



APPROVED MINUTES
CONSERVATION COMMISSION MEETING
THURSDAY, MARCH 10, 2022
TIME: 6:30 PM
PRESENTED ON A ZOOM PLATFORM

IN ATTENDANCE:

Chris Macfarlane, (CM), Chair
Justin Pimpare (JP), Vice Chair
Kathy Berigan (KB), Secretary
Will Ashton (WA), Member
Tom Bell (TB), Member
Eric Eisenhauer (EE), Member
Trish Grady (TG), Member (at 7:10 pm)

STAFF IN ATTENDANCE:

Charlotte Pechtl (CP), Conservation Agent
Angela Geso, Administrative Assistant/Recording Secretary

ASSOCIATE MEMBER IN ATTENDANCE:

Chris McIntyre (CH), Associate Member

6:30 PM:

CALL TO ORDER

ROLL CALL ATTENDANCE: T. Bell - Aye; K. Berigan - Aye; E. Eisenhauer - Aye; W. Ashton - Aye; J Pimpare - Aye; C. Macfarlane - Aye; C. McIntyre - Aye;
6 voting members present; 1 associate member present

6:40 PM:

RDA 22-06 - 685 Jerusalem Road – Tree Removal - Lombardi

In Attendance: Fabrizio Lombardi/Applicant

Documents Presented: Site Plan

The tree to be removed has been damaged by recent storms and is considered dangerous to the property. The commission authorized it to be removed.

MOTION:

By Vice Chair Pimpare to issue a Negative 2 determination on Request for Determination of Applicability 22-06 for the proposed work at 685 Jerusalem Road.

SECOND:

Member Eisenhauer

ROLL CALL VOTE:

T. Bell - Aye; K. Berigan - Aye; E. Eisenhauer - Aye; W. Ashton - Aye; J Pimpare - Aye; C. Macfarlane - Aye

MOTION PASSES:

6-0 Unanimous

6:55 PM:

RDA 22-07 - Great Brewster Woods – Eagle Scout Project - Cingari

In Attendance: Brendan Cingari/Applicant; Katie Holden/Conservation Trust

Documents Presented: Site Plan and Narrative Boards

The applicant is looking to clear a trail and replace some boarding. The majority of the work is upland and out of the 100-ft. buffer zone. The work includes cutting away one (1) fallen tree, debris removal and replacing a portion of the boardwalk with new pressure treated wood that is water-based and free of arsenic. Katie Holden said the area of work is pretty dry and she doesn't have concerns with the possibility of a vernal pool near the site but TB would like the applicant to wait until the vernal pool has been determined. EE said the possible vernal pool is not

damaging to the site. JP said there has been an existing trail for several years and CM said there was a public hearing when the first trail was put in so the improvements will make up for what has been done.

- MOTION:** By Vice Chair Pimpare to issue a Negative 3 determination on Request for Determination of Applicability 22-07 for the proposed work at Great Brewster Trail with the following conditions: a chain saw will be used only for cutting the fallen tree; healthy trees will be trimmed with hand tools; the decking material may not contain any arsenic or chromium.
- SECOND:** Member Ashton
- ROLL CALL VOTE:** T. Bell - Abstain; K. Berigan - Aye; E. Eisenhauer - Aye; W. Ashton - Aye; J Pimpare - Aye; C. Macfarlane - Aye
- MOTION PASSES:** 5-0-1 (Member Bell abstains)

(Member Grady arrived at 7:10 pm)

- 7:20 PM:** **NOI 22-08 - 45 Windy Hill Road – Addition and Mitigation**
In Attendance: Brad Holmes/ECR; Mr Berg/Owner
Documents Presented: NOI Application and Plans

Mr. Holmes said the site contains a single family home, paved driveway, rear deck, pool and patio. Rattlesnake Run is to the rear of the site with a Bordering Vegetated Wetland (BVW) and resource areas to the side. They are proposing a 456 sq. ft. addition at the rear of the house. There is no structural work within the 100-ft. buffer zone. No work will be done in areas that are already vegetated.

