

Conservation Commission Meeting
Virtual Meeting
May 18, 2023

This open meeting of the Sharon Conservation Commission was conducted remotely consistent with An Act Extending Certain COVID-19 Measures Adopted during the State of Emergency, signed into law on June 16th, 2021, and as amended and extended through March of 2025. These provisions allow public bodies to meet remotely if reasonable public access is afforded so the public can follow along with the deliberations of the meeting. For this meeting, the Conservation Commission convened by video/teleconferencing via Zoom, and members of the public were provided with access information so that they could follow the meeting remotely. All votes were conducted via roll call.

The remote meeting was called to order at 7:30 pm.

Conservation Commission Chair, Peg Arguimbau opened the meeting by reviewing the ground rules for the meeting. Roll call was taken of members and staff present and included: Chair, Peg Arguimbau, Vice Chair, Meredith Avery, Jon Wasserman and Stephen Cremer. Alan Westman arrived late. Keevin Geller and Susan Drisko were not present. Staff present included Josh Philibert, Conservation Administrator.

7:30 PM	Public Hearing	NOI 715 & 715R South Main Street, DEP# TBD Ninety-Five LLC, Ardent Group
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Shawn Callaghan and Bob Shelmerdine were present on behalf of David Spiegel of Nine-Five, LLC. Wasserman disclosed that the Ardent Group had done work for his company, and he has no financial ties to this project.

Shelmerdine began the discussion recalling a question raised during the discussion at the last meeting regarding the deeded parcel and a previously issued Memorandum of Understanding. He met with Town Council on Tuesday to review the conveyance on the property acquired from the Morse property to be deeded to the Sharon Conservation Commission with a retainer by the developer for any parcels of land that is necessary for the development of the bog property. Any land to be obtained bordering a vegetative wetland or pond, the developer would arrange for a Conservation Restriction or easement to be given to the Conservation Commission for that property.

The plan created in 2008 by the previous developer created 59.818 acres for the Sharon Gallery project and went on record describing the commercial development of the area surrounding the northern or upper pond which Philibert brought to Shelmerdine's attention in the fall of 2022. A sliver of what was then cranberry bog off to the side was also mentioned. Shelmerdine spoke with his client, David Spiegel of Nine-Five, LLC, and Town Counsel to discuss the northern pond as well as the portion of the cranberry bogs that will be granted a Conservation Restriction and/or easement across the property. Town Counsel will be drafting of the language that will be satisfactory to the Conservation Commission's requests.

Shelmerdine then turned the discussion over to Shawn Callaghan of the Ardent Group to continue the presentation. Callaghan began the discussion about the Naturalization Plan for the property located at 715 and 715R South Main Street by informing the meeting he had spoken with the commission last month and submitted an application for an NOI.

Callaghan noted the applicants' priority is to minimize disturbance on the land while improving wetland values. After observing the current hydrology and water levels, it is believed there are conditions that would support a vegetated wetland and signs of no human influence for approximately three years. In that time, new native species' growth and some invasive species' growth have appeared in small population sizes.

He noted as the perennial water forces appear to be functioning properly, there is to proposed alteration as part of their program. There is no fish passage observed currently. Callaghan described three locations which have batter boards preventing open and flowing water which would remain in place as the plan stands currently. He listed the locations as follows: one on the eastern side of middle pond, one on the southwest corner of the northern bog, and one on the southeast portion of lower pond.

Arguimbau requested Callaghan identify these locations on the screen as there were people other than commission members present. Callaghan illustrated the placement of the water control structures in the upper, middle, and lower ponds. He stated at all other points of water flowing freely between ponds did not have water control structures in place. He informed the meeting attendees that one of the projects' aims was to maintain the current hydrology which has been successful in supporting vegetative growth.

Callaghan continued by describing Philibert and members' concerns about the question of whether the batter boards were in serviceable conditions. The project proposes replacing the current structures with custom fabricated aluminum tubing board set at the structures' current elevation. The plan would not be to remove all the sand layer because that would increase disturbance and be cost prohibitive. Their plan includes altering placement of cranberry mats and exposing hydric soils as well as reforming the land for micro topographical variations to provide a varied landscape increasing habitat areas for invertebrates. To minimize the disturbance, the project would utilize existing access roads.

