

# **RYE CONSERVATION COMMISSION MEETING**

**Thursday, April 11, 2024, 6:30 p.m.  
Rye Town Hall & via Zoom**

**Commission Present: Chair Susan Shepcaro, Vice-Chair Mike Garvan, Suzanne McFarland, Karen Oliver, and Alternates Paula Mahoney and Jeff Gardner**

## **I. CALL TO ORDER AND PELDGE OF ALLEGIANCE**

Chair Shepcaro called the meeting to order at 6:31 p.m. and led the Pledge of Allegiance.

## **II. SEATING OF ALTERNATES**

Paula Mahoney was seated for Sally King. Jeff Gardner was seated for Danna Truslow.

## **III. APPROVAL OF MINUTES**

- March 14, 2024

The following corrects were noted:

- Page 4, under the 14 Sagamore Road application, it should be noted: Corey Colwell stated incorrectly that the building location on the revised plan is 34' to the pocket of wetlands in the back and is 34' from the wetlands to the north, where it was previously 2'. It should be clarified that the revised plan is 20'6", not 34'. *(statement by C. Colwell confirmed by transcriptionist)*
- Page 7, under ZBA update: The 2<sup>nd</sup> to the last sentence should be deleted, as it was just an opinion heard outside of the ZBA meeting: ~~Alternate Mahoney pointed out that the neighbors are still very much against the project, but she feels it will still pass.~~

**Motion by Mike Garvan to approve the minutes of March 14, 2024 as corrected and clarified. Seconded by Suzanne McFarland. All in favor.**

## **IV. WETLANDS**

### **1. 18 Acorn Acres, Tax Map 16, Lot 96**

Owner: Abbey Miles

Jones and Beach, Gove Environmental Services, Gray Construction

Variances: 190-2.3.C(3): front yard setback; 190-3.1.H(2)(a)(f)(g): driveway in 75' freshwater buffer; 190-5.0.C: parking in front setback

Special Exception: 190-3.1.G(2): driveway in 75' freshwater buffer  
Expansion of existing house and deck (out of buffer), remove existing driveway and replace with a smaller driveway

**Paige Libbey, Jones & Beach Engineering**, presented the proposal for an addition to the existing house at 18 Acorn Acres with a garage and bedroom above to turn the home into a three-bedroom home. The addition will create some impacts within the buffer due to the relationship between the frontage of the property and the wetlands across the street. The proposal also includes the elimination of the looped driveway to create one main driveway to the garage. Eco pavers for the driveway are being proposed to provide some porous surface on the property to keep the impervious surface as low as possible. The proposal will be going before the ZBA for a special exception for the driveway and a variance for the side setback. The existing house is 688 s.f. and the additional will bring it to 1210 s.f. There will be temporary impacts to the buffer with the removal of the driveway, along with permanent impacts. There will be a slight impervious coverage increase from 13.2% to 13.6%, which is less than 50 s.f. Ms. Libbey noted that the addition is not in the buffer, as it's only the driveway. The impervious surface within the buffer is actually being reduced.

- **Site walk scheduled for Wednesday, April 17<sup>th</sup>, 10:30 a.m.**

**2. 11 Straw's Point Road, Tax Map 91, Lot 9**

Owner: Rick Williams

TMS Architects, Ross Engineering, Marc Jacobs

Variances: TBD

Proposed wetland crossing

**Shannon Alther, TMS Architects, and Alex Ross, Ross Engineering**, met with the Commission to discuss the project for 11 Straw's Point Road. One of the challenging pieces of the project is the tight wetlands area and the existing driveway to a neighboring house that pinches the wetland. Mr. Alther reviewed the existing conditions on the plan for the Commission. He noted that there's an easement associated with the property for the driveway going to the abutting property. There has been some discussion with the abutters about potentially readjusting the driveway to help with the proposal and to provide more privacy. There is a 25' wetland buffer on the property. The driveway was built over the wetlands, which essentially created two separate wetlands. Readjusting the driveway would require a wetlands crossing, which would allow the wetlands to be connected back together and a design could be created that would make sense.

There was discussion with the Commission about where the driveway could possibly be relocated and mitigation benefits. The intent of presenting this to the RCC is to get some feedback in order to move forward with wetland design and submitting to DES. It was agreed to schedule a site walk. A formal proposal will be submitted to the Commission once feedback is received after the site walk.

