

**RYE CONSERVATION COMMISSION  
MEETING MINUTES  
Thursday, September 8, 2022  
6:30 p.m. – Rye Town Hall**

***Present:* Chair Suzanne McFarland, Vice-Chair Sally King, Susan Shepcaro, Jaci Grote, Danna Truslow, Heather Reed, and Alternates Karen Oliver and Jeff Gardner**

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

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Acting Chair King called the meeting to order at 6:37 p.m. and led the pledge of allegiance.

**II. SEATING OF ALTERNATES**

Jeff Gardner was seated for the meeting.

**III. APPROVAL OF MINUTES**

- **August 11<sup>th</sup>**

The following corrections were noted:

- Header: It should state **Rye Conservation Commission**
- Page 3, 2<sup>nd</sup> paragraph, 2<sup>nd</sup> sentence should read: **From the deck to the wetland in the back is about 54’.**

**Motion by Jeff Gardner to approve the minutes of August 11, 2022 as amended. Seconded by Sally King. Vote: 5-0-1 Abstained: Jeff Gardner**

**IV. WETLANDS**

**A. 60 Causeway Road Tax Map 2 Lot 79**

Owner: Sally & Anthony Manfredi

Ambit Engineering – John Chagnon

Patio, hardscape, pool, retaining wall, arbors, walkway, stairs, plantings

Variances requested: RBVD §8.3.4.B.1.8 Wetland Buffer & §2.1.28 Side Yard setback

**John Chagnon, Ambit Engineering**, presented the project for 60 Causeway Road. He noted that the Manfredis are making some amendments to a previously approved plan. The changes

will be going back to the Rye Beach Village Board of Adjustment. He continued that the house is well under construction. There's a loop driveway in the front and a driveway on the left that services the garage. The Farragut Marsh is in the rear of the property. (He pointed out on the plan the tidal marsh line. He also pointed out the area that is freshwater marsh, which has setbacks in the Rye Beach Village District.) The applicants want to install a saltwater plunge pool. The location of the pool is inside what was previously approved as an appurtenant to the house and patio. They would like to extend the retaining wall to the northwest and to the southwest around the driveway area. This will allow for landscaping to be at an elevation that is consistent with the driveway. The applicants would also like to install two arbors as landscape features and extend the paver walkway from the garage to the rear of the property.

Mr. Chagnon presented the landscape plan to provide more privacy and buffer between this property and the neighbors.

Member Shepcaro clarified that the original plan had a pool.

Anthony Manfredi explained that the BOA meeting for the original plan was three hours long, so he took the pool off the table at that time. He figured he would come back with it at another time. He pointed out that it's only a small pool, 7 x 13 and is 4' deep.

Chair McFarland asked about winterization of the pool.

Mr. Manfredi explained the pool will be covered, so it does not have to be emptied. There's a cartridge system, so there is no backwashing.

Mr. Chagnon pointed out on the plan the location of the impact in the buffer. The coverage requirements are not changing. The driveway material is going to be porous, which was not included in the previous approval. The coverage is well below what was approved. The wall does not add a lot of impervious coverage.

The Board reviewed the planting plan.

- **Site walk scheduled for Wednesday, September 14<sup>th</sup>, 12:00 p.m.**

**B. 5 Whitehorse Drive, Tax Map 011, Lot -02**

Owner: Patrick Donnelly

West Environmental – Mark West

Attorney Tim Phoenix

Acreage

Variances requested: 190-3.1.F for working in wetlands to restore, 190-3.1.H (1), (b), (c) for pool patio, and related improvements within wetland buffer

**Patrick Donnelly, property owner**, spoke to the Commission. He noted that dirt was moved over a wetland area. At the last meeting, the Commission approved restoration of that area. That work has been completed, under the supervision of Mark West. He also noted that he would like to build a pool. At the last meeting, there was some discussion about gifting some land to the

Town. He did some more research on how to move forward with this. He would be fine with gifting 3-acres, as his lot is 7.16-acres. This would require subdivision approval from both the state and town. He continued that if they gift 2.16-acres, it would require just town approval on the subdivision. Another idea is to do a conservation easement on the whole 3-acres. He commented that he is open to any of the options, but would prefer to not have to go for state approval.

Vice-Chair King asked why the state would need to be involved.

