

**Rochester Conservation Commission  
May 15, 2018**

Present: Daniel Gagne, Vice Chairman  
Christopher Gerrior  
Laurene Gerrior  
Maggie Payne  
Chris Post  
Rosemary Smith

Absent: Michael Conway, Chairman

Jessica Brodeur, Recording Secretary  
Laurell Farinon, Conservation Agent

The meeting was held at the Rochester Council on Aging. Vice Chairman Gagne called the meeting to order at 7:00 p.m. and announced that the meeting was being televised.

**Public Meeting**

**A Request for Certificate of Compliance was submitted by Mike Spieldenner for property located at 1 Happy Tails Lane designated as Lot 8C on Assessors' Map 29. An Order of Conditions was issued to Mike Spieldenner on January 20, 2017 under DEP SE 272-0528 allowing for the paving of 650 linear feet of existing roadway and construction of a drainage swale to collect runoff within the 100-foot Buffer Zone of a bordering vegetated wetland. The property owners of record are James M. & Charlotte M. Spieldenner of 1 Happy Tails Lane, Rochester, MA 02770.**

**Documents submitted:** *Plan entitled "Plan to Accompany Request for Certificate of Compliance, 1 Happy Tails Lane, Rochester, MA" prepared for James & Charlotte Spieldenner, 1 Happy Tails Lane, Rochester, MA prepared by G.A.F. Engineering, Inc. dated April 30, 2018*

Property owner Mike Spieldenner of Happy Tails Lane was in attendance and stated that the project is complete and noted a few variations on the as-built. He stated that they had a fence installed with a gate across the drive to prevent their animals wandering. Mr. Spieldenner noted that this was just a replacement to an existing gate that had been on the property when they bought it. He also noted a 9' by 14' stone pad that was added because people were using their driveway as a turnaround, and they added a stone pad to remedy the situation. He noted that it is the same stone type that was used in the swale.

Member Smith inquired if the historic ponding of water has been mitigated, and Mr. Spieldenner responded that the system has worked well.

Agent Farinon reported that the Commission received the as-built plan from G.A.F. Engineering dated April 30, 2018, and a letter from engineer Bill Madden stating that work was completed in substantial compliance of the Order of Conditions with the exception of the gate and stone pad.

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Agent Farinon summarized that the resource area of concern is a bordering vegetated wetland on the southerly side of the stone wall off the property. The Commission had concurrent filings from Mr. Spieldenner and the direct abutter trying to correct an existing drainage problem on the driveway adjacent to Walnut Plain Road. Agent Farinon distributed photographs of the site, commented that the project was well done, and recommended the issuance of a Certificate of Compliance.

Member Laurene Gerrior made a motion to issue a certificate of Compliance under DEP SE #272-528, which was seconded by Member Smith. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**Public Hearing**

**DEP File #SE 272-0556 An Abbreviated Notice of Resource Area Delineation filed by Pedro Rodriguez, Solar MA Project Management, LLC, Series XXXVI, 143 West Street, Suite C201, New Milford, CT 06776, for property located on 0 Walnut Plain Road, Rochester, MA 02770, designated as Lots 16, 21, 23 & 31 on Assessor's Map 21. The purpose of the filing is to confirm 9,950 +/- linear feet of Bordering Vegetated Wetland boundary. The property owner of record is Diana Murphy, Trustee, Midchester Realty Trust, 24 Old Powderhouse Road, Lakeville, MA 02347. The applicant's representative is Scott Goddard, Goddard Consulting, LLC, 291 Main Street, Suite 8, Northborough, MA 01532.**

**Documents submitted:** *Plan entitled "Site Development Plans for Seaboard Solar, Wetland Flagging Exhibit", Location of Site Map #23, Lots #16, 21, 23, 31, Walnut Plain Road, Plymouth County, Massachusetts dated May 4, 2018 prepared by Bohler Engineering*

Member Christopher Gerrior and Member Laurene Gerrior recused themselves and sat in the audience for this agenda item.

Nicole Hayes, Professional Wetland Scientist with Goddard Consulting introduced herself and explained that Bohler Engineering filed the Abbreviated Notice of Resource Area Delineation for this property and Goddard Consulting delineated the wetland resource areas on the site. On site wetland resource areas include bordering vegetated wetland and river front area. Ms. Hayes referred to an aerial map of the property and explained that the site supports a red maple forested wetland with dominant species of red maple, sweet pepperbush, horse briar, wetland ferns and sphagnum moss.

Vice Chairman Gagne referenced the central wetland area, and asked why she had not delineated the entire locus area. Ms. Hayes responded that she had been given certain parcels to inspect and delineate, and others that were not included.

