

RYE CONSERVATION COMMISSION MEETING

**Thursday, August 8, 2019
7:00 p.m. – Rye Town Hall**

Present: Acting-Chair Suzanne McFarland, Clerk Mike Garvan, Jeff Gardner, Susan Shepcaro, Heather Reed and Alternate Danna Truslow

I. CALL TO ORDER

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

Alternate Danna Truslow was seated.

II. APPROVAL OF MINUTES

- **July 11, 2019**

The following corrections were noted:

- Page 3, 4th paragraph from the bottom should read: **The attorney representing the owner spoke to the Commission about the need for the ~~indoor~~ outdoor arena to support the use and business of the horse farm.**
- Page 4, 2nd paragraph it should be noted: riding ~~rink~~ should be **riding ring** (as shown in two places)

Motion by Susan Shepcaro to approve the minutes of July 11, 2019 as amended. Seconded by Mike Garvan. Vote: 6-0 Abstained: Suzanne McFarland

- **Site Walk minutes of June 26th and July 11th**

Motion by Susan Shepcaro to approve the site walk minutes of June 26th and July 11th as presented. Seconded by Suzanne McFarland. All in favor.

III. WETLANDS

- A. 1677 Ocean Boulevard, Tax Map 013, Lot 12, 13, 14
Ray's Seafood – owner Andy Widen
Bruce Scamman – engineer
Newer proposal – Scourlok for berm, plantings

Bruce Scamman, Emanuel Engineering, spoke to the commission. He explained that the application was before the commission a couple of months ago. The feedback from that meeting and the site walk was taken into consideration and some revisions have been made on the plans. (He reviewed the location of Ray's Seafood Restaurant on the plans.) He continued that Ray's will be installing a new septic system that will stretch under most of the parking lot. The town has asked that there be no direct runoff into the

marsh so drainage structures will be created. (He pointed out the proposed location for the drainage structures on the plan.) He noted that previously there was an encroachment into the marsh. Everything has now been brought out of the marsh and the riprap/berm was also removed. Scourlock (bank stabilization system) is what is being proposed to be installed. It is made to accommodate soils so plant materials can grow. The vertical wall will have a steel frame with a fabric in it that can be filled with soils. There will also be a pouch on the front for soils so natural materials off the marsh can grow into that soil. (He reviewed the plan set for the commission.) He noted this will not be going beyond the existing fence. A silt sock will be installed behind the fence on the pavement side. Approximately 10ft of pavement will be removed with a 5ft vegetative strip planted; whereas, previously it was proposed to be just stone. After the 5ft setback from the fence, it will be dug out to be a stone trench to catch any water coming off the parking lot. (He pointed out the location of the existing shed and deck.) He stated that all of that will be removed and Scourlocks will be installed 2ft back from the marsh. There will also be a stone drainage structure behind it to catch the water, as previously proposed.

Mr. Scamman stated there is an existing fence in the last section, which will be replaced with a new fence. Behind the fence will be a rock outlet, which will be done with the Scourlocks. The rock will be buried in the fabric so it will not be seen and will look more natural. The outlet structure is near the last section of the fence. There will not be any pipes or riprap that penetrate into the marsh. (He pointed out the location of the outlet and showed the direction of the flow of water.) He noted they are also installing a new water line, which runs along the property line.

Mr. Scamman spoke about the maintenance and the longevity of the Scourlock. He also spoke about the steps in the process for construction. It is intended that construction will begin in December to be completed within forty-five days.

The commission members agreed that another site walk was not needed.

B. 161 Harbor Road, Tax Map 9.2, Lot023

Owner:

(Plans state Jalbert Residence)

Ambit Engineering – Steve Riker

Tidal docking structure

Steve Riker, Ambit Engineering, stated he has submitted a NH DES Wetland Application for a tidal docking structure, which qualifies as a major application under DES rules and is subject to Governor Council approval. There is no docking structure at the property now; however, the new home is currently under construction. The proposal is for a docking structure with a 4x20 access way (stairway). The fixed pier is supported by piles with an aluminum gangway and a 10x40 float. (He noted there are 26 piles for the pier.) Riverside Pickering Marine Contractor will be doing the work, which will be done from a crane barge from Rye Harbor. (He explained the construction of the piles. The pier, gangway and float are prefabricated off-site. They are delivered to the site by barge and fastened into place by a crane. Construction takes about four to five days.) He noted the gangway and float are seasonal structures and will be removed during winter months. (Mr. Riker reviewed the proposed location of the dock on the plan.)

