

**RYE CONSERVATION COMMISSION
MEETING**

Thursday, July 11, 2019

6:00 p.m. – Site Walk

7:00 p.m. – Reconvene Public Meeting

Rye Town Hall

Selectmen Present: Chair Sally King, Mike Garvan, Jaci Grote, Susan Shepcaro and Heather Reed.

Others Present: Attorney Michael Donovan

6:00 p.m. Site Walk - (Minutes for site walk posted online)

I. CALL TO ORDER

II. SITE WALK – 1090 Washington Road – Easement Monitoring

7:00 p.m. RECONVENE PUBLIC MEETING

III. CALL TO ORDER

Chair King called the public meeting to order at 7:15 p.m. and led the Pledge of Allegiance.

IV. APPROVAL OF MINUTES

- **Meeting - June 13, 2019**

The following corrections were noted:

- Page 3, 10th paragraph, last sentence should read: **He pointed out that he is only 10 to 15ft into the 100ft.**
- Page 5, 5th paragraph, last sentence should read: **He feels they should work with the plan that has the smaller footprint because it gets the house, as far as reasonably possible, away from the wetlands.**

Motion by Jaci Grote to approve the minutes of June 13, 2019 as amended. Seconded by Mike Garvan. All in favor.

- **Site Walk Minutes – June 2nd, 19th, and 25th**

Motion by Jaci Grote to approve the June site walk minutes as written. Seconded by Susan Shepcaro. All in favor.

V. DISCUSSION OF CONSERVATION EASEMENT – 1090 Washington Road

The Commission and Attorney Donovan spoke with the property owner (Nancy Siopes and representatives from the farm) and counsel of 1090 Washington Road in regards to issues on the property that are not in compliance with the conservation easement covering part of the land under conservation. The Commission's main concern was the forestry debris on the site, which the owners have been working on cleaning up by request of the commission.

There was some discussion about chipping the tree limbs and branches that have fallen and how the woodchips could be used on site. The Commission agreed that they did not have an issue with the chips being used on the existing horse trails or as mulch in the gardens. The Commission did not want woodchips or fallen down trees being pushed back into the woods, as the easement references non-expansion of the field. The easement also references Best Forestry Practices.

It was noted by the owner that there is a Forest Management Plan on file with the town. Chair King agreed to review the plan to see how it applies to the property.

There was discussion about the suggestion by the owner to pull the debris out of the tree line to put into piles for burning, which could be done at the end of the riding rink completion. The Commission would want an understanding of how and when the burning would be done. Chair King recommended that the Fire Chief visit the site to give a plan for burning on the site. The property owner agreed that the burning could be done by the end of the year.

Chair King noted the Commission is trying to contain the easement issues that have come up. The Commission would be looking for a schedule of work to be completed from the owner so it does not morph into bigger issues.

The Commission addressed the issue of manure storage in the field area that is supposed to be preserved by the easement. Attorney Donovan suggested limiting the area of coverage that can be used for manure storage if the Commission is comfortable with this in the field. There was discussion on limiting the amount of storage and the time needed in order for the manure to be ready to be removed from site. The Commission requested a Manure Management Plan to be in place by December 2020. All agreed that there should be progress in manure removal over that time.

Attorney Donovan suggested that the Commission amend the easement to address the well, if they are okay with leaving the well as a way to efficiently water the turf. Chair King noted that Peter Rowell (Building Inspector) agreed that the well was an improvement. Chair King also noted that it is imperative that the owners work with the town under the proper permits when they want to do work on the property (outside normal operations and maintenance), as it is a parcel that holds an easement. The Commission agreed the well was reasonable.

The Commission discussed the location of the shed, which was moved without a building permit from the town and is now out of the building envelope. Attorney Donovan suggested amending the easement to address the location of the shed. The Commission agreed they were okay with the location.

Attorney Donovan read a letter from Peter Rowell, Building Inspector, dated July 11th regarding the number of dwelling units contained in the main house connected to the barn. Mrs. Siopes noted that she

has a copy of the recertification for the apartment, which is in compliance with the court decision of 2002. Chair King noted that the Building Inspector thought that this was no longer an issue.

The property owner's attorney addressed the RV camper that is being used as a seasonal dwelling for farm workers and is located next to the house. This is a use that is not allowed in Rye; however, it would be allowed in North Hampton but the location would be within the easement. The owner is seeking permission to locate the camper in North Hampton, which would then become an easement issue. The other option would be for them to seek permission from the Planning Board for seasonal use of the camper. There is also a limitation in the easement in regards to the number of dwelling units on the property. The camper would put the property over the number of dwelling units allowed by easement.

Chair King noted that the Building Inspector said that the camper is an issue if allowed because everyone in Rye could park a camper outside their home to use as a dwelling unit. She is uncomfortable with allowing the camper to stay. It is an issue that should be taken up with the Building Inspector or the land use boards.

Member Grote noted this issue is under the purview of the Planning Board. This is an issue that the Conservation Commission cannot advise on.

