

RYE CONSERVATION COMMISSION

**Thursday, September 9, 2021
6:30 p.m. – Rye Public Library**

Members Present: Vice-Chair Sally King, Jaci Grote, Susan Shepcaro, Danna Truslow, Heather Reed (arrived at 7:00 p.m.) and Karen Oliver (arrived at 7:00 & was seated as voting member)

Note: *Sally King sat as acting chair for the meeting, as Suzanne McFarland was not present.*

I. CALL TO ORDER

Acting Chair King called the meeting to order at 6:34 p.m.

II. APPROVAL OF MINUTES

- August 12, 2021

The following corrections were noted:

- Page 3, 4th paragraph from bottom should read: **Member Gardner pointed out that it's lessening the lawn area.**

**Motion by Susan Shepcaro to accept the minutes of August 12, 2021 as amended.
Seconded by Danna Truslow. All in favor.**

III. WETLANDS

A. 152 Harbor Road, Tax Map 9.2, Lot 18

Owner: Peter Hamill

Eric Weinrieb, Altus Engineering

Eric Weinrieb, Altus Engineering, presented the proposal for 152 Harbor Road. The owner is proposing to add new decks and patios to the existing home and install a small shed on the lot. The proposal also includes a small expansion to the driveway, which will involve the removal of a portion of the existing walkway. (Mr. Weinrieb pointed out the location for the proposed deck and patios and reviewed the location for the driveway expansion. He also pointed out the lawn area that is going to be taken out and made into natural cover with some restoration areas nearby.) Mr. Weinrieb noted that an application was submitted to the building inspector, which was denied because of the variances needed that are related to the wetlands. (He pointed out on the plan the 100' tidal wetland buffer on the lot.) He explained that everything on the site is within the 100' buffer. Since the Conservation Commission has walked the site, the lot was

surveyed and the wetlands have been delineated. The last time this was done was in the 90's and some areas have changed. He noted that there is a fairly substantial tree in the buffer that is on the edge of the work area. The tree has also been compromised. A representative from Piscataqua Landscaping has been to the site to review the tree. As part of the formal application, the tree is going to be taken down, as there is documentation that it's not healthy.

Member Grote asked the total square footage of things being added.

Mr. Weinrieb replied that the building coverage will be going from 8.6% to 9.7%, where 15% is allowed. A variance is not needed for coverage relief.

Member Grote asked if the patio is permeable or impermeable.

Mr. Weinrieb noted that the proposed patios are going to be permeable surfaces. He also noted that they don't count towards coverage. The deck and the shed are counted in the increase in impervious coverage.

Member Grote asked if there is a plant list for the native species that are going to be replacing the material that is being removed.

Mr. Weinrieb explained that the landscape architect is working on the plan. The area that is lawn now, is going to be a densely planted buffer. (He pointed out the areas to be planted on the plan.)

The landscape architect (present at meeting) spoke in regards to possible native plantings that may be used. He confirmed that he has a copy of the recommended plant species list.

Member Truslow asked if the shed is going to be on posts, as opposed to a foundation.

Mr. Weinrieb confirmed. He explained that the reason is because the ground slopes. It may be up 6" in the front and 1' in the back. Also, this will allow for the water to run underneath.

Acting Chair King asked if there will be a gravel bed under the shed.

Mr. Weinrieb stated that there can be a gravel bed or left as it is. He explained that sonotubes are going to be put it and the shed will be leveled. The material underneath will be left and the stone drip edge will be on the sides.

Peter Hamill, applicant, explained that the south side of the shed will be at grade and it will pitch up about 25". The north side of the shed will be on two or three piers. The size of the shed is 12'x16' and will be in the character of the house. He noted that the shed is not out of character for the neighborhood and will just be used for storage.

Member Grote asked if there would be a problem with the Conservation Commission's approval pending no storage of hydrocarbons or chemicals in the shed. Mr. Hamill confirmed he would not have an issue with that.

The Commission agreed to revisit the site. They requested that the new patio and deck be staked out, along with the area that is to stay green and the shed location. They would also like to see the planting list.

