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Conservation Commission

Minutes

September 13, 2023

Members Present: Tomas Sanchez, Vice Chair; Randy Mason, Melissa Campbell; Jim Cheney (late arrival)

Staff Present: Leah Basbanes, Conservation Agent, Jennifer Ryan, Administrative Assistant

Members Absent: Dr. Lori Chekal, Chair

Mr. Tomas Sanchez, Vice-Chair, called the Wednesday, September 13th, meeting of the Conservation Commission to order at 6:00 PM, by reading the following statement:

On March 29, 2023, Governor Healey signed into law the extension of the temporary provisions of Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, to continue until March 31, 2025. Specifically, this further extension allows public bodies to continue holding meetings remotely without a quorum of the public body physically present at a meeting location, and to provide "adequate, alternative" access to remote meetings. Members of the public attending this virtual meeting will be allowed to make comments, during the portion of the hearing designated for public comment. The Zoom meeting information is available on the Conservation Commission page on the Town Website.

The Zoom meeting ID is 802 634 4678

Further information and the plans for each agenda item may be found on the Town Website
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New Business: Article 13 Authorize Article 97 Home-Rule Petition for Chestnut Street Bridge.

Leah Basbanes informed the committee that the Agenda was revised to add the Chestnut Street Bridge repair. Joseph Parisi, DPW Department Head and Dan O'Donnell, Town Engineer were present. Leah Basbanes continued to give an overview of the bridge project which was

to say that the Conservation Commission owns the land on the south side of the roadway and the project will need about 1500 s.f. of land to construct bridge and slope along headwalls. Because the Conservation Commission owns it as open space it is protected under Article 97 of the EOEEA. The Conservation Commission has to vote to consider the land as surplus and grant permission to transfer ownership to the Select Board. Under Article 97, any land held that is to be considered surplus, and equal amount of land must be provided and put in to that protection. However, there is a waiver of this requirement if the area is under 2500 s.f. If the states decides not to grant this waiver, there are a few areas of town owned land (general government or other) that land can be converted to Conservation Commission ownership.

Joe Parisi added that it's a small area of property adjacent to the roadway and there is an abutment of the bridge that would require construction close to the property line. Mr. Parisi believes the class band bridge that would be installed instead of the twin culverts will actually increase. He also believes the recreational activities in around this area will give opportunity for kayaks to go into the waterways at this location.

Melissa Campbell had a question as to why it is called "surplus land" and Ms. Basbanes explained that surplus is the legalese in which you need to use in order to have a portion of land removed from the Article 97 protection. Mr. Mason pointed out that it will improve the flow of the river under Chestnut Street which is beneficial in its own right. He also went on to state that it will become good recreational usage and also provide wildlife passage as well.

Motion made by Randy Mason, seconded by Melissa Campbell, voted 3-0 that the Conservation Commission declare to be surplus the conservation and open space needs and allow to be transferred to the select Board for general municipal purposes, including public way purposes upon town meeting, approval, and such other legal authorization as may be required. The care, custody, management, and control of not more than 2,500 square feet of land, representing a certain portion of land at 168 Chestnut Street, in the town of North Reading depicted as Lot 61 on assessors, Map 36 in the immediate vicinity of the Chestnut Street Bridge over the Ipswich River and further, to authorize the Select Board and its designees to seek all such legal authorization as may be required to effect such transfer.

Minutes

7/12/23 meeting minutes.

Motion made by Melissa Campbell, seconded by Randy Mason, voted 3-0 to approve 7/11/23 minutes.

Certificates of Compliance

4 Ten Rod Way (245-1320) Request for a Certificate of Compliance for yard regrading. Ms. Basbanes stated that this project was to level the yard and rebuild the retaining wall behind the house. The work was completed several years ago and is fully stabilized. There is an As-Built plan showing compliance. She had no issues except for the large pile of grass clippings to the east of house that needs to be removed. She suggested the COC not be issued until after the area is cleaned up and she will call the owners to let them know.

