

# **RYE CONSERVATION COMMISSION**

**Thursday, August 12, 2021**

**6:30 p.m. – Rye Jr. High School Cafeteria**

***Members Present:* Chair Suzanne McFarland, Mike Garvan, Jaci Grote, Susan Shepcaro, Danna Truslow and Alternate Jeff Gardner**

## **I. CALL TO ORDER**

Chair McFarland called the meeting to order at 6:32 p.m. and waived the Pledge of Allegiance. She seated Alternate Jeff Gardner for the meeting.

## **II. APPROVAL OF MINUTES**

- July 8<sup>th</sup>

The following corrections were noted:

- Page 3, under item B, 2<sup>nd</sup> sentence should read: **Mr. West has agreed to flag the wetlands, the invasives, and what should be removed for the landscaper.**
- Page 4, item H should be: **381 Sagamore**
- Page 2, 6<sup>th</sup> line in the corrections for 6/10/21 it should read: **The 1986 wetland line is old and the new wetland delineation closer to the road is the current wetland delineation.**
- Page 4, last paragraph, 1<sup>st</sup> sentence should read: **Vice-Chair King stated that in going by the property, it doesn't look like she thought it was going to look.**
- Page 4, under item F, 2<sup>nd</sup> sentence should read: **Chair McFarland has reached out to Shannon Alther, TMS Engineers, who is the contact person for the project at 5 Wildwood.**
- Page 5, last paragraph from bottom, 1<sup>st</sup> sentence should read: **Member Truslow stated that when the existing well didn't work, she inquired about installing a drilled well.**
- Page 6, under item F, 1<sup>st</sup> sentence should read: **Member Reed noted that she is reaching out to the Southeast Land Trust (SELT) regarding the removal of the beaver dam and putting in a pedestrian bridge.**
- Page 7, 1<sup>st</sup> paragraph under bills, 1<sup>st</sup> sentence should read: **The Commission acknowledges the donation from Mr. Knowles.**

**Motion by Mike Garvan to approve the minutes of July 8, 2021 as amended, along with the corrections to the June 10, 2021 meeting. Seconded by Susan Shepcaro.**

**Vote: 5-0-1 in favor. Jaci Grote abstained.**

### **III. WETLANDS**

#### **A. 30 LaMer, Tax Map 013, Lot 044**

Owner: Charles and Lindsay Beynon

Structure in the wetlands buffer

**Attorney Chris Mulligan, representing the applicants,** spoke to the Commission. He explained that they have an application pending before the Board of Adjustment relating to a notice of violation that was issued by the building inspector. Mr. and Mrs. Beynon installed a swing set apparatus in their backyard, which falls within the 100' wetlands buffer. Attorney Mulligan pointed out that the wetlands buffer swallows up almost the entire backyard. The relief being requested from the zoning board is permission to leave the swing set in the wetlands buffer. It's approximately 545sf and is not a permanent structure. In 2017, relief was obtained to reconstruct the existing dwelling partially within the wetland buffer. The applicant feels that the swing set is an accessory use to the relief that was approved back in 2017.

Member Grote asked why the applicants did not come to the Commission before installing the swing set, knowing what they went through with the house in 2017.

Attorney Mulligan explained it was just a misunderstanding. They were not under the impression that permits were required for the installation of a swing set.

Member Garvan asked if it is installed in the area of the 10ft buffer plantings.

Attorney Mulligan replied there is a requirement to have 10ft to 15ft buffer along the boundary of the abutting boundary. This partially encroaches on that; however, Corey Colwell (TF Moran Engineering) has assured that the average holds, even with the couple of feet encroachment in that spot.

**Charles Beynon, applicant,** explained that the swing set is outside of the wetland plantings.

Member Shepcaro asked if the plantings are still viable in that area.

Chair McFarland noted that the Commission has signed off on the plantings.

Member Garvan pointed out that there were new plantings and the Commission was supposed to verify the plantings by July of this year.

Chair McFarland asked why that particular spot was chosen.

