

# **TOWN OF RYE – CONSERVATION COMMISSION**

**Thursday, July 12, 2018  
7:00 p.m. – Rye Town Hall**

***Present: Chair Sally King, Vice-Chair Suzanne McFarland, Jeff Gardner, Susan Shepcaro, Heather Reed and Alternate Jim Raynes***

## **I. CALL TO ORDER**

Chair King called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Alternate Jim Raynes was seated for Mike Garvan.

## **II. APPROVAL OF MINUTES – June 14, 2018**

The following corrections were noted:

- Page 3, last paragraph, last sentence should read: **He stated the concern is this land is going to become more and more valuable.**
- Page 5, 5<sup>th</sup> paragraph, 5<sup>th</sup> sentence should read: **She continued that there is also a space that was open underneath but is now decked over.**

**Motion by Jeff Gardner to approve as amended. Seconded by Jim Raynes. All in favor.**

## **III. WETLANDS**

### **A. 1611 Ocean Blvd, Tax Map 012, Lot 027**

Owner: Huff, Stevan

Roof deck

**Stevan Huff, applicant,** spoke to the commission in regards to his proposal to build a roof deck on his house at 1611 Ocean Blvd. He noted that there is an existing deck on the back that has been there for years.

Chair King read from the ZBA Notice for July 11, 2018 regarding requested variances for this proposal:

***Section 603.1 for expansion of a non-conforming structure, from Section 204.3B for a deck and spiral stairway 9.8' from the south side boundary and 6.3' on the north side boundary where 20' is required; and from Sections 301.8B (1) (2) & (7) for construction 50 +/- within 100' tidal wetlands buffer.***

- **Site Walk scheduled for Monday, July 16<sup>th</sup>, 4:30 p.m.**

**B.** 261 Brackett Road, Tax Map 019, Lot 095  
Vikki Howard  
Trees and fill

**Vikki Howard, applicant**, stated that she and her husband (John Borden) moved to Rye last August. It was brought to their attention that they were doing some work in the buffer zone. She noted that the gardens needed to be replanted and there are some trees that are diseased and need to come down. (She submitted photos to the commission for their review showing the area that was cleared.) She noted that when they did the clearing, they found a concrete barrier and gravel. The next door neighbor said that one of the previous owners put in the barrier to keep the water from spilling over into the yard.

Chair King asked if they added any fill.

Mrs. Howard replied no. She explained that they put some top soil over the gravel and planted some clover to give some oxygen to the soil. They are now proposing to plant some native plantings.

Chair King noted that the commission will visit the site and make recommendations for replanting.

- **Site Walk scheduled for Monday, July 16<sup>th</sup>, 4:50 p.m.**

**C.** 77 Parsons Road, Tax Map 20.2, Lot 34  
Owner: Arthene Gee, Jane  
Planting plan

**Attorney Tim Phoenix, representing the applicant**, explained that there has been a site walk by the Conservation Commission for this property. Minutes were taken of the meeting and the owner has responded with a planting plan. A letter was sent to the commission from Steve Riker who has looked at the property and done some work on it in the past. He noted that Ms. Gee did some work on the property and the landscaper did more work than she was expecting them to do. She did not realize it was a wetlands violation; however, when it was mentioned she stepped up to fix the issue. He continued that five mature pines were taken out. The owner now has a plan to replant.

Referring to the plan, Chair King stated that some of what was proposed was raised beds in wetland buffers. That wouldn't be something that the commission would like to see on this property. The back of the property is very wet. There was debris piled up which may have been from brush that had been cut.

Attorney Phoenix pointed out that the raised beds are up closer to the house. Closer to the wetlands, identified on the plans as the low land transition zone, was debris piled up when they

bought the place about 16 years ago. Debris was added to this pile not knowing that it should not have been. The building inspector has asked for this to be removed and that has been done.

The commission reviewed the planting proposal from the applicant, along with the recommendation letter written by the commission based on the site walk of May 20<sup>th</sup>.

Attorney Phoenix summarized that the owner knows there were some mistakes made. Some of those mistakes weren't hers. She wants to make good on the mistakes that she made and is asking for the commission's feedback on the plan.

Member Shepcaro asked how the plan corresponds with the commission's recommendation letter.

**Jane Arthene Gee, property owner**, stated that the plan is in response to the letter. It was recommended that trees be planted. Any plants that have been chosen come from the list that was suggested by the commission.

