

## **RYE CONSERVATION COMMISSION**

### **Site Walk Minutes**

**Wednesday, August 30, 2017**

Meeting was called to order by Vice Chair McFarland at 4:32 pm

RCC members present at all site walks: Vice Chair Suzanne McFarland, Members Jeff Gardner, Jaci Grote, Susan Shepcaro, and Mike Garvan.

#### **4:30 pm: 23 F Street Tax map 5.3 Lot 55.**

Present: Owner Mary Jane Divino and Steven Riker, CWS, Ambit Engineering. The owners wish to move the sand that has accumulated along their seawall. The sand has buried all but about one foot of the seawall which has resulted in their patio becoming inundated with water and sand during extreme high tides and storm surges. Once the removal of the sand is completed they would like to plant beach grass on their property like that of their neighbors to the north. The seagrass will help stabilize the sand as well as buffer the impact of the tides and storm surges. The owners wish to complete this project in the fall. The access for the equipment will be determined in consultation with Peter Rowell, Rye Building Inspector. The RCC members had no issues with this project.

#### **4:45 pm: 122 Harbor Road Tax Map 9.0 Lots 12 & 13.**

There was no representative from the owners present but Mr. Blouin and his son, Tom Blouin had presented the project to the RCC at their August 17, 2017 meeting. The owner, Donald Blouin, wishes to dredge part of Rye Harbor to make two existing docks more usable at low tides. The Army Corps of Engineers has plans to dredge Rye Harbor. Mr. Blouin plans to get the required permits and then hire the contractors conducting the dredging for the Corps to dredge the area affecting the two docks. As long as Mr. Blouin obtains the required permits from NH DES and the Army Corps of Engineers, the RCC does not object to the project.

#### **5:00 pm: Libbey Lane Tax Map 16 Lot 162-3. Owner Michael C. Appe.**

Present: Steven Riker, CWS, Ambit Engineering, representing the owner. Chip and Edie Brindamour, abutting owners, and Joe Cummins. Heather Reed, Member, RCC, joined the site walk for this and the subsequent site walks.

The owners have been constructing a swimming pool, pool deck and paths within the 100 foot marsh wetland buffer, the 75 foot wetland buffer and the 30 foot rear setback. This was done apparently because the pool company, Custom Pools, submitted a partial plan with the Building Permit Application that showed the wetland buffers and rear yard setbacks yet had construction depicted within these areas. The Rye Building Inspector approved the plan without commenting on the violations. The pool is now constructed and extensive fill deposited and in place and the pool deck area is delineated and covered with rebar.

The RCC has significant concerns about the wetland buffer violations. The pool is almost entirely in the 75 foot wetland buffer and most of the pool deck is also. About one half of the pool and the pool deck are in the 100 marsh wetland buffer. Additionally, much of the pool deck and some of the pool are within the 30 foot rear yard setback as well as in the buffers. The pool company brought in and packed some 4 feet of fill on the marsh side of the pool. They added fill right up to and in some cases on top of the stone wall that is the property boundary.

The abutting property is owned by the Brindamour family who sold a conservation easement on the property to the Rye Conservation Commission and the Town of Rye. The marsh is a high value wetland with a stream and which has received extensive restoration and conservation work from the Rockingham County Conservation District. Encroachments on this valuable resource should be taken as serious violations.

The RCC noted a pvc drainage pipe discharging from the northern corner of the fill around the pool deck. The end of the pipe and discharge is within a couple of feet of the property boundary. Chip and Edie Brindamour also noted the pipe and expressed extreme concern that the project would be discharging water onto their property. The RCC shares that concern. This appears to be a clear violation of Rye Zoning Ordinance, 507.2 (*Drainage Onto Adjacent Properties: No use of land; no construction, reconstruction, alterations, replacement, or expansion of buildings, structures and impervious surfaces; no grading of the land; and no destruction or alteration of natural vegetation or ground cover shall increase the surface water drainage flowing onto an adjacent property unless a drainage easement allowing such flowage in perpetuity is recorded.*) Mr. and Mrs. Brindamour also commented that this discharge was in conflict with the terms of their deed. It was also noted that downspouts from the roof of the home went into the ground; it is not known where that water is discharged but it is within a few feet of the 75 foot wetland buffer.

Mr. and Mrs. Brindamour also expressed concern that the fill was right up to and on top the stone wall that marks their property line. There are two large trees on the northwest part of the property that are flagged for some reason. They are in the wetland and marsh buffer and should not be cut.

The commission members discussed the situation with an attempt to protect the wetland resource while giving consideration for the expense the owner has already incurred. The RCC advises to keep the pool and most of the pool deck. The portion of the pool deck that extends from the marsh edge of the pool should not be completed but instead removed. The entire amount of fill on that side should be removed. This would require constructing a retaining wall for the pool. There would still be a pool deck on three sides of the pool. The remaining pool deck should be pervious as Mr. Appe has suggested. With the fill removed, the ground should be restored to its natural state of native ferns and trees and not lawn. The land on either side of the pool is currently in this state. This restoration plan would match the surrounding landscape and help protect the wetlands. The proposed paths may be constructed using pervious material. Under no circumstances should there be any drainage of water from the project onto the Brindamour property. The Rye Conservation Commission will provide a more detailed recommendation and rationale in our recommendation letter to the ZBA.

**5:45 pm: 60 Park Ridge Tax Map 19.4 Lot 17.** Owners Brian and Diane Ferguson.

Present: Kevin Baum, attorney for the owners; James Wakefield, builder, and Tracy Degnan.

The owners contracted with a tree service company to remove some large pine trees that they felt were threatening their home and driveway. The company limbed one tree completely and partially limbed another. The owners believed that their property was bounded by a stone wall that runs through the woods and therefore included these trees. The trees in question are actually on land owned by the Rye Conservation Commission. Mr. Baum and Mr. Wakefield commented that there has been blowdown in the past and that the owners were trying to avoid further problems from falling trees. The property line needs to be determined exactly and

monumented. The RCC noted that much of the lawn and driveway is in the 75 foot wetland boundary. Member Garvan asked if the owners would consider returning the portion of lawn in the buffer to its natural state. Mr. Wakefield replied that they had been working on a landscape plan and were open to something like that.

Both the owners as represented by Mr. Baum and the RCC would like to see an independent arborist retained to see if the flagged trees are a danger to the house because of their location, health or structure. The owners will have the property boundaries determined and located and the RCC will schedule another visit after this and the tree assessment have been completed.

The RCC then voted to go into a closed non-public session as follows: Suzanne McFarland yes; Jeff Gardner yes; Jaci Grote yes; Susan Shepcaro yes; Mike Garvan yes and Heather Reed yes.

The RCC came out of the non-public session at 6:45 pm. Member Garvan moved that the non-public minutes be sealed. Member Grote seconded. All members were in favor.

Member Gardner moved to adjourn the site walk, Member Grote seconded. All members were in favor.

Meeting adjourned at 6:47 pm.

Respectfully submitted,

Francis P. (Mike) Garvan II, Clerk