

**Rochester Conservation Commission  
October 1, 2019**

**Present:** Michael Conway, Chairman  
Daniel Gagne, Vice Chairman  
Christopher Gerrior  
Maggie Payne  
Kevin Thompson  
Laurell J. Farinon, Conservation Agent  
Marissa Perez-Dormitzer, Recording Secretary

**Absent:** Léna Bourque

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.

**Public Meeting**

**Request for Determination of Applicability filed by the Town of Rochester, 1 Constitution Way, Rochester, MA 02770 for work on property located at the Leonard's Pond Recreational Area off Mary's Pond Road designated as Lot 9B on Rochester Assessors' Map 11. The property owner of record is the Rochester Conservation Commission, Town Hall Annex, 37 Marion Road, Rochester, MA 02770.** The applicant proposes to add dense grade gravel and regrade the existing eroding canoe/cartop boat access path to Leonard's Pond, add a proposed water bar, remove the large boulder and replace with two smaller boulders and a removable bollard to allow emergency access. The existing parking lot will be regraded to minimize runoff to the pond access path. Siltation control measures will be implemented.

Agent Farinon explained that the path to the water at Leonard's Pond is eroding and has become a sediment source. She noted that the town created a parking area a number of years ago, and installed a large boulder at the top of the access to block vehicles from backing down into the pond. She distributed photos of the site for review by Commission members.

Agent Farinon reported that she has been working with Doug Cameron from the MA Office of Fishing and Boat Access to develop a design. She explained that as per the request of the Commission, she discussed ADA accessibility with Mr. Cameron, who said they would need to alter a good portion of the wooded area.

Agent Farinon reported that Mr. Cameron recommended using dense graded natural crushed stone. For the top area, he suggested adding a 4' x 4' post in place of the proposed bollard. This would prevent access to vehicles but would allow people to walk down with a canoe or kayak. She stated they explored many options and Mr. Cameron recommended making it as simple as possible.

Member Payne asked about the proposed water bar. Agent Farinon responded it would be a berm. Vice Chairman Gagne stated a larger concern at the ramp is that people were backing vehicles down. He noted the draft plan shows a 10 feet wide opening with a removable bollard. He explained in his experience that a removable bollard becomes permanent. He suggested moving the fence closer to the water and making an opening.

Vice Chairman Gagne stated it would be difficult to install the regrade without dumping sediment into Leonard's Pond. Vice Chairman Gagne noted that dense grade has a lot of fines in it. He stated he is not sure of an alternative. Agent Farinon responded that they aren't under time constraints and can explore other options.

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Vice Chairman Gagne asked if the option of a timber walkway or deck has been explored. Agent Farinon responded that she had discussed railroad ties with Mr. Cameron. Mr. Cameron said it would be more problematic to be ADA compliant. She explained they can't make a walkway with the existing grades. Vice Chairman Gagne suggested making a walkway going perpendicular to Leonard's Pond, as opposed to parallel. Member Thompson noted it's important to look at what surface will be put on top of the wood because it can become a safety concern if moss grows.

Agent Farinon recommended that the Commission continue the Public Meeting to give time to do research.

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

**Public Hearings**

**DEP SE 272-0583 A Notice of Intent filed by John & Michelle Vinagre for property located at 7 Ginny's Drive, Rochester, MA 02770, designated as Lot 26D on Assessor's Map 26.** The applicant proposes to construct a new 40'x36' garage and associated driveway within the 100-foot buffer zone of a Bordering Vegetated Wetland. The applicant's representative is Stephen Chmiel, 14 Pleasant Street Ext, Carver, MA 02330.

John & Michelle Vinagre and their representative, Stephen Chmiel, were present. Mr. Chmiel referred to a mounted diagram. Agent Farinon distributed 11" x 17" plans to Members and reported that they were the most recent revised drawings.

Mr. Chmiel explained that the applicant submitted a Notice of Intent application for review and approval of the wetland delineation and proposed construction of a garage and associated driveway. Most of the garage and driveway are in the 100 Foot Buffer Zone to a bordering vegetated wetland.