Continuing describing proposed methods for altering the land, Callaghan described 12 pit and mound areas which would be located throughout the northern and southern bog areas. Mounds would be 12-15 inches high. Pits would be 12-24 inches deep with micro topographic variations. The 12 areas would have footprints of 224 sf (15x15).

Noting that typical pit and mound details are in the plan, Callaghan described the methods of creating pits to expose hydric soil and creating mounds with the removed land. It is believed there is a 100+ year old seed bank underneath what would be excavated. If no new growth is present in six months, the plan would be to plan a native seed mix, if not 50% cover. Mound areas would be seeded. Planting areas located where there is sand currently would be turned into seeding mounded areas with 50% screen loam and 50% organic compost. The native seed mix would provide stabilization. Wood debris available on site would be introduced to increase habitat value and provide breeding areas and attachment sites for fauna. Water control and piping would remain in place in the current proposal. Per the commission's suggestion, sprinkler heads would be removed as well as pumps, equipment, and on-site pump houses. Any water structures encountered during mound creation would also be removed.

Invasive species management is also part of the proposal. Phragmites and roots would be excavated. Soil and roots would be disposed of according to state and local regulations. In these areas proposed native plantings include shrubs, herbaceous species, and native seed mixes.

In addition to these plantings, an herbicidal treatment program with a two-year monitoring plan for two years after planting would be implemented. Back sprayers using a targeted technique would complete the herbicidal treatment program.

Callaghan named Northeast Wetland Plants in Amherst as having the desired seed mixes: the Northeast Conservation Wildlife mix and the Northeast Wet mix. Their grasses, wildflowers, and legumes are of interest. The Ardent Group has previous experience with using these mixes which have provided seeds and berries for insects and songbirds, wildlife nesting, and stabilization. Plans include planting 161 shrubs, and 250 herbaceous plants. Overall, the estimated disturbance would be approximately 21, 220 sf out of .49 acres. That is a creation of pit and mound sits totally 2,700 sf. Phragmites removal would affect 18, 520 sf with no permanent impact to the wetlands or water forces.

The plan minimizes disturbance and uses no municipal funding for site renewal. It enhances wildlife habitat and increases flora and fauna biodiversity, according to Callaghan. He stated the owner's desire to establish a successful naturalization program and improve the wetlands.

Arguimbau asked if members would like to ask questions. Avery requested the pictures remain on the screen. Cremer asked about the duration of work to maintain project goals.

Callaghan informed members that approximately three weeks of construction was anticipated with two years for growth and invasive species removal. No adjustment of water structures is anticipated.

Cremer follow up with questions about the aluminum boards availability should they need to be replaced in the future.

Callaghan informed members that the boards would be fabricated in the Ardent Group's local shop to control thickness and measurements. And future support would be available if needed.

Avery praised the plan's detail and addressing the commission's requests. Her questions regarded the hydrology and topography on site. She asked if there were spot surveys performed on the elevations where the wetlands are currently. Additionally, will information regarding topography and distance to ground water be available?

Callaghan informed Avery that it was observed this year and last year, over a few seasons, that groundwater throughout the site is between 6-12 inches from the water surface. Avery wanted to clarify whether this included monitoring of wells and hydrology. Callaghan stated it had not included formal wells and instead took water measurements throughout the property. Avery asked about information specifically gathered about surface waters. Callaghan informed her that no information was gathered throughout the actual bog areas. Ogger poles were investigated and observed water levels as well as part of a survey was completed with spot elevations. Avery asked about information obtained regarding mounding and topography areas as well as

information in the difference in hydrologic zones for restoring the wetland proposal. She wanted to know if there were specific calculations for groundwater and elevation levels where restoration areas are proposed.

