

Rochester Conservation Commission

April 20, 2021

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

Absent: *(none)*

Laurell J. Farinon, Conservation Agent
Marissa Perez-Dormitzer, Recording Secretary

The meeting convened by telephone and video conference via Zoom Meeting ID: 821 9850 0722. Chairman Conway called the meeting to order at 7:00 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 Meetings

Request for Determination of Non-Significance was made by Erica Rochefort of Bohler Engineering Regarding a Proposed Relocated Ancient Way in the northwest Portion of Site, Old Middleboro Road, Proposed Solar Array, Order of Conditions Issued to Seaboard Solar under DEP SE – 272-567

Austin Turner of Bohler Engineering introduced himself and Tom Gadomski from Agilitas Energy. He explained there had been discussion at a prior meeting about an adjustment to the relocation of the existing ancient way and Commission Members preferred to avoid expanding the limit of work closer to the edge of wetlands. He reported they were able to accommodate the existing ancient way path by relocating the outlet for the nearby stormwater basin. He noted that Agent Farinon had suggested seeking the Planning Board's opinion in advance and they agreed with the approach. Mr. Turner shared his screen showing the site plan. He pointed out the existing ancient way and stated that moving the outlet would not change how the basin functioned.

Agent Farinon asked if there would be additional cutting of vegetation beyond what was approved on the plan of record: Mr. Turner replied no. She recommended that the Commission determine the change as non-significant.

A motion for a Determination of Non-Significance was made by Member Gerrior and seconded by Member Payne. **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 was filed by Robert Chase, Manager; Calodesu LLC, 6 Costa Drive, Fairhaven, MA 02719, for property located at 180 New Bedford Road for property designated as Rochester Assessors Map 2, Lot 1A. The applicant seeks approval to install a water line from the town water main in New Bedford Road to the existing dwelling within the 100 Foot Buffer Zone to a bordering vegetated wetland in the eastern portion of the site. Siltation control measures will be implemented.

*(Chairman Conway recused himself from the Public Meeting.
Vice Chairman Gagne took over running the meeting.)*

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Rick Charon of Charon Associates, Inc. explained they had planned to bring town water to the house from a line they thought extended beyond the dwelling, but found that the existing water line ends just over the property line. They revised the plan to connect to the dead-ended water line in New Bedford Road, which requires running a water line through the 100 Foot Buffer Zone to the existing dwelling through the driveway. He noted the existing on-site well will be used only for irrigation.

Agent Farinon shared her screen showing photos of the site. She recommended that the Commission issue a negative Determination of Applicability, with the stipulation that erosion control barriers be installed as noted on the plan.

Vice Chairman Gagne asked if any trees will need to be removed. Mr. Charon responded no and added that minor brush on the side of the driveway would be removed.

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

(Chairman Conway resumed running the meeting.)

A Request for Determination of Applicability was filed by Thomas Lewis of TEC Associates, 46 Sawyer Street, South Portland, ME 04106 for property designated as 0 County Road, Rochester Assessors Map 17, Lot 7. The applicant seeks to confirm the extent of wetland boundaries along the Massachusetts Coastal Right-of-Way in Rochester from Middleborough to Wareham. The property owner of record is Massachusetts Coastal Railroad, 12 Harding Street, Suite 201, Lakeville, MA 02347.

Thomas Lewis of TEC Associates explained they were required to submit a Request for Determination of Applicability as part of their five-year vegetation management plan. He reported they did a field review and made some changes. He noted he had not yet sent the updated maps to Agent Farinon.

Agent Farinon shared her screen showing several photographs of the site visit. She explained that she and Member Gerrior traveled the rail line to review the limit of wetlands with Mr. Lewis. One photo showed the plates that are used to indicate when spraying should start and stop. Other photos showed the vehicle used for spraying and a nearby open water body. Agent Farinon recommended that the Commission wait until the revised drawing is submitted so the application is complete.

Vice Chairman Gagne asked if he was missing plans. Agent Farinon responded that the submitted sketch is a highlighted USGS Topographic Locus Map. Mr. Lewis shared his screen showing a map that was a schematic representation of what was marked on the ground. Vice Chairman Gagne noted the map did not look like a request to confirm boundaries of a resource area. Mr. Lewis responded that the Massachusetts Department of Agricultural Resources had approved that maps at 1:25,000 scale as appropriate. Chairman Conway asked for a citation and Mr. Lewis explained they had a Superseding Determination from the Massachusetts Department of Environmental Protection (MassDEP). Chairman Conway asked Mr. Lewis to forward the determination to the Commission. Vice Chairman Gagne noted there are communities (like Rochester) that have their own wetlands bylaws. Mr. Lewis responded that municipalities did not have the authority to impose additional

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restrictions. Vice Chairman Gagne noted the applicant is asking the Commission to confirm the wetland boundary and determine whether the resource areas depicted on the plan are accurately delineated. However, there is no survey information. Mr. Lewis responded that they traversed the whole length of the right of way in the town and verified the information in the field. Vice Chairman Gagne asked if it was done by a professional land surveyor and Mr. Lewis responded no. Vice Chairman Gagne stated there was not enough information to determine if it was done accurately.

