

CONSERVATION COMMISSION
MONDAY, OCTOBER 3, 2022
RESOURCE ROOM

Attendance: Chair Tracy Sharkey, Eric Harris, Joseph Fitzpatrick, Mike Greco, Steve Zisk Conservation Agent.

Absent: Vice chair Katiegrace Dudley, Mark Mungeam

Chair Tracy Sharkey calls meeting to order at 7:04 PM

Discussion:

1. (7:04 PM) (0:10) Meeting Minutes: July 18, 2022 & August 1, 2022
(7:05 PM) (1:10) Motion to approve meeting minutes for July 18, 2022 as amended made by Mike Greco, seconded by Joe Fitzpatrick. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

Old Business:

2. (7:05 PM) (1:50) 7:00 PM Public Hearing Continued: Amended Notice of Intent: 115 Shore Road – Robert & Diane Miller – Possible Votes

Letter from Law Offices of Howard J. Potash RE: 115 Shore Road Robert and Diane Miller dated August 18, 2022 – Possible Votes

Letter sent to Robert and Diane Miller on the Emergency Certification issued on July 3, 2021 for Shore Road – Possible Votes

Peer Review estimate by Graves Engineering, Inc. for 115 Shore Road - Possible Votes

Attorney Winner joined remotely to give commission an update. The Millers agreed to replacing the 12-inch pipe and would like to do that pursuant to an emergency certificate rather than a separate notice of intent, and they will show the details and location of the new pipe on their as built plan with respect to their outstanding filing on the property. The Millers are going to withdraw their application to amend their outstanding order of conditions for the wall that was built. Attorney Winner felt that having the pipe issue dealt with separately was preferable, so the wall will remain outstanding for the time being. Attorney Winner is looking for the commission's feedback on whether they agree with what he has proposed and written out in the agreements. Mr. Fitzpatrick stated a concern about Ms. Myers' letter stating that they are concerned about continual flooding, and the Miller's agreement states that once the pipe is done and installed that there will be no further discussion with them on the matter. Attorney Winner responded that was Attorney Potash's initial proposal and he has modified that with respect to the construction of the pipe that matter will be resolved but as far as any other matters that are in the commission's jurisdiction will not be waived. The board would like a peer review to have surety that the replacement of the pipe will resolve the ongoing issues. The commission will need to issue another emergency order because the original one has expired. Steve Zisk would like to recommend Town Council draft the emergency order to make sure

everything is included in it that needs to be done. Attorney Winner will prepare the revised agreement and the emergency order for the commission. Attorney Winner stated that the Miller's will not agree to a peer review so that is not in the new agreement. The Commission would like to see an estimate for just the pipe concern. The commission agreed to pay for the peer review to ensure that the pipe is suitable. The purpose is to ensure that the flow through the proposed pipe is suitable to mitigate any damage or runoff under existing conditions.

(7:23 PM) (19:55) Motion to request the estimate from Graves Engineering for the analysis of the culvert pipe and its suitability in its existing conditions made by Joe Fitzpatrick, seconded by Eric Harris. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

Evangeline Sutter at 117 Shore Rd joined remotely and would like to thank the commission for their attention to this matter. Madeline Myers 119 Shore Rd asked if the peer review will include past the pipe in the road, and Ms. Sharkey stated that it will not, it only is for the pipe in the road. Ms. Myers asked if the pipe could cameraed, and Ms. Sharkey stated that the board may require that as part of the certificate of compliance.

(7:28 PM) (24:30) Motion to continue the public hearing to October 17, 2022, made by Mike Greco, seconded by Eric Harris. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

3. **(7:29 PM) (25:00) 7:00 PM (NOI-DEP #143-1024) Public Hearing Continued: Notice of Intent: Shore Road Lot 299 Parcel 7.16 – Cliff Van Reed – Possible Votes**

Letter from Lane and Hamer to the Douglas Conservation Commission dated September 19, 2022, for Shore Road, Douglas

Letter sent to Douglas Properties, LLC on the Emergency Certification Form issued July 3, 2021, for Shore Road, Parcel 299-7.161 – Possible Votes

Peer Review estimate by Graves Engineering, Inc. for Shore Road Lot 299 Parcel 7.16 – Possible Votes.

(7:29 PM) (25:55) Motion to continue public hearing to October 17, 2022, made by Joe Fitzpatrick, seconded by Eric Harris. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

Discussion:

4. **(7:30 PM) (26:15) Request for Certificate of Compliance, (COC-DEP #143-1031) 32 Cottage Colony – Dave Brown – Possible Votes**

Steve Zisk stated the as built was done and in the members packets and showed the commission the site walk video.

(7:33 PM) (29:00) Motion to issue the certificate of compliance made by Joe Fitzpatrick, seconded by Eric Harris. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

New Business:

5. **(7:33 PM) (29:54) 7:00 PM Public Meeting: Request for Determination of Applicability, 30 Perry Street, (Home Addition) John Allegrini – Possible Votes**

Applicant withdrew.

