

**Rochester Conservation Commission  
June 18, 2019**

<b>Present:</b>	Michael Conway, Chairman Daniel Gagne, Vice Chairman Léna Bourque Christopher Gerrior Kevin Thompson Laurell J. Farinon, Conservation Agent Marissa Perez-Dormitzer, Recording Secretary	<b>Absent:</b>	Chris Post Maggie Payne
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The meeting was held in the Town Hall conference room. Chairman Conway called the meeting to order at 7:05 p.m. and announced that the meeting was being televised.

**Public Meeting**

**DEP SE 272-0201 A Request for Certificate of Compliance was submitted by Decas Real Estate Trust for property located at 15 Cranberry Highway, designated as Lot 31 on Assessor's Map 17. An Order of Conditions was issued to Decas Real Estate Trust on August 8, 1993 under DEP SE 272-0201 allowing for the construction of two commercial buildings with parking areas, installation of utilities, sewage disposal, drainage systems and associated grading. An Amended Order of Conditions was issued on May 13, 1997 for the revised design to incorporate a more comprehensive stormwater collection system.**

Bob Rogers of GAF Engineering explained the request for a Certificate of Compliance (COC) was continued several times to confirm the Countryside Daycare project would move forward. A new drainage system was planned to take the place of the pretreatment infiltration basin that was approved in 1997. Construction started on the drainage improvements as soon as the Order of Conditions was recorded for the daycare.

Mr. Rogers distributed as-built photos of the site. He stated he is confident that the volume of the swale, the infiltration basin, and the elevations are correct. He commented that the drainage currently installed is adequate and meets the approved design. Mr. Rogers noted they received a memo from Field Engineering dated May 31, 2019 that gave a positive report on the constructed stormwater collection system. He is requesting the COC for the property closing scheduled on July 1, 2019.

Chairman Conway asked if they have an operations and maintenance manual for the property. Mr. Rogers responded yes for both the construction phase and long term. Operations and maintenance will be the responsibility of the Morrison's, and was included in their Notice of Intent plans. They will be the owners of the property in two weeks.

Chairman Conway asked about maintenance of the retention pond since issuance of the Amended Order of Conditions. Mr. Rogers stated the initial pretreatment basin was not constructed. The detention basin has stayed intact, and the wetland has been well protected by the basin.

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Agent Farinon reiterated the detention basin is in good shape. The original design called for a replication area; instead they went with supplemental plantings to enhance wildlife habitat. A preconstruction meeting was held recently, and the project is progressing well. The grass is starting to become established. Agent Farinon recommended that the Conservation Commission issue a Certificate of Compliance to Decas Real Estate Trust under DEP SE 272-0201.

A motion to issue a Certificate of Compliance was made by Vice Chairman Gagne and seconded by Member Bourque. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

**Public Hearings**

*(Continued from February 5, 2019)* **DEP File # SE 272-0567 A Notice of Intent filed by Pedro Rodriguez, Solar MA Project Management LLC, Series XXXVI, 143 West Street, Suite C201, New Milford, CT 06776, for property located at 0 Walnut Plain Road and 0 Old Middleboro Road, Rochester, MA 02770, designated as Lots 21, 23, & 31 on Assessor's Map 23. The applicant proposes the construction of a ground-mounted photovoltaic solar array generation facility which requires cutting of trees, earthwork and grading within the 100-foot Buffer Zone of a bordering vegetated wetland. Erosion control measures will be implemented. The Commission issued an Order of Resource Area Delineation (ORAD) on August 10, 2018 under DEP SE #272-556 confirming the wetland resource area boundaries. The property owners of record are Diana J. Murphy, Trustee, Midchester Realty Trust, 24 Old Powderhouse Road, Lakeville, MA 02347 and MWH, LLC, 405 Washington Street, Braintree, MA 02184. The applicant's representative is Dan Wells, Goddard Consulting, LLC, 291 Main Street, Suite 8, Northborough, MA 01532.**

*(Member Gerrior recused himself)*

Chairman Conway reported that the applicant requested to withdraw the application. The applicant had spoken with Town officials about a different approach and would like to refile.