Motion made by Randy Mason, seconded by Melissa Campbell, Voted 3-0 to issue a Certificate of Compliance with a special condition that prior to issuance the large pile of grass clippings to the east of the house needs to be removed.

6 Pickard Lane (245-1665) Request for a Certificate of Compliance for construction of garage. Ms. Basbanes reported that an As-Built plan was provided which showed the project was done in compliance. The driveway had been constructed of pavers and the wetland restoration area was fully grown in and looked good. She had no issues with the completed project except that the silt fence must be removed and properly disposed of.

Motion made by Randy Mason, seconded by Melissa Campbell, Voted 3-0 to issue a Certificate of Compliance with a special condition that the silt fence must be removed and properly disposed of.

3 Eisenhaure Lane (245-1071) Request for a Certificate of Compliance for addition. Leah Basbanes stated that this was for a small addition that was put on in the back of the house. There was no engineered plan for this, although a sketch had been done which shows the work was done in accordance with the sketch. Ms. Basbanes stated that she viewed the site and everything looked to be in compliance.

Motion made by Randy Mason, seconded by Melissa Campbell, Voted 3-0 to issue a Certificate of Compliance.

3 Shirley Avenue (245-1738) Request for a Certificate of Compliance for septic system. Leah Basbanes informed the committee that this was for a septic system. An As Built plan was provided, along with a letter from the engineer stipulating that everything was completed in compliance. Ms. Basbanes had no issue with the issuance of the Certificate of Compliance.

Motion made by Randy Mason, seconded by Melissa Campbell, Voted 4-0 to issue a Certificate of Compliance.

10-12 Mt. Vernon Street (Eaton Circle) (245-1545) Request for a Certificate of Compliance for construction of the subdivision roadway and storm water management structures. The engineer from Williams & Sparages, Inc. has provided an As-Built plan and letter stating substantial compliance. The site looked good and stable. The pocket wetlands have been

constructed to size and appeared to be functioning very well. She recommend issuance of a COC for this project. Road acceptance of Eaton Circle by the Town is going to be on the warrant at the upcoming town meeting.

Motion made by Randy Mason, seconded by Melissa Campbell, Voted 4-0 to issue a Certificate of Compliance.

Request for Determination of Applicability

Eugley Park, Oakdale, Meade & Sherman Roads. Water main replacements. Leah Basbanes stated the water main replacements are along these 4 roadways. All of the work will occur within the roadway itself. There is no area where a wetland will be altered. There is one culvert under the roadway on Eugley Park East and the water line will be installed without impacting that culvert by digging around and under the pipe. A dewatering plan is in place should that be an issue. Water would be pumped into a filter bag secured with erosion control and allowed to slowly sheet flow back to the wetland. Other than that the work is quite straight forward with no potential negative impact to the wetlands. Erosion control will be installed along the roadway at least within all buffer zone areas. She recommended the issuance of a Negative 3 determination.

Colin Stewart of Wright Pierce was present and further described the project as the scope of work would be to replace the water main on Eugley Park in its entirety, Eugley Park East and West and from each side of North Street all the way through. Replacing the existing cast iron water main that has experienced numerous breaks and leaks over the past several years. In addition, the water main from Oakdale Road from Park Street all the way up to the end of the existing line, which is approximately at Mead Road will be replaced. It also will include the replacement of the existing water main on Sherman Road, which branches off Oakdale and Mead Road, which then branches off Oakdale. In total, it equals about 4,500 or 5,000' of water main to be constructed between this fall and through next construction season. The plan that was provided had the erosion control for anything within the buffer zone and environmentally sensitive area. There is one culvert crossing on Eugley which will not be impacted. The waterline will be dug horizontally under the culvert.