- MOTION:** By Vice Chair Pimpare to close the public hearing on 45 Windy Hill Road and issue an Order of Conditions for Notice of Intent 22-08 with the condition that no machinery, including heavy machinery, be operated within the 50-ft. buffer zone.
- SECOND:** Member Eisenhauer
- ROLL CALL VOTE:** T. Bell - Aye; K. Berigan - Aye; E. Eisenhauer - Aye; W. Ashton - Aye; J Pimpare - Aye; T. Grady – Aye; C. Macfarlane - Aye
- MOTION PASSES:** 7-0 Unanimous

- MOTION:** By Vice Chair Pimpare to issue a variance on Notice of Intent 22-08 for proposed work at 45 Windy Hill Road.
- SECOND:** Member Bell
- ROLL CALL VOTE:** T. Bell - Aye; K. Berigan - Aye; E. Eisenhauer - Aye; W. Ashton - Aye; J Pimpare - Aye; T. Grady – Aye; C. Macfarlane - Aye
- MOTION PASSES:** 7-0 Unanimous

- 7:45 PM:** **NOI 22-09, SWP 22-05 171 South Main Street - Garage Addition & Mitigation**
In attendance: Michael Milanoski/Applicant; David Newhall/Crocker Design Group
Documents Presented: NOI and SWP Plans and Applications; Site Plan

Mr. Milanoski wants to add a garage to the home to create a safer environment for his in-laws and wife to enter and exit the home. The area is within the 50-ft. buffer zone so any work will require a variance. The original plan called for a 36-ft. x 36-ft. garage within 8-ft. of a Bordering Vegetated Wetland (BVW) where the residents would turn into the garage from a driveway extension. A newer plan shows a smaller building that could rotate back away from the buffer zone. David Newhall of Crocker Design Group said there is a continuous silt sock around the site, mitigation plantings have been approved with a 2-to-1 ratio for replacement and the driveway and two (2) storm filters will infiltrate runoff. JP asked if the applicant considered moving the garage closer to the road and taking it out of the 50-ft. buffer zone but Mr. Milanoski said it wouldn't be an attached garage and that is what he wants for the easier entry into the home. Discussion followed about shifting the driveway to the south and rotating the garage which was amenable to Mr. Milanoski. CH asked about the existing drainage in the backyard that goes to the BVW and Mr. Milanoski said there is a sump pump in the main house that fills in for basement drainage when needed. CM has concerns with the pervious surface and the proposed garage within the 50-ft. buffer zone and it was decided to continue the public hearing to the next meeting date.

CONTINUED TO 3/24/22

8:20 PM: **NOI 22-07, SWP 22-03 - 205 ATLANTIC AVE –New Construction (con't from 2/24/22)**

In attendance: Andrew Flynn/Applicant; Deborah Keller/Merrill Engineering; Ian Peach and Seth Wilkinson/Wilkinson Environmental