A motion to grant the application withdrawal without prejudice was made by Vice Chairman Gagne and seconded by Member Bourque. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

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***(Continued from April 2, 2019)* DEP File # SE 272-0564 A Notice of Intent filed by T-Mobile Northeast LLC c/o Network Building & Consulting, LLC, 100 Apollo Drive, Suite B, Chelmsford, MA 01824 for property located at 98 Bowen's Lane, Rochester, MA 02770, designated as Lot 14 on Assessor's Map 31. The applicant proposes installation of a 25kw generator on a 4' x 10' pad approximately 34' from a bordering vegetated wetland: all work will be performed outside of the Town of Rochester's 25-foot No Disturb Zone. The generator will provide power to a T-Mobile antenna installation attached to the adjacent communications tower. The property owners of record are Michael J. Umano & Donald C. Cody, Trustees, New England Nominee Trust, 4 Lone Street, Marshfield, MA 02050. The applicant's representative is Marty Cohen, Network Building & Consulting, LLC, 100 Apollo Drive, Suite 303, Chelmsford, MA 01824.**

Chairman Conway reported that the applicant requested a continuance to August 20, 2019

A motion to continue the Public Hearing to August 20, 2019 was made by Member Gerrior and seconded by Member Thompson. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

***(Continued from April 16, 2019)* An Abbreviated Notice of Resource Area Delineation filed by SWEB Development USA, LLC, P.O. Box 20235, Worcester, MA 01602, for property located on 0 Marion Road, Rochester, MA 02770, designated as Lot 37 on Assessor's Map 6. The purpose of the filing is to confirm 3,850 linear feet of Bordering Vegetated Wetland boundary. The property owner of record is Rochester Farms, LLC, P.O. Box 278, West Wareham, MA 02576. The applicant's representative is Weston & Sampson, 5 Centennial Drive, Peabody, MA 01960.**

Chairman Conway reported that the applicant requested a continuance to July 16, 2019.

A motion to continue the hearing to July 16, 2019 was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

**DEP File # SE272-0507 A Request for Amended Order of Conditions was made by the John Draper, 356 Snow's Pond Road, Rochester, MA 02770 for property located at 356 Snow's Pond Road, Rochester, MA 02770, designated as Lot 5 on Assessor's Map 40. The original Order of Conditions was issued on October 24, 2014 allowed for the razing of the existing dwelling and construct new dwelling, septic system and utilities. An Amended Order of Conditions was issued on December 9, 2016 and an Extension Permit was issued on September 5, 2017 extending the project until October 24, 2020. The applicant proposes to add a triangular deck over the originally proposed patio, add stone steps at the end of the rear retaining wall, pave the proposed driveway and add a trench drain adjacent to the garage. The property owner of record is John Draper, 356 Snow's Pond Road, Rochester, MA 02770. The applicant's representative is G.A.F. Engineering, Inc., 266 Main Street, Wareham, MA 02571.**

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Brian Grady of GAF Engineering referred to a mounted site plan as he summarized the following minor changes to the plan:

- The constructed patio and area off the back of the garage have different elevations. Some steps will be added over the patio to make up for the elevation difference.
- In the rear, a retaining wall has been constructed. During construction some boulder stone steps were added at the end of the retaining wall to accommodate a grade change.
- They would like to add a trench drain in front of the garage slab to help with puddling in front of the garage. There are no gutters on the house.
- The owner would like to pave the driveway. The driveway is outside the 25-foot No Disturb zone. Some runoff will go in the trench drain and the rest will cross vegetated areas before reaching the adjacent wetland.

Vice Chairman Gagne noted the grading seems close to the bordering vegetated wetland of Snipatuit Pond, and asked if it's a change from the approved plan. Mr. Grady responded no and that the grading is a result of the cottage being removed.

Agent Farinon reported the project has gone well and the requested changes relate to existing conditions. She recommended approving the amended Order of Conditions with a stipulation that the bank north of the dwelling be stabilized by the end of fall 2019.

A motion to approve the amended Order of Conditions was made by Member Gerrior and seconded by Vice Chairman Gagne. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

**DEP File # SE 272-0557 A Notice of Intent was filed by Nicholas Araujo, 130 Arlington Street, New Bedford, MA 02745 for property located at Old Schoolhouse Road, Rochester, MA 02770, designated as Lot 19 on Assessor's Map 21. The applicant proposes to construct a single-family dwelling with the proposed dwelling, well and septic system located outside the 100-foot Buffer Zone. Some grading within the 100-foot Buffer Zone will be required as part of the installation of the septic leaching area. Minimal tree clearing is proposed within the Buffer Zone behind the dwelling to provide a yard area. A small trench will be dug for the installation of electrical conduit located down the center of the existing driveway and backfilled to existing grades. Erosion control measures will be implemented. The property owner of record is Nicholas Araujo, 130 Arlington Street, New Bedford, MA 02745. The applicant's representative is Farland Corp., 401 County Street, New Bedford, MA 02740.**

Nicholas Araujo, the property owner, explained he had an approved septic design with a dwelling in the center of the lot. After clearing the area, he realized he wouldn't have a yard and changed the design to move the house 50 feet from the original location. The septic system location also changed.

