

RYE CONSERVATION COMMISSION

**Thursday, October 14, 2021
6:30 p.m. – Rye Public Library**

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

I. CALL TO ORDER

Chair McFarland called the meeting to order at 6:32 p.m. and led the Pledge of Allegiance.

II. MOMENT OF SILENCE AND THANKS FOR JIM RAYNES

(September 22, 1934 – September 27, 2021)

Chair McFarland asked everyone to please stand and give a moment of silence in memory of Jim Raynes who dedicated 30 years of service to the Rye Conservation Commission. Mr. Raynes built a great foundation for the work the Commission continues today. He will be greatly missed by all.

III. APPROVAL OF MINUTES

- September 9, 2021

No corrections or changes were noted 😊

**Motion by Susan Shepcaro to approve the minutes of September 9, 2021 as written.
Seconded by Sally King. All in favor.**

Note: *Alternate Karen Oliver was seated for Jaci Grote.*

IV. WETLANDS

A. 16 Wentworth Road, Tax Map 026, Lot 018

Owner: Bill Binnie

Demolish existing home, rebuild

Corey Colwell, TF Moran, spoke to the commission in regards to the proposal for the property located at 16 Wentworth Road. He noted that the project was before the Commission in January of this year, with a site walk being held on January 26th. At the time, the proposal was to remove

the screened porch, add a garage and build a second floor on the structure. To offset the addition, a long walkway, stone stairs, retaining wall and paved driveway were being removed to reduce the pervious area on the site. Following the site walk in January, the Commission expressed a few concerns about the scope of the project and cited some numbers regarding lot coverage, ledge removal, heated living space, etc. He noted that the Commission's numbers were slightly off in the letter sent to the BOA. However, the proposal proceeded to the BOA and the project was approved. Mr. Colwell continued that the applicant went forward with obtaining cost estimates for the project. It was determined that it would be more costly and more of an impact, than tearing the house down and building a new structure. The proposal now is to remove the house and rebuild with the same square footage, layout and architectural design. The only difference is that the structure will be moved back a bit from the harbor.

With the new proposal, variances are required for a rear yard setback of 18.4' for a pervious patio, where 19' is required. The reason the rear setback is 19' is because it's a quarter of the depth of the lot, which is required for this parcel. A front yard setback variance is also needed for the garage at 15.8' and the retaining wall at 10.1', where 40' is required. There's a large right-of-way between the edge of pavement and the property line, so the front setback appears more than it is. A variance is being requested for expansion and destruction of a non-conforming structure. Also, a variance is needed for a house 19.3', steps 23.7', and patio 19.1' from the wetland where 100' is required. Post-construction, the pervious area on this site will be 12.1% where 15% is allowed in the zoning ordinance, so a variance is not needed. The dwelling coverage will be at 9.2% where 15% is allowed, which is also under the allowable coverage.

Mr. Colwell noted that other proposed improvements to the lot are in the form of stormwater and landscaping. The stormwater management plan will be as previously proposed. The paved driveway will be removed and there will be a new pervious driveway to the garage. The patio will also be pervious. The only impervious features on the lot are the steps and house itself. The retaining wall and grass swale is proposed in order to convey the stormwater around the house and direct it to a level spreader where the runoff will be infiltrated into the ground. This practice will help store the stormwater and reduce the water going into Little Harbor. The drainage analysis shows the stormwater flows today are more than what they will be post-construction. The landscaping plans are the same as the original proposal with 3 trees, 52 shrubs and switch grass. The intent is to put in more plantings between the house and Little Harbor to build up and improve the buffer. Between the stormwater improvements, the landscape improvements and low impervious area coverage, the adjacent wetland (Little Harbor) will be better off post-construction than what it is today.

Vice-Chair King asked if this is the property is the one with the septic on the golf course.

Mr. Colwell confirmed. Referring to the plans, he showed the location of the septic tank. The effluent comes out of the building and is pumped down Wentworth Road to the golf course property. There are no changes being made to the septic.

There was some discussion about the ledge that is proposed to be removed. Mr. Colwell pointed out the location of the ledge being removed on the plan.

Vice-Chair King asked if the existing ledge is being considered impervious in the calculations.

Mr. Colwell explained that he started the project calling the ledge impervious, but was corrected by the Attorney for the project. The building inspector had told Attorney Phoenix that ledge is not counted in Rye as impervious. The ledge is excluded from the impervious calculations.

Mr. Colwell reviewed the calculations compared to the numbers submitted to the BOA in the Conservation Commission's letter for the original proposal. It was noted that the footprint of the house will increase by 67%. The footprint is going from a dwelling coverage of 5.6% to 9.2%, which is a 3.6% increase. The total square footage of the proposed home is increasing to 3352sf of total heated living space. The tax card shows the current living space as 1764sf. There is a question of whether that number includes the three-season porch. Mr. Colwell feels that the square footage of 2156, which is shown on the architectural plans, includes the screened porch. He will ask the architect for further clarification on the numbers.

