

**Rochester Conservation Commission**  
**October 5, 2021**

**Present:** Christopher Gerrior, Chairman  
Daniel Gagne, Vice Chairman  
Maggie Payne  
Bendrix Bailey  
Matthew Bache  
Kevin Thompson  
Bill Milka

**Absent:** None

Merilee Kelly, Conservation Agent  
Victoria D'Antoni, Board Administrator  
Lori Walsh, Recording Secretary

Chairman Gerrior called the meeting to order at 7:00 p.m. Chairman Gerrior then read a message about remote participation and ground rules for the meeting. He stated the meeting was being recorded.

**Public Meetings**

**DEP SE 272-0369 A Certificate of Compliance Request filed by Rita Lepage, for property located at 21 Bryant Lane, Map 19, Lot 1M.** This is in reference to an Order of Conditions issued for the construction of a single-family home.

Rita Lepage, the applicant, was present. Mr. Gagne had questions about the 100 ft. buffer zone and the shed that is there. She stated that the as-built was completed in 2003 and that Noreen went out there in 2006 from Conservation and said it was okay. Mr. Gagne wants to see what the approved NOI shows regarding the shed and the deck. Chairman Gerrior said that they would have to check their files.

A motion was made by Matthew Bache, seconded by Kevin Thompson, to issue a complete certificate of compliance. The motion carries with five in favor, Dan Gagne and Maggie Payne opposed.

**Public Hearings**

**DEP SE 272-0608 A Notice of Intent filed by A.D. Makepeace Company, Inc., for property located at the Morse Swamp Reservoir, 0 County Road Map 17, Lots 9 and 13.** The applicant filed a Notice of Intent in response to an Enforcement Order issued by the Rochester Conservation Commission on December 16, 2020. Proposed work involves restoration and replication of the following wetland resource areas: 1,458 linear feet of Bank, 17,001 square feet of Bordering Vegetated Wetland, 200,376 square feet of Land Under Waterbody, 29,305 square feet of Bordering Land Subject to Flooding, and 2,737 square feet of Riverfront Area. The applicant's representative is G.A.F. Engineering, Inc.

*(Dan Gagne recused himself from this hearing.)*

A motion was made by Bendrix Bailey, seconded by Kevin Thompson, to continue the public hearing to October 19, 2021.

**DEP SE 272-0606 A Notice of Intent filed by Mr. Bailey for property located at 0 Gerrish Road, Map 43A Lot 29B.** 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. The applicant's representative is Brian Grady of G.A.F. Engineering, Inc.

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*(Bendrix Bailey recused himself from this hearing.)*

Brian Grady, of G.AF. Engineering, was present. The second site inspection was to look at the drainage area due to questions and concerns. Mr. Grady said that it has been taken care of and they have received approval from the Planning Board. Mr. Gagne said that his concerns about storm water have not been addressed and that the existing storm water basin is taking the water flow from the roadway and instead of going into the treatment basin it will go into the wetlands. Mr. Grady said that Jeff Eldridge, the Highway Surveyor, was involved and they have addressed his concerns. Chairman Gerrior asked Mr. Grady if he believes Mr. Gagne's concerns are valid. Mr. Grady said yes, he does and he said that they have been addressed. Ms. Payne expressed disappointment that using the gravel road was not considered and that this plan shows that they are impacting the buffer zone. Mr. Thompson agreed with Ms. Payne. Mr. Grady said that they did discuss that at the second onsite meeting. Bendrix Bailey, the applicant, said that he does plan to salvage some of the trees as possible and minimize that clearing as much as possible as discussed at the second site visit. Mr. Bailey also stated that when Mr. Grady says 50ft. of clearing, and the plan shows that, that doesn't mean that they are going to clear that much it could be much less.

Chairman Gerrior said he has a special order of conditions and he read them:

1. Impact to adjacent properties
2. Pre-construction documentation
3. DEP signage
4. Siltation control barriers
5. Notification of start work
6. Pre-construction meeting
7. Stormwater basins
8. Evacuated material
9. Plan changes
10. Post construction documentation
11. Inspection by the Conservation Commission

A motion was made by Matthew Bache, seconded by Kevin Thompson, to issue an order of conditions with the aforementioned conditions. The motion carries with five in favor, Dan Gage opposed and Bill Milka abstained.

Bob Mogilnicki was present as an abutter to speak about the clearing of the trees and drainage. Chairman Gerrior told Mr. Mogilnicki that he has addressed his concerns a number of times and answered his letters.

