

**Rochester Conservation Commission
June 16, 2020**

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

Absent: Kevin Thompson

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

The meeting convened by telephone and video conference via Zoom Meeting ID: 895 2755 2092. 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. Chairman Conway stated that votes would be taken by roll call.

DEP SE 272-0526 A Request for a Certificate of Compliance was made by Schneider, Davignon, & Leone, Inc. on behalf of James Fraser & Katherine Hanson, for work completed on 361 Snows Pond Road, designated as Map 40, Lots 8 & 9

N. Douglas Schneider of Schneider, Davignon, & Leone, Inc. reported the small workshop area and wetlands restoration area were completed.

Chairman Conway asked Mr. Schneider to point out the location of the studio on the plan. Mr. Schneider shared his screen showing the plan and pointed out the studio.

Agent Farinon reported she visited the property and found everything satisfactory. Deviations from the plan detailed by Mr. Schneider include the following:

1. The deck and stairs were reconfigured and reduced in size.
2. Grading was reduced by the installation of a small retaining wall and landscaped area.
3. The stone walk was installed to provide level and defined access to the rear lower level.
4. The propane tank was relocated.

Agent Farinon recommended issuing a Certificate of Compliance to James Fraser and Katherine Hanson at 361 Snows Pond Road under DEP SE 272-0526.

A motion to issue a Certificate of Compliance for DEP SE 272-526 was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Public Meetings

(Continued from June 2, 2020) A Request for Determination of Applicability filed by property owner Willow Creek Builders, LLC for property located at 13 Horse Neck Road designated as

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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.

Stephen Meltzer of Edgewood Development was present representing the applicant Willow Creek Builders. He explained the engineer reviewed the location of the well to see if it could be moved out of the wetlands buffer, as requested by the Commission. He reported they were not able to locate the well outside the buffer, but they were able to move it 10 additional feet away from the wetland boundary. He stated the engineer certified that this was the only place to locate the well.

Chairman Conway noted the engineer's statement did not indicate the lot number. Mr. Meltzer responded that he would ask the engineer to resubmit the letter.

Agent Farinon recommended that the Commission issue a negative Determination of Applicability for the proposed well, so that a Notice of Intent filing is not required.

A motion to issue a negative Determination of Applicability was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Public Hearings

***(Continued from May 19, 2020)* DEP# 272-0592 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.

Chairman Conway reported that the applicant requested a continuance to July 7, 2020 to allow time to get funding approved to revise the Notice of Intent application.

A motion to continue the Public Hearing to July 7, 2020 was made by Vice Chairman Gagne and seconded by Member Bourque. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

***(Continued from May 19, 2020)* 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

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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.)

The following were present in the videoconference: Sarah Stearns, Wetland Scientist of Beals and Thomas, Inc., 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 reported that Commission Members conducted a site visit on June 6, 2020. She stated she received the peer review comment letter from Henry Nover the day before and will address the comments shortly.

Agent Farinon thanked the Eldredge Bogs team and Peter Beaton for their presentation at the site visit, which was very productive. She recommended that the Commission continue the Public Hearing.

A motion to continue the Public Hearing to July 7, 2020 was made by Member Payne and seconded by Member Bourque. **The motion passed in a roll call vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

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

***(Continued from June 2, 2020)* DEP SE 272-0590 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

The following were present in the videoconference: Greg Carey of Clean Energy Collective, Jay Myrto of Clean Energy, Stephen Campbell of Navisun LLC, and Richard Rheame and Steve Kohm of Prime Engineering, Inc.

Mr. Carey reported he received a peer review letter from Henry Nover and they have addressed the comments and submitted revised information including revised plans.

Mr. Carey explained that Chris Capone, a wetland consultant, marked the boundaries of two vernal pools and filed a report. The vernal pools were field surveyed and have been added to the plan. Mr. Capone, who was present, stated the vernal pool limits are at the limits of the resource area. He

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reported that he delineated two vernal pools - the A and B series – while the C-series is considered a pond.

Vice Chairman Gagne stated the definition of vernal pool habitat includes an area within 100 feet of the mean annual boundaries. He asked if they were working within the 100 feet. Mr. Capone replied that they are working within the 100 feet because the vernal pool limit is at the wetland boundary. He added that vernal pools are not considered resource areas under the regulations.

