

Conservation Commission Meeting
Virtual Meeting
October 6, 2022

Roll call was taken of members and staff present included: Chair, Peg Arguimbau, Vice Chair, Meredith Avery, Alan Westman, and Stephen Cremer. Colin Barbera, Jon Wasserman, and Keevin Geller were not present. Staff present included Josh Philibert, Conservation Administrator and Jana Katz, Conservation Secretary.

Arguimbau opened the meeting by reading Governor Baker's Executive Order of March 12, 2020. As of June 15, 2022 the measure was extended in An Act Extending Certain COVID-19 Measures Adopted during the State of Emergency, allowing by Governor Baker to continue to permitting virtual public meetings until March 31, 2023. Per guidance from the State, Arguimbau noted that all votes would be taken by roll call. She then reviewed the ground rules for the meeting.

The remote meeting was called to order at 7:30 pm. Alan Westman arrived at 7:45.

7:34 PM	Discussion Item(s)	Lake Update
----------------	---------------------------	-------------

Philibert reported to commission members that the lake level was the lowest it had been this season at 9.14 since the last meeting. Currently, it is at 9.28. Boats are still bottomed-out. He also performed hot spot phosphorous and E. coli in sampling along Sucker Brook and was able to follow one branch until it ran dry. Debbie Tatro of the Lake Massapoag Advisory Committee also performed sampling to identify of the source of the E.coli whether it be from geese excretion or septic structures.

7:39 PM	Discussion Item(s)	Conservation Administrator Update
----------------	---------------------------	-----------------------------------

Philibert informed members that plans are moving forward to discuss financial estimates for the Great Cedar Swamp project. The Department of Ecological Restoration has already allocated money and there may be additional funding opportunities through the SNEP Network. Philibert has been in contact with Kim Groff to discuss the potential for additional funding.

7:45 PM	Public Hearing(s)	COC DEP#SE280-0524 27 Livingston Road, Steve Weiss Addition to Single Family Home
----------------	--------------------------	--

Philibert shared a photo from a site visit showing the addition was built per plan and noted there were additional changes in the area around the house that decreased impervious surfaces. The OOC was issued in 2011 and the applicant had informed Philibert that Greg Meister had made a site visit once work was completed and approved the project.

Motion: Motion to issue a Certificate of Compliance for DEP#280-0524 for a project located at 27 Livingston Road.
--

Avery moved Cremer seconded Cremer - Aye, Avery – Aye, Westman – Aye, Arguimbau – Aye 4-0-0 Motion Passed
--

7:48 PM	Continued Public Hearing(s)	NOI 61 Eisenhower Drive, Yury and Maya Deych Wetland Replication
----------------	------------------------------------	---

Conservation Commission Meeting
Meeting Minutes October 6, 2022

Scott Goddard and Tim McGuire of Goddard Consulting were present as well as Attorney Adam Brodsky on behalf of the applicants. Brodsky presented to the commission what is his understanding of the timeline regarding work, violations, and proposed remedies at the property located at 61 Eisenhower Drive.

Mainly the history was described as follows by Attorney Brodsky. Mr. Altieri, the previous property owner, who sold the land to the Deych's in 2020, had previously dealt with violation and enforcement orders issued by the commission. Part of the remedy included a wetland restoration plan which was enacted but ultimately failed in 2011. A Superseding Order of Conditions issued by DEP resolved that matter therefore approving a plan for construction of a single family home with the requirement of including a wetland restoration in the plan.

The Deych's hired Scott Goddard and Tim McGuire of Goddard Consulting, LLC to delineate the wetland line and filed an ANRAD for Conservation Commission review in July of 2020. The commission had informed the applicants that the commission would not be reviewing their application until the applicants committed to reconstruct a wetland restoration area.

In June of 2021, the applicants filed an NOI proposing a wetland reconstruction area based on a prior delineation of the property. A site visit related to the issuance of the SCOC from DEP was performed with the previous Conservation Administrator, John Thomas and Gary Makuch of DEP. The Goddard delineation in connection with the June 2021 filing was confirmed. The NOI was withdrawn.

Applicants later submitted an RDA to determine whether or not their proposed single family home was outside of the buffer zone. The matter of wetland reconstruction came up in discussion and the RDA was withdrawn. Currently, the issue of the wetland boundary still affects the applicants' filings with the commission. Philibert had request site specific soil testing throughout the property. The applicants and their consultants have taken the position that additional soil testing was unnecessary.

Goddard and McGuire described a proposed compromise that would hopefully result in the commission approving the location of a wetland restoration plan and the construction of a single family home. Goddard and McGuire believe the wetland line in the proposal is the most conservative of the delineations in question and are hopeful this concession would encourage the commission to review and approve the plan details. Additionally, their plan proposed increasing the size of the replication area. The larger wetland replication area would mean construction of a single-family home would be in the 100-foot buffer. The applicants understand their new plan would trigger the need for variances under new regulations that prohibit structures within the 100-foot buffer zone and alterations within the 50-foot buffer zone. The applicants were hopeful the proposed changes to their plan would encourage the commission to consider issuing necessary permits.