Callaghan informed Avery that the bogs are consistently level with regards to topography. The southern bog is 246 throughout its entirety. Berms are raised between the bogs are approximately 248. Avery asked about water elevation at control structures and what the hydrology regime would be without the pumps working as it would be natural flowing. According to Callaghan, since it has been three years since management or agricultural activities took place on the land, the Ardent Group is confident their assessment of levels necessary for seeing natural native wetland plant growth is correct.

Avery followed up asking if there were any other anticipated permits the project would require. Shelmerdine informed members Attorney Matt Watsky wrote a letter citing the state regulations and portions of the town bylaw related to this project.

Avery asked if the plan included temperature measures to make sure there was 50% cover and not invasive species infestation? She asked Philibert if he would like to weigh in on the matter. Philibert described the area in question as 4/10 of a perfect of the site. The pit and mound areas that are 15x15 and 225 sf each would equal 2,700 sf. Callaghan stated he had consulted practitioners and read studies. He also stated he hoped to follow their proposed plan as it would allow for growth of species dating back to the 1800s which never encountered invasive species. He believes if the historic growth is unsuccessful there would be no issue with seeding the area. He also informed members he while he had completed many restoration projects with the Arden Group, he had never worked with a cranberry bog specifically. Avery and Callaghan discussed renaturalization and the risks of invasive species growing onsite. Callaghan noted there is already evidence of native vegetative growth in the pond areas, fringes, and ditched.

Arguimbau noted Alan Westman's presence at 8:98 PM and asked if he had any comments. Westman asked about warranties on the work being done. He wondered specifically what the stop gaps would be at the end of the 24 months monitoring period. He was looking for an agreement on the level of accomplishment and set measures as to what constitute success at the end of the 24-month period.

Arguimbau stated the OOC will agree to a set percentage of coverage and success of plantings that will have to be evidence and waterflow to remain the same. At the end of the two-year monitoring period, the OOC may need to be extended to where it is supposed to be. Westman was weary of attempting something if it isn't successful within the two-year period already. He noted concerns about monitoring species that date back to the 1800s and observing the monitoring stations and evolution of these species. He mentioned the water levels and ogger sites as place of interest. Callaghan restated that many sites on the property have been tested and suggested marking places in the field with PVC piping and GPS points for future reference and information gathering. Westman asked the commission for thoughts on longer term monitoring from an educational standpoint.

Arguimbau agreed as to the practicality of the idea. She suggested observing 5-7 sites including some pit and mound sites, where water flows, and some sandy areas that will be seeded. She

liked the idea of incorporating that plan in with the OOC. Callaghan agreed to create a plan that would label and mark areas for observation. Westman thanked Callaghan for the plan.

Wasserman added to Westman's initial concerns, broadening the topic to include assessing the amount of time plants chosen for the site will need to take. He was wondering how it can be ensured that the Ardent Group will retain the information necessary on species and monitoring. Callaghan stated he has never forgotten a site he has worked on and stated on the record he would check out a site a decade from now. He continued describing growth patterns. Atlantic White Cedar grows slowly which are present in swamps in the area. Callaghan will be selecting vegetation that have a two-year growth cycle. The first year he anticipates thick and hearty annuals for stabilization and coverage and the second year he believes perennials will be present.

Philibert followed up with a question on specifics regarding the types and number of trees in the plan. Callaghan stated the goal was not to establish a forested wetland. He has already observed tree growth coming in on its own. The Ardent Group has a concern about the amount of tree growth and the potential for the land to turn into a forest. He has spoken with a Rhode Island bog owner and DEP for suggestions on what plantings produce higher rates of success in bog restoration projects. The proposal currently calls for 50/50 screen loam/organic materials. Philibert asked for clarification whether or not the screen loam would be placed on sand areas? Callaghan confirmed that was a location where there would be mixing. Philibert asked for specifics in the plan.

Avery expressed concerns about water levels in proximity to the pit and mounding. With a 246 elevation at the end of May when the water is high, there is a 2 ft difference to the drop of standing water. According to Avery, groundwater will be below anything that will maintain wetland hydrology and there is a risk of the land turning into a forest. She asked for clarification as to what the elevation throughout the site will be. She asked for a plan ensuring sufficient groundwater with year-round support as opposed to the groundwater levels in May when they are considered to be pretty high.