Mark Letzeisen of 6 Eugley Park East questioned whether or not there would be a temporary water line to supply the houses during the construction. Mr. Stewart responded that there would be no need for temporary water. Mr. Letzeisen then asked if the roads and sidewalks would be returned to their existing conditions and Mr. Stewart responded that they would be. Mark Letzeisen then asked about the fire hydrant at the corner of his property and Mr. Ian Bentley with Wright Pierce responded that there will be a new hydrant installed at the corner of the property line between #6 and #4.

Ron Henderson of 6 Eugley Park West had a question regarding the fire hydrant on his side and whether it was going to be relocated as well. Ian Bentley responded that a new hydrant will be installed right next to the existing one.

Jill Gadsby's from 13 Lee Road wanted to know if the same parameters would be implemented for Lee that were going on at Oakdale, i.e. resurfacing the trench or will they be fully resurfaced (she noted they are presently in rough condition). Mr. Stewart responded that as he explained for Eugley, it will be a temporary patch that will sit for a season and then permanent paving to match the existing. Ms. Gadsby then asked if this replacement would resolve the rusty water. Mr. Stewart could not answer that with certainty but part of the goal is to provide higher flow up to the high school which should result in better quality.

Ron Henderson expressed concerns that his water line goes under the middle of his driveway and how that would affect him. Mr. Colin Stewart responded that the plans are developed based on the Town's GIS data and they will find the location during construction and the new main will go in the same existing trenches. Once the new main is pressurized, disconnected and ready to go, they will connect the existing service where it was. Mr. Henderson wanted to know if his driveway would be dug up because he is planning on having it repaved shortly. Mr. Stewart advised him to wait to resurface his driveway until end of construction which should be end of construction season 2024.

Motion made by Randy Mason, seconded by Melissa Campbell, Voted 4-0 to issue a Negative 3 Determination for Eugley Park, Oakdale, Meade and Sherman Road for water main replacement.

Public Hearings

17 Anthony Road-346R Haverhill Street (245-1739) construction of a subdivision roadway. The Community Planning Committee has provided the Commission with a letter from GM2, the reviewing engineer, stating that the storm water management design plan, after several revisions, has been completed to perform properly and will meet the Storm water Management Standards. The engineer has also addressed the several abutter concerns regarding the proposed storm water design. Regarding the Conservation issues, the work for the roadway and storm water structures is within the buffer zone only. The Commission has relied on the CPC's reviewing engineer to provide with this review, and the board, at this point does not have any outstanding issues for this project. Several of the individual lots will have to file with the Conservation Commission for any work as they are in the 100' buffer zone. Mr. William Hall P.E. of Civil Design Consultants was present and he stated town's peer reviewer signed off on this project. Mr. Hall continued to summarize that the project as a proposed 6 lot subdivision with 5 single family dwellings and that Lot 5 has many restrictions, including a National Grid easement and is not intended to be a buildable lot. Mr. Hall noted that there is a wetland located on the site in that vicinity along with another wetland which is more to the west. Along with many minor tweaks to the plan, the biggest change made was the removal of a basin and addition of a second outlet structure. One outlet structure will discharge to the existing wetland and the second outlet structure is going down into Anthony Road and tying into that drain system. He explained the reasoning for this was to help address the abutters

concerns for flooding and also, when the Peer Review did a site walk they noticed at 23 Anthony Road a drainage swale that goes up into the wetland and in addition, there is a 12" culvert that ties into the drainage system on Anthony Road. They are tying into the catch basin that goes down Richard Road and across Peter, down Victoria Road and across Peter. They discharge in the same area, within about 200' of each other to the same wetland. After going back and forth with the peer reviewer they came to an agreement that they would be able to take flows in excess of the 2 year storm and send those into the closed range system in Anthony Road to help alleviate some of the flooding that happens back there. Also taken into consideration was the need to maintain the hydrology in that wetland which is why they are matching the volumes in the 2 Year Storm event.

