

Rye Conservation Commission
Thursday, December 10, 2020
7:00 p.m. – via ZOOM

Members Present: Chair Suzanne McFarland, Vice-Chair Sally King, Mike Garvan, Heather Reed, Susan Shepcaro, Danna Truslow and Karen Oliver

I. Call to Order

Chair McFarland called the meeting to order via Zoom teleconferencing at 7:00 p.m.

Alternates Karen Oliver and Danna Truslow were seated for the meeting.

II. Compliant Right to Know Statement

Statement by Chair McFarland:

As chair of the Conservation Commission, I find that due the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

*Utilizing Zoom for this electronic meeting. All members of the Commission have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this or by clicking on the following website address: www.zoom.com
Meeting ID: 825-6410-7659 Password: 036985*

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website of the Commission at town.rye.nh.us on the Conservation Commission page and click on agenda for this meeting.

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

Attendance by Roll Call:

- Suzanne McFarland
- Mike Garvan
- Karen Oliver
- Danna Truslow
- Heather Reed
- Susan Shepcaro
- Sally King

(Unless otherwise noted above, members noted that there was no one else present in the room with them for the work session.)

III. Approval of Minutes – November 12, 2020

The following corrections were noted:

- Page 4, 4th paragraph from bottom, last sentence should read: **It was also felt that living shoreline would not deter golfers from going into the saltmarsh, as well as the wall.**
- Page 6, line 4 should read: **He explained that the parcel is near the intersection of Ocean Boulevard and Washington Road.**
- Page 7, 2nd to last paragraph, 7th line should read: **The volume is being reduced in every scenario.**
- Page 11, last paragraph, 1st sentence should read: **Chair McFarland noted that Builder Peter Kasnet let the people who were doing the work on the windows and clapboards for the Goss Barn, use the lift at no cost to the Commission which could've cost some good money.**

Motion by Susan Shepcaro to approve the minutes of November 12, 2020 as amended.

Seconded by Mike Garvan.

Roll Call: Mike Garvan – Aye; Karen Oliver – Aye; Danna Truslow – Aye;

Heather Reed – Aye; Susan Shepcaro – Aye; Sally King – Aye; Suzanne McFarland – Aye

IV. Wetlands Applications:

A. 63 Old Beach Road, Tax Map 084 Lot 134

**Owner: Aloha Properties LLC, James and Stephany Tosi
TF Moran Corey Colwell**

Corey Colwell, TF Moran, presented the application to the Commission. He introduced Jay Aube from TF Moran and Peter Kasnet the builder for the project. He explained that this is not a wetlands permit. However, the project is being submitted to the zoning board and involves a variance to a wetland buffer. Therefore, it requires Conservation Commission review and input before the zoning board will act on any variance relative to a wetland buffer. The wetland complex in this area is a bit unique. He commented that the most unique characteristic about the property is that it is currently in Flood Hazard Zone AO with 1' of flood depth. In January, the

new maps are being adopted and this property will be going to an AE Zone with a base flood elevation of 13. At the AO with the 1' of flooding, it means that the building has to be 1', and Rye requires an additional 2', so it has to be 3' above the highest adjacent grade. That means the building would have to be at elevation 12 under the current regulations, which it is only at elevation 11. Under the new regulations, the building has to be raised to an elevation of 15, which is a 3' change in elevation and is significant. This means the entire site has to be elevated to comply with FEMA. The structure itself is in a bit of disrepair. In order to comply with FEMA, it would have to be razed 3'. Essentially, that would mean a tear down and rebuild, which is what the applicants are proposing. They would like to remove the structure and replace it with a new one. The project will need to comply with FEMA, so the structure will need to be elevated. The only way to get the structure up because of the narrowness of the lot, would be to elevate the site. He commented that he is saying this to explain why the drawings reflect the grades and retaining wall. The only way to get that structure up and elevate the site, while not putting fill into the adjacent wetland or on adjacent properties, is to construct a retaining wall. The retaining wall is 1' to 3.5' in height, so it is not a high wall. He turned the presentation over to Jay Aube to review the wetlands.