Member Garvan noted that moving the camper to North Hampton and having it within the easement, would be a clear violation of the easement and he would not vote in favor.

Chair King would not be in favor of allowing the camper to stay in its existing location because it is setting a bad precedent. The Commission would probably write a letter to the BOA/Planning Board in opposition to the request.

Attorney Donovan read from the easement; "only one residential unit or one structure (which has been changed to allow two for this property) are capable of supporting a residential unit, including, but not limited to, apartments, bunkhouses, and temporary living quarters, either attached or separate from the main building." He noted the camper would not be allowed even in the building envelope by the easement.

The attorney representing the owner spoke to the Commission about the need for the indoor arena to support the use and business of the horse farm.

Chair King noted that the argument is that the arena improves the property and economically more is better; however, the Commission does not look at it that way. The Commission is looking at the easement, which encourages agricultural uses. She does not think this means taking up every piece of the field to use in that way. The riding arena pushes the limits. The town would like to see the horse farm thrive; however, there has to be a limit at some point for her.

The members of the Commission expressed their concerns on continued expansion of the property into the open field. They expressed concerns on losing balance with the purpose of the easement.

The owners assured the Commission that they would keep communication open with them in the future if they move forward with other plans.

Chair King stated the arena should be the last “taking” of the field. The easement is written in a way that is very definitive.

Attorney Donovan pointed out the easement speaks very strongly about maintaining fields and its current condition as a farm (condition of 1998). It says, “Assuring that the premise remains farm and woodlands by prohibiting significant alterations to the agricultural use thereof”. The reserved rights for agriculture conditions only to the extent they are not materially averse to the purposes of the easement. The Commission’s concern about creep into the field is reasonable. He noted that this issue of whether the riding rink is allowed under the easement, could be decided by a judge and he would defend that position. The other way this can be handled is for the property owner and the Commission to come to an understanding to condition and limit the riding rink. The easement could be changed to incorporate that agreement.

The Commission agreed to table the discussion of the arena to a future meeting and possibly schedule a special meeting for this purpose.

VI. WETLANDS

- A.** 112 Perkins Road, Tax Map 052, Lot 177
Owners: Melissa and Kevin Janvrin
Edwards Survey & Design

Kevin and Melissa Janvrin, owners of 112 Perkins Road, spoke with the Commission regarding their proposal to tear down the existing home and rebuild a new dwelling. The dwelling sits on two lots that were merged a few years ago. The property also receives town water and sewer. The current driveway is going to be moved further away from the wetlands with parking in the garage. The proposed dwelling will be a two-story home with the first floor being a garage and the second story living quarters. The home will be 1500sf with two bedrooms. The current home is 800sf with three bedrooms and a three-season porch off the back. There is no intent to remove any dirt from the lot or bring in any fill, as the lot is level with the road.

Mr. Janvrin submitted the stormwater mitigation plan to the Commission for their review. The Commission also reviewed the proposed home plan.

The wetland scientist working with the Janvrins noted the entire lot is within the 75ft buffer zone. The wetland boundary was marked on the site in March. There is a mix of wetland and upland plant species within the wetland boundary. There is a fairly good buffer component in the upland and the wetland. He recommended a buffer planting along the current edge of the lawn, which has already been established.

- **Site Walk scheduled for Wednesday, July 17th, 4:00 p.m.**

- B.** 23 Harborview Drive, Tax Map 026, Lot 004
Owner: Matthew Siler
Corey Colwell/Eric Salvage – TF Moran Engineering

Eric Salvage, TF Moran Engineering, presented the proposal for 23 Harborview Drive. Also meeting with the Commission were Matthew and Kate Siler, owners of the property, and Architect Brendan

McNamara. Mr. Salvage explained the lot is 1.3 acres with 100ft of frontage and is 260ft deep. The lot has 400ft of frontage along Sagamore Creek. The proposal is to tear down the existing one-story home and build a new dwelling on the lot. The existing home is approximately 2600sf and is 83ft away from the resource. The impervious coverage on the site is 14.5%, of which, 4.2% is within the 100ft buffer. The existing leachfield is also located about half way inside the 100ft buffer. All stormwater currently runs downhill into Sagamore Creek or onto neighboring existing lots. The proposal is to manage the stormwater on the site with the proposed plan. The Silers are proposing to construct a 3200sf home, which includes a two-stall garage of 714sf. The proposed driveway and rear patio will be constructed with pervious pavers. The overall coverage of the site is 11.5%, of which 3.7% is within the 100ft tidal buffer. The main structure of the proposed house has about 30sf of building inside the 400ft setback compared to about 108sf of the existing main structure. The proposed home is 86.8ft away from the resource. The proposed leachfield is completely outside the 100ft tidal buffer.

The Commission reviewed the proposed plans. Mr. Salvage reviewed the plans and noted the owners are proposing to maintain the existing fire pit on the property, which is a 226sf area with part of that being a sitting area. There will be no changes to the existing retaining wall and granite steps.

