

TOWN OF RYE – CONSERVATION COMMISSION

**Thursday, June 14, 2018
7:00 p.m. – Rye Town Hall**

Present: Acting Chair Suzanne McFarland, Jaci Grote, Mike Garvan, Jeff Gardner, Susan Shepcaro, Alternate Jim Raynes and Heather Reed (arrived at 7:30 p.m.)

I. CALL TO ORDER

Acting Chair McFarland called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Alternate Jim Raynes was seated for Sally King.

II. APPROVAL OF MINUTES – May 10, 2018

The following correction was noted:

- Page 7, under Correspondence, Emergency Authorization, it should be noted that the emergency culvert repair location was located on **Route 1A** near Foss Circle.

Motion by Jaci Grote to approve the minutes of May 10, 2018 as amended. Seconded by Susan Shepcaro. All in favor.

III. WETLANDS

- A. 260 Pioneer Road, Tax Map 24, Lot 110**
Owner: Michael Simchik
MSC/TF Moran – Corey Colwell
Generator

Corey Colwell, MSC Engineering, representing the applicant, spoke to the Commission in regards to the property located at 260 Pioneer Road and owned by Michael Simchik. The property is just over 8 acres and has a long gravel driveway that comes in from Pioneer Road. The property overlooks Witch Creek and most of it is tidal wetlands. (He pointed out the 50ft no-cut buffer on the plan and the 100ft tidal buffer.) He noted that there is virtually no buildable area on the lot other than the triangle that is shown on the plan, which is located in the middle of the house. The house was built in 1989. There has been no renovation or additions since that time. This past winter, Mr. Simchik cut some trees within the buffer, which was reported to the town by the neighbors. The building inspector (Peter Rowell) reviewed the site and ordered a Notice of Violation. The notice ordered the property owner to stop all cutting within the buffer, have the wetlands delineated, determine how many trees have been cut within the buffer and apply for a variance for the trees plus a generator that was found to also be existing within the buffer. He continued that MSC was hired by Mr. Simchik and they spoke with the company that removed the trees. The landscape company did a weeding and thinning operation (forestry

management) and followed best management practices. He noted that he wrote a letter back to the building inspector, on behalf of the property owner, that said they respectfully disagree that the trees cut within the buffer require a variance because best management practices were followed; however, they did concur that a generator in the buffer is a violation. Town Counsel became involved in the issue and agreed that a variance is not required for the tree cutting, as long as best management practices were followed. The proposal before the commission is for a generator with propane tank and underground utilities, which are all located within the 100ft freshwater buffer. He stated that the generator is almost necessary for this property because they have lost power several times. The backup power is a small footprint so it is not something that is detrimental to the buffer zone.

Acting Chair McFarland asked why Mr. Simchik did not locate the generator and propane tank to the left of the driveway closer to the house.

Mr. Colwell stated that Mr. Simchik was unaware that a generator could not be within the buffer. They chose the best spot away from the front door and back patio. There is a large buffer of trees between the generator and the neighbor. The location was chosen because it was out of view and out of sound.

There was discussion and concerns expressed from the Commission in regards to the cutting of the trees. Mr. Colwell agreed to ask the landscaper to attend the site walk so the Conservation Commission could review the cutting on the property.

- **Site Walk scheduled for Tuesday, June 19th, 4:30 p.m.**

B. 31 Parsons Road, Tax Map 20.2, Lot 47
Owner: Susan and Kevin Duplisea
Ross Engineering – Alex Ross
New Garage, enlarge home, add patio

Alex Ross, Ross Engineering, presented the plans for 31 Parsons Road. He explained that a couple of years ago this property was before the Board with a proposal for the restructure of the driveway, construction of a garage and the replacement of the septic. The proposal was approved and built at that time; however, a much smaller garage was built than what was approved. In January of this year, there was an accident where a postal delivery truck went off the road and hit the garage and knocked it off its foundation. The owner would now like to go back to the original plan, which was the larger garage that was approved by the Boards previously. He noted that the application has gone back to the ZBA recently and this change was unanimously approved. The plan was approved three years ago; however, the original approval had expired. In 2015, a horseshoe driveway was part of the proposal that was approved by the Boards. When the proposal went to DPW, they did not like the horseshoe driveway and a change was made on the plan for one curb cut with a smaller driveway. The plan now is less impact than what was originally approved. He continued that the owners have taken great care of the site. There is a hedge row wetland buffer in the rear that is protective of the wetlands. The proposal is to remove the small 12x25ft garage that was hit in the accident and go back to the original 30x26ft garage that was approved three years ago. The proposal in 2015 had space underneath the garage with a walkout. The proposed garage now will be a slab on grade so it will be less intensive. Also, because of the rotation of the garage, some of the existing asphalt square footage will be removed. A stormwater management plan has been prepared for the

building department. The rainwater will be collected in the downspouts and directed into storm infiltration areas. He pointed out that the advanced treatment septic was installed in 2015.