**DEP SE 272-0610 A Notice of Intent filed by Renewable Energy Development Partners, LLC, for property located at 109 Neck Road, Map 40, Lot 3.** The applicant proposes the construction of a dual use ground-mounted photovoltaic solar array and canal canopy solar array within the buffer zone to wetland resource areas. The applicant's representative is Beals & Thomas, Inc.

*(Dan Gagne recused himself from this hearing.)*

Sarah Stearns, from Beals and Thomas, presented this project. Henry Ouimet, the applicant, said that they will also be reducing the amount of tree clearing. Mr. Ouimet said that the ground mounted solar will be dual use and will be getting their approval for this use from the State and then move forward with the farming. Mr. Bailey said he has a concern regarding something called the Lake Effect. This occurs when the solar arrays cause a reflection and it hits the water and the birds hit the solar panels and the mortality rate of the birds goes

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up. Ms. Stearns said that she would look at the literature from Mr. Bailey. Chairmen Gerrior said that the house lot near this property near where the berm is, there is going to be some tree clearing. Ms. Stearns asked to continue this hearing until October 19th. Mr. Ouimet stated that the screening of the project is a concern of theirs and they will work with the Board.

A motion was made by Kevin Thompson, seconded by Matthew Bache, to continue the public hearing to October 19, 2021. The motion carries with six in favor, Dan Gagne recused.

**DEP SE 272-0613 A Notice of Intent filed by Lee Castignetti, Long Built Homes, for property located at 0 Neck Road, Map 40, Lot 3D.** The applicant proposes the construction of a single-family home with associated septic system and well. The applicant's representative is W Engineering, LLC.

*(Bill Milka recused himself from this hearing.)*

Evan Watson, from W. Engineering, presented this project. Mr. Gagne asked if they had considered moving the house back a little due to the wetlands and the well is on a hill. Mr. Watson said the well he wanted to keep it away from the buffer zone when it comes time to drill it. Mr. Thompson asked if he thought about swapping the well and the septic system. Mr. Watson said he did not but where the test pits are is where the septic system usually goes. Mr. Bache asked about the topography of the land, and if it is consistent with the plan. Chairman Gerrior said that if there is going to be clearing near the buffer zone, then there should be some kind of indication of where that line is. Lee Castignetti, the applicant, spoke to the Board about this project. Trenton Blanchard, abutter lives at 128 Neck Road and is speaking on behalf of all three of the lots. Chairman Gerrior said that he could speak on this lot for now. He said that there is a lot of wetlands there. The vegetated wetlands in the back of this lot impacts the solar array.

A motion was made by Matthew Bache, seconded by Bendrix Bailey, to continue the public hearing to October 19, 2021. The motion carries with six in favor, Bill Milka recused.

A site visit is scheduled for Sunday morning October 10th 8:00 a.m. for all three Neck Road lots.

**DEP SE 272-0612 A Notice of Intent filed by Lee Castignetti, Long Built Homes, for property located at 0 Neck Road, Map 40, Lot 3E.** The applicant proposes the construction of a single-family home with associated septic system and well. The applicant's representative is W Engineering, LLC.

*(Bill Milka recused himself from this hearing.)*

Evan Watson, from W. Engineering, presented this single-family home project. Trenton Blanchard said that according to GIS it is adjacent to a mass habitat. Mr. Watson said he does not see it.

A motion was made by Kevin Thomson, seconded by Bendrix Bailey, to continue the public hearing to October 19, 2021. The motion carries with six in favor, Bill Milka recused.

**DEP SE 272-0614 A Notice of Intent filed by Lee Castignetti, Long Built Homes, for property located at 0 Neck Road, Map 40, Lot 3F.** The applicant proposes the construction of a single-family home with associated septic system and well. The applicant's representative is W Engineering, LLC.

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*(Bill Milka recused himself from this hearing.)*

Evan Watson, from W. Engineering, presented this single-family home project. Mr. Gagne asked what the distance from the house to the limit of clearing was. Mr. Watson said 16 feet from the edge of the house to the limit of clearing. Trenton Blanchard said these are wet lots.

A motion was made by Kevin Thompson, seconded by Bendrix Bailey, to continue the public hearing to October 19, 2021. The motion carries with six in favor, Bill Milka recused.