- **Site Walk scheduled for Monday, September 13th, 3:00 p.m.**

B. 1 Clark Road, Tax Map 019, Lot 090
Owner: Chris and Melissa Snow

Chris Snow, applicant, spoke to the Commission in regards to the proposal to expand the front entryway of the house at 1 Clark Road. He explained that there are two front entrances to the house, which is a 1955 Cape with a 1970's addition. The intent is to take away the two preexisting concrete steps, along with the concrete pad, and replace it with a deck entrance way. He pointed out that the existing steps pose a safety concern when stepping out of the house. The idea is to put in a landing to make it safer and more accessible. He noted that they are trying to minimize the impact of any expansion, as they are not trying to expand the house to any degree.

Member Oliver asked what relief is being requested.

Mr. Snow replied that he is not sure what wetland relief is needed. He pointed out that there is a saltwater marsh across the street, which is about 100'. There is also a pond behind the house at approximately 85' to the front of the house.

Referring to the building inspector's denial letter, Acting Chair King noted that relief is needed from the pond behind the house.

The Commission reviewed the plan that was submitted by the applicants.

- **Site Walk scheduled for Monday, September 13th, 4:00 p.m.**

IV. PENDING SITE WALK AND REVIEW

A. 3 Brackett Road, Tax Map 022, Lot 072, pines, Ambit Engineering, Steve Riker

Steve Riker from Ambit Engineering has requested a site walk by the Commission. The property owners are proposing to remove hazard white pine trees from the 100' wetland buffer.

- **Site Walk scheduled for Monday, September 13th, approximately 4:20 p.m.**

B. 1359 Ocean Blvd, Tax Map 174, Lot 21, pines, Urban Tree Services, Ed Roy

Ed Roy from Urban Tree Services has been hired to remove pine trees from the front yard of 1359 Ocean Blvd. The Commission agreed that the owners will be contacted and a couple of members will go to the site.

C. 1090 Washington Road, check in

The owners of Driftwood Stables have requested a follow up site walk from the Commission.

- **Site Walk scheduled for Monday, September 20th, 4:00 p.m.**

D. 1 Parson Road update

Acting Chair King noted that the building inspector had asked the Commission to visit 1 Parsons Road, as he was concerned with possible regrading and draining. She and Suzanne McFarland visited the site. The property owners were moving some plants because they are trying to repaint the house and it's extremely overgrown. She commented that the lot is very small. It seems that there are very minor projects going on. This was reported to the building department by an abutter, as they were concerned about the equipment. There is no need for the Commission to visit the site.

E. 381 Sagamore Road update

Member Truslow noted that there was a site visit to look at the dry well and how it is working, so it might be used as a tool for other places. The day of the visit, as there has been a lot of rain lately, it was visibly soft and wet where the dry well was located. There wasn't any ponding or runoff from the dry well and it seemed to be working pretty well. A week later, during a recent heavy rain, there was a lot more flow. The daughter of the owner wanted to get a better idea of how to handle the pooling and actual runoff from the dry well, if there continues to be problems. Member Truslow noted that they can use what is called a check dam. If there is a drainage path from the dry well, stone could be put in the way to slow the flow. This will help soak it in to reduce and help contain the erosion.

Member Truslow commented that they have wet soils. It's a whole lot better than what was there, which was a pipe out to the wetland. The owners are definitely trying. The dry well is working as well as can be expected, given the current conditions.

Acting Chair King stated that the owners asked about the size of the dry well. They were concerned that the dry well may not be large enough.

Member Truslow explained that the dry well is usually not just an empty space. It's filled with stone, so it doesn't collapse. If the stones are really big, or there are a lot of small stones amongst big stones, it can become clogged easily versus if it were really even with a lot of space

in between. It should work if the dry well is properly installed; however, when getting 3” to 4” of rain in 24 hours, it’s really hard to keep up.

Acting Chair King stated that the Commission was interested because there are so many properties in Rye draining onto another property. It seems like this could be a great solution, if it can work.

V. OTHER BUSINESS

Motion by Karen Oliver to take item D out of posted agenda order. Seconded by Susan Shepcaro. All in favor.

- **Whitehorse** – hunting issue

Acting Chair King noted that Heidi Roberts who lives at the end of Random Road, has been having some issues with hunting. This is in the Whitehorse/Airfield area.

Heidi Roberts, 48 Random Road, stated that she lives at the end of Random Road. She asked if the Commission would consider turning the hunting into bow only, as it would be a little safer. She has had hunters on her property, even though it has been marked. Last year, Fish and Game was in the area and caught five hunters that were doing a deer push. The deer were pushed onto her property, just off her deck. The hunters were caught but denied they were on the property. They said they were shooting the other way, which is senior housing and not a good place to be shooting. She asked if the Commission could consider bow only.

