

Conservation Commission Meeting
Virtual Meeting
April 13, 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, Keevin Geller, and Jon Wasserman. Alan Westman and Stephen Cremer were not present. Staff present included Josh Philibert, Conservation Administrator.

Joining the meeting as an observer was the newest Conservation Commissioner, Susan Drisko, who was scheduled to be sworn in Friday, April 14th.

7:30 PM	Public Hearing	RCOC 2419 Bay Road, DEP# SE280-0647, Josh Duger
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Josh Duger, the homeowner and applicant, was present. Philibert reminded the Commission of the original presentation of this project by Steve Ivas, wetland consultant, on behalf of the applicant. Philibert shared his screen showing photos of the completed project and mentioned the quality work and minimal evidence of impact from the project. He mentioned he saw no reason not to issue the Certificate of Compliance (COC). Arguimbau asked for questions. Hearing none, she proposed a motion to issue the COC.

Members voted to approve the applicants' request and issued a COC for DEP# SE280-0647.

Motion: To issue the Certificate of Compliance for DEP# SE280-0647 as requested.

Geller moved Avery seconded

Geller – Aye, Avery – Aye, Wasserman - Aye, Arguimbau – Aye 4-0-0 Motion Passed
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7:35 PM	Continued Public Hearing	NOI DEP# SE280-0648 61 Eisenhower Dr Yury Deych
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The applicant, Yury Deych, through his consultant Scott Goddard, requested by email the withdrawal of their NOI for 61 Eisenhower Drive. Members of the Goddard team and the applicant were not in attendance. Philibert read the text of the email from Goddard to the

Commission. Goddard stated in the email that they would also be contacting MassDEP to let them know of the withdrawal. They requested that the Commission take no action regarding the delineation following the withdrawal. Goddard's email stated that the Goddard team believes that all past violations have been resolved, and they anticipate following up with a new Notice of Intent.

Philibert discussed the lengthy process of arriving at an approved wetland line for this site, and he suggested voting to put the wetland line and wetland report in the file as a reference material. Philibert stated that a representative from MassDEP advised that there is no way to accept a wetland line for a project on which no ruling is made. Philibert suggested the Goddard wetland line and wetland report be voted into the public record for the project. Arguimbau stated that the report and the line are already in the public record, and no additional action is needed to memorialize the accepted line.

Arguimbau discussed closing the hearing and accepting the withdrawal of the NOI. Avery asked for clarification regarding the statements by Goddard that all related past violations had been addressed. Philibert clarified that Goddard had always represented that they would address the outstanding violations as part of the NOI process. He questioned the status of the violations once the NOI is withdrawn. Avery mentioned the lack of a successful wetland replication area. She suggested following up with a letter to the applicant. Geller expressed caution regarding the legality of this action by the applicant, and he suggested this be presented to Town Counsel for review. Arguimbau suggested rescinding the NOI but leaving the violations open. Arguimbau acknowledged the receipt of the request for withdrawal of the NOI and suggested acting on that after hearing from town counsel and MassDEP. Procedurally, Avery said the Commission should close the hearing, as it cannot be continued without the applicant's approval, but that the NOI not be withdrawn until hearing from town counsel and MassDEP that doing so would not constitute acceptance of Goddard's contention that the violations have been addressed.

Avery moved to close the hearing but postpone rescinding the withdrawal of the NOI or responding to the applicant's request until hearing back from town counsel and MassDEP.

Motion: To close the hearing for DEP#SE280-0648 but postpone withdrawing the NOI until review by town counsel and MassDEP.

Avery moved

Geller seconded

Wasserman – Aye, Avery – Aye, Geller – Aye, Arguimbau – Aye

4-0-0 Motion Passed

7:45 PM	Discussion Item	Briggs Pond Management Plan Briggs Pond Trustees
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The Briggs Pond Trustees, represented by Leslie Koval, Nita Frank, and David Dubois, were present to discuss the Trustees' proposed management plan for the water level of the pond. Philibert began by showing photos of the staff gauge on the Briggs Pond dam at a level of 3.40. He showed images of the shoreline at this water level. There are some areas of shoreline where

trees' roots are inundated. Philibert expressed concern that the proposed high water level of 3.70 on the staff gauge for much of the growing season would impact the health of the shoreline wetland vegetation. He stated that the tree species present are not adapted to saturated soil conditions during the growing season. He added that the proposed plan includes water levels above those historically observed at the pond.

Koval shared a graph of historical water levels showing that levels typically drop in May and June. She added that there is a natural spillway on the pond that precludes higher water levels. Frank stated that in her experience the water has not approached the top of the dam except following one snow melt. Philibert pointed to the agreement that a level of 3.70 is not a level that has been achieved and added that it was not realistic to include it in the plan.