Member Gerrior stated he went on the site visit and reported that Agent Farinon and he viewed the line and moved many markers to add no spray zones. He noted Mr. Lewis was very responsive to their concerns.

Vice Chairman Gagne noted that other applicants with similar filings are required to survey. Mr. Lewis responded that the railroad is under a different set of laws and oversight. He explained the Department of Agricultural Resources relies on local Conservation Commissions to confirm the location of the resources. Chairman Conway stated it would be helpful to see the regulations. Mr. Lewis noted he would forward the Superseding Determination that explained the situation. Agent Farinon recommended continuing to May 4, 2021. Mr. Lewis agreed.

A motion to continue to May 4, 2021 was made by Member Gerrior 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 Certificate of Compliance was filed by Rochester MA 2, LLC, 111 Speen Street, Suite 410, Framingham, MA 01701 for an Order of Conditions approving a ground-mounted photovoltaic solar array under DEP SE 272-530 at 248 Mattapoissett Road designated as Map 4, Portions of Lots 1, 1A and 7. The property owners of record are Michael and Johann Forand. The original Order of Conditions was issued to Clean Energy Collective of Worcester, MA and last amended May 4, 2018. The applicant's representative is Richard Rheume, P.E. of Prime Engineering, Inc.

Spencer Lynds of Prime Engineering, Inc. stated that Richard Rheume, P.E. of Prime Engineering, Inc. submitted a letter to the Commission on March 19, 2021 verifying the work was completed in accordance with the plans and the Order of Conditions. Mr. Lynds reported that he conducted an inspection of site and found that all temporary and permanent BMPs for stormwater were in working order.

Agent Farinon asked if the plans submitted with the Request for Certificate of Compliance were as-built plans. Mr. Lynds responded that they do not have as-built plans for the site. Agent Farinon stated the Commission had requested as-built plans. She shared her screen showing photos of the site with the solar array in place. Agent Farinon stated she was confident that the site was well stabilized. There was further discussion about the as-built plans and Mr. Lynds noted he would continue and come back with the as-built plans.

Vice Chairman Gagne asked if there were any other field changes beyond what was shown in in the revised plan. Mr. Lynds replied that he was not aware of any changes. Chairman Conway stated that the letter from Mr. Rheume did not comply with the requirements of the form used to request the Certificate of Compliance. He requested a corrected letter. Agent Farinon noted the incorrect address was used in the form and the map and lot numbers were missing. She asked Mr. Lynds to

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correct and resubmit the form. Chairman Conway asked if Mr. Lynds wanted to continue to May 4, 2021, and Mr. Lynds responded he preferred to continue to May 18, 2021.

A motion to continue to May 18, 2021 was made by Member Gerrior 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 March 2, 2021)* DEP SE # 272-0603 A Notice of Intent filed by Ryan Correia, 91 Sarah Sherman Road, Rochester, MA 02770 for property on 0 Mendell Road, designated as Lot 2E on Rochester Assessors Map 30.** The applicant proposes the construction of a single-family home with associated grading, landscaping, and utilities within 100' of bordering vegetated wetlands. All disturbed areas are to be loamed and seeded upon completion. The applicant's representative is Nyles Zager of Zenith Consulting Engineers, LLC, 3 Main Street, Lakeville, MA 02347. The property owner of record is M&K Realty Services, 10 Parsons Walk, Raynham, MA 02767

Member Gerrior disclosed that his father did some work for Mr. Correia, but he himself did not, so he was not recusing himself.

Nyles Zager of Zenith Consulting Engineers, LLC stated there was a concern about the wetland line. He explained that wetland scientist Steve Chmiel visited the property and made major changes to the original wetland line that Agent Farinon disagreed with.

Agent Farinon reported that she visited the site and agreed with the revised delineation by Mr. Chmiel. She pointed out a site plan in the Members' packets that showed the difference between the two lines. Mr. Zager reported they were able to pull the work limit closer to the back of the home and keep all the work outside the 25 Foot No Disturb Zone. He stated they proposed a silt sock at the limit of work, and a split-rail fence to demarcate the limit of work and yard. Vice Chairman Gagne noted the grade dropped quickly at the back of the house and asked if there would be any grading: Mr. Zager replied no.