Acting Chair King explained there is a lot wrapped up in that. There are two properties that people are hunting on, Whitehorse and Airfield, which are both conservation properties. The easements and rules about hunting would have to be researched for these properties. She commented that bow hunting sounds kind of scary having horses.

Ms. Roberts replied it is still scary with a bow; however, the hunters with guns are moving around the property. A bow hunter is typically sitting in a stand and not running through the property shooting arrows. These hunters were shooting their guns on her property.

Member Grote asked when Fish and Game were there.

Ms. Roberts replied it was last year. The Rye Police were also there.

Member Grote asked under what the circumstances were.

Ms. Roberts noted that she called them because there were hunters on her property. Fish and Game were able to catch up with the hunters at Airfield and walked with them. The hunters didn’t know the area because they were from Nashua and Concord. She continued that she is not against hunting; however, it’s not safe out there lately with the guns.

Acting Chair King asked if her property is posted “no hunting”.

Ms. Roberts replied that she posted every 12’ with signs, but it doesn’t stop them. She pointed out that there is also a stone wall marking her property. Hunters just walk over the stone wall. Ms. Roberts commented that her neighbor said that she saw a hunter who was well within 300’ of the house. It doesn’t stop them. Ms. Roberts stated that a gun hunter is a little more trigger happy. A bow hunter is safer because they’re sitting in a tree stand, not running through the woods shooting arrows.

Acting Chair King commented that the Commission will just need a chance to research the easements to see what is allowed in terms of hunting.

Member Oliver pointed out that she had a complaint from another resident, who lives in a different part of Rye. There is hunting taking place where his children play. She told him that it depends on what the easement says about whether there can be hunting or not. She commented it’s not okay to have hunting in an area where children play.

Member Truslow pointed out that there are rules about how far a person has to be from the edge of a residential area when hunting, regardless of whether it’s a conservation property or not.

Mrs. Roberts stated that a lot of the hunters are coming from a different area. They don’t know the area.

Acting Chair King noted that through social media there is an app called ‘D Map’. People reference it to find out the areas that are overpopulated with deer. There is a permit that the town actually has to apply for and she is not sure that they have done this. People are seeing Rye on the map and thinking it’s a go. She is looking into the ‘D Map’ for more information. The Commission will also look further into the easements. She confirmed with Ms. Roberts that the Commission will be back in touch.

A. Brown Farm Lane – Heather

In regards to the pedestrian bridge, Member Reed met with Lou Shelley a couple of weeks ago, who has done this type of work. He said that even putting up a pedestrian bridge is not going to stop the beavers. His suggestion was to start with a beaver deceiver.

Member Truslow explained that this is a way to raise up an opening, so it is no longer desirable for the beavers because there isn’t enough water.

Acting Chair King commented it changes the water levels.

Member Reed pointed out that it also subdues the water sound, so they don’t pick up that sound anymore and they aren’t drawn to it. She continued that Lou sent her some instructions that she forwarded to Suzanne McFarland. Basically, anyone in the carpentry field could probably do

this. She has not yet reached out to Fish and Game to see if there are people who actually do this work.

Acting Chair King noted that this was initially caused by an undersized culvert being put in without a permit.

Member Truslow stated that she was looking into maybe taking the culvert out and restoring the stream channel. There could still be access to the property and there could still be a pedestrian bridge. If the culvert is taken out, it will be less appealing to the beaver because it can't be blocked up anymore. When there is a wider opening, it may be harder for the beaver to do anything with it.

Acting Chair King commented that last time people cleaned up the culvert and pulled everything out. It ended up flooding downstream. The Commission will need someone to take a good look at the site. She is not sure how much is beaver and how much is the disturbance.

It was agreed that Member Reed should look further into the idea of a beaver deceiver. The Commission will also consider the idea of restoring the area, which may be a good concept along with the beaver deceiver and a pedestrian bridge.

B. Welcome letters – Karen

Member Oliver reported that a few letters have been sent. She is keeping a list of who the letters have gone to. Anyone who knows of someone moving into the area, should let her know so she can put them on the list.