Luke Legere of McGregor, Leger & Stevens representing David and Lauren Cook of 346 Haverhill Street was present. He mentioned getting the delineations of these wetland resource areas accurate is crucial. Mr. Legere expressed concern that the wetland was delineated sometime fall of 2022, during a significant drought period and that the property historically was mined for sand and gravel and there have been some questions whether that would have led to potential isolated, vegetated wetlands protected under the local bylaw, e.g. potential vernal pools. If the delineations not done accurately now, the Commission and the residents living in this neighborhood are going to be stuck with it for the next 3 years. There's very little detail provided on these plans with respect to the 5 proposed houses and these lots will rely on the same delineation. Historically, looking back at the wetlands permitting for this site there is a limit on the amount of fill that can be brought in and placed in wetlands on the property. They've only got about 1,800 sf of wetland fill allowed to them as the result of prior wetlands permits issued by Department of Environmental Protection. This project site is proposed to be raised on the order of 3-4' to accommodate septic systems, so there's going to be very significant amount of fill associated with not just the roadway.

Mr. Legere spoke about southern end of the property and the Anthony Road existing storm water system to capture much of the storm water that's going to be coming off of this site. He spoke to the residents' concerns about flooding in that are under current conditions and the failure of the storm water system. He indicated that portions of the site are within the flood plain overlay district and this should be a concern for the boards. Mr. Legere, stated that he believe that the Commission does not have sufficient evidence to find that project will adequately protect the wetland protection act interests, and asked the board to deny the project.

Mr. Hall responded that that the wetlands were reviewed several times by Conservation Agent Ms. Basbanes, who is also a wetland consultant, and members of the Commission. A few changes were made to the original delineation in agreement with the project wetland consultant. He also confirmed that they have reviewed this project as the whole subdivision and simply on a single lot basis. Even if they look at this on a lot by lot basis, what is proposed on these lots is approximately an average of 3,100 sf. The minimum lot area for this district is 40,000 sf. 15% of that is 6,000 sf of fair base area for each lot. The impervious area of the roadway, all driveways and all roof areas in the 100' buffer zone is 6.6%. Mr. Hall stated the

he originally filed Notice of Intent for the road, stormwater system and house lots all together, but was told road and storm water design must be a separate NOI and then come in with separate Notices of Intent for each individual lot afterwards. He ended with stating that this site plan has been peer reviewed and the peer review consultant finds the design to be satisfactory.

Leah Basbanes confirmed that information was correct and that it is a process for permitting subdivisions now. Ms. Basbanes added that with regard to the wetland boundaries, she has been out to the site and has reviewed delineations on the property at least 4 or 5 times over the past 15 years and is very familiar with the property. The wetland that is to the East Side is exceptionally well defined, and that wetland boundary has not changed. The other one, on the south side was reviewed in March and flagged summer of 2022 and actually expanded that delineation. Ms. Basbanes noted that she is a Wetlands Consultant as well as a Conservation Agent and is very familiar with wetland delineations and is confident that this is an accurate delineation of this wetland area. With regard to the fill, there is no wetlands alteration that's being proposed. There is a wetlands filling limit of 5,000 sf that requires the replication of an equal amount and the bylaw requires 1.5 times, but that is not being proposed, so there's no limit threshold that's being approached regarding wetlands fill unless there's some other aspect that is not within the Wetland Protection Act that refers to fill brought onto a site.

Luke Legere responded to Ms. Basbanes that generally 5,000 sf is the limit and he just wanted to make sure the Commission was aware that in this particular case for this particular project it's actually 1,800 sf, not 5,000, because the prior property owners have already filled about 3,200 square feet of a portion of the site which was carved off.

Leah Basbanes stated that filling a wetland to construct a house is not something that the Commission will approve. The only cases allowed a wetland to be filled have typically been for a project when there is no other access to the upland portion of the property that's buildable. Replication is required under those circumstances. New fillings will be required for the houses with new plans that are more specific footprints, etc. but under the bylaw there several requirements. One is the 75% limit on the amount of 100' buffer zone that can be altered on a lot, and secondly a 22% threshold limit on the amount of impervious area within the 100' buffer zone. Also there is a 12' No Disturb zone from the edge of the wetland and septic systems must be 75' from the wetland.