Acting Chair McFarland stated that the Conservation Commission's 2015 recommendation letter stated that native plantings should be planted on the wetlands border.

Susan Duplisea, applicant, explained that they put in plantings all along the rear rock wall. The intent is to add to that area to make it larger. The plans for this summer was to plant in the back corner of the lot.

Member Gardner commented that the commission usually suggests a buffer of native species between the lawn and the wetland.

Acting Chair McFarland noted that the ZBA's Notice of Decision is conditioned upon the applicant adhering to the recommendations of the Rye Conservation Commission. The commission will need to view the property and write up a letter of recommendations.

- **Site Walk scheduled for Tuesday, June 19th, 5:15 p.m.**

Motion by Jaci Grote to move 'Other Business' out of posted agenda order and address it next. Seconded by Jeff Gardner. All in favor.

IV. OTHER BUSINESS

A. Attorney Peter Loughlin – Appledore Ave, Spiewak proposal

Attorney Peter Loughlin, representing Allen Cummings, spoke to the commission in regards to a request for a land exchange. The town would convey a 27,000sf building lot on Appledore with Mrs. Spiewak, whereby she would convey to the town 222,000sf of saltmarsh and uplands. Mrs. Spiewak would convey to Allen Cummings 6,280sf. Mr. Cummings would convey to Mr. Spiewak 2,628sf to make this proposal work. He noted that he does not represent Mrs. Spiewak. His client, Allen Cummings, would like to protect the "little village" he has created for his family at the end of Appledore Ave. Mrs. Spiewak is intending to develop her lot. The only entrance to her property is at the end of Appledore, through the wetlands buffer behind one of Mr. Cummings' homes, and through conservation land. This would result in an 18ft paved driveway through the buffer in order to access the uplands. (He submitted a plan to the commission showing the land.) He stated the concern is this land is going to become more and more valuable. There will be more pressure in the future to develop it. It is going to be an issue as long as that land is not protected. What they are presenting to the commission, would be an opportunity to swap a building lot, on the road, for some very valuable open space land. He explained that Mrs. Spiewak will be asking the State and the town for approvals to build a home behind the conservation land, which is all within the 100ft buffer. In regards to the land swap proposal, he thinks that there would be a benefit to the town in losing a building lot, as opposed to a highly variable salt marsh. He urges the Conservation Commission to consider the proposal.

The Conservation Commission agreed to take the proposal under advisement.

**B. Ocean Blvd, Tax Map 008, Lot 58 and 59, Joseph W. Goss
Michael Garrepy – Tuck Realty Corp, land development**

Michael Garrepy, Tuck Realty Corp, presented the proposal for a development on land located on Ocean Blvd, Tax Map 008, Lots 58 and 59, across from the Goss Farm. The proposal is before the Planning Board and will be going to the Zoning Board. The property has over 1000ft of frontage on Ocean Blvd, 800ft on Harbor Road and about 60ft on Locke Road. The proposal is for a five-lot subdivision with a small cul-de-sac. He noted that they will not be requesting relief for the setbacks. Everything is outside the buffers; however, this is a sensitive environment. He continued that Mark West did a wetland peer review of Jim Gove's work for the Planning Board. Joe Noel did some work for the test pit witnessing and a review of the soil map for the Planning Board as well. He and Jim Gove are presenting the application to answer any questions the Commission may have and to discuss how they might be able to protect the land.

Acting Chair McFarland noted that some of the commission members attended a site walk held by the Planning Board. The Planning Board has asked for any concerns the commission may have to be sent to them.

Mr. Garrepy stated that the plans that are before the commission are the same plans the Planning Board has. A revised plan has not been submitted because they are waiting for the outcome of the ZBA and wanted to get comments from the commission before putting revisions to the plans. He commented that there have been comments that the grading on the site was pretty significant. He is confident they are going to be able to show a grading plan with significantly less impact. The plans will also show the grading for each individual lot. There will also be septic plans for each lot. The proposal is for pre-treatment septic systems for all the lots. The drainage plan is pretty simple. There will be a small rain garden in the front along the entrance to the road and a small detention area in the cul-de-sac. He continued they are working with the town's road agent on making the road a little narrower, which will need to go before the Planning Board for a waiver request. They will be requesting a reduction in the radius to the cul-de-sac as well. (He reviewed the plan for the commission.)