- **Site walk scheduled for Monday, August 19th, 5:15 p.m.**

C. 175 Harbor Road, Tax Map 9.2, Lot 022

Owner: Valley Family Trst, Bruce and Nancy Valley Trustees

Applicant: Moorings at Rye Harbor Homeowners' Association

Ambit Engineering: Steve Riker

Tidal docking structure replacement

Mr. Riker noted the structure is very similar in nature to the proposal for 161 Harbor Road. This project involves the replacement of an existing docking structure. The applicant is the Moorings at Rye Harbor Homeowners' Association. The dock is off the Valley property with an easement over the property for the homeowners in the association to have access to the dock (there are at least four properties sharing the dock). He explained that during a storm last winter, a fishing vessel came off its mooring and bounced off the pilings. It was a few days before that was discovered so there was quite a bit of damage. The homeowners' association has decided to replace the pilings. The stairs and access way are going to be a replacement in kind, with no change in configuration or size. The pier will also be replaced in kind, which is 6x90. The proposal is for a 36ft gangway, which is 2ft longer than the current gangway. The float will also be 2ft longer and a little bit wider. The reason is because this is a community dock and will give more space for docking. It will also get the boats closer the mean water mark to help address access and the tides. Mr. Riker pointed out that approval from the Port Authority will also be needed for both projects (161 & 175 Harbor). The Army Corps of Engineers will also review the plans to be sure the structures do not interfere with the federal water channels.

- **Site walk scheduled for Monday, August 19th, 5:00 p.m.**

D. 200 Parsons Road, Tax Map 5.3, Lot 70

Owner: Paul Bacon

Alex Ross

Attorney Phoenix

Alex Ross, Ross Engineering, explained that 200 Parsons is a large 2 acre lot with marsh wetlands to the south. A couple of years back, a brand new septic design, with pretreatment, was approved and installed. Along with the improvement, some landscaping and driveway work was done. (He reviewed the detailed plans for the commission.) He noted the house is located right up against the wetland area and right up on Parsons Road. There is a thin backyard facing the marsh. Most of the backyard is utilized but it is portable material, which can be removed. He continued the house is lifted up quite a bit from the road. There is a steep slope to the front door. When the septic was installed, there was a landscaped wall on the plan, which the owner would still like to install. The owner would also like to install some stairs to get from the road to the front door. (Mr. Ross reviewed the materials that have been cleaned up on the lot by the owner. He also reviewed the plan for the property, which is entirely in the wetland buffer.)

There was discussion on the materials and wood piles that are located in the backyard. Mr. Ross reiterated that the materials are removable and a lot of items have been removed already.

Acting-Chair McFarland asked if the commission reviewed the application for the septic.

Mr. Ross replied that he does not think so. He believes that years ago, Altus Engineering came up with a septic plan for the owner. On that plan, the wetlands were listed as a freshwater wetland. He noted that when he got involved, it was pretty clear that it was a tidal wetland. At that time, the building department pointed out that everything was within the buffer and had to be addressed.

Member Gardner noted the commission likes native plantings all along the marsh as a filtering mechanism.

Paul Bacon, applicant, reviewed the area on the plan where there are plantings currently.

The commission reviewed the proposal to install the landscape wall (which was previously approved), and fix the existing retaining wall, which would involve building up the grade with fill. The commission members agreed they would like to see a plan showing the amount of fill being added.