Bob Hickey of 37 Anthony Road was present and asked whether the introduction of new water into the subsurface and the whole project would be of any concern regarding any impact on the wetlands. He suggested that typical households of 4 or 5 people could generate in a year, approaching about 700,000 gallons a year. Are the conditions such that there's really nothing to be concerned about on that southern wetland or on the western wetland? Living on Anthony Road is a concern - living near the wetland. He reiterated that he has to have confidence that the storm water system has been analyzed but is still concerned about where the new water will go. He expressed concern about the amount of water recently and how to

properly determine the elevations for septic systems. Mr. Hall responded by telling him that they have done subdivisions like this in the past, and in his experience there has been no impact on wetlands, if the systems are installed properly.

Leah Basbanes stated that it does seem like there is a water imbalance for the amount of water brought by town water and then infiltrated into the ground through septic systems. Noted she is not an engineer and can't speak to that. Mr. Hall responded that as part of this project, the septic systems need to meet Title 5 requirements (state requirements) and that is why a good amount of fill is brought on the site - because there is a higher groundwater table on the site.

Leah Basbanes explained that redoxymorphic features that are found in the soil indicate the depth of ground water, even without water. This is the height at which water stays for a period of time that it changes the iron or manganese that is in the soil, and it leaves behind different colors at that level. That is the method by which soil observers are assessing where the high water table is. Whether a rainy year or a non-rainy year, there is that relic information in the soil of where water is at the highest point for a long period of time. Ms. Basbanes further explained that what the Conservation Commissions are focused on for soils is within the top 18" to determine where an edge of a wetland is. They deal with waters that are at or near the surface for a prolonged period of time during the growing season. Those are the soils that the Wetlands Protection Act are concerned about. This is where a wetland essentially is, and then is affirmed with the vegetated community that's associated with those hydric soil conditions. Once you get below that, that's really not something that the Commission regulates; that falls into the septic design and Title 5. There seems to be that imbalance of all this extra water that's being brought onto the site. Where does it go? It is assumed to down into the water table. So it's not necessarily affecting wetlands that are on the surface. How it is impacting the whole water table as a whole. I just don't know. That's a question for hydrogeologists. The depth of the septic systems tells you at what level the water is being infiltrated into the water table because that is how they have to be designed.

Mr. Hall responded that the project is designed to meet the State Regulations Title 5, 310 CMR 15.00. The assumption is that it offers protection to all resource areas, not just the separation to groundwater, but also separation to wetlands, water supplies, etc.

Joy and Bruce Reynolds of 27 Mohawk supposed that every new house will have a sump pump – pumping water out into the ground surface and asked if that can actually drown a wetland area. Ms. Basbanes responded by saying that you can change the type of wetland from being a forested wetland to a deep marsh type of wetland with a significant increase of water, but it would also depend on surrounding elevations. Mr. and Mrs. Reynolds asked about all the trees that are going to be cleared out and how that will affect the ability to absorb water. Ms. Basbanes answered that removal of trees does impact ground water, but would be a question for the engineers designing this project. Engineers do consider the surface type in the calculations, so going from a forested area to a non-forested area is in the formulas. Mr. Hall responded that that was correct. Mr. and Mrs. Reynolds stated that Mohawk is above

the development and questioned the soil – there are rock walls, cobble and boulders. The soils are not exactly sandy. He questioned that the soil analysis is not correct. He thinks a hydrologist should be brought in to do a full analysis of the complete property of the waters on the property. Further conversation between the Reynolds and Mr. Hall continued with regard to the high water table and Mr. Hall confirmed that the Board of Health witnessed and accepted the testing. Ms. Basbanes asked them if this concern was brought up to the Community Planning Commission and Mr. and Mrs. Reynolds said Danielle McKnight was working closely with the Peer Review.

