

**RYE CONSERVATION COMMITTEE
MEETING MINUTES
Thursday, August 11, 2022
6:30 p.m. – Rye Town Hall & via Zoom**

***Present:* Acting Chair Sally King, Susan Shepcaro, Mike Garvan, Danna Truslow, Jeff Gardner and Karen Oliver**

***Also Present:* Land Use Assistant Kara Campbell**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Acting Chair King called the meeting to order at 6:33 p.m. and led the pledge of allegiance.

II. SEATING OF ALTERNATES

Alternates Jeff Gardner and Karen Oliver were seated for the meeting.

III. APPROVAL OF MINUTES

- **July 14th**

The following corrections were noted:

- Page 1, the heading should read: **Rye Conservation Commission**
- Page 1, the seating of alternates should read: **Jeff Gardner**

Motion by Mike Garvan to approve the minutes of July 14, 2022 as amended. Seconded by Jeff Gardner. All in favor.

IV. WETLANDS

- A. 139 Wentworth Road, Tax Map 2, Lot 32**
Owner: Patrick McKenna
Jason Pohopek Design & Construction, LLC
New septic system

Jason Pohopek, representing the applicant, spoke to the Commission in regards to the septic proposal for 139 Wentworth Road. He noted that they are seeking a variance from the ZBA for construction within the wetland tidal buffer, which is the reason the project is before the Commission. The property has frontage on Sagamore Creek. (He pointed out on the plan the location of the 75' setback. He also pointed out the location of the existing home and driveway.) He explained the intent of the project is to reconstruct a portion of the house in the exact same

footprint. As part of doing that, the first step was to obtain septic approval for a new Advanced Enviro-Septic System. The existing leach field, which sits on the river side of the property, will be discontinued. The leach field will be moved to the landward side of the house. He continued that there will be some reconstruction on the interior of the home. However, the footprint will remain the same as the existing home with the possibility of adding a deck on the side.

Member Shepcaro asked the Commission if they will be conducting a site walk now, even though the total project plans are not completed.

Patrick McKenna, applicant, noted that Mr. Pohopek is doing the septic design. For the actual house itself, there is a section of the house that will be torn down and rebuilt on the same foundation. The plans will not disturb the soil for that construction. The deck will not have posts, so there will be no disruption to the soil.

Acting Chair King clarified that the only variance being requested is for the septic.

Mr. McKenna replied yes, at this time. He doesn't believe any other variances will be required.

Member Gardner pointed out that the deck will need a variance because it's a structure in the buffer zone, which is 100'.

Mr. Pohopek apologized for not having the 100' buffer marked on the plan.

It was noted by Member Garvan that the Commission will want to see the 100' buffer line on the plans. The Commission will need to see what the ZBA sees for the entire project. Before the project goes to the ZBA, it will need to come back to the Commission.

Mr. McKenna asked if they could move forward if he agrees to not have the deck as part of the project at this time.

Member Garvan noted that he thinks there is going to be some demolition in the wetland buffer, as well. Procedurally, a variance may be needed for that. He recommended they speak with the Building Inspector.

Mr. Pohopek stated that they were sent to the Commission to initiate this with the understanding that a site walk would most likely be scheduled. He thinks that they will be able to represent accurately to the Commission what the intent of the project is.

There was discussion about whether or not to schedule a site walk at this time or wait to see the full plans for the project. It was agreed that Mr. Pohopek could revise the plan to show the 100' buffer setback, along with the proposed deck, and submit it to the Commission before the site walk. It was also agreed that the location for the deck and buffer line will be marked on the property for the site walk.

