

Conservation Commission Meeting
Virtual Meeting
May 6, 2021

Roll call was taken of members and staff present included: Peg Arguimbau, Chair, Meredith Avery, Vice Chair, Colin Barbera, and Keevin Geller. Stephen Cremer, and Jon Wasserman were not present. Alan Westman arrived at 7:45pm. Staff present included John Thomas, Conservation Administrator and Jana Katz, Clerk.

Arguimbau opened the meeting by reading Governor Baker's Executive Order of March 12, 2020. 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 7:33pm.

7:37 PM	Discussion Topics Lake Management Committee, Noah Siegel
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Noah Siegel presented on behalf of the Lake Management Committee. The Lake Management Committee was established in the 1960s to monitor invasive species. There are six members: two from the Conservation Commission, two from the Selectboard, and two from the Planning Board. Siegel was present to update the Commission on invasive species in Lake Massapoag. Thomas shared his screen illustrating the most recent annual weed survey. Solitude Lake Management performs the annual survey which is consistently done at the same time yearly.

The map showed the lower part of the lake known as South Cove, the primary area with densely populated fanwort, an invasive species. In Fletcher's Cove, both fanwort and milfoil are present. The two areas are managed in part by Diver-Assisted Suction Harvesting. New England Aquatics removes the weeds with Diver-Assisted pontoon boats.

The likelihood of eradicating the weeds is extremely low, instead the Diver-Assisted Suction Harvesting help manage the presence of invasive species. In 2014 and 2018 there was the addition of an herbicidal treatment. In 2018, the body of water adjacent to the lagoon, near the Community Center Beach received herbicidal treatment. There has been a significant increase in invasive species in the South Cove and Fletcher's Cove despite annual suction harvesting. The Lake Management Committee believes there are three choices to address this: 1) Continue to monitor with suction harvesting 2) Be more aggressive with suction harvesting 3) Perform herbicidal treatment. Number two would involve two weeks of harvesting with two boats.

Geller asked if Suction Harvesting pulls the entire root. Siegel answered that it does not. Suction Harvesting is a way to mitigate the pace of growth.

Siegel continued. There are not many companies who perform herbicidal treatments. The company Solitude Lake Management performed previous treatments under a different name in 2018.

A major factor complicating the matter is the presence of an endangered species, tooth cup, near Camp Everwood. Discussion would have to include Natural Heritage prior to any work done. National Heritage will likely require a botanist ensure the treatment would not harm the tooth cup. The town uses Oxbow Associates to oversee the treatment. The water table would need to be lowered to protect the tooth cup while performing the herbicidal treatment. If lowered in June and/or July, there will be dry lake issues. It was noted that lowering the water level to protect the tooth cup conflicts with maintaining sufficient water levels.

Barbera noted he thought that late August was a possibility. Siegel answered that early September was the latest time period although it would be less effective. Arguimbau asked about the timeframe for additional mitigation that was previously utilized: hay bale installations with plastic bags. Siegel

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answered that they would need to review prior plans for timing. He answered that the bail installations only took place in the lagoon. Avery noted she remembered that September was early enough for plants to uptake the position but that July was a difficult time to perform that mitigation.

Siegel planned to send out documents to Commission members regarding the 2018 treatment and suction harvesting as well as Solitude and Oxbow summaries.

The topic will be continued at the May 20th meeting.

7:57 PM	Discussion Topics 119 Norwood Street Driveway Construction
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Matt Grosshandler, property owner at 113 Norwood Street was present and presented on behalf of the property owner at 119 Norwood Street. Proposed project is the introduction of a new driveway that will serve the house at 119 Norwood St from Norwood St. Currently there is a shared easement; the proposed new driveway would give dedicated access from Norwood Street. As planned, the new driveway would go through the 100 foot buffer as it would approach 119 Norwood Street, there is no other option.

Arguimbau asked what the access was when the lot was created.

In 1991, the Bald hill Farm Subdivision was presented on the old Dr. Griffin Estate. As part of the subdivision there were two cul-de-sacs contemplated but never built as submitted. There was a plan for a 20 foot way up to the property proposed in the plans from 1991. Currently it has a 14% grade and makes access difficult.