Member Gardner stated that he would like to see a large native buffer along the saltmarsh. This will turn from fields to lawns that will be fertilized and nitrogen filled.

Mr. Garrepy commented that they have notes on the plan for "no nitrogen" and other protections. (He reviewed the wetlands buffer on the plan for the commission.) He noted that they would like to discuss conservation ideas with the commission. The town would be better stewards than a homeowners' association. He continued that he also has a contract with the Goss Family to buy 3.5 acres across the street (Ocean Blvd) from this property, which is all marshland. That might be something that could be gifted to the town. He would like to know that when he is gone on to the next project that this parcel is in good hands.

Member Gardner asked if he would consider any of the buffer zone besides just marshland.

Mr. Garrepy commented that they could look at that. He suggested a work shop or site walk to discuss ideas.

There was discussion on scheduling a site walk. The commission agreed that they would like to see the revised plans. Mr. Garrepy assured the commission that the plans will be ready for the site walk. He also agreed to have the parcel staked to show the roadway and fill areas.

- **Site Walk scheduled for Friday, June 29th, 10:30 a.m.**

C. 800/820 Ocean Blvd – The Breakers Condos (added to agenda)

Acting Chair McFarland noted that units 1 and 2, at the Breakers Condos, had to be raised because of FEMA but stayed in the same footprint. It was discovered by the building inspector that stair #2 and #3 are now within the 250ft shoreline. The owners thought that because they were building within the same footprint that a permit was not needed. NH DES has been notified. She continued that there is also a space that needs to be open underneath but is now decked over. The building department is asking the commission to conduct a site walk and to give an opinion. The architect is willing to meet the commission at the site.

- **Site Walk scheduled for Tuesday, June 19th, 6:00 p.m.**

D. 660 Central Road (added to agenda)

Acting Chair McFarland noted that she met with Bill Schleyer and Frank Drake. Mr. Drake asked the Rye Conservation Commission to come to the Rye Beach Precinct and give an opinion. The property is located at tax map 005, lot 002, and is a total of 22 acres. The property has a long gravel driveway to the house and sits on Eel Pond. It appears that the person who lives at the property has been removing rocks from the other side of Eel Pond within the 100ft buffer. Eben Lewis, NH DES, has already been to the site. She noted that she has visited the site and has taken photos for the commission's files.

Member Grote stated that Eel Pond is a private pond and is owned by people in that location.

Acting Chair McFarland stated that another issue is that the people next door are adding fill on their lot, which is 13 acres. Mr. Lewis has also been to this site. The homeowners had to remove 2ft of fill out of the buffer. She commented that the commission has been invited to review the land.

- **The members agreed to fit in the site walk on Friday, June 29th.**

E. Update dog committee

Member Garvan stated that the Dogs at Large Committee is looking at some compromises. It looks like the committee may be voting on a motion as to what defines "dog under control" at the next meeting. Some people are suggesting that there be days in the town forest where leashes are

required so people can walk without worrying about dogs. There has also been discussions on having restrictions on the Green Trail (larger trail). That is something the Conservation Commission would weigh-in on.

Member Shepcaro stated that Sally King had given an idea at one of the committee meetings of designating one or more current conservation properties as dog free. People could walk without dogs on those properties.

Member Garvan commented that someone on the committee stated that the town forest belongs to the town and people from the town should be able to walk dog free in the forest.

Referring to the idea of restricted days for dogs in the forest, Member Shepcaro stated that it was also discussed how difficult it would be to enforce. She noted that every State beach is dog free.

Member Garvan noted that the Dog Committee has been mostly dealing with the beach; however, the town forest is on the next meeting agenda. He would like the commission to keep this in mind because final recommendations will be going to the select board.

V. PENDING SPRING 2018 SITE WALKS

- **245 Pioneer**, Tax Map 024, Lot 118
- **335 Washington Road**, Tax Map 016, Lot 122
- **243 Parsons**, Tax Map 19, Lot 103
- **25 Appledore**, Tax Map 19.4, Lot 52
- **5 Libbey Lane**, Tax Map 16, Lot 162-3
- **45 Washington Road**, Tax Map 017, Lot 073
- **60 Park Ridge**, Tax Map 19.4, Lot 17

Member Grote stated that two people will be assigned to each pending spring site walk. If the two people who go say the property looks fine then the commission is done. If the two members say that it does not look fine then the commission will need to go conduct a site walk with a quorum.