- **Site walk scheduled for Wednesday, August 17th, 3:00 p.m.**

B. 7 Holland Drive, Tax Map 202, Lot 31

Owner: Michael W. Keeley & Michael R. Valliere

TF Moran, Justin Macek

New house, shed, porous paver driveway & walkway, landscaping & tree planting, stormwater management & grading, septic tank & leach field, retaining walls

Corey Colwell, TF Moran, presented the proposal for 7 Holland Drive to the Commission. He noted the property is .38-acres in size and has 75' of frontage on Holland Drive. Historically, there was a residential structure on the property, which burned down last year. What remains is a paved driveway and a shed in the back yard. The previous home on this property was a two-story colonial, which sat within the front and side yard setbacks. The home was originally built in 1950 and was rebuilt in 1993. The total living area was 1,762 sq. ft. The total square footage of the building was 3,259 sq. ft. The applicants are proposing to construct a new home on the lot. Along with the new home is a proposed deck and stairs to the back yard. The new home will contain 2.5 floors with a garage on the first floor. He continued that the intent is to honor the side yard setbacks. The proposed home will be placed beyond the side yard setbacks. There is a small section of a bump-out that is within the front yard setback, which will require a variance. He pointed out that there is a wetland to the back of the property, which has high function and high value. There's another narrow strip of wetland that was probably manmade over time. This property and the abutting property were both elevated. What was left was a depression along the property line. The runoff from both homes was working its way into that depression and over time it created a narrow strip of wetland.

Mr. Colwell noted that the proposed home will be pushed back from the wetland, as far as possible, without going right up against the property line. The deck to the wetland in the back is about 54'. There is also a shed in the back that is proposed to be replaced with a shed of the same size. A new septic system will be installed in the back yard in the general area of the existing septic system. He pointed out that the home is 11' away from the manmade wetland.

Member Garvan asked if it's a jurisdictional wetland.

Mr. Colwell commented that this is a good question. If it's not an acre, it doesn't have a 75' setback. He believes it's contiguous with some wetlands in the back, which is a much larger wetland. He will check the size again.

Mr. Colwell continued there are a couple of proposed retaining walls. One wall is only 2' in height and the other is between 2' and 3' in height. In order for the septic system to maintain separation to groundwater, the top of the field has to be at elevation 14. What's there now is elevation 11. The top of the leach field is going to be 3' higher than the ground. This requires the house to come up. When the house comes up, it would go from house to property line with a 3 to 1 slope without the walls. This would prevent viable access from the front to the back yard. The remedy is to reduce the slope and make it much flatter. That's really the only purpose for the walls. It also offers some protection to the wetland.

Member Oliver clarified the stone wall is really a retaining wall.

Mr. Colwell confirmed. He continued that a stormwater management plan has been done, which is in the Commission's packet. If the house is not guttered, the stormwater will just run off the roof. However, there will be no increase in runoff to abutting properties. He pointed out that the plan works with or without gutters on the house. The paved driveway is being removed and being replaced with a pervious driveway. There is also a pervious walkway proposed from the driveway to the back. The walkway will provide access to the backyard and the two access doors on the lower floor. Without the wall, the walkway would be on a 3 to 1 slope. With the wall, it's able to be leveled to a more manageable slope to the backyard. The proposed impervious coverage is 1,978 sq. ft., which is 11.8% of the lot where 30% is allowed in this zone. Building coverage is 8.1% where 15% is allowed. He pointed out that twelve trees are being removed. Only two of them are for construction. The other trees are being removed primarily for safety and because they are diseased.

Acting Chair King asked if the trees will be replaced.

Mr. Colwell noted there is a landscape plan in the Commission's packet. There will be plantings along both edges of the property. There is landscaping proposed to improve the wetland buffer. There will be plantings around the home and on the back side of the wall.

Mr. Colwell noted that 98% of the lot is in the 75' buffer. He also noted that the owners have removed a lot of trash and debris off the property. Machinery had to go in the wetland buffer to remove the debris, but there was no alteration to the surface. It was left in its natural state. The site has been cleaned up as much as it can without permitting. The cleanup cannot go any further until they get the necessary permits.

Alternate Oliver asked if fill is needed for the project.

