

**Rochester Conservation Commission
August 6, 2019**

Present: Michael Conway, Chairman
Daniel Gagne, Vice Chairman
Léna Bourque
Christopher Gerrior
Maggie Payne

Absent: Kevin Thompson
Marissa Perez-Dormitzer

Laurell J. Farinon, Conservation Agent
Margaret Gonneville, Board Administrator

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

Appointment for Discussion with Jason Zimmer, District Supervisor Southeast Wildlife District of the Division of Fisheries & Wildlife – Hartley Wildlife Management Area Flume Replacement

Jason Zimmer, District Supervisor Southeast Wildlife District of the Division of Fisheries & Wildlife, reported that he and members of the Conservation Commission visited the Hartley WMA property just before tonight's Conservation Commission meeting. He stated that the old concrete flume had washed out and that the flume replacement has been mostly completed. He said that signage will be added and more of the conservation mix will be seeded in. He informed the Commission that the flume boards now have locks, and that appropriate water levels can be coordinated when the Mattapoissett River race occurs. Vice Chairman Gagne asked if this was a permanent fix, and Mr. Zimmer replied that it was.

David Watling of 360 Cushman Road asked if the abutter, Ted Brillon, will get enough water for his cranberries from the pond and Mr. Zimmer replied yes. Mr. Watling commented that the job was well done.

DEP SE 272-0550 A Request for Certificate of Compliance was submitted by Luis Coelho of 265 Conduit Street, New Bedford, MA 02745 for property located at 1 Ryder Road, designated as Lot 6E on Assessor's Map 23. An Order of Conditions was issued to Luis Coelho on November 28, 2017 under DEP SE 272-0550 allowing for the construction of a single family home with appurtenances partially within the 100-foot buffer to a Bordering Vegetated Wetland.

Neither the applicant Luis Coelho, nor his representative Gregory Nicholas of Southcoast Engineering, was available to attend the public meeting.

Agent Farinon reported that Mr. Nicholas submitted a letter stating that he had found the work to be completed in accordance with the plans and the original Order of Conditions. She stated that she visited the site and distributed photographs of dwelling, rear yard and post and rail fence. She reported that all buffer areas are fully stabilized and recommended the issuance of a Certificate of Compliance.

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A motion to issue a Certificate of Compliance 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 SE 272-0381 Decas Cranberry Co., Inc., 109 Neck Road, Map 40 Lot 3. Future Request for Certificate of Compliance - Decas Cranberry Company requests a determination from the Commission on two uncompleted project items – 1. Pipe removal and 2. Vegetated island removal in the reservoir.

Brian Grady of GAF Engineering and Scott Hannula of Decas Cranberry Company were present at the discussion for a future request of a Certificate of Compliance for DEP SE 272-0381.

Chairman Conway commented that the applicant had not officially requested a Certificate of Compliance. Mr. Grady responded that they have come before the Commission looking for a determination as to whether the deviations from the approved plans of record would be considered substantial enough to require a new filing. Mr. Grady explained that they have an as-built survey and wetland scientist Brad Holmes has been on site and provided a report. There were two project items not completed: 1. removal of the vegetated island within the reservoir, and 2. removal of the flume and outfall pipe to Snipatuit Pond. Mr. Grady stated that Decas prefers not to complete the above items, and that the area is stabilized and there are no impacts to wetland resource areas.

Chairman Conway asked if the original filing showed removal of the pipe and islands: Mr. Grady replied that yes it was shown on the plan of record, prepared by another firm. Mr. Grady stated that everything else referenced in the Order of Conditions has been completed. He said that they will include the report from Brad Holmes with the Certificate of Compliance request.

Agent Farinon summarized that the Conservation Commission issued an Enforcement Order on May 6, 2003 to Decas Cranberry Company for illegal cutting, earthwork, dredging and alteration of wooded swamp and shrub swamp without permitting. The Commission requested and received a subsequent filing and restoration plan, which included conversion of a 5.1-acre cranberry bog to bordering vegetated wetland. Agent Farinon commented that the two uncompleted items were requested by Decas Cranberry in their filing, and were not requested by the Commission for mitigation. She recommended that Decas Cranberry Company talk to the Commission about the outstanding items before formally filing for a Certificate of Compliance.

Chairman Conway remarked that he was most concerned about adherence to Condition #19 of the original Order of Conditions.

A motion to determine that it is a minor change to the Order of Conditions and that two outstanding items do not have to be completed was made by Member Gerrior and seconded by Member Payne. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

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Public Meetings

A Request for Determination of Applicability filed by Michelle Kirby, 80 Snow's Pond Road, Rochester, MA 02770 for work on property located at 80 Snow's Pond Road, Rochester, MA 02770 designated as Lot 27 on Rochester Assessors' Map 39. The applicant proposes to add gravel material to the existing driveway to even and fill potholes. The property owners of record are Michelle Kirby and Andy Hammerman, 80 Snow's Pond Road, Rochester, MA 02770.

