

**Rochester Conservation Commission  
June 2, 2020**

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

**Absent:** *(none)*

Laurell J. Farinon, Conservation Agent  
Blair Bailey, Town Counsel  
Henry Nover, Commission's peer reviewer  
Tanya Ventura, Board Administrator  
Marissa Perez-Dormitzer, Recording Secretary

The meeting convened by telephone and video conference via Zoom Meeting ID: 852 3321 3171. Chairman Conway called the meeting to order at 7:06 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. Chairman Conway stated that votes would be taken by roll call.

**Public Meeting**

**A Request for Determination of Applicability filed by property owner Sonia Amaral, 28 Snow's Pond Road, Rochester, MA 02770, for property located at 28 Snow's Pond Road designated as Lot 22 on Rochester Assessors Map 39.** The applicant proposes to remove the existing porch and replace with a 12'X27' deck on the east side of the dwelling 25 Feet from the existing cranberry bog.

Sonia Amaral shared her screen showing a diagram of the deck. She explained there were two versions of the design – one with a notch in the deck and one with a rectangular deck. Ms. Amaral noted the dwelling is currently 30 feet to the bog and the two versions are 25 feet for the rectangular deck and 27 feet to the notched deck. She stated they are proposing an east facing exit.

Member Bourque asked if it is an existing house and Ms. Amaral replied yes. Member Bourque asked what year the house was built, and Ms. Amaral said it was built in the 1990's. Member Gerrior asked if Mrs. Amaral wants to put the notch in the deck; Mrs. Amaral replied that she prefers the rectangular deck. Member Payne asked the depth of the deck's footings. Agent Farinon directed Members to the detail in their packets. Member Gerrior noted he saw five pilings and the depth would be whatever is required. Member Thompson stated he saw seven pilings. Vice Chairman Gagne asked if the area behind the house is lawn or wooded. Ms. Amaral responded that it is lawn and added that is the reason for changing the existing exit from north to east.

Agent Farinon reported that the area adjacent to the cranberry bog is comprised by lawn and a dike road, and there would be no adverse impacts as a result of the project. She recommended issuing a negative Determination of Applicability.

A motion to issue a negative Determination of Applicability for the project using the rectangular shaped deck was made by Member Thompson and seconded by Member Payne. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

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**A Request for Determination of Applicability filed by property owner Willow Creek Builders, LLC for property located at 83 Box Turtle Drive designated as Lot 76A on Rochester Assessors Map 19A.** The applicant proposes the installation of a new dwelling near, and a private well within the 100 foot buffer zone from an isolated, vegetated wetland. The only activity within the buffer zone will be clearing of a path for access to and the installation of the well. Erosion control measures (silt sock), will be implemented to mitigate any potential impacts. The proposed well is 56' from the wetland boundary.

Stephen Meltzer of Edgewood Development was present on behalf of Willow Creek Builders. He explained there were several lots in Connet Woods requiring placement of wells in the 100 Foot Buffer Zone due to geometry and the minimum required distance from the well to the septic system. Mr. Meltzer shared his screen showing Lot 76A. Mr. Meltzer stated he was seeking a negative Determination of Applicability with the condition that a silt fence be installed, and additional mitigation measures requested by the Commission.

Member Thompson asked what vegetation they will be cutting down to reach the well. Mr. Meltzer responded that they will not be cutting much since it is at the beginning of a wooded area. Member Gerrior asked how it has worked for other homes in the same situation. Mr. Meltzer responded that they have not had any issues. He mentioned that 6 or 8 of the 80 completed lots have had the same situation. Vice Chairman Gagne asked why the well cannot be moved southwest 25 feet to get it out of the trees. Mr. Meltzer responded that it will be too close to the septic system on an adjoining lot. He explained he worked with engineers to figure out the best locations in relation to other wells, buffer zones, and septic systems.

Agent Farinon shared her screen showing a photo of the area with the vegetation. She stated she had similar concerns as Vice Chairman Gagne. However, due to geometry and setbacks, they are forced into the proposed location in the 100 Foot Buffer Zone. Agent Farinon recommended a negative Determination of Applicability.

A motion was made to issue a negative Determination of Applicability 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).**

**A Request for Determination of Applicability filed by property owner Willow Creek Builders, LLC for property located at 13 Horse Neck Road designated as Lot 73A on Rochester Assessors Map 19A.** The applicant proposes the installation of a new dwelling near, and a private well within the 100 Foot Buffer Zone from an isolated, vegetated wetland. The only activity within the buffer zone will be clearing and creation of a path for access to and the installation of the well. Erosion control measures (silt sock), will be implemented to mitigate any potential impacts. The proposed well is 58' from the wetland boundary.