Attorney Phoenix suggested that the commission table this until he can draft a letter addressing the plan. The commission can use the letter as a record in order to follow up on the work being done.

The commission agreed.

**D. 17 Brackett Road, Tax Map 022, Lot 071**  
Mark West

**Ryan Gordon, representing the property owner**, stated that they are proposing to do some leveling of the land in the backyard. The home was purchased in 1987 and has been in the family since then. The family is planning to have a wedding in the backyard; however, some of the land has receded and is sloping towards the water. The proposal is to level a small corner of the back property. In exchange, a buffer area of native plantings will be added along the water.

**Mark West, West Environmental**, noted that the building inspector told the property owner that a variance would be needed. They are presenting their proposal to the commission before it goes to BOA. He continued that he thinks this may be an opportunity to improve the situation. The backyard goes from grass right down to the high tide line. He suggested mitigation in the form of a shrub buffer along the high tide line, coming back 16 or 18ft, in exchange for re-grading the lawn. There will be a change in the lawn of about 2.5ft in one place and 6 inches to 1ft in most places. He noted that the 100ft buffer runs through the side of the house.

Mr. Gordon noted that there are no gutters on that side of the house. The runoff from the roof has most likely led to a little bit of the erosion that has taken place. Leveling will add a little more permeable land to that area.

Mr. West noted that this proposal would qualify for a minimum expedited permit from the State because it is a previously developed upland type buffer zone and there is no work within 50ft of a saltmarsh. The square footage of the buffer would be equal to or slightly larger than the area of disturbance.

Member Gardner stated that he likes the idea. He thinks it is an improvement overall. It's a benefit to get a buffer anytime there is lawn growing right to the saltmarsh.

- **Site Walk scheduled for Monday, July 16<sup>th</sup>, 5:30 p.m.**

**E. 1146 Ocean Blvd, Tax Map 19.4, Lot 089**

Owner: Katz, Jeffrey

Mark West

ZBA-RCC, planting plan

**Jeffrey Katz, property owner**, explained that the property originally had two houses. In approximately 1987, his mother took the two houses down and built one house. On both sides of the property there was grass going down to the road with a retaining wall and a few boulders. There were also a couple of fir trees on either side of the garage. He continued that over the years, as his mother got older, the property was not cared for and invasive species started to grow on the property. He stated that he didn't receive the recommendation letter from the Conservation Commission from the first site walk on the property held in 2016. He continued that the big thing that came out of that meeting is that a new septic tank would need to be installed. In looking at the letter, there is one line about planting native species in between the two houses and the rest is really about why there should be a new septic tank, which became a condition of the building permit. Some things were taken out in order to put in the new septic. There was mostly invasive species on that side so that was what was taken out. He reiterated that it was grass originally.

Vice-Chair McFarland stated that she has history here from 1956. Over time, rules will change. She pointed out that she actually lives on this same beach. She has gone through the process with wetlands and shoreland permits. Someone may want to go in one direction but will be told they have to go in a different direction. She reiterated that things change and everyone is trying to get better in protecting the Parson's Creek Watershed, which is why the septic system was such a big deal, because it is an impaired waterbody right now. These are not all just postage stamped lots. It's a community. The reason why she and her neighbor have had to put native plantings in through the permit process is because DES is "upping the game" of protecting everybody along the coast. It's to help with "sucking up" all the water during a flood to minimize storm damage and protect neighbors. She continued that her husband grew up there and there was lawn. There is no lawn in places he grew up because lawn is not good right now. In general, this is the "push" with everybody.

**Mark West, West Environmental**, stated that he prepared the plan without the benefit of having the letter from the site walk. (Referring to the plan, he pointed out the areas where he recommended plantings.) He continued it is important to understand that DES exempts the

removal of invasive species and approval is not needed. His report talks about planting native species and will have to be managed because of the adjacent species that are growing along the edge of the abutting property. He did not realize that there was a request to pull everything out that had just been put in. He can understand if the commission wants to add to the native species. He noted that they also committed to using low nitrogen on the lawn. The resource area is across the street and it is not part of a dune or beach. The property is in a neighborhood where there is landscaping on both sides so it seems unusual to say that landscaping cannot be done here.

Vice-Chair McFarland explained that is where change comes in. As people “open the can of worms” the requirements sometimes change. When someone asks for a building permit to change something, they’re being asked to put in more native plantings, even if there is a lawn there. She noted that the commission is asking for more buffers now and the ZBA is putting it on their notices of decisions as a condition.

