

TOWN OF RYE CONSERVATION COMMISSION

Thursday, December 8, 2022

6:30 p.m.

Rye Public Library

Commission Present: *Chair Suzanne McFarland, Vice-Chair Sally King, Susan Shepcaro, Mike Garvan, Danna Truslow (arrived at 6:48) and Alternates Jeff Gardner and Karen Oliver*

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

II. SEATING OF ALTERNATE

Karen Oliver was seated for Jaci Grote. Jeff Gardner was seated for Heather Reed.

III. APPROVAL OF MINUTES

- **November 10, 2022**

The following corrections were noted:

- Page 6, under VI – H, it should read: **She took Knowles Tree Service out ad there was a \$1,000 difference from Ambit's estimate for tree work.**
- Page 9, last motion should read: **Motion by Jaci Grote to pay one hundred fifty dollars and nineteen cents (\$150.19) for dog poop bags and one hundred twenty-five dollars (\$125.00) to Susan Shepcaro for reimbursement of the entry fee to the NH Conservation Seminar.**

**Motion by Jeff Gardner to approve the minutes of November 10, 2022 as amended.
Seconded by Sally King. All in favor.**

IV. WETLANDS

- A. 750 Brackett Road, Tax Map 17, Lot 66 – Owner: Matthew & Natasha Goyette
Ross Engineering, Alex Ross
Variances from §190-6.3A/B for expansion of a structure on a non-conforming lot; and
from §190-3.1.H(2)(g) for an addition on an existing footprint 55' from the wetlands**

Matthew Goyette, applicant, spoke to the Commission about the proposal to extend the roof of the home at 750 Brackett Road. Currently, the roof is significantly flat and runs the full length of the house and there has been a lot of water damage. There will not be any additional square footage to the front of the house; however, there will be about 1,000 square feet gained overall for the entire renovation. There will be no expansion to the footprint of the house. He noted that they are working on a stormwater management plan and planting plan. Ross Engineering has been involved with the project. The project is about 5 feet into the 50 foot buffer. There is one gutter that runs the entire length of the roof and drops closest into the buffer. With the new plan, the roof line comes over and eliminates the flat roof. It's a big improvement over what currently exists.

It was noted that the proposal is before the Commission because a stormwater management plan is needed due to the change in water flow within the buffer. A variance is needed from the ZBA for the expansion within the buffer. It was also noted that NH DES doesn't need to see a project where the footprint is not changing.

Member Garvan questioned why the infiltration trench has to be as long and exit so close to the wetland. The main concern is effluent getting into the wetland. This is the one change that has been made to the footprint.

Mr. Goyette assured the Commission that Alex Ross will be present at the site walk and will be able to address this concern.

Todor Simeonov, 720 Brackett Road, expressed his concerns in regards to the project and the possibility of an increase in runoff onto his property.

Member Garvan clarified for Mr. and Mrs. Goyette that plantings will help uptake water before it gets to the wetland. It will slow down sheetflow that may be flowing over the lawn. Member Garvan stated that he believes Mr. Semenov is concerned that all the water is being taken from the roof, concentrating the water, and discharging it close to the wetland. He noted that this is his concern also.

Mr. Goyette explained that there is one long gutter along the flat part of the roof that drops right near the buffer. With the roof coming over, there would be disbursement, with gutters, happening in multiple areas. There will be improvement by bringing the roof around because it won't be dumping all at one point.

Member Garvan noted there is a town ordinance that requires a homeowner to control the water on their property and not increase the flow onto an adjacent property.

Vice-Chair King spoke to the Goyettes about the need for a complete engineering plan from Alex Ross in order for the Commission to make a recommendation. The Commission agreed that more information is needed. There was discussion about seeing the engineering plans at the next meeting before conducting a site walk. Chair McFarland agreed to speak with Mr. Ross

about the information that the Commission is looking to review. A tentative site walk date will be scheduled in case Mr. Ross has that information already and it can be brought to the site walk.