- **Site walk scheduled for Monday, August 19th, 6:15 p.m.**

E. 2250 Ocean Boulevard, Tax Map 5.3, Lot 70
Owner James Holland
Alex Ross
Ambit Engineering – Plan of 2016
Attorney Phoenix

Acting-Chair McFarland noted the commission saw this property in 2016. This has come back because what was approved is not what's there now. The plans say Ambit Engineering because they did the plans back in 2016.

Alex Ross stated that Ambit Engineering made a plan, a few years ago, for the construction of a new house with site improvements. The plan was approved. Ross Engineering assisted the owner with the structural engineering for the house at that time. After everything was constructed and an as-built plan was being done, it was discovered that not everything was built to the approved Ambit plan. The net end result is that there is a little bit less impervious surface. In looking at the approved Ambit plan, it is a little different setup than what was built. In his mind, because what has been constructed is done with so many pervious pavers, it is not a detriment to the wetland being protected. He explained that portions of the shared driveway were supposed to be pervious. The driveway has been expanded with a patio being added. The concrete walkway was deleted and a small deck with stairs was added, which was not on the original plan. He noted the house is built to the approved Ambit plan.

The commission reviewed Ambit's site plan. There was some discussion on the maintenance requirements for the pavers, which was listed on the plan set.

Acting-Chair McFarland stated the building inspector's letter states that there is a retaining wall, stone patio and enlarged front steps that didn't exist on the plan that was approved. There was also an issue with the outdoor shower. She asked if a flood elevation certificate has been received with flood plain development compliance.

Mr. Ross confirmed that the certificate was received and sent to the owners.

Acting-Chair McFarland stated that she spoke with Jeff Forbes who is the neighbor. The patio that was not on the original plan is 1ft from his property line. Mr. Forbes would like to be at the site walk and is not in favor of the patio being that close. She will contact him about the site walk time.

- **Site walk scheduled for Monday, August 19th, 5:45 p.m.**

- 1681 Ocean Blvd

Mr. Ross noted the permits for 1681 Ocean Blvd were submitted to DES and they had some comments which revised the plans. The changes were very minor. A copy of the plan with the changes has been submitted to the town. (Conservation Commission received a copy of the revisions.) He agreed to go over the changes at the commission's September meeting.

- F. 824 Ocean Boulevard, Tax Map 231, Lot 029-001, Breakers condos
Owner: Sally Sheehan
Shannon TMS Architects
Raze existing house, new house on same footprint on stilts. Stairs increase due to raised height.

Retta Fitch, TMS Architects, presented the proposal to raze the existing house and build a new home on the same footprint at 824 Ocean Blvd, Breakers condos, unit 1. The property is located in the AO Zone. The new house will be raised up to the VE Zone to give it more height to comply with possible changes in the future to the FEMA maps. The current house is non-conforming and the proposed home will have a little less non-conforming square footage. The proposal calls for plant material in that 75sf of non-conforming that is being eliminated. She noted the plan includes stairs (two sets) that are not part of the original home. This will add a slight increase in the square footage.

There was some discussion on the plantings that are proposed, which are based on Massachusetts guidelines and are acceptable to NH DES.

- **Site walk scheduled for Tuesday, August 20th, 5:00 p.m.**

IV. PENDING SITE WALKS

- A. 77 Parsons Road, Ge – Member Grote and Member will contact the owner to revisit the site. The owner has done a lot of planting that should be reviewed.
- B. 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.

Site walks above to be done by the end of August.

Acting-Chair McFarland noted four properties on Ocean Blvd that she will be able to as a drive-by.

V. OTHER BUSINESS

- a. Conservation land, charity event – Bill DaGiau, founder & President, Annie's Angels Memorial Fund, Inc.

Member Garvan stated that the chair of Annie's Angels had contacted him regarding beaver damage the trails at Airport/Whitehorse. The person who does maintenance to the trails before the race, dug a trench and that seemed to work for the race. Mr. DaGiau expressed concerns that the trails are not safe for the public. Member Garvan commented that John Kirkland does the maintenance of the trails for Annie's Angels. He and Mr. Kirkland always mark the trail for the race. A runner had called Mr. Kirkland, after the race, and said the trails were in the best shape they had ever seen. Member Garvan noted that he and

Mr. Kirkland put a lot of work into the trails and got them into shape in a short amount of time. Member Garvan stated the trails are maintained for the general public and are safe. He noted there is definitely a lot of beaver activity and maintenance will probably be needed every spring; however, he does not think the commission would want the beavers removed. It is Mr. DaGiau's choice if he wants to move the location of the race to another place. Member Garvan feels the commission has maintained the trails in a perfectly acceptable manor.