Mr. Katz commented that it was not on his notice of decision or his building permit.

There was some discussion on communication issues and the timing of the work that has been completed.

Mr. West reviewed his proposed planting plan for the commission.

Speaking to Member Gardner, Chair King asked him what his thoughts are since he was on the commission back at the time the commission went on the site walk.

Member Gardner stated that he would be willing to accept Mr. West’s plan. There were a lot of issues with communication back at that time. The property owner is now trying to do the right thing by hiring Mr. West.

Speaking to Mr. Katz, Chair King stated that Mr. West has suggested adding more native plantings. She asked if this is something he is willing to do.

Mr. Katz agreed.

Chair King stated that the communication issue is a very valid point. She continued that if there is something that can be done to improve the native habitat that would be welcomed. She pointed out that the plan is hyper-groomed and they are trying to get away from that.

Vice-Chair McFarland requested that the additional plantings be added to the plan, which will show and confirm what was agreed to.

**Motion by Jeffrey Gardner to accept the amended plan, and with Chair King’s final approval, the applicant may move forward. Seconded by Jim Raynes. All in favor.**

**F. 1237 Ocean Blvd, Tax Map 17.3, Lot 003**  
Owner: Scott, Judy  
Trees down in marsh

Vice-Chair McFarland explained that trees on this property fell down in the marsh. She visited the property and took photos of the trees. Knowles Tree Service and Eben Lewis have been to the site. Mr. Lewis thought the trees were fine in the marsh and did not need to be bothered with; however, he instructed them to take the trees out by hand if they decided to take them out. Mrs. Scott was not able to attend the meeting but the commission can go by the property. The property owners would like to remove the trees from the marsh and would like to know how to proceed. The trees will be removed by hand and the stumps have to be left.

It was the consensus of the commission that they are fine with the proposal, following the instructions from Eben Lewis, DES, for hand removal and no removal of stumps. Vice-Chair McFarland will draft a letter to the property owner regarding the commission's decision.

- **7 Old Ferry Landing**

Chair King noted that they were asked by the Building Inspector's Office to look at 7 Old Ferry Landing and give some recommendations for plantings. She suggested that she contact the property owner to set up a time for the commission to visit the site.

The commission agreed.

#### **IV. BILLS**

- Alan Bucklin – Mowing Goss Farm - \$258.00

**Motion by Sally King to pay Alan Bucklin in the amount of \$258.00. Seconded by Susan Shepcaro. All in favor.**

- James Verra & Assoc. – Cedar Posts/Postage - \$47.85

**Motion by Susan Shepcaro to pay James Verra in the amount of \$47.58. Seconded by Suzanne McFarland. All in favor.**

- James Verra & Assoc. – Survey of lots adjacent to Town Forest - \$922.50

**Motion by Suzanne McFarland to pay James Verra in the amount of \$922.50. Seconded by Susan Shepcaro. All in favor.**

- RCCD – Tracy Degnan – Property acquisition & invasive species control - \$714.00

**Motion by Suzanne McFarland to pay Rockingham Planning Commission in the amount of \$714.00. Seconded by Jim Raynes. All in favor.**

## **V. CORRESPONDENCE**

- The Rye Planning Board sent notice of an application received from Eversource for cutting and removal of trees and bushes along a scenic road, adjacent to the power lines, which is being reviewed at their meeting on August 14<sup>th</sup>.
- Monitor walks were conducted by the Commission for Massacre Marsh and White Horse Drive. Monitoring reports will be available soon for the properties. Abutters to Massacre Marsh have been dropping clippings in that area. Chair King will follow up with letters to the abutters.

## **VI. OTHER BUSINESS**

### **A. Mike Garvan; Robert Pruyne Jr., GISP, GIS Manager Rockingham Planning Commission**

Member Shepcaro noted that Member Garvan received a letter from Mr. Pruyne, RPC, who was requesting to use the Town Forest map that was developed by Member Garvan and resident Lindsay Gray. Ms. Gray is a mapping specialist and offered her services to the Dogs at Large Committee. Member Shepcaro commented that she feels it is premature to share the map with the Rockingham Planning Commission.

Chair King stated that she received something from a trails system asking if the Commission wanted to publish the map. She had responded asking them not to because there is discussion going on about moving trails. It is probably not wise to share the maps, at this time, since it is a work in progress.