6. **(7:34 PM) (30:02) 7:00 PM (NOI-DEP #143-1062) Public Hearing: Notice of Intent: 159 Wallum Lake Road, Lot 1, (Single-Family Dwelling) Steven Packard – Possible Votes**

Site proposal includes construction of a single-family home, septic, well and driveway. Peter Engle with McClure Engineering joined remotely. Steve Zisk showed the commission the plans and his comments were there are some wetland buffer zone in the entrance to the driveway, the rest of the plan and is all outside the buffer zone. The DEP number came in today. Peter Engle stated that the house is just outside the 100 foot and septic meets the 50-foot setback, but the grading and the clearing is about 35 feet on one side and 40 feet on the other side. Ms. Sharkey asked if Mr. Engel could propose some anti-creep for the 35-foot at the bottom of the slope for the septic, and he responded that he would do that. Steve Packard the applicant stated that there is an existing rock wall that he can relocate to make the separation for the wetlands. The commission would also like to see three posts with signage added, and applicant agrees to that request.

(7:46 PM) (42:21) Motion to continue public hearing to October 17, 2022, made by Joe Fitzpatrick, seconded by Eric Harris. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

Discussion:

7. **(7:47 PM) (43:15) North Brown, LLC owners of the project as North Village, Mass DEP #143-0782, located off North Street, Douglas requesting a partial release of the covenant for phase III with the covenant secured by the order of conditions for the project.**

The applicant stated that they are looking for a partial release for phase III and that all the work that was in the conservation's jurisdiction has been completed and signed off on. The commission asked if the infrastructure was completed for phase III and applicant responded that it was. The commission asked for the paperwork that was finished by the engineer, and the applicant has to look for it. The commission will table the discussion to give him time to find the paperwork.

New Business:

8. **(7:52 PM) (48:45) 7:00 PM (RDA) Public Meeting: Request for Determination of Applicability, 19 Webster Street, (Driveway) Selina Buskirk – Possible Votes**

Applicant is requesting to pave the existing driveway. Steve Zisk showed the commission a site walk of the current driveway. The Commission would like to set a condition that the driveway be pitched so runoff doesn't flow out onto Webster Street. Steve Zisk stated that the water flows from Webster Street and floods her driveway.

(7:58 PM) (54:55) Motion to issue a negative determination of applicability with the conditions no increase in the size of the existing driveway and no increase flow to Webster Street made by Mike Greco, seconded by Joe Fitzpatrick. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

Old Business:

9. **(8:00 PM) (56:05) 7:00 PM (NOI-DEP #143-1038) Public Hearing Continued: Notice of Intent: Whitin Reservoir Dam Operation & Maintenance Manual: Whitin Reservoir Watershed District – Possible Votes**

Lauren Gluck with Pare Corporation along with her colleague Matthew and Paul Collette the Chair of the Watershed District joined remotely. Natural Heritage authorized the 6 foot draw down with some conditions of going forward with some field study in future years. They would like to see specific data on temperatures and the dates the drawdowns are achieved. They would also be submitting a protocol for a habitat suitability study in 2023. Steve Zisk asked if they would send him their document list of the different reports and agencies so he can list them in the order of conditions. Mr. Collette stated that they are planning the drawdown for October 15th and asked if the commission is ok with that. The commission stated that they are ok with that date. The drawdown will start October 15th and they will drawdown about 2.5 inches a day and should finish around November 20th, then maintain the drawdown and then start to refill as we come into spring. The target date for refill is no sooner than March 1st but that depends on the ice melt.

(8:11 PM) (1:07:10) Motion to close the public hearing made by Eric Harris, seconded by Joe Fitzpatrick. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

(8:11 PM) (1:07:24) Motion to issue the order of conditions with the specific condition for gradual drawdown as in the O & M manual made by Joe Fitzpatrick, seconded by Eric Harris. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

(8:11 PM) (1:07:55) North Brown

The representative from North Brown spoke with his counsel and the release he has only pertains to the work spelled out under the covenant it doesn't pertain to phase III's work. There is no infrastructure in phase III that is jurisdictional to conservation.

(8:13 PM) (1:09:40) Motion to issue a partial release of the covenant for phase III made by Eric Harris, seconded by Mike Greco. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

Chair Tracy Sharkey would like to table the schedule till the next meeting and the August meeting minutes.

Upcoming Meetings: October 17, 2022, November 7, 2022 & December 5, 2022

(8:16 PM) (1:12:08) Motion to adjourn the meeting made by Mike Greco, seconded by Joe Fitzpatrick. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Tracy Sharkey all in favor.

Respectfully submitted,

Stephenie Gosselin, recording secretary