Michelle Kirby and Andy Hammerman were present at the public meeting.

Mr. Hammerman stated that they want to maintain their driveway by filling potholes with gravel and consider it routine maintenance. He said that they have contacted Sunnynook Farms of Rochester for the bank gravel, and David Souza to bring in the gravel to fill in the potholes in their driveway which is 19 feet wide and a quarter-mile long. He said that the driveway is so pitted and potholed that it needs material brought in. It will need 100 to 150 yards of material at 1 to 2 inches deep.

Agent Farinon stated that page #16 of the meeting packed shows the extent of the driveway. She informed that the driveway is wet on both sides and showed photographs of the property. She stated that the worst spot may need 6 to 8 inches of the gravel material. She said that the improvements are needed for the road to be more stable. Agent Farinon recommended the issuance of a Negative Determination of Applicability.

A motion to issue a Negative Determination of Applicability with the stipulation that the Conservation Commission be notified at the start of the work 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).**

A Request for Determination of Applicability filed by Ralph W. Jr. & Carolyn Perry, 99 Wolf Island Road, Rochester, MA 02770 for work on property located at 99 Wolf Island Road, Rochester, MA 02770 designated as Lot 10 on Rochester Assessors' Map 3. The applicant proposes to repair the septic system for existing three-bedroom residence. The property owners of record are Ralph W. Jr. & Carolyn Perry, 99 Wolf Island Road, Rochester, MA 02770.

Rick Charon of Charon Associates was present at the public meeting representing Mr. & Mrs. Perry and presented a mounted site plan showing the septic repair plan to the Commission. He explained that the property is bordered by the Mattapoissett River and the existing septic system failed. A mounted system will be required because of the high water table. It is being put in the southeast corner away from the sheds and to hide it from view. They are staying away from many resource areas and are over 200 feet away from river area. Mr. Charon informed the Commission that the plan has been approved by the Board of Health and that they did not want to put the system in the paved driveway area. Vice Chairman Gagne asked if they have a standby generator and Mr. Charon replied no. Mr. Charon said it would back up into the house if there was no power. Chairman Conway asked if any trees were being cut down and Mr. Charon replied yes along the road.

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Agent Farinon distributed photographs of the property to the Commission, and noted that the applicant requested confirmation of the delineation, but however all flagging stations are not shown so the Commission cannot confirm all wetland boundaries. The nearest work will be 50 feet from the nearest wetland flag, and siltation control measures will be implemented. Agent Farinon recommended approving the project and issuance of a Negative Determination of Applicability.

A motion to issue a Negative Determination of Applicability with the stipulation that the Conservation Commission check off all determinations except for Determination “b” 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).**

Public Hearings

***(Continued from July 2, 2019)* DEP File # SE 272-0557 A Notice of Intent filed by REpurpose Properties, LLC, 55 Main Street, Buzzards Bay, MA 02532 for property located at Rounseville Road, Rochester, MA 02770, designated as Lots 24, 25B, and 25C on Assessor’s Map 30. The applicant proposes construction of an age-related community with 22 duplex units and a common building with a pool area. A roadway with underground utilities, drainage facilities, and a shared septic system for all buildings will be installed. All proposed work within the development is outside of the 25-foot No Disturb Zone, but 14 duplex units, 3 point-source discharges, and 16,100 square feet of roadway will be constructed within the 100-foot Buffer Zone to a resource area. Erosion control measures will be implemented. The property owner of record is Gibbs V. Bray & Patricia M. Bray, Trustees, P.O. Box 989, Marion, MA 02738. The applicant’s representative is John Churchill, Jr., J.C. Engineering, Inc., 2854 Cranberry Highway, East Wareham, MA 02538.**

Chairman Conway reported that the applicant submitted a request to continue the public hearing until September 3, 2019. The applicant will be re-advertising the public hearing and notifying all abutters of the public hearing on September 3rd.

A motion to continue the public hearing until September 3, 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).**

***(Continued from July 16, 2019)* DEP File # SE 272-0571 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 submitted a request for continuance until August 20, 2019 because they needed more time to update the plan.

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A motion to continue the public hearing until August 20, 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).**

***(Continued from July 2, 2019)* DEP SE 272-0573 An Abbreviated Notice of Resource Area Delineation filed by Erica Buster, Quaker Lane – Simpson Solar, LLC, 3021 Airport Pulling Road N – Suite 201, Naples, FL 34105, for property located at 102 Quaker Lane, Rochester, MA 02770, designated as Lots 6 & 10 on Assessor’s Map 37. The purpose of the filing is to confirm 10,100 linear feet of Bordering Vegetated Wetland boundary and 1,600 linear feet of Riverfront Area. The property owner of record is John Simpson, 102 Quaker Lane, Rochester, MA 02770. The applicant’s representative is SITEC, Inc., 449 Faunce Corner Road, Dartmouth, MA 01747.**

Chairman Conway reported that the applicant submitted a request for continuance until September 3, 2019 to allow the Peer Review consultant to review changes made to the plan.

