

CONSERVATION COMMISSION  
MONDAY, OCTOBER 2, 2023  
RESOURCE ROOM

Attendance: Chair Tracy Sharkey, Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran, Matt Benoit  
Community Development Director

Absent: Vice chair Katiegrace Dudley, Mark Mungeam

Tracy Sharkey called the meeting to order at 7:01 PM

Discussion:

1. (0:10 TS) Mail/Orders to be signed:
  - 45 Martin Road RDA Withdrawal  
(0:30 TS) Motion to accept this withdrawal without prejudice for 45 Martin Road RDA made by Joe Fitzpatrick, 2<sup>nd</sup> by Mike Greco. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.
2. Updates
  - (1:25 TS) CRG, 105 & 123 Gilboa St (DEP #143-1042)  
There are no new updates.
  - (1:30 TS) Brian Keevan, 41 Pine Street Donation from 2014  
Still trying to get the materials together for the sign.
  - (2:00 TS) 115 Shore Rd, Culvert Replacement – Letter from Jeffrey Walsh  
The applicants engineer with Alpha Omega Engineering and stated the pipe is installed and done and Jeff Walsh supervised the whole installation, and they are hoping to have a COC tonight. Mr. Walsh provided an as-built and everything was built in accordance with the plan, they also provided a video of the pipe working requested by the building commission and they have done that. Attorney Brian Winner has also stated that there are no other issues he sees on his end and is in support of issuing the certificate of compliance for the project. The commission has closed out the culvert replacement portion.
3. (5:00 TS) Regarding the COC there is a letter of substantial completion with minor deviations.  
(5:40 TS) Motion to issue the certificate of compliance for 115 Shore Road made by Joe Fitzpatrick, 2<sup>nd</sup> by Jim Foran. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.
4. (6:15 TS) Lakeshore Drive Enforcement Order – Possible votes  
Scott Rolfe with OHI Engineering and at the last meeting he was tasked with providing the commission with a restoration plan for Mr. Moran's property and addressing the source of the water causing the damage. Mr. Rolfe went over the plans with the public and committee. Bob Moran would like to note for the record that the minutes reflect the inclusion of Lot E and the HOA in the enforcement order. - Scott Rolfe notes that there is 'significant contribution from the lots upland of Moran's property (referring to Lots E, D, C, etc. This occurs at about 15:30 of the meeting. In addition, is important regarding Mr. Cahill's obligation to comply with storm water regulations. Mr. Goodison cut slits in the berms as an experiment to see if it would help the situation and it did help some. Mr. Rolfe would like to know if the commission would be on board with them making enhancements to Mr. Goodisons, experiment to see if that could provide a solution that is within 5 feet of the 100-foot buffer. The commission is okay with the altering of the berm, and they will stabilize the site with an 8-inch silt sock over the winter and weather permitting reestablish the lot. Mr. Benoit stated that he went out to the site at the last

rainfall, saw the cuts in the berms, and saw that it did help significantly to the flow of water. The enforcement order will be written up to accept the proposed restoration plan along with conditions that material removed and stockpiled outside the 50 with erosion control barrier once the draw down occurs, the berm within 10 feet of the buffer stopping the flow can be altered, the roof and driveway runoff is going to go into a dry well outside of the commissions jurisdiction, and an 8 foot silt sock is going to stabilize and maintain the area through the winter until the work can be done, no machinery left overnight and the only use of the machinery is to remove the sediment from the pond. The commission requests that they send correspondence to Mr. Benoit when they are going to be removing the material. David Cahill asked if he is going to be on the violation notice anymore and the commission stated that everyone is staying on it until it's remedied. Janice Cahill 771 Northwest Main St asked if there is nothing coming of Lot E is he still in violation, Ms. Sharkey responded that it doesn't matter, and everyone is staying on the enforcement order until it all taken care of, and they are on it because they own portion of the roadway it is suitable with grade and construction.

(40:20 TS) Motion to accept the restoration plan for the enforcement order with all the conditions previously mentioned made by Joe Fitzpatrick, 2<sup>nd</sup> by Jim Foran. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

#### New Business:

5. (41:20 TS) 7:00 PM (NOI – DEP #143-10xx) Public Hearing: Notice of Intent: Jessica Bengston, 11 & 17 Potter Road, Map 136 Lots 8 & 9 – Possible votes

Jessica Benston stated that her and her consultant Glenn Krevosky submitted their information to commission at the last meeting and that they have also submitted to the state division of endangered species and are waiting to hear back from them, and they have confirmed receipt of the notice of intent and the restoration plan. They are applying for agricultural use to plant fruit trees for a fruit orchard and plant berry bushes. They are recognized as a farm through USDA, she has chickens and goats, and they sell the eggs. Before the cease and desist they were going reach for grant funding for a greenhouse. They are not going to the Zoning Board because they will not be selling at their property; they will be selling at farmers markets. Ms. Bengston is looking for a 100-foot buffer zone versus the 200-foot resource area for agriculture to use the extra 100-foot area for the orchard and the greenhouse. Ms. Sharkey stated that they would need an alternatives analysis and they have to overcome the wetlands protection act section for riverfront area disturbance and redevelopment, and she suggests if they don't have the information from DEP by the next meeting to request a continuance. The commission would like to send this for a peer review so that the applicant's consultant can work with the town's consultant and get an estimate from the peer reviewer.