Mr. Beynon explained that the property has a slope to it and the swing set had to be on a flat surface. Any of the flat surface areas fall closer to the rock wall and away. Also, the idea was to keep it in an open area so the children could run and play. He noted that coming out the back

door of the house, the slope is extremely steep. The play set would be in the middle of the yard, if it were to be moved to another flat area.

Chair McFarland opened to the public.

**Barbara Dallmeyer, 20 LaMer Drive**, stated that she objects to a variance for a 545sf double slide “condo” with attached wings in the buffer zone of the wetlands. The structure needs to be moved as far as possible out of the wetland. (She submitted photos to the Commission showing the swing set and its location.)

Chair McFarland pointed out that the Conservation Commission is a recommending board. The variance will be addressed by the ZBA.

- **Site walk scheduled for Thursday, August 19<sup>th</sup>, 3:00 p.m.**

**B. 705 Brackett Road, Tax Map 017, Lot 34-2**

Owner: Joel Feid

Deck expansion discussion

**Joel Feid, applicant**, stated that a site walk was done a couple of weeks ago for trees, in order to square off the deck. MSC Engineering has drafted the approximate additional square footage, as well as impact to the wetland buffer. This would add 158sf., including three 6ft steps, and would extend a total of 11.5ft into the 75ft wetlands buffer.

Member Shepcaro asked if this is the last piece of the construction project.

Mr. Feid explained there have been a lot of challenges over the past 18 months, due to the budget and Covid. He is considering doing another section of fencing in the backyard for privacy.

The Commission agreed that a site walk was not needed, as they have already visited the site.

Member Grote stated that she does not have a problem with the request. She has seen the backyard and the picture gives a good visual of what is being done. It makes sense to her.

Member Gardner pointed out that it’s releasing the lawn area.

Mr. Feid asked if the Commission would want crushed stone under this section of the deck, as there is stone under the existing portion.

The Commission agreed the stone was not needed and they were fine with the proposal.

Member Garvan agreed to write a letter of recommendation to send to the ZBA.

#### **IV. PENDING SITE WALK AND REVIEW**

##### **A. 381 Sagamore Road**

Member Truslow noted that she received the contact information for 381 Sagamore from Sally King. She will be contacting the owner to make arrangements for the Commission to go back to review the infiltration system and plantings.

##### **B. 1311-1315 Ocean Blvd**

Chair McFarland noted that Member Shepcaro reviewed the pictures for 1311 Ocean Blvd and felt that the work had accomplished what was in the last RCC letter.

Member Shepcaro commented that they have planted the number of plants that were required; however, they are not spaced out all the way down. It's just a mulch bed around the wrap. She confirmed that it is what they said it would be.

##### **C. 261-279 Pioneer**

Member Garvan pointed out that RCC wrote a letter to ZBA stating that they didn't feel the condo conversion should occur because there are obvious wetland buffer violations. RCC requested that a certified wetland scientist delineate the wetlands, put in signs and any violations should be cited correctly before the conversion is allowed. He continued that the building inspector should review the site and issue any wetland violations or RCC should again write the ZBA stating that they feel the application is not complete, as there are wetland violations.

Member Gardner asked if buildings are being changed at all.

Member Garvan replied no. However, in reading the condominium rules, which is part of the application, they are saying that some units will have storage on the property and will continue to have them. He does not want that to get codified that it's fine to have those sheds in the buffer, as they probably never got permits. He noted that they should try to catch these types of violations as people do something to their property. While in this case, they are not doing much physically, but they are certainly changing ownership structure.

Member Garvan continued that the ZBA checklist says that if wetlands relief is needed it has to be run by the RCC. It's RCC's contention that wetland relief is required and he would like the building inspector or a certified wetland scientist to back it up. The sheds shouldn't be grandfathered because they were illegally put in. He also stated that he would like to see the wetland delineation because some of the parking spots or parts of the building may be in the buffer. He thinks they are even asking for relief for the parking places. The application shouldn't go to the ZBA as it is.

Chair McFarland agreed to speak with Chuck Marsden (building inspector) about this application. She will also speak with Planning/Zoning Administrator Kim Reed.