Mr. Chmiel reviewed the construction sequence that was included in the application. Proposed work includes staking and flagging the proposed limit of disturbance, removal of vegetation and trees, installing of siltation fencing, and review of erosion controls by the Conservation Agent. They will construct a 200 foot swale, complete grading and earthwork, construct the garage, pave the driveway, and then revegetate along the driveway. Mr. Chmiel reported that they propose to install 3 placards at the limit of clearing to show a permanent boundary along the wetland buffer.

Mr. Chmiel stated the closest disturbance is 43 feet from the edge of bordering vegetated wetland. The closest portion of the garage is proposed to be 63.3 feet away from the edge of bordering vegetated wetland.

Chairman Conway noted in the project narrative it says that "The clearing contractor will make every attempt to fell all trees within the identified LOD [Limit of Disturbance]." Chairman Conway stated he would like it changed to say that no trees will be felled within the limit of disturbance. Mr. Chmiel responded that trees may need to be felled due to safety. He mentioned there was language in the narration indicating that no equipment would operate beyond the limit of disturbance and that anything that falls beyond the limit of disturbance would be removed by hand. Chairman Conway noted he has seen people take down trees near houses without dropping anything on the house and asked if they can do something similar. Mr. Chmiel responded that it could be negotiated. Mr.

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Vinagre stated they don't have a contractor yet. Chairman Conway asked if they will make sure nothing falls within the limit of disturbance, and Mr. Vinagre replied yes.

Chairman Conway noted in the project narrative it states "The applicant will conduct periodic site inspections of the siltation fence during all phases of earth disturbance activities and immediately following significant precipitation events." Chairman Conway suggested that inspections be made once a week and Mr. Vinagre agreed.

Vice Chairman Gagne asked what the distance was from the garage to the limit of clearing. Mr. Chmiel responded that it's less than 20 feet. Vice Chairman Gagne asked if there were trees that presented a potential hazard to the new garage or dwelling. Mr. Vinagre replied that the trees near the garage are smaller cedar varieties that won't be problematic.

Agent Farinon explained she had suggested changes to the plans that were incorporated into the revised plans submitted this evening, including the missing site benchmark and legend, and incorrect flag location. Mr. Chmiel also addressed concerns about stormwater from the driveway and the garage by adding a swale.

Agent Farinon distributed photos of the site to Commission members, and noted the blowdowns in the rear of the property. She suggested including the ability to remove the blowdowns during work in the Order of Conditions. Agent Farinon recommended issuing a positive Order of Conditions to allow the project to move forward with the stipulation that the project be done in accordance to the revised plan and that no trees will be felled within the limit of disturbance.

A motion to issue a positive Order of Conditions with the stipulation that the project be done in accordance to the revised plan, that no trees will be felled within the limit of disturbance, and a preconstruction meeting with the Conservation Agent be held before construction begins 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 September 17, 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.

Sarah Rosenblat, Development Manager of SWEB Development USA, LLC explained they made some revisions to the plan as requested by the Commission as follows: 1. Corrected signature date by Professional Land Surveyor (PLS); 2. Cut the Buffer Zone and wetland lines at the property line; 3. Removed the 50 Foot Buffer Zone line; 4. Cleaned up the flagging series numbering; and 5. Added note 10 which states the applicant is seeking approval of the following wetland flags: WF1 through WF4, N1 through N28, R40 through R103. The different letters show different times they went out.

Agent Farinon recommended issuing an Order of Resource Area Delineation referencing the most recent revised plan and accept it as the plan of record.

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A motion to issue an Order of Resource Area Delineation for wetland flags WF1 through WF4, N1 through N28, R40 through R103 as shown on the plan dated October 1, 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 September 17, 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 02747.

Jon Connell of SITEC, Inc. displayed a mounted revised site plan showing the wetland delineation. He explained the requested modifications were completed at the Commission’s request. The changes included adding the 100 Foot Riparian zone, site benchmark, added survey notes, and trimmed the Buffer Zone and wetland line to the property and the Town line.