Agent Farinon recommended that the Commission issue a positive Order of Conditions with the stipulation that erosion control barriers be installed and reviewed and approved in the field prior to any construction activity, and that the split-rail fence be installed as shown on the plan.

A motion to issue a positive Order of Conditions with conditions stated by Agent Farinon was made by Member Gerrior and seconded by Member Thompson. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

***(Continued from April 6, 2021)* DEP SE# 272-0605 A Notice of Intent filed by William Clapp, P.O. Box 67, Rochester, MA 02770, for property located on 0 Clapp Road, designated as Lot 2B on Rochester Assessors Map 30.** The applicant proposes to construct a 2-story 4-bedroom single family dwelling with a walk-out basement and drive-under garage within the 100 Foot Buffer Zone of a bordering vegetated wetland. The proposed project provides the 25 ft. No Disturb Zone as required by the Wetland By-Law and proposes 3' boulders to be placed 8' on center as a permanent barrier for the future protection of the wetland. The applicant's representative is David Davignon of Schneider, Davignon, & Leone, Inc., 1 County Road, P.O. Box 480, Mattapoisett, MA

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02739. The property owner of record is Estate of Raymond W. Clapp c/o William Clapp, P.O. Box 67, Rochester, MA 02770.

William Clapp and David Davignon of Schneider, Davignon, & Leone, Inc. were present. Mr. Davignon explained at the last meeting Agent Farinon suggested continuing to allow time to identify trees located in the 25 Foot No Disturb Zone that were potential fall hazards to the proposed dwelling. Mr. Davignon stated he submitted a revised plan and was looking to close the Public Hearing.

Agent Farinon reported she met with Mr. Clapp in the field and they identified seven trees that were potential fall hazards: the trees have been added to the plan. She recommended that the Commission issue a positive Order of Conditions with the stipulation that work be done in accordance with the plan and erosion control measures be inspected prior to construction activity.

A motion for a positive Order of Conditions as stated by Agent Farinon was made by Member Gerrior 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 SE# 272-0606 A Notice of Intent filed by Bendrix Bailey, 34 Gerrish Road, Rochester, MA 02770, for property located at 0 Gerrish Road, designated as Lot 29F on Rochester Assessors Map 43A. The applicant seeks approval to construct a 700-foot long roadway to access a single-family house lot. Proposed work within the 100 Foot Buffer Zone to a bordering vegetated wetland consists of site clearing, construction of a 20' wide 700-foot long recycled asphalt roadway, site grading and construction of a water quality basin. The property owner of record is Edgewater Bog Realty Trust, 34 Gerrish Road, Rochester, MA 02770. The applicant's representative is Brian Grady of G.A.F. Engineering, Inc., 266 Main Street, Wareham, MA 02571.

Bendrix Bailey, Brian Grady of G.A.F. Engineering, Inc., and Brad Holmes of Environmental Consulting & Restoration were present. Mr. Grady provided a summary of the project. He shared his screen showing the plan set and pointed out the delineation and the buffer zone. He stated they would keep all work outside the 25 Foot No Disturb Zone. Mr. Grady noted they are providing a water quality basin with a riprap spillway even though it was exempt.

Agent Farinon noted that she needs to review the wetland delineation, and she recommended that the Commission visit the site.

Vice Chairman Gagne asked what was the separation to groundwater. Mr. Grady responded the distance from the bottom of the basin to groundwater was in excess of 2 feet. Vice Chairman Gagne noted that with the grading of Longbow Lane, the proposed driveway, the water crossed the road. He asked if the water could be pushed in the other direction so it was not crossing the road. Mr. Grady responded that the water would come back to the other side of the road and to the water quality basin. Chairman Gagne suggested looking at it so the water did not cross the road.

Chairman Conway asked to confirm they were discussing Map 43A Lot 29F and Mr. Grady replied yes. Chairman Conway asked if the lot bordered Gerrish Road. Mr. Grady replied that there was frontage on Gerrish Road and noted it was just under 80 feet. Chairman Conway noted that on the certified abutter's map, there was a different lot indicated as Map 43A Lot 29F and asked which was correct. Mr. Grady responded that they assigned lot numbers on the Approval Not Required plan that created the other lots. The Board of Assessors will later assign the final lot numbers and

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that was the cause for the discrepancy. Mr. Grady stated he was referring to Lot 29B. Chairman Conway pointed out that material sent on April 9, 2021 regarding the MassDEP file number indicated the address was in Wareham. Mr. Grady responded it was a typographic error by DEP SERO.