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Vice Chairman Gagne stated that it would be difficult for the Commission to confirm a wetland on a parcel with a large gap in it. Agent Farinon referenced the perennial stream that runs through the property and noted that the westerly side of the land was flagged but there was a flood plain and a bordering vegetative wetland that comprises the westerly side that was missing. Agent Farinon emphasized that the plans need to accurately reflect site conditions, and she will work closely with the applicant and consultants to bring back a streamlined plan suitable for approval. She noted that a significant amount of work needs to be done and the project will not be closing this evening.

Austin Turner (Bohler Engineering) stated that it made sense to simplify the plan. He explained that they're intending to work in the uplands area. Mr. Turner stated he was comfortable with removing the westerly line of the plan so the plan will show only the delineation that would be on the plan.

Agent Farinon recommended continuing until June 19<sup>th</sup>, 2018 so she can have time to review the line, meet with the applicants, make adjustments, etc.

Mr. Turner formally requested to continue to June 19<sup>th</sup>, 2018. Member Smith made a motion to continue the hearing to June 19<sup>th</sup>, 2018, which was seconded by Member Post. Member Christopher Gerrior and Member Laurene Gerrior had recused themselves from voting. **The motion passed by a vote of 4 in favor, 0 opposed, 2 abstained (4-0-2).**

**Commission Business**

**Minutes**

A motion to approve the minutes of May 1, 2018 was made by Member Payne and seconded by Member Smith. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**Voucher(s)**

The following vouchers were approved for payment: The Standard Times / Ad for CEC Mattapoisett Road OOC: \$200.90 and Unified Networking Solutions, Inc./ Two Replacement Monitors: \$279.00.

**New Business**

**Chapter 61A, Notice of Sale and Right of First Refusal: Dexter Lane, Map 6 Lot 11E, Bruce Maksy Jr.**

Agent Farinon referenced the Commission's packet page 31 and reported that they received a letter from Bruce Maksy, Jr. with a Purchase and Sales (P&S) agreement that had already expired. She requested an updated P & S, but has not yet received it. Vice Chairman Gagne suggested tabling this agenda item until they receive the correct Purchase and Sales agreement.

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**Review, Approve and Sign Final Estabrook Conservation Restriction**

Allen Decker (from the Buzzards Bay Coalition) and Bob Lawrence (President of the Rochester Land Trust) were present at the meeting. Mr. Decker explained that the Rochester Land Trust is conveying a Conservation Restriction to the Rochester Conservation Commission on property that the Land Trust will be purchasing in June from the Estabrook family.

Mr. Decker stated that the property was originally referenced as 78-acres in size according to the Town Assessor's office, however a field survey revealed that the property actually is a little over 83 acres. Mr. Decker stated that the Commission has had a chance to see the final state review edits to the Conservation Restriction document and stated that he, nor Mr. Lawrence, found them to be particularly problematic in any appreciable form. The property will be open to public access.

Mr. Decker requested a formal vote by the Conservation Commission to hold the Conservation Restriction and a formal signing of the Conservation Restriction document, which he will then bring to the Board of Selectmen for their concurrence vote and signature.

Agent Farinon reported that she reviewed edits from the EOEA and spoke by phone with questions for Mr. Decker regarding whole sections that were struck. The Board of Assessors, Town Counsel and the Board of Selectmen have all been provided copies, and Town Counsel finds the Conservation Restriction to be satisfactory.

Agent Farinon noted that the surveyors found that the property line was different from what they were originally told by the owner, as the dike road is actually on Decas Cranberry Company property. Agent Farinon explained that this revelation does not take away from the conservation value of this land protection project, and the Land Trust and Buzzards Bay Coalition are investigating possible remedies including a license or short-term agreement.

Agent Farinon recommended that the Conservation Commission accept the Conservation Restriction and formally sign the document. Member Smith made a motion to accept the Conservation Restriction and sign the CR document, which was seconded by Member Post. Member Laurene Gerrior abstained. **The motion was passed by a vote of 5 in favor, 0 opposed, and 1 abstained. (5-0-1)**

**Discuss possible property line encroachment onto Rochester Conservation Commission property located off Burgess Avenue, Rochester Assessors Map 27, Lot 8**

Brian Grady from G.A.F. Engineering was present and stated that he and Agent Farinon had met the week prior and they had finalized the survey for the Estabrook property.

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Mr. Grady stated that the initially they were just working on the possible encroachment of Decas onto Town of Rochester's land, and that initial research they were conducting for Decas produced very old deeds that read "by the cedar swamp" which cannot really be placed on the ground. Mr. Grady stated that the plan before the Commission was a result of the Estabrook survey that had been done. He stated that the plan shows green lines that represent the final survey and magenta lines that represent what the MA GIS shows. Mr. Grady stated that things shifted north westerly which, in theory, gives Decas more land. He did note that the survey comes close to what the MA GIS shows. Mr. Grady stated that this plan will be recorded and endorsed by the Planning Board and will be recorded at the Registry of Deeds. This will establish the property lines officially.