A motion to continue the public hearing until September 3, 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 SE 272-0577 A Notice of Intent filed by owners James & Sarah Holbrook, 1 Bates Road, Rochester, MA 02770 for property located at 1 Bates Road, Rochester, MA 02770, designated as Lot 3 on Assessor’s Map 9. The applicant is proposing additions to the existing dwelling, relocation of a portion of existing drive and construction of a new onsite sewage disposal system. Portions of the work occur within the Riverfront Area to the Sippican River. Approximately 330 s.f. of land within the Buffer Zone to the adjacent Bordering Vegetated Wetland will be altered to collapse and fill the leaching pit. The applicant’s representative is GAF Engineering, Inc., 266 Main Street, Wareham, MA 02571.

Applicants James and Sarah Holbrook were present at the public hearing along with their representative, Brian Grady of GAF Engineering, Inc. Mr. Grady stated that the applicants are proposing additions for each side of the dwelling. The work will be in the riverfront area for the deck, concrete patio or driveway. The nearest point of the new addition to the riverfront area is 185 feet. He said that the shell driveway will remain. Proposed work on the septic system in the rear yard of the property is outside of jurisdiction of the Conservation Commission. Vice Chairman Gagne asked if an alternative analysis was submitted and Mr. Grady replied that he did not submit an alternative analysis. Vice Chairman Gagne asked if grading was going to be done for the driveway. Mr. Grady replied that the driveway is pretty flat, but steep on the approach. He said that is not a significant grade change and that they have not encountered any large boulders.

Agent Farinon distributed photographs of the property. The photographs show the riverfront area to the Sippican River. She stated that there is a lot of room in back where the system is going. She said that the expansion of driveway is needed. She noted that this is an historic home and that the additions work with the structure itself. Agent Farinon recommend a Positive Order of Conditions and that the Commission approve the project with the submitted site plan.

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A motion to issue a Positive Order of Conditions 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).**

DEP SE 272-0578 An Abbreviated Notice of Resource Area Delineation filed by Joe Harrison, SunRaise Investments LLC, 26 Market Square, Portsmouth, NH 03801, for property located at 0 Featherbed Lane, Rochester, MA 02770, designated as Lot 24 on Assessor's Map 46. The purpose of the filing is to confirm 3,000 linear feet of Bordering Vegetated Wetland boundary. The property owner of record is Judith Dupont, 123 Rounseville Road, Rochester, MA 02770. The applicant's representative is Prime Engineering, Inc., 350 Bedford Street, Lakeville, MA 02347.

(Vice Chairman Gagne recused himself from the public hearing.)

Julie Goodwin with Prime Engineering, Inc. was present representing the applicant.

Chairman Conway informed everyone that the abutters list does not include abutters in the Town of Acushnet. Ms. Goodwin confirmed that the abutters in Acushnet were not notified.

Chairman Conway did not allow further testimony to be heard and informed Ms. Goodwin that the public hearing will have to be reopened. The public hearing will need to be re-advertised and all abutters including those in the Town of Acushnet will be notified of the new public hearing.

DEP SE 272-0579 An Abbreviated Notice of Resource Area Delineation filed by Joe Harrison, SunRaise Investments LLC, 26 Market Square, Portsmouth, NH 03801, for property located at 0 Cushman Road, Rochester, MA 02770, designated as Lot 11 on Assessor's Map 33. The purpose of the filing is to confirm 2,800 linear feet of Bordering Vegetated Wetland boundary. The property owner of record is Lisa Holden, Trustee, Aquidneck Nominee Trust, P.O. Box 388, Rochester, MA 02770. The applicant's representative is Prime Engineering, Inc., 350 Bedford Street, Lakeville, MA 02347.

(Vice Chairman Gagne recused himself from the public hearing.)

Julie Goodwin from Prime Engineering, Inc. was present representing the applicant.

Chairman Conway informed everyone that the abutters list did not include abutters in the Town of Acushnet. Ms. Goodwin confirmed that the abutters in Acushnet were not notified.

Chairman Conway did not allow further testimony to be heard and informed Ms. Goodwin that the public hearing will have to be reopened. The public hearing will need to be re-advertised and all abutters including those in the Town of Acushnet will be notified of the new public hearing.

(Vice Chairman Gagne resumed his role at the meeting.)