Mr. Colwell explained that the ground is elevation 11 and the top of the ground is elevation 14. The finished floor of the garage is elevation 13.5 over elevation 11. That's 2.5' to 3' of fill required. He pointed out that the septic system is what's driving the grade of the property. The septic system has to have the separation to the water table. The whole site is designed based on the septic system. He noted that the septic will be an Advanced Onsite Solutions System, which is being designed by Susan Faretra.

Mr. Colwell agreed to mark the building corners for the site walk. The trees to be removed are already marked.

- **Site walk scheduled for Wednesday, August 17th, 3:45 p.m.**

C. 640 Long John Road, Tax Map 16, Lot 144-1

Owner: Victor & Regina Odryna

GES, Inc., Luke Hurley

New house, deck, staircase, garage, driveway expansion, walkways, septic tank & leach field, retaining wall

Victor Odryna, applicant, presented the proposal for 640 Long John Road for the construction of a new home and garage. He noted that they are trying to stay within the same footprint with

what is already existing. There is an existing barn on the property that will not be part of the project and will remain as it is. There's a fairly large manmade pond, which is also not part of the project. He noted that the property is mostly lawn. They do not currently have a landscape plan, as the intent was to get the house done first. He pointed out that there's a freshwater marsh abutting the property. His understanding is there's a 100' setback from freshwater marshes in Rye. There's also a manmade drainage area that flows into the culvert. The area is currently dry and remains dry through most of the year. He pointed out the area has not been maintained since the former owner passed away about 13 years ago, so there has been a lot of back up. He noted that he intends to clean that out.

Mr. Odryna continued there's a drainage ditch that runs along the driveway that goes back to the barn. The drainage goes through the culvert and out to the marsh. He believes the drainage ditch was really meant to drain the properties on Young's Lane. (He pointed out the location of the wetland setbacks on the plan before the Commission.)

Luke Hurley, soil scientist, Gove Environmental, spoke to the Commission about the wetlands on the property.

Mr. Odryna noted that the proposal is to keep the same footprint of the house, other than a 2' slide. One side of the house will be a single story and the other will be two-stories with a two-story deck on the back. There's a 214 sq. ft. encroachment into the buffer. The Enviro-Septic system is pushing right up against the 50' line. The variances being requested are for the septic system to be within 50' of the wetlands; a portion of the home encroaching into the setbacks; and a 30" stone wall in the buffer. He noted that the existing home is 2,500 sq. ft. and the proposed home will be about 4,500 sq. ft.

Mr. Odryna agreed to stake out the deck and the location of the wall.

- **Site Walk scheduled for Monday, August 22nd, 11:00 a.m.**

V. PENDING SITE WALKS AND REVIEWS

- **1 Rand Lane – plantings**

Member Garvan reported that the owners have done a lovely job on the plantings. He was most impressed with the line of Willow Trees that were planted the entire length of the property. He and Member Grote suggested to the owners that they no longer mulch in the area just past the patio, as it slopes towards the wetlands.

- **238 Parsons – Select Board review**

The property at 238 Parsons Road was brought before the Select Board for review because the conservation property abutting the parcel was disturbed during the septic system replacement.

Steve Riker, Ambit Engineering, will be submitting an after-the-fact permit application with DES to restore/vegetate the 500 sq. ft. area that was disturbed, which is within the 100 ft.

wetland buffer. The property owners offered sixteen 2-gallon plants and the Commission will be putting in buffer stakes. The owners will also be putting in a conservation mix over the whole area that was disturbed and possibly matting. An approval from the Select Board was needed before an application could be filed with DES.

Acting Chair King suggested putting this conservation parcel on the yearly monitoring schedule.

- **60 Park Ridge Avenue – trees**

Member Garvan and Member Shepcaro met with Seacoast Tree Care at 60 Park Ridge Avenue to review the trees. The representative from Seacoast Tree prepared two solutions for the trees. He suggested taking off the top 15' and trimming some of the long branches on the lopsided side. He also looked at the other trees along the property line. One of the trees had a large branch growing over the Fergusons property. That branch would be taken out too. The cost to do the pruning and reduce the risk and susceptibility from windthrow is \$2,100. If the two trees were to be removed that would be \$3,900., with an additional \$450 for any debris removal.