Jay Aube, TF Moran, reviewed the area of wetlands on the map presented on the screen. He pointed out on the plan the area that was determined by Eben Lewis from NH DES to be the 100' buffer zone. He noted that this would mean that the site is beyond the limits of the 100' tidal buffer zone and beyond the limits of the protected shoreland. However, it falls within Rye's 100' wetland setback. He continued that the existing impervious area is 38.84%. There is a net reduction in impervious area to 33.45%. That is being done by transitioning the driveway to a pervious driveway and allowing some of the patios to be pervious, as well. The stormwater management plan includes some downspouts to get the water infiltrated and treated into the ground. (He reviewed the plan showing how the site will be raised in order to comply with the new flood maps that are being adopted in January.)

Mr. Colwell noted that existing on the property is a house, separate garage and an outdoor shower. The outdoor shower is less than 2' from the edge of the wetland; however, this is being removed. The detached garage is being moved back further away from the wetlands. The only thing close to the wetland would be the permeable patio, which is purposely designed to reduce impervious and help permeate any wetlands that may seep over that edge into the ground. Also, the driveway is becoming pervious. The impervious coverage is being reduced. The site is being elevated and the structures are being moved away from the wetland, with everything being protected by the retaining wall and fill. The variances required are the right-side setback, structure separation to the wetlands and rear yard setback. He noted they are submitting to the zoning board for the upcoming meeting and would like the Commission's input.

Alternate Truslow asked what type of soils are on the site now. She also asked what type of soil is being placed on top, so it will drain.

Mr. Colwell explained that the site has been filled. He believes that many years ago, the land was part of that wetland. The fill on the site would probably be a sand to allow for infiltration.

Alternate Truslow asked if the retaining wall goes around the whole property.

Mr. Colwell confirmed, except for the front.

Alternate Truslow asked if any problems with water backing up at the retaining walls is anticipated. She asked about seepage through the retaining wall.

Mr. Colwell explained that by bringing in 3' of sand, it will help with the infiltration. He noted that there is some infiltration there now, as there is 2' to 3' of separation between the soils and the water table. This will add another 2' to 3'. With that 5' to 6' of separation, it should be adequate for infiltration.

Member Reed asked if raising the grade, in order to comply with FEMA, is something the Commission will be seeing more of.

Mr. Colwell confirmed. When the new maps are adopted in January, there are a lot of changes in town. A lot of buildings will be required to be elevated. Those will either have to be on piers or the site will have to be filled.

Chair McFarland asked why the house is not going to be on piers.

Mr. Colwell explained that the house would be high up. The existing grade elevation is 9 and the finished floor has to be at 15. The finished floor would be 6' above existing grade, which would be ugly on piers. It would be better to elevate the site because that gives the ability to store some of the stormwater on the property. If the house went up on piers, the stormwater would go towards Old Beach Road or the wetland. He commented they are trying to create some site storage of stormwater generated by the buildings on site and piers do not do that.

Chair McFarland asked why they would not be using native plants and shoreline protection practices, instead of all this filling of sand, to reduce the water.

Mr. Colwell replied that if the site was kept the way it is and the house was on piers, there would be 6' between the floor and the ground. Downspouts would go onto the existing ground, which would continue to flow out into the wetlands or out to Old Beach Road. With there only being 2' to 3' of separation between the ground and water table, the whole site would become saturated and just bleed into the wetland. He commented they are trying to create some more room for storage of the stormwater by bringing in the fill. It creates infiltration for stormwater and it complies with FEMA.

Member Reed asked if this residence will be much higher than the abutting residences.

Mr. Colwell confirmed that it will be higher. He pointed out that the abutters will be faced with complying with FEMA at some point too. It is a first in a series of steps that have to happen in years to come.

Chair McFarland asked about the footprint of the house.

Mr. Aube replied there is a subtle increase in the size of the dwelling. Through the use of pervious materials there will be a net decrease in impervious area.

Mr. Colwell explained that the dwelling coverage, per the Town's ordinance, is heated space only. Taking the existing structure coverage of the house, garage and outside shower, versus the structure coverage of what is proposed, it is less. There is less structure; however, the heated floor area is increased. There is an overall structure decrease.