## **V. OTHER BUSINESS**

### **A. Seaglass pathway update**

Member Shepcaro stated that she talked to someone about having stepping stones put in for the pathway at Seaglass. Because of the length of the path and the work that has to be done, it was found to be expensive. Sally King had suggested that it just get mowed and she volunteered to do it. (It was confirmed by Selectman Tom King that Sally has done the mowing.) Member Shepcaro suggested getting the pathway on a regular mowing schedule with Alan Bucklin, or another lawn service company.

Member Truslow asked if it would make sense to see if the small area of mowing could be added to the condo associations mowing and it be reimbursed by RCC.

Member Shepcaro pointed out that they are trying to keep that separate. There are rocks that separate the condo association's property from the conservation piece. Granite posts have also been put up to keep their landscapers off RCC's property. She thinks the Commission should use their own person.

There was some discussion about other conservation pathways that need to be mowed regularly. It was agreed to find one person to mow Goss Farm, Brown Lane, Parsons Field access and Seaglass on a regular schedule.

### **B. Welcome letter**

Chair McFarland reported that Karen Oliver has completed the welcome letter for new people who are moving into Rye. Karen has already sent out seven letters. Karen has agreed to be in charge of the mailings and has asked each member to send her names and addresses of new people moving into the area.

### **C. Goss Farm well**

Member Truslow submitted a memo to the Commission showing the possible costs of a well at Goss Farm compared to paying for water over time. She noted that she had put together a spreadsheet that assumed a 5% increase in usage and a 5% increase in cost. However, she felt that was overstating, so she dropped it back to 2%. The Commission would break even at 16 years between the well installation costs and the water purchase cost.

Chair McFarland stated that the pressurized water is desperately needed and the Commission has the funds. She pointed out that the Goss Farm Fall Fair has already brought in an additional

\$1,250 for the Goss Farm Escrow Account. She thinks it is something the Commission should pursue.

The Commission agreed.

Member Shepcaro reported that the well was capped. It's under a tent and there's concrete on top. After it is dry, the form will be taken away. There was a suggestion of putting a rock on the concrete pad with a plaque that gives information about the farm.

#### **D. Goss Farm water line**

Member Shepcaro submitted the quote from Arik Jones, from Rye Water, for the materials needed for installing a water line for irrigation, which was approximately \$1,560. RCC would have to get pricing from a contractor for the excavation, which would be priced out separately.

Selectman King explained that there would be three parts to the project; materials, trenching for the water line and excavation to the existing tie in. Arik Jones recommended upgrading the valve from  $\frac{3}{4}$ " to 1" at the pit to help increase the flow rate and pressure.

Member Grote asked why the Commission is doing this if Goss Farm is already connected to the Rye Water District.

Member Shepcaro pointed out that another line is needed.

Selectman King explained that a poly line is needed for the community gardens to separate that from the farmers' line. More capacity is needed, whether it be from Rye Water or the well with the pump and holding tank. He continued that this season is too late for the garden poly line. In reality, this would be for next year. He is not sure how soon the well could be operational.

Member Truslow commented the work for the well would be backed up also.

Selectman King stated it would be good to proceed with the water line with Rye Water and the well could be tied into the poly line.

Member Shepcaro asked if he is saying they should do the pipe work regardless.

Selectman King confirmed. He pointed out that the pipe line to the gardens is needed either way. The hope is to get the pipe work done this year. He noted that they could trench in the pipes this fall without doing the hookup. The excavation could be done with the hookup to Rye Water in the spring, if the well was not going to be in the foreseeable future.

The Commission discussed what the benefits would be in putting in a well for the farm versus having the water come from Rye Water.

**Motion by Danna Truslow to approve the Epping Well and Pump proposal for an installation of a well approximately 300ft., with the constant pressure pump and pressure tank, with an estimate up to \$15,000. Seconded by Jaci Grote.**

Chair McFarland opened to the public for comment.

Selectman King asked if RCC can sole source a \$15,000 contract or if an RFP is needed.

Chair McFarland stated that it is under \$15,000. If the contract turns out to be more than that amount, the Commission will just not proceed. She noted that because the Commission picked the person that was under \$15,000 for the NRI, they did not have to go through the RFP process.