Mr. Meltzer shared his screen showing a diagram of the lot. He reported the limit of the existing tree line will be moved back. He stated the company they work with will do a good job installing the well with minimal disturbance.

Member Thompson asked how much the tree line will be moved. Mr. Meltzer responded that there will not be additional disturbance because they will not be grading or clearing outside the 100 Foot Buffer Zone. Member Thompson asked if the path to the well already exists and if it is sufficient for

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the equipment. Mr. Meltzer responded that the path does not exist, but they can get their equipment out there with minimal disturbance. Member Thompson asked if they propose to do any cutting. Mr. Meltzer responded that they can work around the existing trees. Vice Chairman Gagne noted the plan shows clearing in the buffer zone with the proposed limit of clearing line.

Vice Chairman Gagne asked if the well can be shifted east and out of the buffer zone. Mr. Meltzer responded that it cannot because of the location of the well on the property next door. Vice Chairman Gagne asked for the separation needed between two wells. Mr. Meltzer said he did not know. After providing another suggested location, Vice Chairman Gagne stated he thought they could locate the well out of the 100 Foot Buffer Zone or they should provide a reason why they cannot. Mr. Meltzer responded that he could ask the engineer to take another look at it. He noted he had asked the engineer to place the wells outside the 100 Foot Buffer Zone whenever possible. Town Counsel Bailey asked if they could show that they cannot locate the well outside the buffer zone due to setbacks. Mr. Meltzer responded that it is a complicated process of triangulations. He stated he can request a letter from the engineer indicating the selected location is the only possible location on the lot.

Agent Farinon shared her screen showing two photos of the site. She noted the site is fairly wooded with not much underlying vegetation. In response to a question from Member Thompson, Mr. Meltzer shared his screen with a plan of the development. Member Thompson suggested it would be helpful if the plan includes well and septic locations of adjacent lots. Mr. Meltzer responded that he will provide the requested additional information.

A motion for a continuance 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).**

**Public Hearings**

***(Continued from May 5, 2020)*** DEP SE 272-0591 Notice of Intent filed by Greg Carey of Rochester MA 4, LLC c/o Clean Energy, 27B Midstate Drive Suite 106, Auburn, MA 01501, for properties located at 139 Sarah Sherman Road, designated as Lot 8C, Lot 8L and 13 on Rochester Assessors Map 28. The applicant proposes to install a large-scale ground mounted photovoltaic solar array on portions of Assessor's Map 28 Lot 8C and an access drive through portions of Map 28 Lot 13 and 8L off of Sarah Sherman Road. Proposed work within the 100 Foot Buffer Zone of a bordering vegetated wetland includes removal of an existing farm building, tree clearing, and construction of roadway, solar array, equipment, and energy storage pads. Siltation control measures will be implemented. The applicant's representative is Evan Watson of Prime Engineering, Inc., P.O. Box 1088, Lakeville, MA 02347. The property owner of record is William Souza, 139 Sarah Sherman Road, Rochester, MA 02770.

Chairman Conway reported that the applicant requested a continuance to June 16, 2020 to work on compiling the requested information by the Commission.

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).**

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***(Continued from April 21, 2020)* DEP SE 272-0587 A Notice of Intent was filed by Steen Realty & Development Corp., 3 Ledgewood Boulevard, Dartmouth, MA 02747 for properties located at 22 Cranberry Highway, designated as Lots 41C and 50 on Rochester Assessors Map 17.**

The Notice of Intent application is for work located entirely within the 100 Foot Buffer Zone to a wetland resource area located at 22 Cranberry Highway in Rochester. The scope of work includes associated grading and drainage outfall installation associated with the development of 208 residential units and commercial space within the Cranberry Highway Smart Growth Overlay District. A majority of the work will occur within previously altered/disturbed areas. Minor grading will occur within the Town of Rochester's 25-ft No Disturb Zone which is associated with the installation of the rip rap apron from the outlet pipe.

Phil Cordeiro of Allen & Major Associates, Inc. reported he provided a summary of the changes to the plans at the last meeting including the following:

1. They adjusted the flared end pipe into the drainage system that had previously required a waiver because it encroached into the 25 Foot No Touch Zone.
2. They relocated a dumpster away from the wetlands and outside of the 100 Foot Buffer Zone.
3. Adjustments were made to the wetland delineation.