Also addressed was the issue that the Conservation Commission requested written permission from the property owners for the commission and department granting access to the parcel. Because the access would be for further investigation of conditions related to the violation and enforcement action, the commission's position is that verbal permission granting access to the site for purposes related to the applicants' previous filing was insufficient. The applicants' attorney informed the commission it was their stance that the previously given verbal permission was enough and there were no plans to put anything in

writing. Brodsky said he would talk to Andrew Poyant at DEP for further guidance on the matter.

Avery and McGuire discussed that the consultants had not satisfied the commission's request to provide soil data in their proposed wetland delineation. Arguimbau agreed that it was problematic that Goddard Consulting had not brought soil data which was anticipated for the night's meeting as was discussed at prior meetings.

She also voiced concerns about the plans showing detailed grading area for review. Philibert commented on conflicting information in the proposed plan. With the location of the wetland line in dispute and no additional soil data to support the consultants' delineation, it was unclear how the replication plan could both be successful and simultaneously not be connected to an area considered a wetland. Philibert also stated clearly that he never flagged the wetland site nor determined the wetland line. Instead, he had placed flags on the parcel where additional soil testing should be done.

Brodsky replied that the presence of hydric soil and absence of wetland vegetation do not clearly delineate a wetland. He reiterated that their newly proposed plan was devised with the hope the Conservation Commission would look favorable on their proposal. The wetland locations were based on the consultants' opinions of the concession area. Avery insisted on additional data to determine where the wetland was located.

Brodsky answered the concern by saying the additional work was not something the applicants or consultants would likely investigate. He informed members they would like to know whether the commission would be amenable to their newly proposed plan.

Arguimbau brought the focus to the SOC and the fact that since it has expired the terms do not exist. She stated she would review a variance request once a newly delineated wetland line would clearly identify the buffer zone.

Brodsky informed members that his party hoped for guidance as to whether the commission would consider granting the variances under their discretion. Avery discussed the issue that Altieri's proposed replication area failed and possibly blocked his violations from being resolved. She also stated that the buffer zone used in their proposal was in relation to a disputed wetland line. Philibert noted that a wetland line not based on fact may lead to DEP appeals.

Brodsky described the line in question and related limit of work as a concession line. Arguimbau stated the matter could come back for review after the requested soil data was submitted. Brodsky, Goddard, and McGuire stated they planned to compile the information ahead of the October 20th meeting so they could then come before the commission.

Motion: Motion to continue the NOI for 61 Eisenhower Drive to the October 20, 2022 meeting.

Westman moved
Cremer seconded

Conservation Commission Meeting
Meeting Minutes October 6, 2022

Cremer - Aye, Avery – Aye, Westman – Aye, Arguimbau – Aye
4-0-0 Motion Passed

8:29 PM Discussion Item 8 Kings Road Violation, Raj Singh

Singh presented two proposals to the commission, one based on native species plantings and one based on what neighbors have planted in adjacent yards. Avery and Philibert discussed what plants would be appropriate and considered non-invasive species. Members agreed to inform Singh that he could complete the plantings in the fall or spring, either would be acceptable. The commission also requested 8 feet of mulch be spread from the rock wall towards the wetland.

Motion: Motion to accept the Native Planting Plan as proposed by Mr. Raj Singh for the property located at 8 Kings Road and resolve the related violation.

Cremer moved
Westman seconded
Cremer - Aye, Avery – Aye, Westman – Aye, Arguimbau – Aye
4-0-0 Motion Passed

8:35 PM Other Business Eagle Scout Project

William O’Leary of 87 Maskwonicut Street presented his proposed Eagle Scout project to the commission. O’Leary would like to construct a boardwalk on Massapoag Trail near the Crest Road entrance and towards Ashcroft Road to improve accessibility through muddy portions of the trail. The proposed boardwalk would be 3.5 feet in width preventing ATV use on the boardwalk. Anticipated costs would be \$900. Arguimbau suggested O’Leary discuss the plans with Philibert for additional insight. Westman suggested O’Leary speak with adjacent neighbors to see about any potential seasonal flooding.

8:56 PM Other Business Approve September 11th & September 29th meeting minutes

Members discussed amendments for accuracy but could not take a vote as there were not enough commission members who were present at those meetings to vote.

9:00 PM Motion to Adjourn

Motion: To adjourn

Cremer moved
Avery seconded
Cremer – Aye, Avery – Aye, Westman – Aye, Arguimbau – Aye
4-0-0 Motion Passed