Documents Presented: NOI & SWP Applications; Site Plans; Stormwater Calculations

A discussion about Japanese knotweed and herbicides started off the hearing. EE suggested a program using black matting or a cutting program where the invasive is continually mowed might be alternatives to what is being discussed. Seth Wilkinson said that killing the top would not kill the knotweed as it tends to push elsewhere, and he would instead use a low dose of herbicides to get rid of the knotweed. At this point CM asked to redirect the conversation to the rest of the project as knotweed is only one part of the application and allowing an alteration in the 50-ft. buffer zone could be done if needed. Ms. Keller said we are meeting two (2) storm events, one for peak and one for volume, and that she has concerns with the habitat on Little Harbor. JP said the stormwater plans cannot be approved if the post-construction is higher than the pre-construction but Ms. Keller said they are installing a raingarden to grade with a small berm on the back side and are scheduling test pits. TB suggested waiting for data before putting in the raingarden and JP wants to see test pits under the proposed infiltration chamber. Ms. Keller said a licensed soil evaluator will be checking the area. She explained that a high point to the right of the property splits two watersheds into what flows to Atlantic Avenue and what flows towards the ocean and that it meets both peak and volume at Atlantic Avenue and they are capturing runoff from the roof system to under the tennis court. TB feels with such a deep excavation the groundwater will disrupt the flow but CM said the house itself isn't splitting the drainage plain and the south-flowing drainage area doesn't get split up into different areas. Ms. Keller said one portion is already draining towards Atlantic Avenue and the bituminous driveway is open to different surfaces. CM is concerned with the pre-construction draining as a broad plain and that it breaks down even further in the post-construction. Ms. Keller suggested looking into a trench drain or a berm around the property to direct more water towards the raingarden and not Atlantic Avenue. She said that some recharge will go back into the ground as well. JP asked about a proposed stockpiling area to the north facing side of the house, but Ms. Keller sees it more as raw materials and not large stockpiling. JP also asked for a concrete truck washout area which will be accommodated. CM feels there is no need to be in the 50-ft. buffer zone other than for removing invasives and suggested to tighten up the raingarden and contouring and leave the 50-ft. buffer as a "no disturb" zone. He also requested an arborist report for the removal of trees on the site. Seth Wilkinson said the trees have been inventoried and only four (4) trees are being removed from the 50-ft. buffer zone and are being replaced with nine (9) trees. JP expressed concern with the removal of invasives and has a hard time supporting a restoration project for working being done in the 50-ft. buffer zone, saying the Rules & Regulations makes no mention of invasives or removal of dead trees in the 50-ft. buffer zone. Mr. Flynn said his goal is to have less or no disturbance in the 50-ft. buffer zone. CM asked about a blue mussel habitat that may be on this property and if any studies have been done. Mr. Flynn replied that a full habitat study hasn't been done but there have been areas where one has been done. CM said our purview extends to the 100-ft. buffer zone which is part of the wildlife habitat and that activity within the 100-ft. buffer zone is seriously impacting what is downhill of it. He also stated that if water is bringing sediment into the resource area it's worth a look. JP suggested discussing the tennis court at the next meeting.

HEARING CONTINUED TO 3/24/22

9:15 PM: **NOI 22-05, SWP 22-02: 136 Atlantic Avenue - Pool, Pool House (con't from 2/24/22)**

In attendance: Caroline Rees/Cavanaro Consulting; Ethan Meyers/Applicant; John Zimmer/South River Environmental

Documents Presented: NOI & SWP Applications and Plans

John Zimmer gave a report on his site visit including discussion of the vernal pool. TB feels there is a vernal pool and proposed that the applicant allow someone to determine the status or test the area themselves.

MOTION: **By Vice Chair Pimpare to close the public hearing for 136 Atlantic Avenue and issue an Order of Conditions for Notice of Intent 22-05 with the following conditions: the property be accessible to the Conservation Agent and other persons to investigate the vernal pool over the next two (2) months; the final**

determination of the vernal pool will have no impact on prior approval of the project.
SECOND: Member Bell
ROLL CALL VOTE: T. Bell - Aye; K. Berigan - Aye; E. Eisenhauer - Aye; W. Ashton - Aye; J Pimpare - Aye; T. Grady – Abstain; C. Macfarlane - Aye
MOTION PASSES: 6-0-1 (Member Grady abstains)

MOTION: By Vice Chair Pimpare to issue a variance on Notice of Intent 22-05 for work within the 50-ft. buffer zone for 136 Atlantic Avenue.
SECOND: Member Eisenhauer
ROLL CALL VOTE: T. Bell - Aye; K. Berigan - Aye; E. Eisenhauer - Aye; W. Ashton - Aye; J Pimpare - Aye; T. Grady – Abstain; C. Macfarlane - Aye
MOTION PASSES: 6-0-1 (Member Grady abstains)