Mr. Cordeiro stated they resubmitted the plans to the Commission with the above changes. They also provided comments in response Mr. Nover's peer review report. They are awaiting Mr. Nover's comments on their submittal. Mr. Cordeiro reported they are also awaiting peer review comments from the Planning Board's peer reviewer.

Mr. Nover, who was present, reported he had not had a chance to review the applicant's submittal in detail. He stated he has questions about the mounding analysis, and that some of the information conflicts within the charts presented. He stated he will provide comments in writing to the Commission.

Vice Chairman Gagne asked Mr. Cordeiro to reference the changes made to plans. Mr. Cordeiro shared his screen showing the plan and pointed out the changes previously mentioned. He also noted that an existing greenhouse building will be relocated to the rear of the property. Vice Chairman Gagne asked if there is a retaining wall; Mr. Cordeiro responded yes. He explained it is a short height retaining wall with two feet of buffer to allow silt sacks and protective barriers. Vice Chairman Gagne asked the height of the retaining wall; Mr. Cordeiro responded it is 4 feet high.

Chairman Conway asked how many items were not final designed and how they might impact the wetlands. Mr. Cordeiro responded that the buildings were not final designed. However, he said it will not change the application. Chairman Conway asked Mr. Nover when he will complete his review; Mr. Nover responded by the end of the week.

Agent Farinon recommended being conservative with continuances and allowing for enough time for the engineer to respond with changes in advance of packet deadlines.

A motion to continue the Public Hearing to July 7, 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).**

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**Commission Business**

**Minutes**

A motion to accept the minutes of May 19, 2020 was made by Member Thompson and seconded by Member Bourque. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**Vouchers**

Agent Farinon explained that peer review escrow accounts were set up for each project listed and invoices are taken from that account. Account balances accrue interest until the Commission votes to refund the balance. She recommended that the Commission refund the following balances plus interest.

Shawmut Associates LLC- \$52.99; Repurpose Properties LLC 2 - \$36.39; Repurpose Properties Drainage – \$1,074.80; Seaboard Solar Operations, LLC – \$1,038.81; SWEB Development - \$509.97; SITEC, Inc. - \$1,600.57; SunRaise Featherbed Lane - \$1,148.08, SunRaise Snipatuit Road - \$2,086.47

A motion to allow Chairman Conway to be signatory on the reimbursements was made by Member Thompson and seconded by Member Bourque. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Agent Farinon reported another invoice as follows:

Henry Nover Invoice for Sara Sherman Road Peer Review – DEP SE 272-590; \$1,500

A motion to pay the \$1,500 invoice submitted by Mr. Nover for DEP SE 272-590 was made by Member Thompson and seconded by Member Payne. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**Old Business**

Agent Farinon reported that Greg Carey of Clean Energy Collective requested that the Commission would consider scheduling a site visit prior to the meeting on June 16, 2020. Members decided to hold off on the site visit until the project is further along.

**New Business**

**Discuss Correspondence**

Agent Farinon reported receiving a letter from Mr. Robert Liffers about the installation of a culvert at his cranberry bog on Forbes Road with funding through a grant from the United States Department of Agriculture. In the letter, Mr. Liffers indicated he considers the work a maintenance activity and does not require a filing with the Commission. Agent Farinon reported that she will work with Mr. Liffers to determine if the project is exempt and will request any information that is needed for the assessment in addition to the sketches he provided.

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Agent Farinon mentioned a recent court decision in the case of Mr. Richard G. Reynolds and Lillian B. Reynolds vs. the Town. She explained that Mr. Reynolds complained to the Town about water travelling from Braley Hill Road onto his property. Jeff Eldridge, Highway Surveyor, had tried to help and made some improvements. Over the years, Mr. Reynolds was not happy and sued the town. In the recent decision, the Town prevailed.

Agent Farinon spoke about a letter from the Old Colony Planning Council, Southeastern Regional Planning & Economic Development District, and the Metropolitan Area Planning Council to State Representative Carole Fiola regarding the new flood plain maps that are effective July 17, 2020. Agent Farinon reported that many communities have been unable to hold town meetings to pass the revised Zoning By-Law Amendment with the new maps. However, Rochester has scheduled a Town Meeting on June 22, 2020 and the Town is on schedule to vote on adopting the new maps and revised by-law.

**Adjournment**

The meeting adjourned at 8:35 p.m. on a motion made by Vice Chairman Gagne and seconded by Member Bourque. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

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Marissa Perez-Dormitzer, Recording Secretary

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Michael Conway, Chairman