Mr. Donnelly explained that because his lot would drop below 5-acres after the subdivision, it triggers state approval. He agreed to have Attorney Phoenix provide this information to the Commission.

Referring to the meeting minutes of July 14<sup>th</sup>, Chair McFarland read the motion made for the approval by the Commission.

***Motion by Jaci Grote that the pool at 5 Whitehorse Drive is contingent upon the gifting of 3 to 5 acres of land that is at the end of this property abutting conservation land. The Commission also approves the buffer restoration plan that was presented at the meeting on July 14<sup>th</sup>. Seconded by Karen Oliver. Vote: 6-1 Opposed: Mike Garvan (Motion made at the Rye Conservation Commission Meeting on 7/14/2022.)***

Member Gardner stated that he would prefer it not be a conservation easement, as there could be potential issues down the road. He would prefer a straight transfer.

The Commission agreed that Attorney Phoenix should contact Chair McFarland with further information. Further discussion will be held at a future meeting.

- **Site walk for the restoration to be held on Wednesday, September 14<sup>th</sup>, 12:45 p.m.**

## **V. PENDING SITE WALKS AND REVIEWS**

- **23 Harborview Drive, Matthew Siler**

Chair McFarland noted that the owner of 23 Harborview Drive has a three-year planting plan for the site, which is now due for a final site walk review. A month extension has been requested into October because the work is not yet completed.

The Commission did not have any issues with the extension.

- **377 Brackett Road – fence, conservation easement land**

Chair McFarland reported that the plan was received for 377 Brackett Road and was sent out to the commission members.

Vice-Chair King noted this involved a privacy fence that was installed along the road. Some of it was on conservation land and blocking the view of the conservation land. This was brought to the Building Inspector's attention. The homeowner has agreed to take the fence down.

Member Shepcaro commented that one section has been taken down.

Vice-Chair King replied that she would like to see the survey because she believes it should actually be more than one section.

Chair McFarland stated that this information was sent today and she will forward it to Vice-Chair King.

It was agreed that a couple of members should visit the site to be sure the fence is no longer on conservation property.

- **300 Pioneer Road – NOV**

Chair McFarland noted that the Building Inspector has asked the Conservation Commission to go out to the property to review the restoration.

- **Site walk tentatively scheduled for Friday, September 23<sup>rd</sup>, 2:15 p.m.**
- **7 Holland Drive – follow up**

At the August 11<sup>th</sup> Conservation Commission Meeting, Corey Colwell from TF Moran presented a project for 7 Holland Drive. There was a question at the meeting regarding whether a manmade wetland on the site was a jurisdictional wetland. The Commission has not yet heard back from Mr. Colwell with an answer, as he was going to confirm the size of the wetland.

Member Shepcaro will follow up with Mr. Colwell.

## **VI. OTHER BUSINESS**

### **A. Greg Smith – Wright Pierce Engineering – presentation**

**Greg Smith, hydrogeologist from Wright-Pierce**, along with Water District Commissioners Art Ditto and Ralph Hickson, and Water District Superintendent Arik Jones, met with the Conservation Commission to discuss the process of water resource exploration involving conservation land in the Town of Rye.

Mr. Smith explained that the whole goal is to get Rye Water District back to where they were before they lost the Cedar Run Well, which has been shut down due to a decline in water quality. The Water District has lost almost a million gallons per day because of that one well being shut down. The District has three wells in total with two being on line at this time. If one of those wells goes down, the District will have serious problems. Mr. Smith continued that they have

been working hard to find another water source. Being in the coastal environment makes it difficult because land is expensive and there are not a lot of parcels available. Referring to the Brown Lane Farm property, he noted that the Conservation Commission purchased that land with water rights. The Commission has allowed for some geophysics work to be done on that property. The District would like to continue that work. He asked the Commission to keep in mind that a new source is highly vetted by NH Department of Environmental Services (DES). They are the ones who drive this process from a permitting standpoint, which has a lot of safeguards. He also noted that a well head protection area is highly synergistic with conservation. A town can control, on a higher level, a larger area around that conservation area from being developed.

Mr. Smith reviewed the geophysics work that has been done at Brown Lane Farm thus far. He noted that three significant locations with a high potential of developing a bedrock well were identified on the property. What is proposed for the future is one of these locations, preferably two, with a third location for a potential backup well. Mr. Smith spoke about ways to control the drilling environment and reduce the impact on the land. The next steps would be to do an endangered species study and a full wetland survey of the entire site. This is a requirement of DES. This information will determine what is on the site and how to mitigate any potential issues. DES is willing to meet with the Conservation Commission to discuss this process.

