

**Rochester Conservation Commission  
May 19, 2020**

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

**Absent:** (none)

Laurell J. Farinon, Conservation Agent  
Tanya Ventura, Board Administrator  
Marissa Perez-Dormitzer, Recording Secretary

The meeting convened by telephone and video conference via Zoom Meeting ID: 817 0240 6264. Chairman Conway called the meeting to order at 7:01 p.m. and took attendance of Members, staff, applicants, and representatives. Chairman Conway read a message about remote participation and ground rules for the meeting. He stated the meeting was being recorded. Each presentation was limited to 10 minutes, and 3 minutes were allowed for public comment. Extra time was allotted if necessary. Chairman Conway stated that votes would be taken by roll call.

**Public Meeting**

**A Request for Determination of Applicability filed by property owner Norene W. Hartley for property located at 151 Snipatuit Road designated as Lot 31 on Rochester Assessors Map 35.** The applicant proposes to repair a failed subsurface sewage disposal system within the 100 Foot Buffer Zone of a vegetated wetland.

Brad Bertolo of J.C. Engineering, Inc. explained that the property owner is proposing to upgrade the existing septic system because it failed. There is a recently delineated vernal pool on the property as well as a separate vegetated wetland across the street. Proposed work will be done in the 100 Foot Buffer Zone of the wetland across the street. The new septic tank will be outside the 100 Foot Buffer Zone and 150 feet from the vernal pool.

Member Thompson asked what will happen to the existing system. Mr. Bertolo responded that it will be pumped out, crushed, and filled. Agent Farinon recommended issuing a negative Determination of Applicability.

A motion to issue a negative Determination of Applicability was made by Vice Chairman Gagne and seconded by Member Thompson. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**Request for Determination of Non-Significance, Repurpose Properties, Village at Plumb Corner, DEP SE 272-557 Proposed Gas Line**

Brian Wallace of J.C. Engineering, Inc. explained the final revised approved plan did not show the gas lines throughout the development, however the gas lines were included in the original plan set filed with the Notice of Intent application. He reported they were requesting a determination of non-significance to allow the gas lines to be installed. Mr. Wallace stated the work will not require additional land disturbance and the gas main will run within the proposed roadway.

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Chairman Conway asked to verify if the red lines on the drawings were gas lines. Mr. Wallace responded yes. He noted the drawings show two lines to each building. However, Eversource will likely have one line for both units of the duplex and two meters.

Agent Farinon explained the gas line layer was turned off and subsequently not on the approved plan. She stated that the gas line is a minor change and recommended that the Commission not require an amended Order of Conditions.

A motion to note the change as insignificant was made by Vice Chairman Gagne and seconded by Member Thompson. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**Public Hearings**

**DEP# 272-0589 Notice of Intent filed by David & Janet Kielty, 30 Bates Road, Rochester, MA 02770, for property located at 30 Bates Road, designated as Lot 11A on Rochester Assessors Map 9.** The applicant proposes to construct an in-ground swimming pool with a cabana, concrete deck surround, and associated site work and grading. The footprint for the proposed pool and associated work is about 3,200 S.F. at the existing single-family home, located within the Riverfront Area and Buffer Zone to the Sippican River. The applicant's representative is Richard Charon of Charon Associates, Inc., 323 Neck Road, Rochester, MA 02770. The property owners of record are David & Janet Kielty, 30 Bates Road, Rochester, MA 02770.

Richard Charon of Charon Associates, Inc. explained that the property owners propose to install an inground pool with a cabana on their property, which falls in the 200 Foot Riverfront area. There is existing stone work 85 feet from the Sippican River. Proposed work is no more than 86 feet to the river and therefore is not closer than existing structures. Mr. Charon stated there is a flood zone by the river, but the project will be well above it. They received a variance from the Board of Health related to the distance from the pool to the leaching pit. Also, there is NHESP priority habitat in the south of the lot, but the area of work is outside the priority habitat.

Vice Chairman Gagne asked if there was a reason the project could not be moved out of the Riverfront Area. Mr. Charon explained they are limited by the septic system and the grades.

Agent Farinon reported there was a minor amount of work in the inner riparian zone (0 to 100 feet). She stated the applicant included an alternatives analysis in the application addressing different scenarios. Agent Farinon shared her screen with photos of the site showing the location of the proposed pool and the trees leading to a hill sloping down to the river. Agent Farinon recommended issuing a positive Order of Conditions with the stipulation that a preconstruction meeting be held with the project contractor and to inspect the erosion control measures prior to any construction activity.