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Commission Business

Vote to issue and sign Corrected Order of Conditions – Darras / DEP File # SE 272-0565 LF – discovered there was an error in the Order of Conditions. OOC for Plumb Corner Mall page 7 of 12 incorrect stormwater standards. Date on page 11 was wrong. Looked at guidance from MACC and reviewed with Town Counsel. He suggested issuing a corrected OOC with issuance date.

(Member Bourque recused herself from the vote and signing of the corrected Order of Conditions.)

Agent Farinon reported that one of the boxes on the Order of Conditions related to stormwater management was incorrectly checked off on page 7 of 12, and an incorrect date was inserted on page 11 of 12. After reviewing MACC guidance and consulting with Town Counsel, it was determined the best remedy was issuance of a corrected Order of Conditions

A motion to issue a corrected Positive Order of Conditions was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

Minutes

A motion to approve the minutes of the July 16, 2019 meeting 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).**

Voucher(s)

The following vouchers were approved for payment: Forestry Suppliers, Inc.: \$69.50; Staples: \$127.99; LEC: \$2,047.60 Peer Review on 0 Marion Road ANRAD DEP SE 272-571; and Plymouth County Registry of Deeds: \$77.00 for corrected Order of Conditions DEP SE 272-565.

Old Business

Review “Revised Wetland & Buffer Zone Restoration Plan, 591 Neck Road, Rochester, DEP SE 272-539 by ECR dated July 23, 2019, Vote to Approve or Modify

Agent Farinon summarized that the Commission visited the Roy Hawkes property prior to the last meeting. Brad Holmes of ECR submitted a Revised Wetland & Buffer Zone Report for 591 Neck Road under DEP SE 272-539, and the Commission needs to approve or amend the restoration plan. Agent Farinon would like to see the proposed trees increased from 2 – 4, as well as the size increased from 5’-6’ in height to 6’-8’ in height. Member Payne stated that she wants to limit the disturbance with larger trees. Vice Chairman Gagne wants time frames on this work: removal by September 30, 2019 and trees and shrubs planted by the end of October.

A motion to respond to the applicant with the requirement that restoration Items 1, 3 and 4 be completed by September 30, 2019, and Item 2 be revised to include 4 saplings of Tupelo saplings (*Nyssa sylvatica*) 8’ – 10’ in height with the same amount of shrubs indicated in the report to be planted by October 30, 2019 was made by Vice Chairman Gagne and seconded by Member Payne. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

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New Business

Discuss Possible Maintenance/Improvement to Leonard's Pond Canoe/Cartop Boat Access

Agent Farinon distributed photographs of the Leonard's Pond Recreational Area site. She said that some people with mobility issues are having trouble putting in their kayaks into Leonard's Pond. She met on site with Jeff Eldridge and Doug Cameron, Assistant Director/Deputy Chief Engineer Of the Department of Fish and Game, Office of Fishing and Boating Access. The existing boat access is eroding into Hathaway Pond and is unstable. As a group, they discussed alternatives to improve the situation. They determined that removal or repositioning of the boulder and addition of hard packed material was an option. She wanted to know if the Commission wants an RDA filing or if this could be viewed as a maintenance project. Member Payne suggested adding steps with landscape timbers. Vice Chairman Gagne suggested putting gravel in. Member Gerrior asked about who would pay for the improvement and Agent Farinon replied that there was some money left in the grant. Discussion ensued and the Commission agreed that they would like an RDA filing for the improvement.

Discuss Maintenance of Town Pound Property

Agent Farinon informed everyone that a complaint has been made that the Town Pound property owned by the Conservation Commission has become overgrown. She stated the need to find a steward for the property. David Watling of 360 Cushman Road stated that in the past he had applied for the position in Town called the "Pound Sitter". He was told by Selectmen at the time that the Animal Control Officer was in charge of it.

Confirm Member Availability for Future Site Visits and Meetings

Members present confirmed that they will be available for the next meeting on Tuesday, August 20, 2019. Members present confirmed that they will be available for the site visit on Tuesday, August 20, 2019 starting at 6:30 p.m. and meeting at the Town Hall parking lot at 6:15 p.m. Chairman Conway stated he will not be available to attend the September 3rd meeting. Vice Chairman Gagne informed everyone that he will be recused from all SunRaise Investments LLC filings

Discuss Correspondence

Agent Farinon reported that the Commission received a copy of a complaint from Maissoun Reda of MassDEP regarding alleged violations on the Lalli Property off High Street, Map 19, Lot 42C. The packet contains a certified letter from Town Counsel Blair Bailey to Dustin C. Lalli and Travis A. Lalli regarding said complaint. Agent Farinon will report back to Commission about the site visit and what they find.

Adjournment

The meeting adjourned at 8:55 p.m. on a motion made by Vice Chairman Gagne and seconded by Member Payne. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Margaret Gonneville, Board Administrator

Daniel Gagne, Vice Chairman