Mr. Smith explained the process for drilling the test well to determine water quality. After the testing, a preliminary report will be prepared for DES, along with a pump test proposal. From that point, DES will review all the reports and provide additional comments and information, as their job is to be sure nothing is adversely impacted relative to regulations. After that review, a full pump test would be conducted to assess the impacts at the site.

There was some discussion about how the new well would be integrated into the Rye Water system. Superintendent Jones spoke about the needs of the Water District in terms of new water resources to be able to provide clean, safe, drinking water and fire suppression.

After some discussion, Vice-Chair King commented that everyone realizes how crucial water is and the Commission is not trying to make this difficult. However, when the Commission conserves a property with people who are really excited about the estuary on their property, they have to keep that in mind and respect the process.

Commissioner Ditto pointed out that as part of the process, the Natural Resource Conservation Service (NRCS) who holds the easement on that property requires the work plan to be submitted to them for review.

Vice-Chair King noted this is part of the reason RCC wanted a conservation partner to help protect the property. She also noted that a lot of funding was received for this particular property because of its wildlife corridor. There are a lot of considerations as this process moves along.

Member Truslow added that as part of the groundwater withdrawal process, they will be required to monitor the levels in the wetlands and surface water to be sure there are no impacts. This is built right into the DES process.

Mr. Smith summarized that an endangered species study, and complete wetlands survey will be required by DES before a well is actually drilled.

After discussion, the Commission agreed that a site walk at the existing Garland well site with the Water District would be beneficial. The site walk will be scheduled before the meeting on September 15<sup>th</sup>, between the Conservation Commission, Rye Select Board, and the Water District, to further discuss siting and exploration work for the well.

- **Site walk scheduled for Monday, September 14<sup>th</sup>, 9:00 a.m., meeting at 71 Garland Road.**

**B. September 15<sup>th</sup>, 6:00 p.m., David Burdick's "Why Healthy Marshes Matter"**

The Conservation Commission is co-sponsoring a presentation, "Why Healthy Marshes Matter", being given by David Burdick, UNH Research Associate Professor and Director, Jackson Estuarine Laboratory School of Marine Science and Ocean Engineering. The event is being held on September 15<sup>th</sup>, 6:00 p.m., at the Rye Public Library.

**C. September 15<sup>th</sup>, 7:30 p.m., Rye Water District Meeting**

The Conservation Commission will be meeting with the Rye Select Board and the Rye Water District on September 15<sup>th</sup> at 7:30 p.m., at the Rye Junior High School. The public is invited to attend.

**D. ArcGIS, missing conservation parcels**

Chair McFarland explained that the Commission looked into having FB Environmental add the missing conservation parcels to ArcGIS; however, this was cost prohibited. Land Use Assistant Kara Campbell researched the costs for an administrator on town staff to have the license to do the work. It was found to be \$700 per year and Ms. Campbell has the background to do this work. This was presented to Interim Town Administrator Kevin Walsh who felt it was important to have this licensing because the Town is not completely utilizing the system at this time. For the cost of the licensing, parcels can be added to the mapping at any time and map layers can be manipulated. Ms. Campbell will be the sole administrator for this work, so there will not be multiple people from town staff on the system. This will be a budgeted item for RCC.

**E. 18 Whitehorse – water issue**

The Commission discussed the water issue at Whitehorse Drive. It was agreed that the plans that were approved for the Whitehorse Subdivision should be reviewed. A decision should be made as to who has the authority to do something about this problem. There may be no enforceable rule to say that the homeowner needs to address the issue, unless there is something in the plan that says how it's supposed to be constructed. Member Truslow suspects that they are going to find there really wasn't any mitigation when this subdivision was approved, as it's only been recently that the Planning Board has looked at discharge and where it should go. Member

Truslow agreed to speak with the Technical Review Committee about how to handle this issue. Land Use Assistant Campbell agreed to research the Whitehorse plans.

#### **F. Bog Bridge permits, Town Forest, Cedar Run, Brown Lane Farm**

Member Shepcaro is working on the bog bridge permits for the Town Forest. Member Reed is working on the permits for Brown Lane Farm. More information is needed for the applications. They will continue to work on that information and getting the applications for the permits submitted.