Arguimbau confirmed that the subdivision was approved with shared access and now the plan would be to separate and put the driveway on its own lot. The matter will be on the agenda for May 20th. Arguimbau noted the applicants will likely need to contact the Planning Board as well come before the Conservation Commission themselves. She also noted she does remember the time when the issue came before the Commission but did not recall the plan for two driveways.

Grosshandler noted that the project has been around for a decade. He has also been in touch with Peter O'Cain and he has done a review and submitted plans. Additionally, the applicants have met with the Fire Department and the Building Committee. The applicants will be going before the Planning Board on May 20th.

Thomas noted the applicant has also submitted a Notice of Intent.

Geller asked if either lot is sub dividable. Arguimbau noted the matter will be discussed further on the 20th.

8:03 PM	Discussion Topics Order of Condition Extension Hearing, Tiot Street
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Bob Shelmerdine represented the owner and developer of the Cape Club Estates. The Cape Club of Sharon has been developing 52 Town Houses within the Golf Course, keeping the Golf Course and the Cape Club itself, as well as the function facility and restaurant. Fourteen condos/townhouses have been built and sold. Six have been permitted and are currently under construction. The initial Order of Condition for this development was issued in May of 2018. In 2019, the applicant filed with the Planning Board and altered the last 26 Town House units. In May of 2020, the Planning Board approved an altered site plan. That

matter went to Town Meeting because some land was restricted, the Golf Course was restricted from being residentially developed. It would be necessary to alter the restricted area for the final 26 townhouses. In October of 2020, the town voted to permit alteration of restricted land. The applicant requests an extension as the Order of Condition DEP SE#280-0602 will expire on May 14, 2021.

Shelmerdine noted a pending application for an Amended Order of Condition in front of the Conservation Commission regarding an altered plan of the final 26 townhouses. He also clarified that the Conservation Commission would need to issue an extension before the Amendment to an Order of Condition could come before the commission.

Motion: to extend the Order of Condition for project number DEP SE#280-602.

Geller moved

Barbera seconded

Geller – Aye, Barbera – Aye, Avery – Aye, Westman – Aye, Arguimbau – Aye

5-0-0 (Motion Passed)

8:11 PM Continued Hearings 280 Everett Street, New Construction, Jeff Kane

Jeff Kane began by reviewing the question raised at the last meeting. If current regulations include a no disturb within the 100 foot buffer which prohibiting any new construction. Kane noted that the performance standards state there is a 50 foot no disturb. The only open issue questions whether a 100 foot no disturb exists for new construction. Kane believes there are no regulations or performance standards requiring a 100 foot buffer.

Arguimbau stated she discussed the matter with the former agent and was waiting to get some feedback from him regarding a 100 foot no disturb for new construction. She noted there is a difference of opinion.

Kane stated he does not believe there is language limiting new construction within a 100 foot no disturb.

Arguimbau noted the Zoning Board regulations required a 100 foot no disturb from wetlands for new construction. She stated it is problematic for the Conservation Commission to consider overruling another board's regulations. Arguimbau also restated the commission's request to install the septic area in the front of the house so the location of the house can be moved back.

Kane answered that the question has been investigated for alternative placements for the septic area. According to Kane, the only acceptable location is where the planned septic currently is.

Arguimbau asked if the Board of Health was the investigating body. She also questioned if the house could be repositioned or scaled down. Kane answered that if either of those are taken into consideration, there will be zoning issues.

Arguimbau noted that part of the initial discussion was that the placement of new construction would be problematic. Kane confirmed that separate Notices of Intent for two lots were discussed during initial plans for Everett Street construction. Arguimbau continued, stating previous disturbance in the buffer zones were on a smaller scale and the Conservation Commission's responsibilities and jurisdiction are to take care of wetlands and the 100 foot buffer.

Kane questioned again if there is a bylaw stating a 100 foot buffer is untouchable according to town regulations. He believes the project meets performance standards. He stated that only 5% of the buffer will be disturbed and the plan includes proposed mitigation.

Avery reinforced the point that although some encroachment has been allowed on other lots, the Conservation Commission has to do its due diligence and sometimes that requires creativity. Avery stated it is desirable to achieve an outcome that is favorable for the lot owner.

Kane stated that the disturbance is not a significant portion of the lot and the plans could easily include deer-resistant plantings. He noted that the other side of the buffer zone contains an existing house. He dismissed the idea of the changing the shape of the architectural plans as it would affect the neighborhood's aesthetics.