Member Garvan stated that he feels the Commission has fulfilled their obligation to make sure there's not a general hazard by doing the pruning and topping. He suggested authorizing that work. If the Fergusons are still concerned about the trees, RCC has fulfilled their obligation to make them safer. He continued that there was some discussion about whether the Commission would allow the Fergusons, at their cost, to remove the two trees. The Commission would pay \$2,100 for the trimming. The Fergusons would pay the difference of \$2,250. He doesn't think the Commission needs to remove the trees at their expense. He will communicate with the Fergusons to see how they would like to proceed.

Acting Chair King noted that she doesn't think they need to vote on the work because it's a safety issue.

The Commission agreed to the pruning and trimming work in the amount of \$2,100. It was also agreed that the Fergusons could take care of the cost of the removal of the trees.

- **377 Brackett Road – privacy fence erected on Goodwin Easement**

Acting Chair King noted that the property has a long road frontage and it wraps around behind the house. An easement is over the frontage on the left-hand side. A privacy fence has been erected on the easement. A permit was not issued for the fence, so a variance letter was sent to the property owners. The Building Inspector said that as part of the enforcement the Commission can give them thirty days to remove the fence. After that time, code enforcement would take over.

- **61 Red Mill Lane – update on new application**

Member Garvan reported that a third plan for 61 Red Mill Lane was presented to the Rye Beach District ZBA. The original plan had a gigantic pool with an 8' wall. With the second plan, the pool was removed and it was mostly patio. The patio and a good chunk of the house was still in

the wetland buffer. He noted that the existing garage and the proposed carriage house is completely within the wetland buffer. The main concern was the house and the patio. The third proposal went from 1,400 sq. ft. of coverage within the buffer to approximately 420 sq. ft. The proposal was passed by the Rye Beach ZBA subject to the five recommendations of the Conservation Commission. The recommendations included the replacement of any trees being removed and a vegetative buffer along the woods interface, as well as the down slope of the carriage house. He commented that Rye Beach ZBA did a nice job of “holding their feet to the fire” and now there is a much better design.

VI. CORRESPONDENCE

- A. 2022.07.11 Shoreland Permit Application** 11 Locke Road, Tax Map 8, Lot 58, Jones & Beach

VII. BILLS

- **\$859.00 BCM Legal, Invoice #8244, 7/20/22**
- **\$2,643.00 BCM Legal, Invoice #8464, 8/3/22**
- **\$252.00 Susan Shepcaro, Goss Farm**
- **\$840.00 Roger Philbrick, Goss Farm**
- **\$170.00 Green Penguin Landscaping**
- **\$49.77 Seacoast Ace Hardware**
- **\$9.18 Seacoast Ace Hardware**
- **\$151.00 Alan Bucklin**

Motion by Mike Garvan to pay the bills as presented. Seconded by Susan Shepcaro. All in favor.

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

At 8:01 p.m., Mike Garvan made a motion to go into non-public session per RSA 91-A:3, II (d) Acquisition and RSA 91-A:3, II (e) Legal. Seconded by Jeff Gardner.

Roll Call: Karen Oliver – Aye; Susan Shepcaro – Aye; Sally King – Aye; Danna Truslow – Aye; Mike Garvan – Aye; Jeff Gardner – Aye

At 8:18 p.m., the Commission came out of non-public session.

Member Shepcaro noted that there has been some really amazing help picking blueberries and selling them at the Goss Farm. Some of the pickers include; Sara Hall, Mike Garvan, Sally King, and Jay. She also noted that 10 pounds were sold to The Carriage House. The chefs said those were the best blueberries they have ever seen. Seaport Fish has also bought 12 pints.

Motion by Jeff Gardner to adjourn at 8:20 p.m. Seconded by Mike Garvan. All in favor.

Respectfully Submitted, Dyana Ledger