#### **G. Landscaper and Tree Service letter**

Land Use Assistant Kara Campbell has revamped the 2018 letter and added new landscaping/tree service companies to the list. Letters will be going out to all the companies on the list over the next month.

#### **H. Eversource – Ian Farley, 300 Pioneer Road tree cutting**

Chair McFarland reported that she spoke to Ian Farley, Supervisor of Vegetation Management at Eversource, about the tree cutting at 300 Pioneer Road. Mr. Farley confirmed that this was an emergency situation, due to a recent storm. Three trees were involved in the cutting. One was on the power lines, and another was blocking Pioneer Road. While Northern Tree was on site, another tree that was in imminent danger was discovered and the homeowner was asked if it could be taken down. It's important to note that the trees do not have anything to do with the notice of violation for 300 Pioneer Road.

#### **I. ZBA Meeting Update**

Member Oliver reported that a couple of the applications at September's ZBA meeting were continued to October. She was able to comment on the Odryna Living Trust application for 640 Long John Road. She was also able to comment on 80 Locke Road. The owners 80 Locke Road went with the recommendation of the RCC to have the entire driveway constructed with pervious materials. The ZBA conditioned the project upon the recommendations of RCC. They also added a condition that the pervious installation be documented. There was also a condition for pervious maintenance and accountability.

Member Oliver stated that one comment the ZBA made in accepting the RCC conditions is that they didn't think they had the authority to say the RCC is allowed to revisit the project upon completion to assess survival of plantings and compliance. ZBA thought it was the Building Inspector's or his designated agent. This is wording that the RCC may want to use in future letters.

#### **J. Goss Farm Barn - HDC**

Member Shepcaro reported that she had a meeting with the Historical Society at the Goss Farm barn. They are going to send the RCC a proposal for exploring the idea of possibly having an

exhibit at the barn and/or store a small number of items at the barn. She explained to them that it would have to be from September to April and their items would have to be well covered because of the birds. She also spoke to them about the limited access. She is just updating the Commission so they can think about the idea. She noted that the items to be stored are old farm tools and a sleigh. Most of the tools can fit into the sleigh and can be covered. She was very clear to them that it looks like there is a lot of space in the barn at this time. However, there are items in the field that will be coming into the barn for the winter, so there's not as much room as it may look.

The Commission agreed to have a further discussion once they receive a proposal from the Historical Society.

## **VII. CORRESPONDENCE**

- A.** NHDES Wetlands Bureau File 2022-01661, 60 Wentworth Road, Rye Tax Map 24, Lot 61-26, request for more information
- B.** Letter, Dominique Winebaum, Atlantic White Cedars, Bill Nichols – Natural Heritage Bureau

Dominique Winebaum, 52 Cable Road, explained that when she was first in touch with the Natural Heritage Bureau, they said that they didn't have time to map the Atlantic White Cedar Forest. The data base showed that the forest hadn't been done since the 1990's, so they corresponded with Mrs. Winebaum in May of 2021. In September 2021, she sent a letter asking if the Atlantic White Cedar Forest had been mapped. The response was that they hadn't had time and they would do the work in 2022. She emailed Bill Nichols, Natural Heritage Bureau Senior Ecologist, this past August to find out if the work had been started for 2022. Mr. Nichols responded that he would come in two months. Mr. Nichols actually came the following day. He sent an email after his visit stating that he had issues accessing the forest from Love Lane and South Road. He requested to access the forest from Grove Road and he talked about the Rye Water District. Mrs. Winebaum continued that she was in touch with Arik Jones, RWD Superintendent, and the Rye Water District Commissioners and received permission for Mr. Nichols to access the forest through Grove Road. There is also an access from Garland, but he would have to cross too many private properties.

Mrs. Winebaum stated that she received the report from Mr. Nichols, which she forward to the RCC. The Atlantic White Cedars have expanded by fifty percent. Atlantic White Cedars can be 400 years old; however, the oldest tree is 100 years old, at the most, in this forest, due to logging that was taking place fifty years ago. The White Cedars are now spreading, as there hasn't been any logging in fifty years. She pointed out doesn't have the time to write a report for the Natural Heritage Bureau until 2023. However, once it is completed, it will be shared with the RCC.