**DEP SE 272-0611 A Notice of Intent filed by Tess Paganelli, Massachusetts Bay Transportation Authority, for property located at 45 Kings Highway, Map 17, Lot 21.** The applicant proposes the construction of a secondary access road, retaining wall, and utilities as well as repaving, establishing storage tracks/areas, construction of wetland and stream replication areas, and implementing stormwater best management practices. The applicant's representative is BETA Group, Inc.

Tess Paganelli, from the MBTA, and Jonathan Niro, from BETA Group, presented this project. They will be proposing new storage facilities which will mean expanding the facility and putting in a retaining wall. Gus Raposo spoke about this proposal also, redevelopment area, repaving and improvement of all the drainage that exists now. Conservation Agent Kelly asked if this is all going to happen at once. Ms. Paganelli said that they would start with the retaining wall. Mr. Gagne asked if this was the project they came to them with an RDA. Ms. Paganelli said yes with additional proposed implementations. Mr. Gagne asked if the existing access road is being abandoned or closed. Ms. Paganelli said they do not own that road. Mr. Gagne asked if they are proposing a stream location, and how will that happen. Mr. Niro said that the portion of the stream that they are looking to impact doesn't have much of a hydraulic gradient. They plan on having the contractor with their equipment reach out with a stream channel and take that out and mirror the profile of the existing stream. Mr. Milka asked if the intermittent stream dried up. Mr. Niro said yes it did. Mr. Milka said that it seems to him that it was bony gravel, coarse sand. Mr. Milka asked what are you going to use for material to line the retention pond. Mr. Raposo said that the soils are very sandy. Chairman Gerrior asked if they have lost access to the road. Ms. Paganelli said they have not lost access to the road. Chairman Gerrior asked what the agreement is with the access Road. Ms. Paganelli stated that there is an easement. Chairman Gerrior asked them what is an agreeable timeline. Ms. Paganelli said two to three years. Chairman Gerrior said they need phases and timelines. Chairman asked what would be the number of passenger cars they would have. Peter Cruz said up to 20 vehicles and with the expansion of the facility they will be up to 30. Mr. Gagne asked if the change in the facility means that they will not be storing cars on County. Mr. Cruz said no they will still be storing them there. Mr. Bache asked if they have a gasoline and grease interceptor there. Mr. Cruz said they are bringing the building up to code working with the dept. of safety.

A motion was made by Dan Gagne, seconded by Matthew Bache, to request a peer review fee of \$5000. The motion carries unanimously.

A motion was made by Maggie Payne, seconded by Matthew Bache, to continue the public hearing to November 2, 2021. The motion carries unanimously.

A site visit is scheduled for Sunday morning October 17th 8:00 a.m.

**Commission Business**  
**For Signature – Permits**

Ms. D'Antoni stated that there are outstanding signatures for permits issued on September 7, 2021.

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**For Signature - Minutes**

A motion was made by Dan Gagne, seconded by Maggie Payne, to approve the September 21, 2021 meeting minutes. The motion carries unanimously.

**For Signature – Vouchers**

Reimbursement of Escrow, 0 Snipatuit Road, \$700.97

A motion was made by Kevin Thompson, seconded by Bendrix Bailey, to approve the above listed voucher. The motion carries unanimously.

**Old Business**

**Meeting Status** – Discuss switching to hybrid meetings

A motion was made by Bendrix Bailey, seconded by Dan Gagne, to go back to in person meetings at Old Colony. The motion carries unanimously.

A motion was made to amend the previous motion to go back to in person meetings. The motion carries unanimously.

A motion was made by Dan Gagne, seconded by Bendrix Bailey, to go back to in person meetings at Old Colony. The motion carries unanimously.

Chairmen Gerrior stated that he needs to find out the schedule at Old Colony.

**Records Retention** – Discuss destroying of old RDA files

Ms. D’Antoni stated that if the Commission wants to use money from the NOI account for this scanning project, they need to go before the Board of Selectmen for approval.

**New Business**

A motion was made by Bendrix Bailey, seconded by Matthew Bache, to allow the applicant to file with the registry of deeds within 30 days and if it is not done then the Commission will do it.

Bendrix Bailey withdrew his motion.

A motion was made by Dan Gagne, seconded by Kevin Thompson, for the Commission and its staff to file the permits with the registry of deeds. The motion carries unanimously.

**Adjournment**

A motion was made by Kevin Thompson, seconded by Maggie Payne, to adjourn the meeting at 10:01 p.m. The motion carries unanimously.

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Lori Walsh, Recording Secretary

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Christopher Gerrior, Chairman