A motion to issue a positive Order of Conditions with the stipulation that a preconstruction meeting be held to meet with the project contractor and to inspect the erosion control measures prior to any construction activity was made by Vice Chairman Gagne and seconded by Member Thompson. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

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**Notice of Intent filed by property owner SEMASS Partnership 141 Cranberry Highway, West Wareham, MA 02576, for property located at 141 Cranberry Highway, designated as Lots 1 & 10 on Rochester Assessors Maps 17 and 18.** The applicant proposes tree trimming and tree removal to mitigate imminent hazard to approximately 1,500 linear feet of overhead utility lines. The overhead utility lines lie within the 100-foot wetlands buffer zone, with most within the 25-foot “no touch” wetlands buffer zone. The applicant’s representative is Paul Shamoian, Civil & Environmental Consultants, Inc., 31 Bellows Road, Raynham, MA 02767. The property owner of record is SEMASS Partnership 141 Cranberry Highway, West Wareham, MA 02576.

Paul Shamoian of Civil & Environmental Consultants, Inc. shared his screen and reviewed the site plan. He explained there are overhead fiberoptic communication cables and large pine trees along the roadway in the 25 Foot No Disturb Zone. The emergency tree trimming approved by the Commission on March 3, 2020 was completed by Barnes Tree Service on April 4, 2020.

Member Bourque asked if Mr. Shamoian was discussing a second phase of the project. Mr. Shamoian explained the filing is for an after-the-fact Notice of Intent for the work in the first phase. Member Gerrior noted that planting the trees was likely not a good idea. Daniel Peters, Senior Environmental Engineer SEMASS, agreed and mentioned they had discussed the possibility of removing all the trees. Mr. Peters noted he had discussed with Agent Farinon adding a future maintenance plan for the site. He stated in discussions with Eversource, he learned they have no plans to replace the cable. As a result, there may be a future tree trimming application to the Commission. Mr. Peters explained the trees were not maintained for an extended amount of time. Chairman Conway suggested a special condition for the Order of Conditions that requires SEMASS to issue an operation and maintenance plan or manual about how it will inspect the line of trees on a semiannual basis and submit a semiannual log to the Conservation Commission.

Agent Farinon stated there was an opportunity to permit the work already done and include future work since the Order of Conditions is for 3 years. She suggested they request a continuance and consider future inspections and trimming/tree removal to be taken care of in the next 3 years. Mr. Peters agreed.

A motion to continue the Public Hearing to June 16, 2020 was made by Vice Chairman Gagne and seconded by Member Thompson. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**DEP # 272-0591 Notice of Intent filed by Hank Ouimet Renewable Energy Development Partners, 99 Derby Street, Suite 200, Hingham, MA 02043 for property located off Pierce Street, known as Eldredge Bogs designated as Lots 8, 9A on Assessors Map 12 and Lots 6, 10D, 12, 13, and 31 on Assessors Map 13.**

The applicant proposes a two-phased project on Land in Agricultural for the creation of more efficient agricultural bypass canals in portions of the bogs and existing uplands, along with the installation of a canopy solar array over the constructed canal network. The applicant’s representative is Sarah Stearns, Beals and Thomas, Inc., 32 Court Street, Plymouth, MA 02360. The property owner of record is Peter Beaton, Bayside Agricultural, Inc., 77 Charlotte Furnace Road, West Wareham, MA 02576.

*(Vice Chairman Gagne recused himself from the Public Hearing.)*

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Sarah Stearns, Wetland Scientist, of Beals and Thomas, Inc. introduced other participants in the meeting involved in the project including Thomas Melehan and Henry Ouimet of Renewable Energy Development Partners, Iain Ward of New England Consulting Services, Inc., and Peter Beaton, property owner, of Bayside Agricultural, Inc.

Ms. Stearns explained the two-phase project is taking place on a large active cranberry bog operation. She shared her screen showing the plan set. She explained the first phase involves the expansion and modification of agricultural bypass canals which will improve the cranberry farming operation. The second phase will include the installation of a canopy solar array above the canal which will produce 1 MW. Ms. Stearns stated the project is on land in agricultural use and not near adjacent wetlands. She explained the layout of the canopy will include posts installed on the dike roads and panels placed on the posts and covering the canal. She mentioned they hope to conduct reviews with both the Commission and the Planning Board concurrently. Ms. Stearns explained they will request relief from working in the 25 Foot No Disturb Zone by proximity to cranberry bogs. She added that they have worked on a similar project in Carver.