- **Site walk scheduled for Wednesday, January 4th, 2:00 p.m.**

V. PENDING SITE WALK AND REVIEWS

- A. 2230 Ocean Blvd.,** Tax Map 053, Lot 066, Owner: Joan and Harvey Bines
Corey Colwell – TF Moran Engineering, Required planting plan for 2015 new construction
- Review is needed for the required plantings from 2015.
- B. 40 Brackett Rd.,** Tax Map 022, Lot 090, Owner: Eric Cummings and Cheryl Lloren
Ambit Engineering Steve Riker, Replace septic system
- Review is needed for the buffer plantings to the back of the lot.
- C. 1611 Ocean Blvd.,** Tax Map 023, Lot 006, Owner: Stephen Huff
Re-examine last recommendation letter, plantings
- This property has changed owners. Matt Barton put in the plantings, but the new owners did not follow up with maintaining the plantings. The new owner does not want to address the issue. A note is needed for the file to show the history and why the Commission did not sign off. The removal of the bricks and stone have not been removed from the edge of the marsh. It was agreed that a memo of the events should be written for the file. Member Oliver agreed to write a letter to the new owner.
- D. Rye Elementary Baseball Field, 511 Sagamore Road,** Tax Map 018, Lot 034
Drainage pipe, complete?
- Member Shepcaro confirmed that this project has been completed and it was done per the Commission's request. The Commission agreed to go back for a review, as there are no notes in the file stating that they have reviewed the work.
- E. 381 Sagamore Rd.,** Tax Map 019, Lot 061 Owner: Ashbrook Properties, Andy Cole, new owners
- This property has changed owners. It was confirmed that the Commission revisited the site to review the work. Member Truslow agreed to write a memo on the work for the file.
- F. 21 Carbee Dr.,** Tax Map 084, Lot 104, Owner: William and Nanci Perocchi
Tear down/rebuild/pool
- Review is needed for the work. The Commission had asked for pervious pavement and native ground coverings of trees and shrubs. The edge of the seawall was to be planted with a vegetation buffer.

There was discussion about which members would be visiting the sites that still need review and Chair McFarland started a list. Members will reach out to each other to coordinate a time to revisit the sites.

VI. OTHER BUSINESS

A. ZBA update

Member Oliver gave an update regarding the recent ZBA meeting. The ZBA continued the application for 5 Whitehorse to their next meeting in January. Attorney Phoenix questioned recommendations number 7 and 8 of the Conservation Commission's recommendation letter. Number 7 was "fence to be added to the outside edge of the wetland restoration area." Attorney Phoenix questioned whether that was an additional fence or the one already shown on the plan. Member Oliver told him that it was the fence that was shown on the plan. Attorney Phoenix also questioned "native plantings to be installed along the fenced areas outside the wetland restoration area." Member Oliver pointed out that those do not appear on the plan.

Member Shepcaro explained the Conservation Commission had a site walk on November 14th when the plantings were discussed. The plans are from March. She further explained that RCC did not say a buffer of 3 feet or 5 feet. They just said some plantings.

Member Oliver noted that the request for rehearing and reconsideration for 691 Brackett Road was denied. The ZBA needed to decide whether there was a mistake made when hearing the case or whether there was new information. The ZBA also denied the rehearing and reconsideration request for 450 Sagamore Road. The ZBA determined that the person who made the request for rehearing wasn't an abutter. The variances for the generator at 2000 Ocean Boulevard, Unit 9, were approved. The ZBA continued the application for 457 Central Road. The rest of the meeting was taken up by the 7 Holland Drive case, which was approved. Member Oliver noted that Corey Colwell said the RCC's request to move the shed forward 10 feet actually placed it closer to another wetland.

Vice-Chair King pointed out it's a lesser value wetland.

Member Oliver commented that she left the meeting before the case was finished and is not sure where they decided the shed is going to be located. She pointed out that the owners had a very specific and detailed stormwater management plan. The ZBA was happy with the plan and this probably helped with the approval.

B. Trail maps on webpage

Chair McFarland reported that Member Reed is working on getting the trail maps on the webpage and hopes to have it done soon.