There was some discussion about the possibility of the select board's secretary, Janice Ireland, sending out the welcome letters, once she receives notice of a change in property ownership from the assessing office.

C. ZBA property update – Karen

Member Oliver noted that she attended the recent board of adjustment meeting. There is a condo conversion request on Pioneer Road. Attorney Bernie Pelech represents the applicant. This has not come before the Conservation Commission. Parts of the property are within the wetland buffer, including a shed. They argued that it had been there for so long that it was grandfathered; however, it was just a shed. One thing that was alarming to her is that one of the ZBA members questioned whether the homes were even legal to begin with. Another member stated that the record keeping in the building department was so horrible from that time that they have to give the applicant the benefit of the doubt and assume it was done legally. Member Oliver pointed out that there is a canvas shed that they agreed to take out. After much discussion, Attorney Pelech agreed to continue the application. There was some question as to whether anything even involved wetlands, except for the shed. Apparently, the ZBA has been advised in writing, (referenced in the meeting), that the Rye requirements of a minimum of 600sq.ft. has been

deemed unconstitutional by the N.H. Supreme Court. The 90% minimum common area requirement also falls into the same analysis. Member Oliver noted that the ZBA has asked the applicant for more detail on the septic plans. She pointed out that Patricia Weathersby said there was nothing in the application that asks for relief from wetland regulations, so technically, it doesn't have to go before the Rye Conservation Commission. Member Oliver pointed out that if they are doing something with the pavement and it is in the buffer, they will need relief from wetland rules. The ZBA did say they wanted to hear from the Conservation Commission. Attorney Pelech agreed to involve the Commission. At a minimum, the Commission needs to clarify what, if any, involvement the buffer will have in septic tank placement, parking lot paving and the shed. Member Oliver stated that her thought is that the Commission should probably look at how to enforce buffer requirements before this applicant comes in.

Acting Chair King commented this would be more for ZBA. More research can be done and sent to them.

Member Oliver agreed to do this. She stated that the other application was for 1627 Ocean Blvd. The Commission had wanted this house be moved further away from the wetland and the owners agreed to do this. The ZBA was not happy with this decision. However, the ZBA granted the appeal to the building inspector's decision to deny the building permit to demolish and reconstruct the existing residence, with a 3 to 2 vote. The building inspector had said in his denial letter that relief from the ZBA was required because the proposed building would not be located in the exact location of the existing nonconforming residence. Member Oliver noted that ZBA also granted the variance for 705 Brackett Road.

Referring to 1627 Ocean Blvd., Member Grote stated that she would like clarification from the ZBA as to why variances would not be needed if the house was rebuilt in the same footprint, as this is still in a wetland buffer. She will follow up with the ZBA chair.

In regards to 705 Brackett Road, Member Oliver stated that the Commission had written a letter saying that a special exception is needed for the playset in the backyard. The ZBA granted the variance for the expansion of the deck with the condition that the mulch be taken away and hay put in. However, they didn't address the other recommendation the Commission made about the applicants needing a special exception for the playset. Member Oliver commented that it was clear from the discussion that the building inspector does not have the power to give a permit for a playset in the buffer. She is not sure how this can be resolved.

Acting Chair King noted that she will follow up with the building inspector.

Member Oliver commented that there was an application from 55 Harbor Road to add 2' closer to the marsh for the generator. This seemed pretty deminimis so the Commission did not have any input.

- D. Whitehorse** – hunting issue, resident complaint
Addressed earlier in meeting. See minutes above.
- E. RCC November meeting** – town hall is closed November 11th – scheduled for Wednesday November 10th at the Library
Noted
- F. Goss Farm** – Danna

Member Truslow noted that the Commission wanted to get a firm quote on the well to be sure the total was going to be less than \$15,000. The well will be less than \$15,000 assuming it's 300' deep or less. She pointed out that for the amount of water that is needed, they can obtain that with a 300' well. She continued that she spoke with Arik Jones from the Rye Water District. He had some concerns about the Commission doing the well, as opposed to being hooked up to town water. He felt they should at least have the backup of being able to go back to Rye Water District. A backflow prevention valve would have to be put in, so both systems can be hooked up together. Epping Well and Pump added that into their quote, which is shown in the total. Mr. Jones had concerns about water quality issues and possible liability with the community gardens. She commented that they want the water quality to be good and there are certain things that the water should be treated for; however, they are not drinking the water. The water will be going into the soil, so not all of it goes into the vegetables or fruits that are being grown. She pointed out there may be water quality issues because this area has iron and manganese, and the arsenic is sometimes high. These are the kinds of things that can be taken care of with a reverse osmosis system, which may cost around \$2,500 plus maintenance. She still thinks it makes sense to pursue the well.