Chair McFarland pointed out that the dwelling coverage is 15.8% and the proposed is 21.4%.

Mr. Colwell stated that the garage, as it exists, is not included in the dwelling coverage. The garage in the new plan is included because there is heated space over it.

Member Oliver asked how the abutting properties will be affected by this lot being elevated.

Mr. Colwell replied that the retaining wall contains the fill, so it doesn't go onto the other properties. Eventually, the other properties will be required by FEMA to match this grade. Rye Zoning Ordinance states that stormwater onto abutting properties cannot be increased. A stormwater management plan and studies have been done to ensure that stormwater will be contained on this site. There will be no increase in stormwater onto abutting properties.

Vice-Chair King commented that she has concerns about the impact of the retaining wall on the wetland behind this property. The retaining wall in the back is 3' high to contain fill.

Mr. Colwell replied there is no wetland impact associated with the retaining wall; however, there is construction very close to that wetland at 3' away. He pointed out that the existing outdoor shower is 2' away. It would be handled like any other construction. A silt fence will be used. There is no excavation in the wetland. The construction activity takes place on the site. There is no direct impact to the wetland.

Mr. Aube pointed out that by adding material it will be providing a greater level of protection because there will be a greater separation from the wetland itself. There will also be a greater opportunity to treat the stormwater as it passes through the pervious surface for the patio.

Member Truslow asked if there are any plantings or vegetation proposed for the back corner closest to the wetland.

Mr. Colwell stated there may be some room between the patio and the retaining wall.

Chair McFarland asked if there is an opportunity to move the propane tank closer to the road.

Mr. Colwell explained there is a 10' separation between the propane tank and generator that has to be maintained. There is also a separation from the propane tank to the house. The tank is proposed to be buried and anchored, so it will not be visible.

Mr. Colwell agreed to stake out the lot for the site walk.

- **Site walk scheduled for Wednesday, December 16th, 12:00 noon.**

B. 0 Brackett Road, Tax Map 017, Lot 065

Owner: Pauline and Todor Simeonov

Stone wall

Email by Pauline – requested to be moved to January 14, 2021

- To be heard at the January 14th meeting.

V. Pending Site Walks and Reviews

A. 21-23 Parsons

Chair McFarland and Member Reed visited the site to review some plantings and rocks (small boulders). The rocks were not there and the owners will be contacting the Commission when the work is done.

B. 300 Parsons

Pictures from the owner were received with comments. Another visit to the site may be needed. Vice-Chair King, Member Shepcaro and Member Grote visited the site and will schedule another visit.

VI. Other Business

A. West Road closing November 30, 2020 (Miller-Brown property)

Chair McFarland commended Vice-Chair King for her work on the Miller-Brown property acquisition.

B. Monitoring property reports

○ Goodwin Property

Member Truslow noted that the site was visited on October 16th. Everything seems to be in good shape. There were a couple of areas that had yard waste stored, which looked like it was from the neighboring property. There were also a couple of places that had significant invasive species. The owner requested some information about taking care of non-native plants, which will be sent to him. A draft report has been completed and sent to the members who went on the site walk for review. The report will be sent to the owners, as well. The conservation land consists of 36.17-acres.

○ Seavey Acres

Member Garvan noted he will be working on Seavey Acres next week.

○ Properties to be done by end of year:

- **White** – Usually done by Member Grote. Member Shepcaro would like to join the site walk.
- **Lium (now Ward)** – Southeast Land Trust on Dec. 16th w/ Vice-Chair King

C. Rye Beach Village District

Chair McFarland noted that work is being done to somehow link Rye Beach Village District information to the Town's website.

D. Recommendation letter checklist

There was some discussion on creating a checklist for writing the letters of recommendations for properties and projects before the Conservation Commission. The members agreed to send Member Garvan a list of items they think should be included on the checklist. He will create a checklist based on those items and the items he normally includes in the letters.