C. NH Conservation Seminar - Legislature Goss Farm site walk

Member Shepcaro stated that she had an opportunity to attend the NH Conservation Seminar and attend three presentations, which was very interesting. A lot of it was about climate change and what they are working on. One of the seminars had three farmers who talked about the challenges they've faced with their crops because of climate change. Another seminar addressed the research through U.N.H about groundwater becoming saltier because seawater is moving in under groundwater and coming up through wells, and septic. The third seminar was about using marshes to mitigate stormwater. Member Shepcaro noted that she attended a site walk the week before with Tracy Degnan, Kevin Lucey from DES, and a whole host of people on the Fairhill Swamp. It was very interesting and very informative.

Vice-Chair King noted that Tracy Degnan, Rockingham County Conservation District, hosted the site walk at the Goss Farm. It was very well attended. A lot of people were from NRCS who had worked on projects at the farm in the past. Tracy gave a tour of the farm, along with an update on things that have happened since the Commission acquired the property.

D. Bog Bridges Permits, Town Forest – Susan and Heather

No further updates.

E. 18 Whitehorse Water Issue – Danna & Kara

No further updates since the last RCC meeting.

F. Liam Property

Chair McFarland received a call from Amanda from SELT about walking the Liam property easement. The requested time is Monday, December 19th, 10:00 a.m. Member Shepcaro and Member Gardner agreed to meet Amanda at the property.

G. John Deere Tractor

Vice-Chair King noted that the Commission received a donation of a small John Deere Tractor and cart for use at the Goss Farm. Jane Holway gave the Commission the tractor and wanted a donation receipt. The receipt really would not benefit Jane at all. Vice-Chair King asked that the Commission to pay Jane a nominal fee, as she is not going to get any benefit from the receipt.

Motion by Sally King to pay Jane Holway two hundred fifty dollars (\$250.00) for the John Deere Tractor. Seconded by Susan Shepcaro. All in favor.

H. Jenkins Conservation Land

Chair McFarland confirmed that Jenkins conservation land got into the Capital Improvements Plan. This was acknowledged by Selectman Phil Winslow.

I. Goss Lane – Mowing

Member Shepcaro commented that she is going to reach out again to Pat Losik (Planning Board Chair) about the mowing in the Wetlands at Goss Lane. Member Garvan had suggested at a previous meeting that more signs should be put in to mark the wetland buffer. Member Shepcaro agreed to also talk about the signs with Pat Losik. Part of the agreement with the Conservation Commission was no mowing in the wetlands or the actual marsh, which has also been an issue.

Chair McFarland pointed out that Goss Lane came up at the Rules and Regulations Committee Meeting as an example of things to do differently.

J. Structural work on Goss Farm

Vice-Chair King confirmed that Richard Bartlett will be visiting the Goss Farm to discuss the work that needs to be done on the barn. A contract will then be drafted after that meeting.

K. Dog Walking Services in the Town Forest

Member Garvan noted that Vice-Chair King and Member Shepcaro met with the Police Chief and the Town Administrator about dog walking services in the Town Forest, which is prohibited by easement.

Member Shepcaro stated that she has talked to the woman who brings dogs five days per week to Parsons. Often, she can be seen with as many as nine dogs. She is often there alone and has a lot of dogs. Several people have said that when they arrive with one dog and see this woman with all the dogs, they don't want to get out and end up going somewhere else. Those are people who live in Rye. Member Shepcaro continued that when she spoke with this woman, she was unreceptive to the mentioning that she can't be in the woods with all the dogs. She has specifically spoken to this woman at least three times about not being in the woods. Member Shepcaro pointed out that the Commission does not have any control over Parsons Field, but the dogs cannot be walked in the Town Forest because it's a commercial activity and the easement does not allow it.

Member Shepcaro stated that she called the Town Administrator Matt Scruton. She told him that the Commission feels it's a town issue because this woman is in Parsons and the Town Forest. Matt suggested sending a certified letter, but wanted to meet with the Police Chief to discuss enforcement. The meeting was held this past Monday. The Police Chief and the Town Administrator do not think the word "commercial" applies in this situation. They don't feel the wording in the easement will be enough if the Commission had to take any kind of court action.

Vice-Chair King pointed out that the reason they said that is because one of the uses in passive recreation is dog walking. To her, this has nothing to do with commercial.