Jeff Perry, 12 Bishop Road, stated that in their cover letter G.A.F. Engineering, Inc. indicated the 700 feet roadway would access a single-family lot. In the Notice of Intent form, there was a box for single-family home that was not checked. Mr. Perry asked if the intent was for a single-family home or for a small subdivision. Mr. Grady responded that the intent is to access a single-family house lot. He explained that in the question related to a stormwater exemption, he checked the box for a subdivision because it falls under the Planning Board's jurisdiction as a subdivision. Mr. Perry asked to clarify the drainage easement which is shown for all properties on the abutting side of Bishop Road on the plan but only for Lot 31 on a plan for Snipatuit Estates. Mr. Grady responded that the easements shown on the plan were recorded on plans at the Registry of Deeds. Chairman Conway asked if they were Town easements. Mr. Grady responded that the Town had responsibility for maintaining a pipe coming from Bishop Road. Vice Chairman Gagne asked if an existing concrete headwall was associated with the drainage easement. Mr. Grady noted the pipe should have fallen within the easement but was constructed outside the easement. However, it was still the Town's responsibility. Vice Chairman Gagne asked if they intended to have an easement associated with the pipe and the drainage area on the parcel being discussed. Mr. Grady responded yes and noted it will be addressed through the Planning Board.

Colman Lalli, 16 Bishop Road, stated the existing drainage easement was not in his deeds. Bob Mogilnicki, 20 Bishop Road, noted there was no explanation on the form previously mentioned why the project was exempt from the stormwater requirements. Mr. Grady replied that the form continued to the next page where the box referring to the Small Residential Subdivision was checked. He added that the access was for one single-family dwelling. Mr. Mogilnicki asked if it could be later changed. Mr. Grady repeated that the application was for one single-family dwelling.

Bino John, 14 Bishop Road, stated it would best to have an independent engineering firm verify the runoff estimates since the project would affect many people. Chairman Conway responded that the Commission had not decided yet and they will first do a site visit of the property.

Agent Farinon stated she will review the wetland delineation in the field. She recommended that the Commission schedule a site visit prior to the next hearing. She reported the Planning Board will be meeting on the project on May 11, 2021. She suggested continuing until at least May 18, 2021. Mr. Grady agreed.

A motion to continue to May 18, 2021 was made by Member Thompson and seconded by Member Gerrior. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Later in the meeting, Ruth Lissak, 15 Gerrish Road, asked if the site visit would be open to the public. Agent Farinon stated it will be up to the property owner whether to allow visitors on his property. Chairman Conway suggested that Ms. Lissak contact the property owner. Paul Renaud, 27 Gerrish Road, asked if Mr. Bailey would allow members of the public to join the site visit and Chairman Conway suggested contacting Mr. Bailey directly.

Commission Business

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For Signature

Minutes

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

Old Business

Discuss Board Administrator and Recording Secretary Positions

Agent Farinon reported the job advertisements were posted for the Board Administrator with a deadline of April 30, 2021 and the Recording Secretary with a deadline of May 14, 2021. She noted that she and the Town Planner will review the applications and conduct initial interviews via Zoom.

Discuss Conservation Agent Position

Agent Farinon reported the Conservation Agent position had been advertised with a deadline of May 14, 2021 for submittal of resumes. She reviewed the process of filling the position. She explained a selection committee will be formed and will include Chairman Ciaburri of the Board of Selectmen. Member Bourque, Member Gerrior, Member Thompson, and Member Payne expressed interest in being on the selection committee.

New Business

Chairman Conway asked if there was an update on the Snipatuit Road solar project. Agent Farinon reported she had a meeting via Zoom with Eric Las of Beals and Thomas, Inc. and Joe Harrison of SunRaise Investments where they discussed the environmental impacts of widening the access roadway. Beals and Thomas is looking at areas for replication to minimize disturbance. Agent Farinon noted they are finalizing the substantial plan revisions and alternatives analysis and will resubmit. A new public hearing will be advertised and abutters notified of the revised filing.

There was brief discussion about a letter submitted by Vincent and Patricia Ryan regarding a property they own being transferred to their daughter. Chairman Conway stated that typically the Commission makes a recommendation to the Board of Selectmen. Agent Farinon replied that it was not needed because there was not a change in use.

Confirm member availability for future site visits and meetings

Members agreed to a site visit at 34 Gerrish Road on May 2, 2021 at 9:30 a.m. Mr. Bailey provided guidance on how to access the site.

Vice Chairman Gagne stated he was not available for the meeting on May 18, 2021. Remaining Members were available for the meeting on May 18, 2021.

Adjournment

The meeting adjourned at 8:43 p.m. on a motion made by Member Thompson and seconded by Member Bourque. Vice Chairman Gagne was opposed. **The motion passed in a roll call vote of 5 in favor, 1 opposed, 0 abstained (5-1-0).**