- **Site walk scheduled for Wednesday, October 20th, 4:00 p.m.**

V. PENDING SITE WALK AND REVIEW

A. 264-270 Brackett Road – planting

- Site visit scheduled for Wednesday, October 20th, 3:40 p.m.; Susan Shepcaro, Mike Garvan and Suzanne McFarland.

B. 371 Washington Road – wetlands delineation, solar panels

- Site walk scheduled for Wednesday, October 20th, 5:00 p.m.; quorum required.

VI. OTHER BUSINESS

Motion by Karen Oliver to change the agenda order to speak with Liz Morris. Seconded by Mike Garvan. All in favor.

A. Duck blind in the marsh off Pioneer (Seavey Creek) – Liz Morris

Member Garvan noted that according to N.H. Law and the rules that the Conservation Commission had set in place for duck blinds, the one in the marsh in question is meeting all the criteria. Vice-Chair King had expressed a concern, as have other members, as to whether the blind is hurting the marsh. He noted that they have reached out to Fish and Game, but have not yet heard back.

Ms. Morris stated that one of the rules is that it has to have a name and contact information posted on the blind. She went out to check to see who it belonged to but there was no identifying information.

Member Garvan commented that he took a copy of the rules with a note for the owner to call and posted it to the duck blind. The owner did call, so he knows who it is. The owner lives in Kittery and was quite cooperative. He has had a blind in the marsh for eight of the past eleven years.

Ms. Morris stated that the back of her house is all glass and looks out over the marsh and right at the duck blind, which is pointed at her house. She is cognizant and respectful of the fact that hunting is deeply embedded into the history and culture of New Hampshire; however, there are two areas of concern. One is the damage to the marsh, as this duck blind is pretty sturdy and could be staked in.

Alternate Gardner stated that the pressure treated wood floor caused him concern. Any pier over the marsh is supposed to have certain spacing in between each board to not damage the grass; however, that's for a permanent structure and this is temporary. He commented that when the blind is pulled out, they can review the site and make a decision as a town on what the floor should look like.

Ms. Morris pointed out that when there is a high-tide, the blind is actually in the water, so the chemicals would be seeping into the marsh.

Alternate Oliver asked about the rules for duck blinds, in terms of time frame.

Member Garvan noted that it can be up between August 1st and January 31st.

Ms. Morris stated that one of the guidelines for the State of New Hampshire, with regards to hunting being allowed in a particular area, is whether or not it affects other activities in that area. She pointed out that Seavey Creek is a small area and it backs right up to a development. She is certainly not going to use Seavey Creek knowing that hunting goes on from August 1st through January. This is affecting her enjoyment of the area. She would submit that the hunting does interfere with some people's uses of Rye's recreation areas. It may be something for the town to review, as far as, having hunting in every area.

Member Garvan noted that it's not in every area. Hunting is not allowed in the town forest, on the Rand property, Brown's Lane Farm or on the Airfield parcel. There are as many areas that don't allow hunting as there are hunting areas.

Member Shepcaro noted that all the rules about hunting can be found through N.H. Fish and Game. She doesn't love the hunting, but it's a reality. Part of deciding to live some place is knowing what it's actually going to be like and figuring that out beforehand.

Mr. Morris stated that it may be something that needs more review; as far as, putting up more signs and having more areas where hunting is not allowed.

Alternate Oliver stated that she is hearing that there are times when hunting collides with populated areas. It behooves the Commission to be more proactive. There may be a place where the easement says there can be hunting; however, developments might have gone in since that was established. It may have become an area that may no longer be appropriate for hunting.

Vice-Chair King commented that it's very difficult to change easements. Some of them say "post at will" and those can always be revisited if there are concerns.

After discussion, the Commission agreed that all conservation land easements should be reviewed to see where hunting is allowed and not allowed. Information about hunting on recreation areas should be updated on the town's website. The Commission also agreed to a site visit for the duck blind, which will be scheduled according to the high-tide schedule. Alternate Gardner will get back to the Commission on times and dates. The Commission will take the concerns of Ms. Morris under advisement.

B. Airfield deed restrictions

Map 10, Lot 15-002

Chair McFarland noted this parcel is 11-acres. She read from the warranty deed easement; ***"There shall be no hunting or discharge of weapons or the carrying of a loaded weapon on grantors land."***

It was agreed that the parcel should be posted "no hunting". Mike Garvan, Susan Shepcaro and Mike Garvan will work on posting.

It was mentioned that Seacoast VeloKids should not have been allowed to use the parcel for their biking program, as it is also restricted in the deed.

C. Interns

Member Shepcaro reported that she has been working with two excellent interns at the Goss Farm. Between them, Sally and Tom King, and Mike Badger, a ton of work is being done at Goss Farm. The blueberry bushes have been weeded and the invasives have been taken off the trees. The interns are very hardworking. She continued that Bob Blanchard has started widening the trails a bit in the town forest by moving the vegetative material that has fallen onto the trees. Matt Barton and Dave Whitehouse are also doing volunteer work for the Commission.

Chair McFarland will send thank you notes from the Commission to all volunteers for their work.