Callaghan described micro topographical variations at specific points as they are not proposing to do treatment across all 15 acres. Arguimbau questioned the number of phragmites spots identified. Previously, Callaghan referenced two locations while Philibert thought there were three to four. Philibert noted that he had observed some around the pond and those would be more difficult to address. Arguimbau added that she would like to over excavate in an effort to avoid using herbicidal treatment such as glyphosate. In response, Callaghan expressed concerns about over excavating a pond's edge and also using herbicidal treatment. He stated he would plan to use it solely on phragmites in a very controlled manner. He believes phragmites roots are between 8 and 15 ft deep. Philibert and Arguimbau asked for details in the plan regarding pond boundaries, spot elevations, and locations of shrubs in the sanded parts. Arguimbau further specified that expected areas and projections would be sufficient. Philibert added that phragmites removal is the highest priority with establishing a wetland hydrology. He also stated there are at least two water control structures not currently on the plan, between the lower pond and bog as well as the middle pond. There are two outlets missing.

Arguimbau suggested that Philibert and Callaghan review specific locations and Callaghan return to the June 1st meeting with a visual plan. The hearing will need to be continued until

DEP issues a number for the NOI. Philibert stated he would share his comments with Callaghan and Avery asked members if they would like to perform a site walk with less than four members at a time to avoid violating the Open Meeting Law.

Sharon resident, Laura Nelson from Edge Hill Road, shared her concerns about the history of the bogs, the action taken at Town meeting, the original MOU, and the lack of awareness by townspeople, including the Sharon Friends of Conservation, currently have about the situation. She asked Arguimbau to disseminate a video posted on YouTube about the history of the bogs and their current state. Another Sharon resident, Matt MacDonald shared Nelson's concerns. In addition to Nelson's suggestions for reaching out the Senator Feeney's office, Patriot Place, and south coast cranberry growers, MacDonald said he would contact a bog owner he knows in Marshfield. Arguimbau stated she would be happy to discuss the matter further with both residents.

Avery asked for the letter the applicant sent from Watsky about other, including Federal, permits. Shelmerdine asked for Philibert to send his comments to Shelmerdine as well as Callaghan.

Motion: Motion to continue the hearing to the June 1, 2023, meeting.

Avery moved.

Wasserman seconded.

Avery – Aye, Wasserman - Aye, Cremer – Aye, Westman – Aye, Arguimbau – Aye

5-0-0 Motion Passed

8:48 PM	Discussion Item	Abutter to Proposed Edge Hill 40B, Georgeann Lewis
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Edge Hill Road resident, Georgeann Lewis attempted to share her screen successfully to describe her disdain for a 40B project proposed for a location along the state sanctioned scenic road, Edge Hill Road. She noted Turkington and Roach attended a site visit where the three-story, 120 apartment development is proposed. Lewis mentioned scale of the project on the location as a major concern.

She continued to give some history on the proceedings of the project plans and lack of a paper trail highlighting her concern that a R1 District does not support rental units. While she personally does not oppose 40B housing, she believes the size of this project is not appropriate for the land selected for it. Lewis referenced a letter the Select Board Chair, Hannah Switekowski described the development as ten, two-unit buildings. Lewis also noted the Select Board voted unanimously to approve the development.

Protecting wildlife habitat was a major concern for Lewis. She also noted groundwater and septic concerns. Philibert explained to Lewis that he had informed members as to the issue and sent them copies of the plans. Laura Nelson, a resident of Edge Hill Road, also agreed with Lewis' sentiments and concerns. Philibert informed residents that although his personal opinion agrees with their concerns, the site does not fall within the Conservation Commission's jurisdiction as there is not wetland on site or Conservation Restriction in place. Septic concerns

would be addressed by the Health Department. Groundwater concerns go to the Water Department.