- **Site Walk scheduled for Wednesday, July 17th, 5:00 p.m.**

VII. PENDING SITE WALKS: REVISITS, PHOTOS AFTER A PROJECT IS COMPLETE

- A.** 1611 Ocean Blvd and 11 Washington revisited and RCC letter sent
- B.** 77 Parsons Road, Ge – Member Grote and Member Garvan will contact the owner to revisit the site. The owner has done a lot of planting that should be reviewed.
- C.** 1647 Ocean Blvd, Quirk – The property owner has given permission for the Commission to visit the site anytime. Member Garvan and Chair King will visit the site.
- D.** 731 Ocean Blvd, McIntyre – June 22nd RCC letter sent – Member Garvan and Member Gardner visited the site. There were no further issues and a letter was sent to the Building Department.

UPDATES

- A.** 15 Richard Road – Chair King and Member Grote visited the site. The owners were asked to not mow around the backside of the property. The Commission will need to revisit the site at the end of summer. Member Grote will write a follow-up letter to the Building Inspector.
- B.** 11 Fairhill Ave, email from Milon Marsden, tree cutting

VIII. OTHER BUSINESS

- Chair King noted that she and Attorney Donovan met with Ed Hayes and John O'Neill to discuss the easement at the Sea Glass property. It is a Planning Board Declaration that the easement be

conveyed to the Conservation Commission and that has not yet been done. Ed Hayes and John O'Neill agreed the easement needs to be conveyed. They also agreed to remove the sawdust, which will involve NH DES to be sure it is done properly.

- Member Grote noted that the former Outdoor Pride property is now an office building for a construction company. They are not supposed to be storing large tractors on the property. She spoke with the Building Inspector and he is going to be writing a letter to the owners.
- Member Grote stated she and Kate Murray are going to be proposing a bill to prevent people from jet skiing in the marsh.
- The Commission discussed the current project on Central Road, the location for the new bank. There has been some cutting of trees and the property sits in the wetland buffer. There were approvals granted for the property and the project may be covered under those variances. Member Shepcaro agreed to follow up with the Building Department.
- Member Shepcaro reported the Recreation Department has taken down the trees for the new driveway and new building without incident. She spoke with rec about the big rocks that were dug out. Rec confirmed that the contractor will be moving the rocks around the back of the dirt parking lot. She suggested to rec that they use some of the rocks in the location of the dumpsters around the outside edge. If there are extra rocks, it was suggested they be put at the side of the road at the beginning of the property. The Recreation Director also agreed to consult with the Commission before planting hardwoods in that area.
- Member Garvan noted that a site walk is needed for 24 Robin Road where there was a tree cut without a permit. The owner, Allison Pellegrino, has said that they only cut a tree that fell down in the yard in 2018. Member Grote will contact the owner about the site walk.
 - **Site Walk scheduled for Wednesday, June 17th, 3:30 p.m.**
- Member Shepcaro stated she spent several hours reviewing the Forest Management Plan. She was distressed to see that none of the Commission's concerns about wildlife issues were addressed. Also, there is no wetland biologist present in the plan.

There was discussion about the email that was sent by Charlie Moreno to a few of the commission members that was not answered. Member Shepcaro stated she would follow up with Mr. Moreno.

Chair King stated she has spoken with Tracy Degnan, Rockingham Planning Commission, about reviewing the plan for the Commission.

The Commission agreed that the wildlife should be adequately addressed in the Forest Management Plan.

IX. CORRESPONDENCE

- Copy of a letter received from NH DES to Joe Goss, 0 Ocean Blvd, requesting more information for an amended Shoreland Wetland Permit. A copy of the letter will be submitted to the Building Department.

- Notice of acceptance for a NH DES Wetland Permit Application was received for 175 Harbor Road.

X. BILLS

- James Verra & Assoc. – Signature Drive & Autumn Lane - \$325.15

Motion by Mike Garvan to pay James Verra & Associates in the amount of \$325.15. Seconded by Susan Shepcaro. All in favor.

- James Verra & Assoc. – Cedar Run - \$1,454.75

Motion by Jaci Grote to pay James Verra & Associates in the amount of \$1,454.75. Seconded by Susan Shepcaro. All in favor.

- Attorney Michael Donovan – Statement for Services - \$770.00

Motion by Mike Garvan to try to get the Planning Board to pay this bill, if not, the Conservation Commission will pay Attorney Michael Donovan in the amount of \$770.00. Seconded by Jaci Grote. All in favor.

- Alan Bucklin – Goss Farm Mowing - \$257.00

Motion by Jaci Grote to pay Alan Bucklin in the amount of \$257.00. Seconded by Susan Shepcaro. All in favor.

- Susan Shepcaro – Deer fencing & stakes for the Goss Farm – Reimbursement

Motion by Mike Garvan to reimburse Susan Shepcaro for Goss Farm deer fencing for the apple trees. Seconded by Jaci Grote. All in favor.

ADJOURNMENT

Motion by Jaci Grote to adjourn at 9:33 p.m. Seconded by Mike Garvan. All in favor.

Respectfully Submitted,
Dyana F. Ledger