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Mr. Araujo stated he shared incorrect information at the site visit. He followed up with the electrical inspector and learned he can have an 18-inch-deep trench for power; no concrete encasement is needed. This is because the property will have secondary power. The trench will go down the center of the driveway to a utility pole 20 feet from the start of the driveway. Chairman Conway asked if the whole length of driveway will be paved; Mr. Araujo responded no. In response to a question about the secondary power, Mr. Araujo stated a private company will move a transformer to the utility pole near the driveway. Then he can run secondary power into the lot.

Vice Chairman Gagne asked the width of the existing driveway. Mr. Araujo responded 12 – 15 feet. Vice Chairman Gagne stated it looks to be 20 feet wide on the plan. Mr. Araujo stated they plan to leave it in its original condition. Since construction has started, he has found the larger trucks can get down the driveway. He added they are not taking out any trees along the driveway.

Mr. Araujo noted they will be intruding 5 to 10 feet into the buffer zone to remove trees; the majority of which are pine. He added he would like to add oak and maple trees to maintain privacy of the lot.

Vice Chairman Gagne asked if the limit of clearing is the erosion control line; Mr. Araujo responded yes. Vice Chairman Gagne asked if anything is already cleared. Mr. Araujo responded that everything is cleared up to the buffer zone. They are ready to install the foundation and the buffer is marked.

Chairman Conway asked for proof of abutter notification. Mr. Araujo responded that notification was sent but he couldn't get proof from the consultant. Member Bourque noted she would like to see a full lot plan. She recommended checking with the Fire Department regarding the width of the driveway and trees may need to be removed. Chairman Conway suggested having Mr. Araujo's consultant present at the next meeting.

Vice Chairman Gagne asked the status on the wetland line. Agent Farinon responded that they installed metal rods at each of the previously approved flagging locations; however, the wetland flagging stations should be shown on the plan as well as the location of existing driveway. She suggested providing a cross section of the electrical conduit line.

A motion to continue the Public Hearing to July 16, 2019 was made by Member Gerrior and seconded by Member Bourque. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

**Commission Business**

**Vouchers**

The following voucher was approved for payment: Michael Conway / Basic Wetlands Delineation Vegetation Workshop on June 22, 2019: \$95.00. Chairman Conway recused himself from approval of this voucher.

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**New Business**

**Discuss scheduling a special meeting to discuss and set Commission policies**

Agent Farinon stated she would like to schedule a special meeting to discuss and set Commission policies. Members agreed to meet on July 1, 2019 at 6:30 p.m. Agent Farinon will confirm availability of the police station conference room.

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

Chairman Conway stated the next meeting will take place on July 2, 2019. All Members confirmed their availability to attend. Agent Farinon reported three items require site visits. Members agreed to visit the Eagle Scout project on July 1, 2019 at 6:00 p.m. and Trailside Estates on July 2, 2019 at 6:15 p.m. The site visit for the third item, an ANRAD, will be scheduled once the public hearing is opened.

**591 Neck Road - Order of Conditions Issued to Lorraine Roy & William Hawkes DEP SE 272-539**

Agent Farinon reported Town Counsel Bailey sent a letter to Lorraine Roy & William Hawkes. She stated she didn't hear back directly from the property owners, however wetland scientist Brad Holmes e-mailed her to inform the Commission he has been retained by and is meeting with the property owners.

**Mary's Pond Road Hiller Bridge Repair Project**

Agent Farinon reported there was a preconstruction meeting and work has begun: she distributed photos of the site.

**Appointment for Discussion – Brendan Annett and Allen Decker – Buzzards Bay Coalition  
Discuss Town Applying for LAND Grant for Walnut Plain Land Protection Project  
Commission to vote to sign LAND Grant Application Form**

Brendan Annett and Allen Decker of the Buzzards Bay Coalition were present. Mr. Annett spoke about the Coalition's efforts to conserve land around Buzzard's Bay. He explained for some projects they partner with communities because the community is eligible for state grants while the Coalition is not eligible. The Coalition has used a similar approach many times in the Mattapoissett River Valley with Mattapoissett, Fairhaven, and Marion.