Member Truslow stated that she will verify that the contract is under \$15,000.

Motion amended:

**Motion by Danna Truslow to authorize Epping Well and Pump to install a well at Goss Farm with a cost of less than \$15,000 to be paid out of the Goss Farm Escrow Account. Seconded by Jaci Grote. All in favor.**

The Commission agreed to move forward with the installation of the piping at Goss Farm. Member Shepcaro will be the contact person for this part of the project.

#### **E. Survey from the town – Vision planning**

The Commission worked on filling out the survey sent by the Long Range Planning Committee, which will be used to form topics to be discussed at their Visioning Session being held in October. The Long Range Planning Committee, a committee of the Planning Board, is currently working on a Vision Chapter for the update of the Rye Master Plan.

#### **F. Recreation Department, town forest, grass clippings**

Member Shepcaro spoke to the Commission about the grass clippings that are being dumped on the recreation field, behind the playground, which is a very wet area that drains into the town forest. It is felt that this area could possibly be within the wetland buffer.

The Commission agreed to contact Mark West from West Environmental, or another certified wetland scientist, to have the site reviewed and delineated. Member Shepcaro will contact Mr. West.

#### **G. NRI update – Natural Resource Inventory**

Chair McFarland reported that the NRI is in the hands of FB Environmental and should be completed soon.

## **H. Duck blind in marsh off of Pioneer Road**

Chair McFarland stated that two abutters are really distraught about the duck blind in the marsh and have already reached out to Eben Lewis at NH DES. She has sent Mr. Lewis the pictures taken by Alternate Gardner. She also sent him a tax map with the outline of the Rye Conservation Land, so he has a clear understanding. Mr. Lewis will be going out to the site to take a look. The abutters reached out to DES to try to understand if it is allowed or not.

Alternate Gardner commented that the duck blind is a large, steel structure and it is right on the marsh.

Member Garvan noted that Mr. Lewis has said that if stakes are driven in it might be under DES jurisdiction. It will be good if Mr. Lewis goes to the site. Member Garvan stated that he is not sure how detailed RCC wants to get with this, particularly, when the State allows it. He pointed out that blinds have been in that vicinity before and Mr. Lewis confirmed that also.

## **G. 21 Vin Mar Court**

Member Garvan stated that 21 Vin Mar Court was before the ZBA at their recent meeting. RCC is an abutter; however, they did not receive an abutter's notice, as it somehow slipped through the cracks. He was interested in this case because he doesn't want to see two residences on one lot in a single residence district. He thought the case was continued, so he didn't sit in on the ZBA meeting. Member Gardner was at that meeting, but it doesn't seem like he was allowed to speak much to the application. The way the new building is sited, it meets all the setback requirements, so it doesn't need wetland relief. Member Garvan continued that he thinks this sets a terrible precedent in having two residences on one lot in a single residence district; particularly, since this is a sensitive area that is surrounded by wetland. He pointed out that they have recently issued a warning at Cable Road for contaminants for swimming. This property is in that area. This is a huge concern.

Member Gardner stated that the ZBA basically said that since the proposed project did not have any wetland impact, Conservation shouldn't be concerned about it.

Member Garvan pointed out that there was an abutter to the property asking for the play set that was present and able to speak. The Conservation Commission is an abutter to this property and should have gotten a chance to speak also.

Member Gardner noted that the applicant's attorney made the point that the land is not conservation land. The abutting land is Town of Rye land.

Member Garvan pointed out that it is listed on the tax records as Conservation Commission land. The Conservation Commission manages it for the town. He thinks the ZBA was out of line and shut Member Gardner down inappropriately. He continued that even if there are no wetland issues, as an abutter, they should still have their say.



Chair McFarland asked for clarification of the two houses going on one lot.

Member Gardner explained the property is not being subdivided. The applicant was making the case that it is an in-law apartment, which has to be attached by current regulations. They were saying that it couldn't be attached because it's in a sensitive area, but it could be located in front of the house closer to the street. It's also going to be larger than what is allowed for an in-law apartment. They were trying to qualify it by saying it's a unique situation and it's a large lot.