Member Bourque noted that it appeared the elevations of the panels over the canal were 12 feet on one side and 8 feet on the other. Mr. Ouimet explained how the panels would be oriented in each section. Member Gerrior asked if they could show the Commission some examples of similar projects. Mr. Ouimet stated there are not many similar projects. Ms. Stearns pulled up a photo on her screen and explained the photo shows a section in Carver over agricultural canals. Mr. Ouimet reviewed the design. He explained the section repeats over the length of the canal and breaks where the canal turns. Member Gerrior asked about some of the positives and negatives for the shade for wildlife and vegetation. Mr. Ouimet responded that they are currently installing the Carver project and do not have solid data. He said the height of the panels allows a substantial amount of solar radiation to reach the ground which is sufficient for vegetative growth. Ms. Stearns noted the banks of the canals will be highly managed. The height allows for mowing and access to dredge the canal. She added that shading in the summer may help with cooling the water. Member Gerrior asked if the source of water is north of High Street or somewhere else. Mr. Beaton confirmed the bulk of water comes from High Street. He noted the canal system will help to keep the bogs healthy and allow the discharge of water.

Member Payne asked if they are proposing to put in a new bog access road and asked to clarify its location. Ms. Stearns explained that in some areas, the canal will be constructed in upland area adjacent to the bog and in other areas it will be constructed at the edge of existing bog. Member Payne asked if the installed road would provide sufficient footing for the solar panels. Ms. Stearns responded yes. Member Thompson asked the expected life span of the wood pilings and the plan to replace them. Mr. Ouimet stated the wood pilings have an estimated life span of 40 or more years and they don't anticipate they will need to be replaced.

Richard Cutler of 42 Woodland Road stated a concern about the eastern painted turtles in the area. Ms. Stearns responded that there are rare eastern box turtles mapped by the Natural Heritage and Endangered Species Program. She noted the portion of the property where the work is being done is outside the mapped area. Mr. Cutler stated he had seen the turtles recently. He offered to show Agent Farinon the location.

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Steven Cobb of 324 High Street stated the existing reservoir travels west of his house. He asked if there will be a reduction in the reservoir levels or any impact on the way the water moves through the reservoirs. Mr. Beaton responded that the reservoirs will not be impacted.

Agent Farinon requested that Mr. Ward speak to how the dual use projects can co-exist and what types of adaptations will be made. Mr. Ward explained that being able to release water and not risk the integrity of the bogs is helpful. He stated that the type of cranberries grown require harvesting at different times. The new canals will be positive in terms of water conservation because they will allow them to reuse water. Agent Farinon asked if special equipment is needed to maintain the canals. Mr. Ward responded no.

Agent Farinon reported that she forwarded the Notice of Intent and plans to peer review consultant Henry Nover and received a quote in the amount of \$2,500.00. Chairman Conway stated he would like to also see some time for Mr. Nover to attend meetings included in the quote. Agent Farinon suggested adding \$500 for a total of \$3,000. Chairman Conway asked the time frame for Mr. Nover to complete the review. Agent Farinon estimated that Mr. Nover could complete the review in three weeks. Member Gerrior suggested scheduling a site visit. Discussion ensued about a the timing to continue the Public Hearing. Ms. Stearns suggested continuing to the June 16, 2020 meeting to allow time for a site visit, peer review, and meeting with the Planning Board.

A motion to continue the Public Hearing to June 16, 2020 was made by Member Thompson and seconded by Member Bourque. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

A motion to hire Henry Nover for peer review for \$3,000.00 was made by Member Thompson and seconded by Member Bourque. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Members scheduled a site visit on June 6, 2020 at 9:00 a.m.

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

**For Signature**

**Minutes**

A motion to accept the minutes of May 5, 2020 was made by Vice Chairman and seconded by Member Thompson. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**New Business**

**Discuss Wetlands Protection Act Account**

Agent Farinon explained the Department of Revenue allows Commissions to establish a special revolving account to hold filing fees that can be used to administer the Wetland Protection Act. She reported that Town Administrator Suzanne Szyndlar notified her that since next year's budget will be tight due to Covid-19 shortfalls, she plans to take \$30,000 of the \$64,000 in the account. Agent Farinon noted there is more than enough for the Commission to use when purchases are needed, and the account will replenish as they receive new filings. Chairman Conway asked if action was needed and Agent Farinon responded no.

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

Members confirmed they are available to attend the next meeting on June 2, 2020.

**Adjournment**

The meeting adjourned at 8:39 p.m. on a motion made by Member Thompson and seconded by Member Bourque. Vice Chairman Gagne voted no. **The motion passed in a roll call vote of 5 in favor, 1 opposed, 0 abstained (5-1-0).**

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Marissa Perez-Dormitzer, Recording Secretary

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Michael Conway, Chairman