D. Thank you – Pam Woods and Martha Lardent

Chair McFarland thanked Pam Woods and Martha Lardent who reached out to ask whether they could pull trash out of the marsh by Wallis Sands. They have done a great job of pulling out tires and large pieces of debris. Public Works has been to the area to pick up the trash that has been pulled from the marsh.

E. Goss Farm Fall Festival

Chair McFarland asked the members to send her ideas for a thank you to the Goss Farm Fall Festival Committee for all the hours they put into the event, which was very successful and enjoyed by all who attended. The committee was able to raise \$15,715 from the sponsors alone, with additional funds being raised through a raffle.

F. RCCD permission well and water line

The Rockingham County Conservation District Board has approved the installation of the well at Goss Farm in the designated area. Once the well is established, the location will be measured from the barn and marked on the map, so there is an exact location on the map. They have also given permission for the water line. An exact location of the line will also be designated.

G. ZBA Meeting Report

Alternate Oliver reported that the first case heard by the ZBA at their October meeting was 261-279 Pioneer Road. The ZBA supported all the recommendations of the Conservation Commission; except, the removal of the shed and the storage of chemicals, as they felt it was grandfathered and didn't feel they had the power to enforce keeping chemicals and fertilizers out of the shed.

Vice-Chair King pointed out that the building inspector says that nothing is grandfathered. The term doesn't exist.

Alternate Oliver continued that the other case before the ZBA was 63 Old Beach Road. The ZBA denied the rehearing request from the neighbors who had concerns about the variances that were granted. She pointed out that some members of the ZBA felt that more inquiries should have been made in regards to the impact of water on abutting property, not just storm and runoff, but water from the ocean and ground, as well. She thinks the ZBA will look closer at homes that are going to be raised with fill being brought in and how it will impact surrounding properties.

H. November Meeting Conflict

Member Shepcaro noted that the November meeting is scheduled for Wednesday, November 10th, which is the same day as the visioning session that is scheduled at the junior high.

It was agreed to move the date of the next Conservation Commission meeting to Monday, November 15th.

I. Natural Resource Inventory (NRI)

Vice-Chair King expressed concerns in regards to the language in the NRI and how it is written.

After some discussion, it was agreed to ask for more time for comments. They would also like a word document version in order to make notes and comments online. All members of the Commission will be sent a copy of the NRI for review. Chair McFarland will follow up with the planning board chair in regards to the time frame for the document to be completed.

VII. CORRESPONDENCE

- 2021.09.15 1481 Ocean Blvd, Tax Map 13, Lot 54, NHDES PERMIT_SHORE-202120942
- 2021.09.17 80 Locke Road, Tax Map 08, Lot 34, NHDES Permit 2021209501 and 2021209500
- 2021.09.24 60 Wentworth Road, Tax Map 13, Lot 60 NHDES PERMIT_SHORE-20212
- SBA Communications Corp
- 2021.10.01 Planning Board – Lot Line change 705 and 691 Brackett Road (Feid-Reaney)
- NRDS Newsletter
- New legislation that takes aim at human rights and resources in the fishing industry.

VIII. BILLS

- a. \$486.60 Alan Bucklin Mowing Goss Farm
- b. \$625.00 Dues for NH Association Conservation Commissions (NHACC)
- c. \$77.00 Water Bill – Goss Farm
- d. \$4775.00 RCCD – Phase II Town Forest Invasives

Motion by Mike Garvan to approve the payment of bills (a – d), as shown on agenda. Seconded by Susan Shepcaro. All in favor.

Additional bills:

- \$38.22 Eversource for Goss Farm
- \$151.71 Schwaab Inc for nameplates
- \$555.00 for legal
- \$1,047.50 for legal

- \$442.00 RCCD
- \$896.75 RCCD
- \$136.00 RCCD
- \$510.00 RCCD

Motion by Sally King to pay the additional bills as presented by Chair McFarland. Seconded by Mike Garvan. All in favor.

- \$5,100.75 RCCD - Varrell Woods invasive control and cleanup

Motion by Danna Truslow to pay the RCCD bill for treating invasives for several areas in town. Seconded by Susan Shepcaro. All in favor.

- \$13,000 RCCD easement for town forest

Motion by Susan Shepcaro to pay \$13,000 to RCCD as a partial payment for the easement that covers the whole town forest. Seconded by Mike Garvan. All in favor.

IX. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (d) Acquisition (2) per RSA 91-A:3, II (e) Legal

At 8:37 p.m., Susan Shepcaro made a motion to go into non-public session. Seconded by Heather Reed.

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

The Board came out of non-public session at 8:54 p.m.

Motion by Mike Garvan to seal the minutes of the non-public session.

Seconded by Susan Shepcaro.

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

- **28-32 Cable Road**

The building department received a complaint from a resident about excavators possibly being in the wetlands at 28-32 Cable Road. The building department has gone out to the site and the excavators have been removed.

- **Complaints**

There was discussion on the request from the Town Administrator for the Conservation Commission to submit complaints to the building department in writing. The Commission will take the request under advisement.

ADJOURNMENT

Motion by Danna Truslow to adjourn at 8:59 p.m. Seconded by Susan Shepcaro. All in favor.

Respectfully Submitted,
Dyana F. Ledger