MOTION: By Vice Chair Pimpare to issue Stormwater Permit 22-02 for proposed work at 136 Atlantic Avenue.
SECOND: By Member Bell
ROLL CALL VOTE: T. Bell - Aye; K. Berigan - Aye; E. Eisenhauer - Aye; W. Ashton - Aye; J Pimpare - Aye; T. Grady – Abstain; C. Macfarlane - Aye
MOTION PASSES: 6-0-1 (Member Grady abstains)

MINUTES FOR APPROVAL:

MOTION: By Vice Chair Pimpare to approve the minutes for February 24, 2022.
SECOND: By Member Bell
ROLL CALL VOTE: T. Bell - Aye; K. Berigan - Aye; E. Eisenhauer - Abstain; W. Ashton - Aye; J Pimpare - Aye; T. Grady – Abstain; C. Macfarlane - Aye
MOTION PASSES: 5-0-2 (Members Eisenhauer and Grady abstain)

CONSERVATION BUSINESS:

Agent Pechtl had the following to report:

- **Dock Spring Construction:** This is currently going on at 74 Beach Street, 72 North Main Street, 33 Stanton Road and 51 Gammons Road.
- **MACC Conference:** Agent Pechtl has participated in the annual conference by taking courses online and joining discussions. The stormwater manual is being edited and should be done by April.
- **Dolan Lane Lot C:** Construction has started on a well that is out of 25-ft. vegetated wetland buffer.

CERTIFICATES OF COMPLIANCE:

1973 Certificate of Compliance for 87 Elm Street: Owner Ted Lubitz requested this to be closed out as the seawall has been built in compliance. Once it is approved by the Conservation Commission, legal counsel needs to approve this without the original applicant as we are closing out specifically for the site and not for a person.

MOTION: By Vice Chair Pimpare to issue a Certification of Compliance for the Notice of Intent issued in 1973 for 87 Elm Street with the condition that it is also approved by legal counsel.
SECOND: Member Bell
ROLL CALL VOTE: T. Bell - Aye; K. Berigan - Aye; E. Eisenhauer - Aye; W. Ashton - Aye; J Pimpare - Aye; T. Grady – Aye; C. Macfarlane - Aye
MOTION PASSES: 7-0-0 Unanimous

NOI 18-14 and SWP 18-24 for 41 Pleasant Street: Jeff Hassett of Morse Engineering said there was a reduction in runoff following the rebuilding of the home as well as two (2) drywells composed of three (3) chambers that provide the same volume and storage.

MOTION: By Vice Chair Pimpare to issue a Certificate of Compliance for the Notice of Intent 18-14 and Stormwater Permit 18-24 at 41 Pleasant Street.
SECOND: Member Eisenhauer
ROLL CALL VOTE: T. Bell - Aye; K. Berigan - Aye; E. Eisenhauer - Aye; W. Ashton - Aye; J Pimpare - Aye; T. Grady – Aye; C. Macfarlane - Aye
MOTION PASSES: 7-0-0 Unanimous

NOI 20-06 for 191 Atlantic Avenue: CP did a site visit and has a list of pending items (see attached). There is no mention of a retaining wall or PVC pipe and there is nothing on the As Built plan. Concrete utility pads are not clear on the original plan. A well was approved in 2021. CM asked for an update in April with an As Built plan. The request for a Certificate of Compliance has been continued.

Harbor Committee Meeting: Member Bell reported that he went to the Harbor Committee meeting where they talked about the town’s potential to buy 22 Margin Street. He said that the site is within the flood zone, there have been no previous structures in years, and it might be more prudent to turn the site into a gravel driveway

With no further business to discuss and motion was made to adjourn by Vice Chair Pimpare, seconded by Member Eisenhauer and unanimously approved 7-0-0 on a roll call vote.

Meeting adjourned at 10 pm.