The commission agreed that they would split up the properties and try to visit two per week. Member Grote will contact the property owners regarding the site walks.

VI. BILLS

- | | |
|----------------------------------|----------|
| • Ed Ireland – Goss Farm | \$225.00 |
| • James Verra | 322.30 |
| • Rye Water District – Goss Farm | 160.00 |
| • Eversource – Goss Farm | 18.16 |
| • Alan Bucklin | 549.40 |
| • James Verra – Phase II Forest | 6,472.50 |

Motion by Jaci Grote to pay the bills as reviewed. Seconded by Susan Shepcaro. All in favor.

VII. CORRESPONDENCE

- **NHDES** – Jirias Charabati, Compliance Inspector – will be conducting compliance inspections for:

- Permit File #2017-00909, 60 Wentworth Road, Tax Map 24, Lot 61-26
- Permit File #2014-02202, 306 Pioneer Road, Tax Map 24, Lot 113
- Permit File #2016-02298, 1314 Ocean Blvd, Tax Map 17.4, Lot 38
- Permit File #2013-00792, 1324 Ocean Blvd, Tax Map 17.4, Lot 39
- Permit File #2016-02558, Ocean Blvd 1A, Tax Map 13, Lot 13-003
- Permit File #2017-01208, 2234 Ocean Blvd, Tax Map 52, Lot 67
- Permit File #2016-01466, 731 Central Road, Tax Map 5, Lot 1
- Permit File #2017-02955, 731 Ocean Blvd, Tax Map 23, Lot 6
- Permit File #2017-03417, Straw's Point Road, Tax Map 91, Lot 12
- Permit File #2014-01300, 1296 Ocean Blvd, Tax Map 17.3, Lot 65
- Permit File #2015-01071, 1232 Ocean Blvd, Tax Map 17.3, Lot 42
- Permit File #2016-00748, 1601 Ocean Blvd, Tax Map 13, Lot 29
- Permit File #2016-01597, 22 Odiorne Drive, Tax Map 17.3, Lot 11-3, 11-4
- Permit File #2013-00967, 251 Harbor Road, Tax Map 8, Lot 51

- Acting Chair McFarland read a letter from Bob Wylde regarding the dumping that is occurring on conservation land on Hunterville Ave.

Member Shepcaro stated that someone has recently weeded and mowed a path through the parcel. She will take photos of the parcel for the commission.

Member Garvan stated that he thinks the parcel should be a park. There could be a bench with a nicely maintained path. Maybe people will stop dumping on the parcel if it looks nice and is being maintained as a town park.

- A letter was received from the Rockingham County Conservation District regarding Free Invasive Plant Management of Municipal Working Lands.
- Three abutter's notices were received for the June 6th Zoning Board of Adjustment Meeting; 61 Washington Road, 146 Harbor Road and Goss Farm.
- The commission is now receiving the ZBA agenda with notes from their meetings followed by the Notices of Decisions.
 - **0 Richard Road**, tax map 5.2, lot 156 – applicant complied with all recommendations set forth in the Rye Conservation Commission's May 8th letter.
 - **31 Parson's Road**, tax map 20.2, lot 47 – applicant agreed to comply with the recommendations of the RCC in a "to be issued" letter.
 - **260 Pioneer Road**, tax map 24, lot 110 – continued to the July ZBA meeting
 - **5 Wentworth Road** – commission has already addressed.

- **0 Ocean Blvd.** – discussion pending between applicant and RCC.
- Acting Chair McFarland read a letter from Hugh T. Lee, 220 Pioneer Road, in support of the cell tower proposed for Brackett Road to provide better cell phone service in northern Rye, as supported by the Rye Police and Fire Departments.
- An article featuring Seavey Acres was published in Rye Magazine's June Edition. The commission agreed to feature the Rand parcel in the next issue.

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

At 8:58 p.m., Jaci Grote made a motion to go into Non-Public Session per RSA 91-A:3, II (d) Acquisition. Seconded by Jeff Gardner

Roll Call: Jeff Gardner – Yes, Mike Garvan – Yes, Jaci Grote – Yes, Suzanne McFarland – Yes, Heather Reed – Yes, Susan Shepcaro – Yes, Jim Raynes – Yes

At 9:10 p.m., the commission came out of non-public session.

Motion by Jaci Grote to seal the minutes of the Non-Public Session. Seconded by Jeff Gardner. All in favor.

ADJOURNMENT

Motion by Jeff Gardner to adjourn at 9:10 p.m. Seconded by Jaci Grote. All in favor.

Respectfully Submitted,
Dyana F. Ledger