Member Smith asked about the deposit of fill material that was pushed into the area, and whether or not it will be smoothed out. Mr. Grady stated that if it was something the Commission wanted done, it could be done. All agreed that it should be done. Member Smith questioned how they will demarcate the property line; Mr. Grady responded that they could put up flags temporarily and later place boulders or logs to mark the line.

Agent Farinon spoke with David Breeding of Applied Geographics and sent him the deed of the property. Mr. Breeding stated that he could not provide an approximate margin of error from the parcel layer with the information that was provided. Mr. Grady stated that the flags seen in the field are taken from MA GIS coordinates. Vice Chairman Gagne asked if everyone was comfortable with the line shown, and the group responded yes.

Member Laurene Gerrior stated she would like to see the hill smoothed out and ground cover planted to stabilize the area. She suggested bearberry, yucca, lupine, butterfly or anything else that takes well to living in sand. Vice Chairman Gagne stated he would like to see the lot corners set with permanent markers. Mr. Grady suggested utilizing a 4 foot rebar, cedar fence post or a half inch PVC pipe with rebar inside as permanent markers.

Agent Farinon stated she wanted to memorialize this agreement to keeps things on track. She asked Mr. Grady to provide a timeline for loaming and seeding. Mr. Grady stated he would discuss and confirm with Mr. Hannula. Member Christopher Gerrior asked if the permanent markers could be installed soon and Mr. Grady responded yes. Vice Chairman Gagne commented that the work should be done by this fall whether Decas was done taking sand or not, but the permanent markers need to be down as soon as possible.

**Final Neck Road Decas Cranberry Groundwater Monitoring Report**

Agent Farinon reported that the Commission received the final Neck Road Decas Cranberry Groundwater Monitoring Report, which satisfied one of the conditions of the Amended Order of Conditions that was issued to Decas. Agent Farinon stated that it was her understanding that they would be finishing up the work out there and it was their intention to come before the Commission soon for a Certificate of Compliance. Member Laurene Gerrior asked if they would be going to see it and Agent Farinon confirmed they would.

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Agent Farinon stated that this new piezometer station has been added to the Mattapoissett River Valley Water Supply Protective Advisory Committee's list of stations that they monitor on a monthly basis. She stated a transducer has been put in that location so it is recording constantly.

**Municipal Vulnerability Preparedness (MVP) Grant Program**

Agent Farinon stated that she met with the Board of Selectmen and they supported applying for grant assistance to prepare a Municipal Vulnerability Plan. She stated that this was part of Governor Baker's executive order 569 providing assistance to communities, cities, and towns to complete climate change vulnerability assessments and resiliency planning. Agent Farinon had been contacted by Bill Napolitano of SRPEDD regarding doing a joint application with Freetown and Lakeville, because we share the borders on Assawompsett Pond.

**Confirm member availability for future site visits and meetings**

Vice Chairman Gagne confirmed that the next meeting would be on June 5<sup>th</sup>, 2018. Agent Farinon stated that she expects a few new filings to come, including the proposed 44 unit development in the center of town. She stated that she is working with peer review consultant Nover Armstrong and will provide an estimate for peer review consulting at the next meeting. Vice Chairman Gagne asked who would be available for the June 5<sup>th</sup> meeting: Member Post is not available and Member Payne cannot make the site visits beforehand but can attend the meeting.

Agent Farinon stated that the 44 unit development would be a very involved project and stated that a little less than half of the units are in the 100-foot buffer zone and some of the drainage structures are up to the 25-foot no touch zone. She stated that it was up to the Commission if they would just like to open the hearing and talk about a peer review and let things play out. She stated they did not do an Abbreviated Notice of Resource Area Delineation, which she had recommended. Vice Chairman Gagne stated he believed the site visit should be held off so they could open the hearing and have a good discussion on it.

**Correspondence**

Agent Farinon notified the members of some correspondence from Rebecca Vassa (Buzzards Bay Coalition's outdoor exploration manager) introducing herself and requesting permission to hold a Bay Adventure at the Doggett's Brook property on July 6<sup>th</sup>, 2018. Agent Farinon asked if anyone had any objections to this, and members present had no objection.

Agent Farinon reported that she received an email from Rosemary Loer, a Mattapoissett resident and junior at ORR High School. She stated she had been doing drone surveys and would like to offer this service to the Conservation Commission. Ms. Loer is insured and FAA compliant for this type of drone work. Vice Chairman Gagne asked that we invite her to the next meeting to discuss the project.

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**Adjournment**

The meeting adjourned at 8:14 p.m. on a motion made by Member Laurene Gerrior and seconded by Member Smith. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0)**

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Laurell Farinon, Conservation Agent

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Daniel Gagne, Vice Chairman