The other commission members agreed.

Motion by Mike Garvan to not remove the beavers from that portion of the Airport property, at this time. Seconded by Suzanne McFarland. All in favor.

- b. Date for Trailgate
Set for September but exact date is not known as Member Grote is not present.
- c. DPW – Park Ridge Ave pavement up, RCC planting plan

Work scheduled to start in the next few weeks by DPW. The commission is responsible for coming up with a planting plan. Member Reed agreed to work on a plan.

Acting-Chair McFarland stated the commission asked Jim Taylor to locate the monuments on the site. Some of the monuments are no longer there. The last survey was completed in 1987. Mr. Taylor has proposed to do another survey and he will get a cost to the commission for that work. She continued there is also a legal issue in regards to a paper road on the site. Attorney Donovan will be handling this issue.

- Pokorny property – off Appledore

Acting-Chair McFarland noted that the commission also asked Mr. Taylor to look at the Pokorny property. This is to address the proposal by a resident to swap land with the commission in order build a house. Mr. Taylor found some markers that were easy to distinguish; however, there were no markers at the paper street with Crescent Ave and it was probably not surveyed. She suggested the commission move forward with having the paper street and the back boundary of the lot marked.

The commission agreed.

- d. Grant application accepted – public outreach and NRI help with Amanda Stone and Lisa Wise

Acting-Chair McFarland read the grant approval letter from Lisa Wise, Climate Adaptation Program Manager, for the UNH Extension and NH Sea Grant, to (1) implement a public education and outreach program related to climate and natural resources, and (2) provide guidance on updating the town's natural resources inventory. The grant runs from July 2019 through July 2020.

- e. Next Conservation Round Table is Tuesday, August 27th
 - **Member Shepcaro and Member Reed expressed interest in attending.**

- f. Mike Garvan – Airport/Whitehorse property trail maintenance, beaver dam having an impact
(*Addressed earlier in meeting. See minutes above.*)

- g. Danna/Heather – organization of RCC’s monitoring program

Member Truslow submitted a draft document for a monitoring process for Rye Conservation Easements, which she prepared for the commission. She listed the current conservation easements in the documents. She feels that the conservation land the town owns in fee, but someone else holds the easement on, should also be monitored by the commission. The documented process is to help the commission organize the monitoring and to keep track of easement information.

The commission reviewed the draft and agreed to continue to work on the list of easements.

- h. Susan/Mike – Forest Management Plan update

Member Shepcaro stated that she spoke with Charlie Moreno on July 23rd. He said that he was going on vacation and would be back the beginning of August. She noted that she followed up with an email to Mr. Moreno regarding their conversation. She will be following up with him over the next week. She asked Mr. Moreno for the 2003 Forest Management Plan, which has a section about wildlife that was done by a wildlife biologist who was working for him at that time. This is apparently not a requirement of a forest management plan. He longer has a wildlife biologist working with him so that particular information was not included in the update. She stated that she told Mr. Moreno that the commission has to have that information included. It has to be at least the information that was in the plan before, if not more. It cannot be less than what the commission has been working with. Mr. Moreno is very cognizant that it is a situation that needs to be rectified. He has spoken with someone from UNH that is familiar with the property that may be his consultant. If not, Mr. Marino has identified another wildlife biologist in Newmarket that he can work with. Member Shepcaro noted that she has asked that the wildlife traffic and raising young is consistent with a property that is bordered on three sides by development, if that is appropriate. She also pointed out other areas in the 2003 Forest Management Plan to Mr. Marino that needed to be updated. The commission is now looking at holding a special meeting in order to accept the updated plan as soon as it is completed. At that time, it needs to be presented to Rockingham Conservation Commission (RCC) and certified. After which, a public hearing will be scheduled.