Vice Chairman Gagne asked for a clarification on where they pulled the riverfront area and asked if it is the B line; Agent Farinon suggested it was the B line. After reviewing the mounted plan, Mr. Connell verified it was the B line as defined by markers 16 through 44.

Agent Farinon explained the Commission hired John Rockwell to serve as a peer review consultant on the Simpson Solar ANRAD. Mr. Rockwell did a thorough review and made substantial revisions. Agent Farinon stated the notes from the professional land surveyor were added. Agent Farinon recommended issuing an Order of Resource Area Delineation for the revised site plan last revised September 20, 2019.

A motion to issue an Order of Resource Area Delineation as shown on the most recent plan dated September 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 September 3, 2019)* **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.)*

Chairman Conway stated the applicant requested a continuance to October 15, 2019.

A motion to continue the Public Hearing to October 15, 2019 was made by Member Thompson and seconded by Member Gerrior. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

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*(Vice Chairman Gagne resumed his role in the Public Hearing.)*

**(Continued from September 3, 2019) 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.)*

Chairman Conway stated the applicant requested a continuance to October 15, 2019.

A motion to continue the Public Hearing to October 15, 2019 was made by Member Gerrior and seconded by Member Thompson. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

*(Vice Chairman Gagne resumed his role in the Public Hearing.)*

**(Continued from September 3, 2019) Reopened 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 stated the applicant requested a continuance to October 15, 2019.

A motion to continue the Public Hearing to October 15, 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).**

**Commission Business**

**Vouchers**

The following vouchers were approved for payment: The Wanderer/Leonard's Pond Advertisement: \$25.00 and Conservation Agent Mileage Reimbursement.

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**Old Business**

Chairman Conway reminded members that we have a vacancy on the Commission, and asked what is being done to find another Commissioner. Agent Farinon responded the vacancy is posted on the Town's website and suggested a press release. Member Thompson mentioned sharing the information on social media. Chairman Conway suggested asking if the information could be included in the write-up of the meeting.

**New Business**

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

Agent Farinon suggested that Members could schedule future site visits for two upcoming filings including the Old Middleboro Road project and the REpurpose Properties site. She mentioned there are two other upcoming filings that include an RDA for a property on Walnut Plain Road and another on Hartley Road for 2 small pads in the 100 feet buffer zone for a generator. There was further discussion about the Old Middleboro Road project. Vice Chairman Gagne suggested they visit the Old Middleboro Road site after they see the plans.

Chairman Conway asked if Agent Farinon had any comments on the letter from Pedro Rodriguez of Seaboard Solar dated August 22, 2019. Agent Farinon reported that Seaboard Solar is working with the National Heritage and Endangered Species Program (NHESP) because their property is in a mapped area and they will need to do turtle mitigation. Seaboard Solar will need to protect a portion of land as mitigation. In the letter, Seaboard Solar offered a Conservation Restriction (CR) to the Conservation Commission. Agent Farinon reported that she consulted with Town Counsel and it would be a conflict for the Commission to consider accepting a CR on a parcel of land that was the subject of an NOI filing before the Commission. She noted that holding a CR requires a baseline documentation report, yearly site visits and monitoring and reporting. She suggested that the local and regional land trusts may be a better option for the applicant.

**Discuss Correspondence**

Chairman Conway mentioned a letter from the Executive Office of Energy and Environmental Affairs dated September 9, 2019. The letter stated that the Town of Rochester "has been designated...as a Municipal Vulnerability Preparedness Community." Agent Farinon explained that the town is now eligible to apply for grant funding for high priority items identified in the plan. Agent Farinon noted the model used to develop the plan could be used for other planning processes such as open space planning or master planning.

**Adjournment**

The meeting adjourned at 7:59 p.m. on a motion made by Vice Chairman Gagne and seconded by Chairman Conway. **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