Chairman Conway asked if they had received a second response from Mr. Nover and Mr. Carey responded no. Chairman Conway asked why the abutter's list was not certified. Mr. Carey responded that he would ask Prime Engineering to address the issue.

Agent Farinon stated she received the revised plans and there are still items to be addressed. She noted the existing agricultural pond is shown as bordering vegetated wetland and needs to be corrected. There is a significant amount of cutting up to the 25 Foot No Disturb Zone. Agent Farinon reported that after the Commission's comments at the last meeting, she had expected to see the work backed away from the 25 Foot No Disturb Zone. They are proposing to cut trees to the edge that are 60 to 80 feet in height. The applicant will need to prove that the hydrology and temperature regimes within the vernal pool will not be altered.

Regarding Mr. Capone's assessment, Agent Farinon agreed that according to the MA Wetlands Protection Act regulations, the vernal pool habitat stops at the edge of the wetland resource area. She noted the Commission can still ask for documentation that the resource area will not be altered. She reported that she made a site visit to reviewed Mr. Capone's flagging of the limit of vernal pools in the field that were certified in 2002 in a project with the Lloyd Center. Agent Farinon shared her screen showing an aerial view and pointed out the vernal pool. She also showed a sketch from the certification form and noted there is an open water area that Mr. Souza reported excavating, deepening and adding fish. Agent Farinon stated that vernal pools technically should not support a fish population. She noted the biologist focused on an area that is the boundary between open water and an area where egg masses from wood frogs were found. Typically, vernal pools hold water seasonally and then are dry throughout the rest of the season. This ponding holds water year-round.

Agent Farinon stated the area of concern is a fingerlike projection in the northwest area in the location of the two equipment pads. In response to a question from Mr. Kohm, Agent Farinon clarified that she was speaking about the larger vernal pool which is the B-series. Mr. Capone stated he agreed with Agent Farinon's interpretation. He noted the A and B-series are connected and there are likely fish in part of the B-series. He stated the A-series dries up more than the other areas.

Agent Farinon asked the applicant to bring up the portion of the design in the location of the two critical areas – fingerlike projection B7 through B12 and the A-series. Mr. Kohm shared his screen showing the wetland boundary. Mr. Carey stated he had discussed with Agent Farinon ways to reduce impacts. One suggestion was to move the two equipment pads away from both vernal pools.

Richard Rheume reported the vernal pools are supported by the groundwater table and that most vernal pools in Massachusetts have surface runoff contribution. He explained that because the water comes from groundwater it will help at not increasing the temperature.

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Mr. Carey requested that a site visit be scheduled.

A motion to continue the Public Hearing to July 21, 2020 was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Commission Business

For Signature

Minutes

A motion to accept the minutes of June 2, 2020 was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Vouchers

The following vouchers were included in the meeting agenda for approval:
Shawmut Associates, LLC; \$53.02, Repurpose Properties; \$1,111.80, Sitec, Inc.; \$1,600.00, SWEB Development USA, LLC; \$510.25, Seaboard Solar Operations, LLC; \$539.35, SunRaise Investments, LLC; \$3,236.32.

A motion to ratify the signature on the vouchers was made by Vice Chairman Gagne and seconded by Member Bourque. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Agent Farinon recommended payment on two invoices from Henry Nover for work done on Eldredge Bogs renewable energy project (DEP SE 272-591) in the amount of \$1,500.00 and the 40R project from Steen Realty (DEP SE 272-587) in the amount of \$1,500.00.

A motion to pay the invoices was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Old Business

Agent Farinon reported she reached out to Lisa Petruski of the National Resources Conservation Service regarding a proposed agricultural project by Mr. Robert Liffers. The project will eliminate the flow through of water directly through the bogs, which is not ideal from a water quality standpoint. Agent Farinon stated that one of the engineers is finalizing the design and will forward it when ready.

New Business

Confirm member availability for future site visits and meetings

All members present confirmed they can attend the next meeting. Members agreed to a site visit on July 14, 2020 at 6:00 p.m. at 139 Sarah Sherman Road.

Adjournment

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The meeting adjourned at 8:10 p.m. on a motion made by Vice Chairman Gagne and seconded by Member Bourque. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Marissa Perez-Dormitzer, Recording Secretary

Michael Conway, Chairman