(50:55 TS) Motion to request a proposal to review this project Brandon Faneuf made by Mike Greco, 2<sup>nd</sup> by Jim Foran. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

(51:15 TS) Motion to continue the public hearing to October 16, 2023, at 7 PM, made by Jim Foran, 2<sup>nd</sup> by Joe Fitzpatrick. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

6. (51:40 TS) 7:00 PM (RDA) Public Meeting: Request for Determination of Applicability, Christopher & Amy Nadeau, 143 Shore Road, Culvert & Drain Maintenance – Possible votes  
Amy Nadeau stated that they dig out the gravel from the trench every year and they were unaware they needed to be granted permission to do that. They propose to scoop the gravel that washing into the culvert and put it back on the road to help the potholes. Mr. Benoit did a site visit last week and took photos and showed the commission his recent photos along with the Nadeau's photos from the summer and shows regrowth of grass in the trench. Mr. Benoit

stated for the record that there was an order of conditions filed for the replacement of the pipe in the photos 15 or 20 years ago for a future subdivision, neither happened. The commission discussed the issuance of a fine for the enforcement order.

(58:55 TS) Motion not to issue a fine made by Joe Fitzpatrick, 2<sup>nd</sup> by Jim Foran. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

The revisions of the scope of the negative determination of applicability would be the project narrative as well as a screen on the pipe and using straw bales or straw waddles instead of hay and material from swales to be used to fill in potholes in the roadway.

(59:55 TS) Motion to issue a negative determination of applicability made by Mike Greco, 2<sup>nd</sup> by Jim Foran. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

#### Old Business:

7. (1:00:45 TS) 7:00 PM (NOI – DEP #143-1025) Public Hearing Continued: Amended Order of Conditions: 175 Southwest Main Street, Map 226 Lot 17 (Floodplain Storage), Lloyd Morin – Possible votes

Byron Andrews with DiPrete Engineering representing the applicant, back in July the applicant was requesting to amend the order of conditions so that he could put a retaining wall around the foundation of his house to get it out of the flood zone. At the time there was not an amended notice of intent application submitted but have since prepared one and submitted it, and in the interim DEP commented that normally an amended order of conditions is applicable if the disturbance remains the same and this would have a slightly greater disturbance where the wall is. Judy Schmidt sent an email stated that the issuing authority in this case Douglas Conservation Commission has the authority to decide whether an amended notice of intent is appropriate and whether there is a significant change in what is being applied for or considered a small change. The commission needs to know the percentage or the difference in the increase and what is on the original approved plan says 1473 sq. ft and proposed replacement 1968 sq. ft of bordering land subject to flooding and the new plan says 8300 sq. ft of proposed alteration in bordering land subject for flooding. Ms. Sharkey suggests continuing this to the next meeting and finding and checking the numbers so the commission can make an informed decision.

(1:15:25 TS) Motion to continue the public hearing to October 16, 2023, at 7 PM made by Joe Fitzpatrick, 2<sup>nd</sup> by Jim Foran. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

8. (1:16:00 TS) 7:00 PM (NOI – DEP #143-1080) Public Hearing Continued: Notice of Intent: 273 Southeast Main Street, Lot 1, Map 266 Lot 13 (Single Family Home), New Sherborn, LLC – Possible votes

Jason Clough with DiPrete Engineering, at the last meeting there was requests for some drainage mitigation to be added to the plan, they revised the plans and submitted the new plans to the commission, and they assisted in drafting the order of conditions that was provided this morning. Mr. Faneuf is glad to the drainage bmps added to the three lots. Mr. Clough is agreeable to having in the findings and facts the special condition about once the fifth lot is reached there will be a stormwater management report needed.

(1:20:15 TS) Motion to close the public hearing made by Joe Fitzpatrick, 2<sup>nd</sup> by Mike Greco. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

(1:20:35 TS) Motion to issue the order of conditions with the special condition added on the fifth lot triggering stormwater management compliance made by Joe Fitzpatrick, 2<sup>nd</sup> by Jim Foran. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

9. (1:21:00 TS) 7:00 PM (NOI – DEP #143-1080) Public Hearing Continued: Notice of Intent: 279 Southeast Main Street, Lot 2, Map 266 Lot 13 (Single Family Home), New Sherborn, LLC – Possible votes

This is similar to the first lot and they added the stormwater mitigation to this lot consisting of a drywell and a stone trench and this lot doesn't have any riverfront area disturbance.

(1:22:10 TS) Motion to close the public hearing made by Mike Greco, 2<sup>nd</sup> by Jim Foran. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

(1:22:25 TS) Motion to issue the certificate of compliance with the condition for stormwater management once five-lot subdivision is triggered made by Mike Greco, 2<sup>nd</sup> by Jim Foran. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

10. (1:22:50 TS) 7:00 PM (NOI – DEP #143-1080) Public Hearing Continued: Notice of Intent: 283 Southeast Main Street, Lot 3, Map 266 Lot 13 (Single Family Home), New Sherborn, LLC – Possible votes

This is the lot with variances that were granted at the last meeting, and they have also added the drainage to this lot consisting of the stone trench for the driveway and two drywells proposed and they are both within the limit of work previously proposed.

(1:25:25 TS) Motion to close the public hearing made by Joe Fitzpatrick, 2<sup>nd</sup> by Jim Foran. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

(1:25:40 TS) Motion to issue the order of conditions with the previously discussed conditions made by Jim Foran, 2<sup>nd</sup> Mike Greco. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

11. (1:26:05 TS) Meeting Minutes: May 8, 2023, May 22, 2023, June 5, 2023 & June 26, 2023  
The commission will hold off on voting on any minutes due to not having a quorum.

Upcoming Meetings: October 16, 2023 & November 20, 2023

(1:29:00 TS) Motion to adjourn the meeting made by Jim Foran, 2<sup>nd</sup> by Mike Greco. Roll call vote – Eric Harris, Joe Fitzpatrick, Mike Greco, Jim Foran all in favor.

Respectfully submitted,

Stephenie Gosselin