### **B. Town Forest – Discussion – Temporary leash requirement on portion of Green Trail and portion of Blue Trail to protect abutters.**

Member Shepcaro stated that the Dogs at Large Committee has asked the Commission to consider doing various things in the Town Forest. In talking with Tracy Degnan from Rockingham County Conservation, who holds the easement, it was agreed that there should be a meeting with Charlie Moreno, Forester, so there will be an agreement between all parties as to what can be done in the forest in response to the dog issues. It is felt that the Commission, easement holder and the forester need to discuss the issue before anything is brought to the table.

### **C. League of Conservation Voters – Request for Goss Farm**

Chair King noted that she was contacted by the League of Conservation Voters. On August 18<sup>th</sup> they would like to use the Goss Farm Property, from 4:00 to 7:00 p.m., to host an event for National Honey Bee Day. Approximately, fifty people are expected to attend. The group has been informed that they cannot use the barn because of the limited occupancy permit and they will probably pitch a tent. She will follow up with the organizers of the event in regards to porta-potties and other details for the event. She thinks it sounds like a fun event for the Goss Farm that supports agriculture.

### **VII. PENDING SPRING 2018 SITE WALKS**

- **245 Pioneer**, Tax Map 024, Lot 118
- **335 Washington Road**, Tax Map 016, Lot 122 – A letter was received from NH DES with an update from Steve Riker in regards to pond restoration at the property.
- **243 Parsons**, Tax Map 19, Lot 103
- **25 Appledore**, Tax Map 19.4, Lot 52 – **COMPLETED**
- **5 Libbey Lane**, Tax Map 16, Lot 162-3
- **45 Washington Road**, Tax Map 017, Lot 073
- **60 Park Ridge**, Tax Map 19.4, Lot 17
- **7 Elizabeth Lane** – **COMPLETED** – summer restoration monitoring report was received. Restoration plan approved by NH DES 2/2017. Restoration documentation required by 7/31/2018.
- **21 Brackett** – Building Inspector has asked if the Commission would like to visit the site now that the porch is completed. Member Gardner and Vice-Chair McFarland agreed to follow up with the property owners.

Vice-Chair McFarland stated that NH DES is the only entity that can walk on people's land once notifying the property owners. It has been a struggle to get responses from owners in order to re-visit the site and get pictures to close the file. The building department has said that the Commission can walk on the property, as a mailman would, and knock on the door to ask the owner to walk them around the property.

The Commission agreed to continue with the procedure they already have in place and to document the times that they have reached out to the property owner.



## **VIII. OTHER BUSINESS**

- Vice-Chair McFarland noted that a wetlands application was received for **1308 Ocean Boulevard, Tax Map 17.3, Lot 69**, for steps to the beach. This application has been withdrawn by the applicant.
- Vice-Chair McFarland noted that NH DES has hired a compliance officer to follow up on all permits that have been issued in the seacoast over the past four years.
- Vice-Chair McFarland noted that Barbara Quirk, 1647 Ocean Boulevard, spoke with her about issues she has been having at her house. Mrs. Quirk has not been issued a certificate of occupancy because it is a condition of her permit to have a buffer planted in the back and she is having a hard time finding a landscaper. Until the plants are in, a CO is probably not going to be issued by the building department.
- Chair King noted that she received a notice from Planning Administrator Kim Reed that the Capital Improvement Plan is being updated and information is needed from the Commission. She and Member Grote will work on this information.

## **IX. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (d) Acquisition (2) per RSA 91-A:3, II (e) Legal**

**At 8:35 p.m., Suzanne McFarland made a motion to go into Non-Public Session per RSA 91-A:3, II (d) Acquisition. Seconded by Jeff Gardner**

**Roll Call: Jeff Gardner – Yes, Suzanne McFarland – Yes, Sally King – Yes, Heather Reed – Yes, Susan Shepcaro – Yes, Jim Raynes – Yes**

**At 8:53 p.m., the commission came out of non-public session.**

**Motion by Suzanne McFarland to seal the minutes of the Non-Public Session. Seconded by Jeff Gardner. All in favor.**

## **ADJOURNMENT**

**Motion by Jeff Gardner to adjourn at 8:53 p.m. Seconded by Suzanne McFarland. All in favor.**

Respectfully Submitted,  
Dyana F. Ledger