Chair McFarland asked what will happen when these owners leave.

Member Gardner pointed out that both houses will be sold together and one will become a rental property.

Member Garvan commented there are a lot of large lots in Rye.

Chair McFarland asked if this has to go to planning.

Member Truslow stated that she thinks it still has to go to planning.

Chair McFarland asked if the Commission should speak to the Planning Board.

The Commission confirmed.

Referring to the Planning Board Agenda for the August meeting, Chair McFarland noted that 261-279 Pioneer was on the agenda for the 10<sup>th</sup>.

Member Garvan asked if RCC should have received an abutter's notice from planning.

Chair McFarland commented that they get most notices but there are things that get missed.

Member Garvan noted that they need to tighten up the process somehow. RCC wouldn't even have known about Vin Mar Court, except he was interested in the two houses on one lot and found out the Commission was an abutter. When things slip through the cracks, it doesn't give the Commission a lot of time to scramble.

Chair McFarland noted that she will follow up on 21 Vin Mar and 261-279 Pioneer for further information.

## **VI. CORRESPONDENCE**

- A.** NHDES permit: Goss Farm Lane, Tax Map 08, Lot 59-2-PERMIT\_SHORE-2021207163
- B.** NHDES permit: 60 Causeway Road, Tax Map 03, a lot 79-PERMIT\_SHORE-2021207273
- C.** NHDES permit: Ocean Blvd, Tax Map 08, Lots 44 & 31, NH Dept of Transportation 15-PERMIT\_WETLAND-20212067371

- D.** NHDES permit: 23 Harborview Drive NHDES-APPROVLTR\_WETMAJOR-2021207430
- E.** NHDES permit: 23 Harborview Drive, Tax Map 26, Lot 4, NHDES-PERMIT\_WETLAND-2021207431
- F.** 80 Locke Road, Tax Map 08, Lot 34 NHDES-RFMI\_WET-2021207612
- G.** Thank you note from Rocket Fuel for the Goss Farm bags
- H.** RCCD Annual Report

## **VII. BILLS**

**Motion by Jaci Grote to approve payment for the following bills:**

- a.** \$738.20 Alan Bucklin -Goss Farm mowing
- b.** \$3313.75 FB Environmental Associates, LLC, invoice #47299 – NRI
- c.** \$22.00 2 books postage stamps, reimburse Suzanne
- d.** \$735.00 BCM Environmental and Land Law #5794
- e.** \$1305.00 BCM Environmental and Land Law #5885

**Seconded by Mike Garvan. All in favor.**

**Motion by Jeff Gardner to pay the Eversource bill in the amount of \$18.70.**

**Seconded by Jaci Grote. All in favor.**

## **VIII. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (c) Legal**

**At 8:24 p.m., Jaci Grote made a motion to go into non-public session per RSA 91-A:3, II (c) Legal. Seconded by Susan Shepcaro.**

**Roll Call: Susan Shepcaro – Aye; Jeff Gardner – Aye; Jaci Grote – Aye; Suzanne McFarland – Aye; Mike Garvan – Aye; Danna Truslow - Aye**

**Mike Garvan made a motion to come out of non-public session at 8:49 p.m.**

**Seconded by Jaci Grote.**

**Roll Call: Danna Truslow – Aye; Mike Garvan – Aye; Suzanne McFarland – Aye; Jaci Grote – Aye; Jeff Gardner – Aye; Susan Shepcaro – Aye**

**Motion by Mike Garvan to seal the minutes of the non-public session. Seconded by Susan Shepcaro**

**Roll Call: Susan Shepcaro – Aye; Jeff Gardner – Aye; Jaci Grote – Aye; Suzanne McFarland – Aye; Mike Garvan – Aye; Danna Truslow - Aye**

## **ADJOURNMENT**

**Motion by Mike Garvan to adjourn at 8:50 p.m. Seconded by Susan Shepcaro. All in favor.**

Respectfully Submitted, Dyana F. Ledger