Member Shepcaro also pointed out that the signs say commercial activity is prohibited. If someone is making money it's a commercial activity.

Vice-Chair King stated the reason they wanted to address this issue, besides the fact it's not allowed in the easement, is that this woman brings a lot of dogs and it may just present a problem.

Member Shepcaro noted that Vice-Chair King had a solution of offering the woman another property that does not have the use the Town Forest has, nor the easement.

Member Garvan stated that he reviewed the easement. He thinks the Commission has to be stronger with the Police Chief and Town Administrator. They said that dog walking is specifically mentioned under the permitted use. However, it says "Recreational use permitted by the public for outdoor recreational activities; such as, walking and dog walking." Member Garvan pointed out that this woman is not there recreating. She is not there in her off time. She is being paid to go there. This is the definition of commercial and is not recreational. This is not allowed. He thinks there should be a strong presence by the Police Chief saying this is going to be enforced and there are other places where she would be welcome. Member Garvan commented it is crystal clear in the easement.

Chair McFarland noted that the easement is going to be updated.

Vice-Chair King noted that a lot of times when the Commission has situations like this it's pointed out that it's more civil than criminal.

Member Garvan commented that's fine. The Town Administrator can write the letter than instead of the Chief.

The Commission agreed. Vice-Chair King and Member Shepcaro will continue to work on resolving the matter.

- **Public Comment**

Joe Cummins, 990 Washington Road, encouraged the Commission to keep working on the issue with commercial dog walking in the Town Forest. Mr. Cummins also spoke about the trail maps, which are very important to him. He asked about the Goss Farm and whether functions could be held on site.

Chair McFarland explained that Goss Farm can only be used for agriculture per the easement. She suggested that people read the plaque at the farm. Referring to the trails map on the Commission's webpage, she noted that Seavey Acres is already posted. Last year, the Commission marked a new trail at Cedar Run. The Commission is trying to get GPS mappings of the trails on the webpage for more clarity. Whitehorse, Brown, and Cedar are not yet on the Town website.

Mr. Cummins commented that he would like to have clarity on the trails about hunting.

Member Garvan pointed out that what's allowed on the various properties is posted on the website. The properties where hunting is prohibited are posted.

There was some discussion about having better postings on the properties. There was also some discussion about how the public can access the conservation properties at 240 Washington Road, Whitehorse Drive, and Highland Drive.

VII. CORRESPONDENCE

- A.** 2022.11.30 2216 Ocean Blvd, Tax Map 5.3 Lot 63 NHDES-RFMI_WET-2022222280.pdf
Noted
- B.** SELT Newsletter
A land owner questionnaire was received with the recent newsletter. Member Truslow agreed to review the questionnaire to see if RCC should respond.
- C.** SBA Communications
Noted

VIII. BILLS

- A.** \$610.36 – Epping Well and Pump
- B.** \$7,292.50 – BCM #9134
- C.** \$744.50 – BCM #9135

**Motion by Mike Garvan to pay Epping Well and Pump in the amount of \$610.36, BCM in the amount of \$7,292.50, and BCM in the amount of \$744.50.
Seconded by Susan Shepcaro. All in favor.**

- D.** \$15.73 – Suzanne McFarland for Jim Raynes Forest

**Motion by Susan Shepcaro to reimburse \$15.73 to Suzanne McFarland.
Seconded by Jeff Gardner. All in favor.**

- E.** \$66.52 – Tom King for Goss Farm irrigation

**Motion by Jeff Gardner to reimburse Tom King in the amount of \$66.52.
Seconded by Danna Truslow. All in favor.**

- F.** \$70.00 – Philbrick Farm Enterprises for Goss Farm

Motion by Susan Shepcaro to pay Philbrick Farm Enterprises in the amount of \$70.00. 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 8:22 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 Danna Truslow.

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

The Commission came out of non-public session at 9:00 p.m.

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

Seconded by Danna Truslow.

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

ADJOURNMENT

Motion by Sally King to adjourn at 9:01 p.m. Seconded by Jeff Gardner. All in favor.

Respectfully Submitted,
Dyana F. Ledger