Avery emphasized the Conservation Commission's priorities: 1) avoidance 2) minimization 3) mitigation. She stated the commission is still considering measures so the potential encroachment would not impair foraging habits for animals. Avery also noted the difference between permanent and temporary disturbance as temporary disturbances can be repaired. She stated that the commission's concerns relate to permanent disturbance within the 100 foot buffer. If the project cannot avoid permanent disturbance within the 100 foot buffer, the matter would continue to be up for discussion.

The discussion continued around the question of redesigning the proposed house or altering the planned location. Kane asked for clarification regarding the language related to the 100 foot no disturb. He believes the project meets regulations and performance standards as is. The entire house as planned is around 4,200 square feet. Geller noted that a five bedroom house of that size could be reconfigured but agreed that it is unlikely there is an option that would avoid the 100 foot buffer altogether.

Westman asked about the possibility of moving the driveway to minimize the impact to the buffer zone. Kane said he would be happy to consider that. Arguimbau restated the commission's goal: to protect wetland resources. Kane stated a 38-40 foot driveway would be necessary for turning purposes.

Arguimbau stated the project would need to meet the town's zoning regulations. Kane asked for a definitive ruling. He interprets the language to limit the no disturb to 50 feet. He does not see a 100 foot no disturb although he understand the commission can limit what is in the 100 foot zone. Avery stated the commission would not come to a decision tonight.

Avery read that the minimum performance standards of the WPA in section 5.06: protect by condition or legal restriction as much of a 100 foot buffer zone as possible. She agreed the regulations do not include a do not touch but the commission is asking the applicant to minimize encroachment.

Kane question whether section B of the same portion describes a 50 foot minimum no disturb setback on previously undisturbed land areas. Avery restated that the language states that the matter is up to the commission's discretion whether the applicant has shown the project is unable to get out of the 100 foot setback.

Thomas noted he would like to see soil data and other information for the portion of the land in front of the proposed house. Kane agreed to speak with the company who had performed the testing and noted he thinks that data was informational and not logged. Thomas reiterated the 125 setback for septic systems regulated by the Board of Health. The commission would consider a soil evaluation.

Discussion ended with an agreement to continue the hearing.

Motion: To continue the hearing to Mary 20, 2021 at 8 PM.

Westman moved

Avery seconded

Geller – Aye, Barbera – Aye, Avery – Aye, Westman – Aye Arguimbau – Aye

5-0-0 (Motion Passed)

8:37 PM Continued Hearings NOI 17 Castle Drive In-ground pool

The property owners, Paul and Rachel Liberman were present. Thomas shared his screen and confirmed the permanent disturbance was noted as 4,600 square feet. The DEP #280-0627 was stated as was a motion to close the hearing. Arguimbau noted that Thomas or Katz will review the order to see about special conditions.

Motion: To close the hearing and issue an Orders of Condition for DEP#280-0627

Geller moved

Geller seconded

Geller – Aye, Barbera – Aye, Avery, – Aye, Westman – Aye, Arguimbau – Aye

5-0-0 (Motion Passed)

8:41 PM Other Business Minutes to Approve

Arguimbau noted two needs for correction: an extra “aye” should be deleted for the Mansfield Street motion and the Public hearing for Lyndon Rd omitted the word “Lyndon.”

Motion: To approve the minutes as amended.

Avery moved

Geller seconded
Geller – Aye, Barbera – Aye, Avery, – Aye, Westman – Abstain, Arguimbau – Aye
4-0-1 (Motion Passed)

8:43 PM Other Business Storm water Bylaw and Regulations

Thomas updated the commission that he sent Kery Snyder the template and sent a link to commission members for them to review at their convenience. Arguimbau and Avery will be working on a draft with specialized regulations that will be pertinent for the town. Arguimbau noted Thomas suggested waiting until the Fall for discussion after everyone takes a look through the text within the next two or three meetings. Any concerns or questions should be sent to the office. Avery asked Thomas if this was regarding the regulations or bylaw. Thomas answered that the town does have a bylaw it just needs to be updated. Arguimbau stated that she was under the impression the town does not have a bylaw and could be fined but as the town does have one, it is in good standing. There were no other questions.