Acting Chair King asked where it would be located, as there is a building envelope. She pointed out that the Rockingham County Conservation District (RCCD) easement would have to be addressed, as they hold the easement.

Member Truslow stated that she will speak with RCCD.

Acting Chair King stated that she spoke with Arik also. He had a lot of concerns about water quality and brackish water. He thought it was a lot of money to spend on a nonguaranteed good result.

Member Truslow pointed out that this would be low usage. It's not going to be a public water supply well. There would not be water pumping all day, every day of the year.

Acting Chair King stated that she likes the idea of having a well, but she is not sure it makes sense with this property. It seems like it might be a little "iffy".

Member Truslow pointed out that the cost of water from Rye Water is only going to increase in the future. Right now, the water has no chlorination at all but there will eventually be

requirements for treatment for iron and manganese. There may be some microcontaminants that are in the water once it's been treated.

Acting Chair King noted that the Goss Farm Event fundraiser is to support water, irrigation and the well. These are things that committee targeted. She commented that speaking with RCCD to be sure this is something they want to get behind is crucial.

G. Racoon - Susan

Member Shepcaro reported that there was a racoon who bit a young woman in the Town Forest. It was found that the racoon was rabid and it has been captured. The incident happened last Saturday morning near the entrance at Parsons Field.

H. Goss Farm Fall Fair, Saturday, September 18th

Acting Chair King reported that the Goss Farm Fall Fair is a go. Dania Seigle and the Fire Chief met to go over Covid updates. Since the fair is being held outside, the Fire Chief is allowing the event to take place. They are encouraging people to wear masks. There will be a table at the entrance with masks for people attending the event.

VI. CORRESPONDENCE

- An abutter notice of wetland permit application was received for property located at 120 Garland Road, Malpass property, from Mark West, West Environmental.
- A copy of a letter, which was sent to the ZBA, was received from the Cavanaughs regarding 30 La Mer Drive and their support of the Conservation Commission's recommendation for that property.
- An abutter's notice was received in regards to the property located at 366 Washington Road for the request to unmerge the lots, which is before the select board on September 13th. The Commission has concerns that there may be issues with access to the back lot, if the lots are unmerged.
- SBA – cell tower statement received

VII. BILLS

- \$560.00 James Verra Surveying – town forest work
- \$510.00 BCM Environmental and Land Law #5996
- \$1618.50 FB Environmental #47328 – NRI
- \$1513.00 C & C Masonry, LLC – Goss Farm well cap
- \$412.50 BCM Environmental and Land Law #5995
- \$486.50 Alan Bucklin – Goss Farm mowing

- \$290.00 Susan Shepcaro – deer fence, planter & pond stone
- \$444.96 Kings – fencing, tire for Goss Farm cart, lightbulbs
- \$105.00 Owen Shepcaro – 7hrs @15.00 for trimming at Goss Farm
- \$292.70 James Verra – Consulting w/Suzanne McFarland
- \$97.71 Rye Public Works – picnic table repair for Goss Farm

Motion by Jaci Grote to pay the bills as presented. Seconded by Danna Truslow. All in favor.

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

At 8:18 p.m., Danna Truslow made a motion to go into non-public session per RSA 91-A:3, II (d) Acquisition. Seconded by Jaci Grote.

Roll Call: Susan Shepcaro – Aye; Jaci Grote – Aye; Karen Oliver – Aye; Sally King – Aye; Danna Truslow – Aye; Heather Reed – Aye

The Commission came out of non-public session at 8:40 p.m.

Motion by Jaci Grote to seal the minutes of the non-public session. Seconded by Sally King.

Roll Call: Susan Shepcaro – Aye; Jaci Grote – Aye; Karen Oliver – Aye; Sally King – Aye; Danna Truslow – Aye; Heather Reed – Aye

ADJOURNMENT

Motion by Jaci Grote to adjourn at 8:41 p.m. Seconded by Susan Shepcaro. All in favor.

Respectfully Submitted,
Dyana F. Ledger