Koval and Philibert discussed options for water levels at different times of year. Koval suggested increasing the level early in the summer to allow higher levels later in the year. She explained that the water level is lowered in May of every year for herbicide treatment. Koval mentioned that the inundated trees occur in just one area of the pond. Philibert shared the current version of the management plan and suggested areas in which it was not representative of actual conditions. Dubois said they would like the option to raise the pond to atypically high levels if the opportunity presents itself. He is not concerned about being able to adequately manage the level in the event of a storm. Koval explained the importance of a higher water level for recreation and that the loss of recreation is a major concern.

Philibert reiterated his concerns regarding the effect of too-high water on the shoreline vegetation. There was a group discussion of the negative effects of low water levels. Dubois mentioned that the residents on the Mountain Street side of the pond are not able to access the larger portion of the lake at lower water levels.

Koval suggested rewriting the plan to allow higher water levels with the understanding that they would lower the water level in the event of a major summer rain event. Arguimbau proposed the Trustees redraft a proposal reflecting the discussion and present it to the Commission at a future meeting. Dubois asked for some clarification. Koval, Arguimbau, and Philibert discussed winter levels and arrived at 3.20 for a proposal. Philibert reviewed some photos, and the trustees discussed that the shoreline subject to flooding is limited to just one yard. He stated that even the trees in those areas seem unstressed. If the management plan reflects historical levels, he said that should not be detrimental to the shoreline vegetation.

It was agreed that the Trustees would revise their management plan and present it to the Commission at the next meeting.

8:16 PM	Discussion Item	Lake Massapoag Advisory Committee AOOO for lake management activities
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Laura Russell was before the Commission representing the Lake Massapoag Advisory Committee (LMAC). She presented additional activities the LMAC would like to have included in the proposed amendment to the recently extended Order of Conditions (OOC). The additional management methods include Diver Assisted Suction Harvesting (DASH) and hand harvesting.

Russell stated that the LMAC would also like to be able to manage weeds in Fletcher's Cove, the southern Lagoon, and perhaps the swim area of Memorial Park Beach. The state Natural Heritage and Endangered Species Program (NHESP) has identified three rare plants in the lake and these need to be protected during any management activities. Russell also mentioned adding the use of a benthic barrier to the amended OOC. Russell commented that use of this control measure is not planned at this time, but the LMAC would like to have it "in their toolbox," if the need arises.

Russell updated the Commission on the ongoing Canada Goose control measures. The LMAC's consultant has identified a couple nest sites on the lake and will addle the eggs in those nests to keep them from hatching. The consultant has also been asked to check other areas of Lake Massapoag and other local water bodies.

Russell mentioned that at the next hearing, LMAC will come before the Commission to ask for their support for a grant application to the Municipal Vulnerability Preparedness Plan Action Grant program. She added that the grant work plan is built around a climate resiliency plan for the entire watershed. Those resources will allow some feasibility studies addressing ongoing water quality issues at the lake.

Avery questioned the use of hand harvesting and its potential for fragmenting certain species. Russell said that careful harvesting should avoid excessive fragmentation. The discussion concluded.

8:25 PM	Discussion Item	Lake Update
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The lake level was recently at 10.2. Philibert mentioned the increased target level of 10.5 for the lake on April 15th, and that the chance to raise the lake is best before the leaves come out and trees start drawing water out of the ground. He added that the lake was above normal recently, and the outflow was also above normal. The predicted rain is anticipated to help raise the lake level.

8:26 PM	Discussion Item	Conservation Administrator Update
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Philibert mentioned the potential for an RDA for a residential tennis court addition. The development of the 40b on North Main Street is moving forward, and the developer has been in touch with the office regarding next steps. Finally, Mr. Raj Singh has let the office know that he has completed the requested planting to repair a prior violation, and he is ready for it to be reviewed by Mr. Philibert.

8:28 PM	Other Business	Approve March 16, 2023 Meeting Minutes
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Some minor changes were made to the minutes, these were fixed in the moment, and then the Commissioners voted to approve the edited minutes.

Motion: To accept the minutes for the March 16 th meeting as edited.
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Avery moved
Geller seconded
Geller – Aye, Avery – Aye, Wasserman - Abstain, Arguimbau – Aye
3-1-0 Motion Passed

8:31 PM Motion to enter into Executive Session and to adjourn at the end of an Executive Session

Motion: Motion to enter into Executive Session to discuss potential land negotiations and then to adjourn at the end of an Executive Session.
Wasserman moved
Avery seconded
Geller – Aye, Avery - Aye, Wasserman – Aye, Arguimbau – Aye
4-0-0 Motion Passed