E. Budget Update

Chair McFarland gave a quick update in regards to projects that are not completed for 2020 and the funds that may need to be encumbered for 2021. She sent the Commission an update on the remaining 2020 Budget numbers for review.

F. Sea Glass Condominiums

Chair McFarland reported that Member Oliver did the research on who owned the 11-acre land around the Sea Glass Subdivision that Conservation holds an easement on. It seems that the condominium owners all own 1/20th. The land is not owned by the original developers. This

information is being taken to the homeowners' association meeting and the Commission is waiting to hear back.

G. 18 Whitehorse

The owners have contacted the Commission in regards to beaver activity and dangerous trees. Chair McFarland will be meeting with the property owner within the next few days to take a look.

There was some discussion about the beaver activity and hunting in this area. There was also discussion in regards to available parking to access the land, especially off Airfield Drive which backs up to Whitehorse.

H. ZBA Meeting Schedule

- January – Danna Truslow
- February – Mike Garvan

Chair McFarland asked the members to start thinking about fertilizer. There was a lot of pushback at the recent ZBA meeting on whether people can fertilize in the first few months to establish their landscaping. A lot of people in town do not do their own lawns or maintain their landscaping. She would like the Commission to be consistent in regards to fertilizer.

Vice-Chair King commented they need to be careful about things that require enforcement, as at times there is no follow up. There may be a better way to go about it; such as, an education piece to property owners and landscaping companies.

Member Truslow noted that she is putting together some resources for the Planning Board in regards to fertilizers in the Aquifer Protection Zone because they have asked some of the same questions. She would be happy to share this information with the Commission. She pointed out that even with low and slow-release fertilizer, if there is too much water it will leach through. Water plays a big part. She agreed there are a lot of homeowners in Rye who have someone else take care of their lawn. Getting this information across and having people use it is one of the biggest challenges.

I. Deadline for the February issue of Rye Magazine

Referring to Rye Magazine, Member Oliver noted that the deadline for February's issue is December 28th. Any member who has any ideas for the article may send them to her.

VII. Correspondence

Chair McFarland noted the following correspondence was received:

- **SBA Communications Corp**
- **SELT** – News for owners of land protected by conservation
- **Rye Planning Board December 8th, abutter notification for 400 Washington Road and WBTSCC**
- **NH DES Wetlands Permit #2019-03146 Brackett Road, Tax Map 19, Lot 136 (Approved)** – 314 Brackett Road, Marc Grondahl

VIII. Bills

Motion by Suzanne McFarland to pay the following bills;

- **\$112.50 BC #03974**
- **\$202.50 BCM #04071**
- **\$40.95** - reimburse Heather Reed, Monarch Watch
- **\$300.00 RCCD #87942** - West Road Acquisition
- **\$136.00 RCCD #87943** - Goss Farm
- **\$995.16 RCCD #87944** - West Road Acquisition
- **\$544.00 RCCD #87946** - Goss Farm

Seconded by Susan Shepcaro.

Roll Call: Mike Garvan – Aye; Karen Oliver – Aye; Danna Truslow – Aye; Heather Reed – Aye; Susan Shepcaro – Aye; Sally King – Yes; Suzanne McFarland - Aye

Member Reed explained that she registered the Goss Farm as a Monarch Waystation. A plaque will be received and will go in the location of the pollinator garden. The Goss Farm will be listed on the Monarch Waystation Program Website, as part of the pollinator pathways.

The Commission agreed this was a great idea.

Chair McFarland noted that Vice-Chair King was going to speak with Patricia Brown about what she feels would be an appropriate name for the 81 West Road conservation property. She also noted that the Conservation Commission's Budget for 2021 has been approved by the Select Board and the Budget Committee. She thanked all the members for their hard work throughout 2020.

Adjournment

Motion by Danna Truslow to adjourn at 8:47 p.m. Seconded by Karen Oliver.

Roll Call: Mike Garvan – Aye; Karen Oliver – Aye; Danna Truslow – Aye; Heather Reed – Aye; Susan Shepcaro – Aye; Sally King – Aye; Suzanne McFarland – Aye

Respectfully Submitted, Dyana F. Ledger