Mr. Annett stated the Coalition is looking to apply for the Local Acquisitions for Natural Diversity (LAND) grant for \$400,000. Coalition staff will prepare the application materials. The Town would be listed as the applicant and submit the application, which is due July 11, 2019. Awards will be announced at the end of the year. If awarded, funds will be used to acquire a Conservation Restriction to be held by the Conservation Commission. The Coalition would purchase and own the property for conservation and passive recreation.

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Mr. Annett reviewed a map of the property to be purchased which involves four parcels and encompasses 109 acres of land. Mr. Annett explained they focus on the Sippican River because it's the headwaters of the Mattapoisett River and the Sippican River. The property is also important as part of one of the largest undisturbed forest blocks in southeastern Massachusetts. It is mapped by state agencies for several reasons including the presence of box turtle and rare species.

Mr. Annett reported that last year the Coalition signed an agreement with Decas Cranberry Company for the 4 parcels of land. Decas agreed to sell the land by 2020 giving the Coalition time to fundraise.

Mr. Annett explained a solar company contacted him two months ago. The company is proposing around 30 acres of panels on a parcel to the north. They offered and have signed an agreement to purchase the property and give the Coalition ownership if the Coalition allows them to make an access road on the subject property. Mr. Annett stated the conversations continued and the solar company also offered to give the Coalition the title of the property of their proposed solar development. When the project is over, the property will become conservation land.

Mr. Annett summarized there are two routes to conserving the land. Strategy A is through the LAND grant and strategy B is with the solar company. The Coalition is moving forward with both options. If the solar company doesn't receive a permit from the Town for their project, they won't pay for the property.

Member Thompson stated he is concerned about putting a road through undisturbed forest. Mr. Annett responded that funding for the grant is not guaranteed. On Old Middleborough Road, the originally proposed access route, there is a mile of road to improve in or near wetland. Member Gerrior commented that a new road in a highland is better than road in a wetland. Agent Farinon noted it would have resulted in wetlands alterations. Member Bourque asked about creating the new road and Mr. Annett responded the solar company will design it. They will want to stay away from wetlands and limit the cost and distance. Member Gerrior asked about the use of the land. Mr. Annett responded public access is part of the plan.

Vice Chairman Gagne asked if there has been discussion about conflict of interest with funding strategy B, where the Conservation Commission will have a reward for granting permits to a solar company. Agent Farinon responded that she initially had a concern about conflict of interest, however Town Counsel didn't feel it's a conflict. She further stated that since the application has formally been withdrawn at the time of the grant application, she no longer has a concern about conflict.

To move forward with the grant, Mr. Annett stated they need signatures from each Member to include in the application. They received authorization from the Board of Selectman the previous night. Select Board Members signed the cover letter for the application.

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Chairman Conway expressed concern about not seeing the rest of the application other than the signature page, and asked if the Town has to accept the grant funds. Mr. Annett responded no and added if the grant is awarded they will need to go to Town Meeting to receive authorization to spend the funds. Agent Farinon added that the grant requires a current Open Space & Recreation Plan, and that she is working diligently on the plan. Buzzards Bay Coalition staff is doing all the work on the grant application.

Agent Farinon reiterated that if the grant is awarded, the Town doesn't have to accept it. Member Gerrior suggested Members sign the page and Agent Farinon holds the signature page. Then she will review the completed application and report to the Conservation Commission. Chairman Conway suggested signing contingent on the Members reviewing the application. Mr. Annett responded that it may not be possible with the tight timeframe for submitting the application. He said he can commit to sending the application to Agent Farinon, but he cannot commit to sending it to Members before the next meeting.

A motion to sign the application form for the LAND grant to be held by Agent Farinon for her final review of the grant application and for the signature form to be released as she sees the application is acceptable was made by Vice Chairman Gagne and seconded by Member Gerrior. Chairman Conway was opposed. **The motion passed by a vote of 4 in favor, 1 opposed, 0 abstained (4-1-0).**

Members signed the form to be included in the application

**Eagle Scout Application**

Member Thompson asked about proper procedure for the Eagle Scout application at the next meeting. Agent Farinon suggested that Member Thompson recuse himself and speak about the project from the audience. She noted there is a filing fee and advertising. There was discussion about possibly waiving the filing fee because it's a non-profit group. Chairman Conway asked if they could have a blanket policy for waiving fees for all 501(3)c filings. Vice Chairman Gagne responded that they could discuss it at the July 1, 2019 special meeting.

**Adjournment**

The meeting adjourned at 8:49 p.m. on a motion made by Member Gerrior and seconded by Vice Chairman Gagne. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

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Marissa Perez-Dormitzer, Recording Secretary

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Michael Conway, Chairman