- i. Dam reconstruction on Burke’s pond (Abenaki)

Acting-Chair McFarland stated that Pat Kelley, Abenaki Grounds and Course Superintendent, has sent a letter regarding serious problems they are having with the dam. It is leaking in different areas and stones are falling out. Two engineers have been to the site to review the dam. Both recommended lowering the water level to reduce the pressure, which has been done. In doing so, a new beaver dam was discovered at the inlet of the pond that has backed up thousands or millions of gallons of water onto the nature conservancy, formerly Brown land. The dam is 100ft long and 18 inches high. It is worried that if the beaver dam breached in a large storm it might take out the Burke Dam and flood downstream. The Abenaki Board of Directors are currently seeking prices as to what the costs will be to rebuild or replace. If it is decided that work will be done on the dam, it will be done end of August/early September. She noted that the letter also states that the NH State Dam Engineers says the dam is under 6ft in height so it does not fall under their regulations. Mr. Kelley has met with Eben Lewis, NH DES, and has informed Frank Drake, Rye Beach Precinct.

Member Truslow stated it is very site specific and there is infrastructure downstream. Her thought is if the engineers are looking at alternatives, they might look at removing the dam all together and reestablishing the stream and the flood plain. That is where a lot of flood dissipation happens anyways. However, this also takes away the pond which can be hard for people because they like looking at ponds. She suggested that it might be one of the evaluations that the engineers could look at. She thinks it would be productive to speak with the engineer who is doing the evaluations.

Member Shepcaro commented that Lee Arthur, Recreation Director, has spoken to her about the abutters' concerns that the beavers will be mistreated.

The commission agreed to recommend to Chair King that someone get in touch with Pat Kelley to discuss the situation and get more information.

Member Shepcaro gave a quick update on the storage building construction project for the Recreation Department at the recreation fields. She agreed to take photos to bring to the commission.

VI. CORRESPONDENCE

Board of Adjustment Notices received:

- ❖ Brenda Murray, 59 Atlantic Ave, Tax map 8.4, Lot 22, granted variances with a condition "that the owner removes only those trees that impeded the construction of the new house".
- ❖ John Samonas, 1215 Ocean Blvd, Tax Map 17.3, Lot 06, granted a waiver from the following sections of the rye zoning ordinance, Section 301.8B 91) (2) and (7) for septic tanks, surface alteration and construction of the building code 7.9.4.2 for septic systems with soils with a seasonal high-water table within 24 inches of the existing surface and Denied the administrative appeal.

NH DES Notices received:

- ❖ Shoreland Impact Permit 2016-0251, Leonard Cirineo, 51 Brackett Road, Tax Map 022, Lot 68-1 – Unable to amend the permit.
- ❖ Shoreland Impact Permit 2018-02278, issued to Joseph W. Goss, 0 Ocean Blvd, Tax Map 08, Lot 59, amended permit description "impact 2,600 square feet of protected shoreland in order to add an outlet an outlet pipe". This runs with his permit to build the subdivision.

VII. BILLS

- Reimbursement to Sally King – \$58.36 (Lowe's)
- Eversource – Goss Farm - \$18.70
- Alan Bucklin – Mowing Goss Farm, Appledore Knotweed work & Parson's Field knotweed work eradication - \$586.35
- James Verra – Surveying: Pokorny parcel & Park Ridge Ave - \$608.89
Cedar Run deed & copies - \$45.70
Autumn Lane & Signature Lane (James Raynes Land) - \$29.70
1090 Washington Road information - \$69.50

Motion by Suzanne McFarland to pay the bills as presented. Seconded by Mike Garvan. All in favor.

VIII. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (d) Acquisition
(Postponed)

ADJOURNMENT

Motion by Jeff Gardner to adjourn at 9:27 p.m. Seconded by Susan Shepcaro. All in favor.

Respectfully Submitted,
Dyana F. Ledger