Arguimbau suggested members and the department review the WPA and received documents to see if there are any issues with the plan that would be addressed by the WPA. Lewis asked members to review the ZBA website for information regarding wildlife habitats. Arguimbau shared Lewis' concerns for wildlife protection, especially endangered species and reminded her that the commission is limited to matters that come within its jurisdiction. Avery informed that the NHESP is a state agency and another board.

Mr. Slobvan, a direct abutter from 443 Walpole Street in Canton, shared his concerns about Mr. Houston's report proposing 2-bedroom units which are not currently part of the proposal. He also noted there is a natural spring that goes from the cemetery underneath Edge Hill Road and surfaces at the third hole on the fairway at the golf course on the other side of the street.

9:12 PM	Discussion Topic	Diamond Estates Exp. OOC and Replication Area
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Philibert informed members he spoke with Andrew Poyant from DEP regarding the expired OOC for Lilly Road and Juniper Lane and the incomplete replication area that was discussed at the last meeting. Poyant said asking Diamond Estates to file an RDA or new NOI would be inappropriate as those measures only allow for doing work. As this is an incomplete part of the OOC, an Enforcement Order is applicable. He explained that this action benefits the permit holder as a new public notice and abutter notifications are unnecessary.

Arguimbau, Avery, and Philibert discussed issuing an Enforcement Order with the expectation of receiving a plan for addressing remaining work. Philibert expressed some concerns about the grading of the site and the potential need to remove mature trees to construct a replication area. Arguimbau discussed the matter with the previous Conservation Administrator, Greg Meister, for input. Philibert noted that there is currently no evidence of flowing water where an intermittent stream was formerly marked. He questioned whether advising the permit holder to plant a replication area was appropriate if the hydrology did not support growth. If the OOC called for a 75% survival rate after two years, Philibert agreed it should be addressed with the permit holder.

Motion: Motion to issue an Enforcement order to the property owner of Diamond Estates
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Wasserman moved.

Avery seconded.

Avery – Aye, Wasserman – Aye, Cremer – Aye, Westman – Aye, Arguimbau – Aye

5-0-0 Motion Passed

9:18 PM	Discussion Topic	63 Force Road, Retaining Wall Safety Concerns, Naveed Aslam
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Mr. Aslam was not present. Philibert showed photos of the parcel of land located at 63 Forge Road, the entire house is within the buffer with standing water nearby. Instead of what plans showed, a 1:1 or 2:1 slope into the wetland, a rock retaining wall was constructed. Philibert believes the impacts have already occurred by what was permitted by the Conservation Commission when the house was built. The property owner has not presented any plans to Philibert. Philibert suggested asking for an NOI that would then get a denial. Arguimbau stated that a fence might be appropriate for an RDA. Philibert stated he would be willing to allow for a fence without an RDA, but the property owner would like to make a 2:1 slop with fill. Arguimbau stated that would require an NOI. Philibert has explained to the property owner, who has since owned the house since 2004 and is only coming to the commission now, that approving the work at this point would set a precedent. He believes it would be unlikely for the commission to approve an NOI in this case. Avery agreed.

9:22PM	Discussion Topic	Lake Update
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Philibert stated rain is needed. The current level is 10.56 and he anticipated levels will drop. Periodically for a few hours, Philibert has opened up the flume so some debris and warm water can be let out.

9:32PM	Discussion Topic	Conservation Administrator Update
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While Philibert has not heard of any additional filings coming to the commission, he has informed residents that delineations are necessary, when appropriate.

9:33PM	Other Business	Minutes and Signatures
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Signatures are needed at Town Hall for the ADLR Stormwater Permit for 4 Lilly Lane and the AOOC for the LMAC. Multiple sets of minutes will be on the agenda for the June 1, 2023, meeting.

Arguimbau informed members that Dedham Street and Edge Hill Road are the site of cemetery work. Philibert will contacting them for any stormwater issues. There will likely be a hearing on June 1st.

9:34PM	Motion to Adjourn
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Motion: Motion to adjourn

Cremer moved.

Avery seconded.

Avery – Aye, Wasserman - Aye, Cremer – Aye, Westman – Aye, Arguimbau – Aye

5-0-0 Motion Passed