8:46 PM Other Business May 2, 2021 Town Meeting

The Conservation Department's budget increased by 40% and the department will begin overseeing dam management.

Motion: To close hearing and issue a Negative Determination with the condition that the office get notice when the project is starting.

Geller moved
Barbera seconded
Cremer – Aye, Barbera – Aye, Geller – Aye, Avery – Aye, Arguimbau – Aye
5-0-0 (Motion Passed)

8:48 PM Other Business Signatures

Katz and Thomas informed the Commission that digital signatures can now be used at the Certificate of Vote was processed by the Norfolk County Registry of Deeds.

Arguimbau will still sign financial vouchers with an ink signature.

Motion: To continue the hearing to 7:50 on May 6, 2021

Cremer moved
Avery Seconded
Cremer – Aye, Barbera – Aye, Geller – Aye, Avery – Aye, Arguimbau – Aye
5-0-0 (Motion Passed)

8:48 PM Other Business Lake Update

Thomas noted the lake levels are good.

8:50 PM Other Business Administrative Update and Open Space and Recreation Plan

Katz attended an MACC webinar about the PARC Grant and Land Grant both with July deadlines. An Open Space and Rec plan is necessary to apply. For next Spring there are also National Park Service grants administered by DCR that the commission could seek.

Arguimbau assessing six different tasks associated with writing the Conservation Commission and Department's portion of the Open Space and Recreation Plan. Arguimbau has been discussing the matter with a consultant, who estimated the fee being \$9,000. The consultant worked on previous master plans and is familiar with local boards and groups. Arguimbau stated there may be a need for a new survey as the one from 2018 could be outdated, she will forward members the proposal sheet. This project has been ongoing for the last two years, not counting the COVID year. Thomas has been looking in the budget for money that could be dedicated to this. Arguimbau and Geller confirmed that CPC money was used for the initial plan.

The six tasks are: 1) survey 2) updated action plan 3) MAPC/State issues revision 4) update public comment letters 5) compile, complete, and revise the report, and 6) attend four virtual Conservation Commission meetings.

Avery stated the amount of money sounds reasonable and that two meetings may suffice instead of four. ADA compliance was also not mentioned and it would be a separate cost.

Avery and Arguimbau agreed that the project is worth it as it is a requirement for certain grant applications.

8:56 PM Other Business BU Research Project

Thomas informed the commission that BU students have selected Sharon for deer study surveys and needed the commission's approval. Thomas stated it would be seasonal over a three year period and begin as soon as possible if approved. Thomas stated that he would check if the study would include deer cameras on conservation property. Arguimbau asked for notification when the students will be going to certain properties and also locations. Thomas noted the students have their own GPS equipment to make sure they are on town property.

Motion: To work with Boston University research project

Barbera moved

Westman seconded

Geller – Aye, Barbera – Aye, Avery – Aye, Westman – Aye, Arguimbau – Aye

5-0-0 (Motion Passed)

8:59 PM Other Business 140-142 Ames Street Violation

Thomas spoke with the resident about plantings conducive to wetland enhancement and associated limitations. Thomas confirmed the resident will supply a plan to Conservation or the DPW.

9:05PM Other Business Deborah Sampson Street Conservation Restriction

Property owners requested an Estopple Certificate, Thomas reached out to Steve Allen at Town Counsel and confirmed there is no issue with the current Conservation Restriction.

9:00 PM Other Business Incoming Projects

Thomas noted there are multiple incoming projects: Tiot Street amendments, an addition at 12 Indian Lane, construction of a carport on Laurel Road within the buffer zone, and construction of a driveway at 119 Norwood Street.

Avery stated it would be beneficial to meet and review regulations like in the Fall of 2020. Specifically, she would like to discuss the difference between potential construction on developed lots and undeveloped lots which needs clarification as soon as possible as it is currently ambiguous. Arguimbau suggested a working session meeting and restated the need for a meeting regarding the storm water bylaw. Thomas suggested defining the terms in the definition section.

9:02 PM Motion to Adjourn

Motion: To adjourn

Westman moved

Avery Seconded

Geller – Aye, Barbera – Aye, Avery – Aye, Westman – Aye, Arguimbau – Aye

5-0-0 (Motion Passed)