Joy and Bruce Reynolds asked who takes ownership once the town accepts all of the infiltration basins. Ms. Basbanes responded that she was not entirely sure at this point but it's typical that once the roadway is completed, there's a final As Built and approvals by all departments, then the town would accept the road as being a town road and the storm water management structures, unless there is going to be some sort of homeowners association. In that case, that entity would be responsible for maintenance of them. Mr. Hall said the preferred method for maintenance would be by the town.

Joanne Herrick, 43 Anthony Road questioned why the conversation is only pertaining to the wetlands behind #23-25 Anthony Road when she had concerns about the Skug River, which is where she is. She pointed out that the river is so high and floods Central Street, Route 28 and then into Martin's Pond. When the water comes in from this parcel it's going to end up in the Skug (her backyard) and then onto Shady Hill Drive. She stated that she did not believe Mr. Hall ever addresses this cause. Mr. Hall responded that they did look at that in the drainage analysis and the storm water runoff that goes to the wetland to the west that feeds into the Skug as well as the wetland which is to the south on the property. Ms. Herrick asked if he would like to see the video she has that looks like a river coming down Anthony Road, when the storm drains are overloaded it comes straight down and drains to the end of the cul-de-sac directly into the Skug River. Is that not a concern to the Conservation Committee to anybody that they're overloading the Skug River that's already overloaded?

Leah Basbanes commented that there is no work being proposed in the riverfront area or the floodplain. The amount of water that falls on this property doesn't change whether there are houses or not. The precipitation that does fall on the property is being addressed through the storm water management design. She made a point to say that she is not speaking for the board, but this has been reviewed several times and the final decision by the town's hired expert is that it is a sufficient design that he does not have a concern with it. Engineer Giangrande (GM2) has been working as a peer reviewer for the town for a very long time and he's highly scrutinizing of these things. The only new water that is being introduced is that which is coming in through the septic systems from town water and that is being put directly into the ground. When the Commission is being faced with septic systems that are being designed by Title 5, and are being approved by the Board of Health, we don't have any jurisdiction over that. We have a plan that has been put before us, has been reviewed by the town's engineer, we trust their stamp and their expertise that what is being proposed and revised is not going to have negative, significant, long term impact on the wetlands. That's the

information in which the conservation has to make their decisions. They are not filling wetlands.

Ed Sapienza of 25 Anthony Road stated that if he drew a diagonal line on this property from the northeast corner to the southwest, the topography would follow along that line with the top house, being a height of maybe 128' down to the bottom, which is about a 104, so the natural flow of water would be along that line now with houses 4 and 3. Their septic systems are in the buffer zone, right above that sensitive area and the wetlands at the very beginning of the conversation tonight they talked about a new pipe that's going to allow it's actually be on the border between 23 and 2020, one in 20 in 19 adding too much water to the street and they wanted to back load it into the wetlands. Now the wetlands is really a complex situation, it was also that there's a swell on the property between 23 and 22 or 21. That swell stops 30' before the wetlands, so the wetlands really is making it into that area. He cut his lawn the other day, and almost lost his sit down mower in the swamp. So that's a very sensitive area. He continued to state that houses 3 and 4, the septic have no place to go other than in to leach into that wetland and leach right through everyone's basements, including Peter Rd.

Chair Chekal asked if there were any further questions from the Board or the audience, there being none.

Randy Mason made the motion, seconded by Jim Cheney, to close the public hearing and issue an Order of Conditions with the bylaw special conditions including the additional conditions of having an Environmental monitor for the project, and all lots in buffer zone must file NOI's. Voted 4-0 to approve.

Adjourn

Melissa Campbell moved, seconded by James Cheney, and voted 4-0; that the Conservation Commission adjourn the meeting at 8:15 PM.

Approved R. Mason Dated 11/17/23