is difficult to say how much it impacted Snow's Pond. There is a significant amount of surface water in the area holding the water level up. He estimates that it may have impacted Snow's Pond water levels anywhere from two to six inches, however he cannot definitively state exactly how much.

Bristol Engineering Advisors is under contract through next spring/early summer to prepare monthly reports, and the Commission would like to see the reports continue. Mr. Newton proposed that we could take one month off from monthly reporting and use the money to install a new piezometer at Snow's Pond and survey the top of casing: the new piezometer will replace the one that was vandalized. Commission members agreed with Mr. Newton's recommendation, and directed Agent Farinon to work with Mr. Newton to help select a new location and gain approval for installation with the property owner.

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New Business

Chapter 61A, Notice of Sale: 28 Snow's Pond Road, Map 39 Lot 22, Lynda M. Kiernan

Commission members reviewed the submitted letter request, map and signed Purchase & Sale Agreement for 28 Snow's Pond Road. Robert J. Amaral proposes to purchase the property for \$310,000. There is a cranberry bog and outlet to Snow's Pond on the subject property. After brief discussion, Member Smith motioned that the Commission write a letter to the Board of Selectmen recommending that the Town of Rochester not exercise its right of first refusal on this property, Member Gerrior seconded, all in favor. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0)**

Vote on Adoption of M.G.L. Ch. 44§53G

The Commission packet included M.G.L. Ch. 44§53G and *Draft Rules for Hiring Outside Consultants Under M.G.L. Ch. 44§53G*, which Agent Farinon explained was taken from the North Attleborough Conservation Commission website and tailored for the Town of Rochester. Chairman Conway asked by what legal mechanism the Commission can adopt rules and regulations, and Agent Farinon replied that she would discuss with Town Counsel and report back to the Commission. Chairman Conway stated that at a minimum a copy of the adopted rules should be formally submitted to the Town Clerk.

Member Gagne expressed concern about the Payment of Fee section which states "Failure by the applicant to pay the consultant fee specified by the Commission shall be cause for the Commission to **deny** (emphasis added) the application" Agent Farinon will review with Town Counsel and report back to the Commission.

Discussion ensued about the existing provision within the Rochester Wetland Bylaw to hire an outside consultant, and which provision would take precedence if the draft rules were adopted. Agent Farinon will review with Town Counsel and report back to the Commission.

Discuss Adoption of Local Bylaw Fees

Agent Farinon distributed a packet including a template table for use by the Commission along with the DEP Notice of Intent Filing Fee Categories and relative fees, and filing fee tables from the Towns of Acushnet, Carver, Dartmouth, Lakeville, New Bedford, Middleborough, New Bedford, and Wareham. Brief discussion ensued, and Commission members agreed to review further and forward their comments to Agent Farinon in advance of the next meeting.

Recording Secretary Position

Agent Farinon reported that there have been in house discussions over the years about the challenging nature of the Board Administrator position, and discussed remedies to ease the workload of the position. Nine individuals have held the Board Administrator position since 1993, which is a much higher turnover rate than other town administrative positions. The proposed Recording Secretary position will be shared by the Planning Board and Conservation Commission, and will make the Board Administrator's position more manageable since in its present state it is impracticable and unsustainable. The Recording Secretary will attend the meetings for both boards and take and prepare meeting minutes.

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Agent Farinon reported that she met with the Personnel Board and Finance Committee on September 11, 2017 and both committees reviewed and approved the proposal and recommended approval to the Board of Selectmen. She further reported that the Board of Selectmen approved the following draft article at its meeting on September 18, 2017:

ARTICLE 5: SUPPLEMENTAL APPROPRIATION FOR RECORDING SECRETARY

To see if the Town will vote to raise and appropriate and/or transfer from available funds, the sum of Two Thousand Four Hundred Dollars (\$2,400) to supplement appropriations previously voted under Article 4 of the Annual Town Meeting of May 2017 for the Fiscal Year beginning July 1, 2017 for line item 175-4-39 in the planning board budget for a part-time recording secretary or take any other action relative thereto.

Member Smith noted that the warrant language does not reference the Conservation Commission or use of the Notice of Intent account for funding the position. Agent Farinon will discuss the language with Town Administrator Szyndlar.

Chairman Conway requested additional financial justification for the position, including the Board Administrator salary and exact figures on the overtime spent in the past year. Agent Farinon will e-mail the requested information to Chairman Conway and Commission members.

Member Smith motioned to approve use of the Notice of Intent Fund to fund ½ of the proposed Recording Secretary position on the above referenced warrant article, member Gagne seconded the motion. **The motion passed by a vote of 5 in favor, 1 opposed, 0 abstained. (5-1-0)**

Future Meetings and Site Visits

Commission members discussed their availability for upcoming meetings and site visits. All members present will be available for the next meeting on Tuesday, October 3, 2017, and Chairman Conway will be unable to attend the October 17, 2017 meeting. Commission members agreed that from now on site visits will be conducted the Saturday before the meeting at 9:00 a.m.

Adjournment

The meeting adjourned at 8:25 p.m. on a motion made by Member Smith and seconded by Member Gerrior. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0)**

Laurell J. Farinon, Conservation Agent

Michael Conway, Chairman