Mrs. Winebaum commented that the reason she originally contacted the Bureau was for the Atlantic White Cedar at Fairhill Marsh. Mr. Nichols also mentioned that he was going to go to Fairhill Marsh; however, she is not sure that will happen. She suggested that the RCC get in touch with Mr. Nichols to establish a rapport.



Mrs. Winebaum stated it would be nice to feature the Atlantic White Cedars during the Rye 400<sup>th</sup> Anniversary with a possible site walk sponsored by the RCC. She pointed out that Andy Stecher, Chair of the Rye 400<sup>th</sup> Anniversary Committee, is organizing five walks for next year during different months of the year. She took Mr. Stecher on a walk to the Atlantic White Cedar Forest. Mr. Stecher was shocked by the access to the forest, as it is very rough. The Grove Road access would be much easier; however, it's two miles of walking to the forest.

Vice-Chair King noted that the easiest access is from the Jim Raynes Forest. She also noted that the trail has not yet been put in.

Mrs. Winebaum commented that she thinks quite a few people would be happy to help with the trail work and invasive species.

Vice-Chair King stated that the Commission will be organizing a group, once they decide where to put the trail. They would be happy to get in touch when that work is started.

### C. Letter, Dominique Winebaum, RZP update in NPS - Letter to PB Attorney Maher

Mrs. Winebaum stated that she is a contributor for the Rye Civic League. For the past ten years, she has been writing summaries about the Rules and Regulations Committee meetings, who are in charge of updating the Rye Zoning Ordinance and Land Development Regulations, and the Master Plan. She reads the minutes and watches the meetings, so she is very informed. She has been asking, since May, for the 2015 proposed Wetland Ordinance that the RCC had been involved with at the time. RCC and Tracy Degnan, from Rockingham Conservation Commission District, were involved and there was funding close to \$3,000 at the time to cover Ms. Degnan's work. Mrs. Winebaum continued that the proposed ordinance was turned down by the Planning Board, at that time. The planning board chair, Bill Epperson, said that they would hold on to the proposed ordinance and revisit it in the future. However, it has never been revisited and it's seven years later.

Chair McFarland stated that it is being revisited. Pat Losik, the current planning board chair, has said that they are doing a lot of revisiting of items. When the Rules and Regulations Committee gets to the wetlands piece again, Pat is going to include a member or two of the Conservation Commission in that process.

Mrs. Winebaum noted that it's September and there hasn't been any public meetings about the Rye Zoning Ordinance updates. She thinks there was a two-hour non-public meeting recently about the zoning ordinance. She is concerned about the wetlands, accessory dwelling units and over development. Her concern is that the public has no idea as to what is being updated.

Speaking to Mrs. Winebaum, Chair McFarland confirmed that the Commission has read her letter and respects her point of view. She will also speak with Pat Losik to be sure that the Commission is pulled in on the wetland issues.

#### **D. Letter received from Shawn Joyce**

It was noted that a letter from Shawn Joyce and David Tilton regarding leash zone compliance in the Town Forest was received. A copy was also sent to the Select Board. The letter will be addressed at the next meeting when Member Garvan is present.

#### **E. SBA Communications**

*Correspondence received*

### **VIII. BILLS**

**Motion by Jaci Grote to pay the following bills:**

- a. \$94.45 Alan Bucklin
- b. \$250.00 James Verra Surveying
- c. \$24.99, \$15.99, \$5.99 Seacoast Ace Hardware
- d. \$700/annual license for ArcGIS Administrator
- e. \$44.65 dogpoopbags.com #11537

**Seconded by Susan Shepcaro. All in favor.**

**Motion by Jaci Grote to pay the following bills:**

- a. \$9,117.50 BCM (Inv. #86, #87, #86-41, #82-41)
- b. \$2,104.00 BCM (Inv. #86-90)

**Seconded by Susan Shepcaro. All in favor.**

**Motion by Jaci Grote to pay RCCD \$12,000., as second payment, for monitoring in perpetuity for the Town Forest. Seconded by Susan Shepcaro. 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 8:57 p.m., Jaci Grote 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 Susan Shepcaro.**

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

**Motion by Jaci Grote to come out of non-public session at 9:33 p.m. Seconded by Susan Shepcaro.**

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

### **Adjournment**

**Motion by Jaci Grote to adjourn at 9:34 p.m. Seconded by Susan Shepcaro. All in favor.**

Respectfully Submitted, Dyana F Ledger