- **Site walk scheduled for Wednesday, April 17<sup>th</sup>, 11:00 a.m.**

**3. 1248 Ocean Blvd, Tax Map 173, Lot 48**

Owner: Lisa Lombard

TMS Architects, Millenium Engineering, Marc West

Variances: TBD

Buffer plantings, retaining wall

**Shannon Alther, TMS Architects**, explained that the owner was before the Conservation Commission with a plan back in 2019/2020. The plan included a 15' vegetative buffer between the retaining wall and the house. The recent storms have ripped out the plantings. The owner would now like to request a granite wall 5' closer to the ocean than the existing retaining wall. The intent is to stop the water wash that's coming over the retaining wall and to replant the area. Mr. Alther noted that they are working with UNH about potentially coming up with something different in terms of vegetation because some of the seagrass was brittle and took a long time for the roots to establish.

There was discussion and review of the plan and possible plantings. Mr. Alther reviewed the plan for the proposed granite wall. The proposal is to locate the wall at the 10' line, which will be made of granite steps 7" thick and 4' deep. The idea is for the pieces to be movable with a smaller machine versus a concrete wall which would require a concrete pumping truck. The intent is to be minimally invasive for the wall installation. He noted that they are still trying to address the 10' zone. He would be happy to do some research with DES and come back to RCC with some options.

Ms. Lombard asked the Commission if they would be fine with native plantings between the wall and the house.

It was noted by Member Garvan that the plantings are not the only concern. The other concern is construction in the buffer. However, there has to be some way for people to shore up their yards, and seawalls. He doesn't have an objection to the plans.

The Commission agreed the proposal is reasonable.

Mr. Alther stated that he can get some more input on the design and bring it back to the RCC. He asked if the Commission could write a letter stating that they have reviewed the plan and understand the original plan has to change. He pointed out there may be some iterations on the design of the wall, but the intent is still in keeping with the right buffer and native plantings between the ocean and the house. Mr. Alther also pointed out that in the Town of Rye, retaining walls under 6' high are not considered structures, so it doesn't trigger the setback requirement.

The Commission agreed that it makes sense to proceed with the proposed design as Mr. Alther suggested. RCC will write a letter about the review that can be submitted to the Building Department. In the meantime, Mr. Alther will do more research on how the wall will actually be

constructed. He will also reach out to DES with regard to the landscaping and work to be conducted.

## **V. PENDING SITE WALKS AND REVIEWS**

- 1. 10 Goss Farm Lane** – schedule final site walk for CO  
*Scheduled for April 17<sup>th</sup>, 11:30 a.m.*
- 2. 5 Wentworth Road** – tree removals – finalize/send letter  
*Member Garvan to visit site.*
- 3. 44 Pioneer Road** – tree removals – discuss/schedule

It was noted by Chair Shepcaro that the owner was invited to meet with the RCC; however, she was unable to attend the meeting.

Alternate Gardner pointed out that the property owner was talking about putting fill in the backyard; basically, tearing down trees in the buffer and making the area lawn.

The Commission agreed that they would like to work with the property owner. They also agreed that it's important for the owner to know that her plans need to go through the proper process. A letter will be drafted to the owner outlining what the Commission discussed and the proper steps that should be followed for the project.

### **4. 14 Sagamore Road** – discuss

Alternate Gardner stated that they are taking a building at about 70' and are proposing to build something much bigger at 20'. He pointed out that the building is a much greater impact than asphalt, as asphalt can be torn up and replaced with natural plantings.

Alternate Mahoney commented that the RCC can't say they recommend the plan; even though it was made better than when it started and they also got some of the neighbors to feel okay about the plan.

Chair Shepcaro pointed out that the neighbors have had a lot of sway in this project, as the plan has changed a couple of times. The neighbors got their 50' buffer that they are entitled to for the commercial piece.

Alternate Gardner commented that the proposed project is over the line. Taking a building that is 70' away and moving it 20' is not protecting the wetland.

Member Garvan noted that RCC's responsibility by statute is to protect wetlands and natural resources. If someone is encroaching five or ten feet into the buffer, but there are some other enhancements and mitigation with the plan, the Commission is reasonable; however, they're

encroaching significantly on the buffer. It's not RCC's fault that there's a small building envelope and they purchased the property that way. RCC has to do their job as a conservation commission and say it's too big of an encroachment on the wetlands as it stands, and the Commission is not in favor of the project.

Member McFarland pointed out that over the last several years, the Commission tries to stay completely out of the 50' buffer as a goal.

The Commission agreed that they can't recommend the project.

**5. 206 Washington Road – fallen trees – discuss/schedule**

*Member Garvan will visit site and give an opinion.*

**6. 65 Wallis Road – trees – schedule**

*Member McFarland confirmed this has already been addressed.*

**7. 99, 101 Wallis Road – trees - schedule**

*Scheduled for April 17<sup>th</sup> 12:00 p.m.*

**VI. OTHER BUSINESS**

**1. Thank you for trail work Cedar Run Extension**

It was noted by Member McFarland that Tim Losik cleaned up the trail at Cedar Run. She thanked him for his help. She also noted that another tree has just come down and cleanup is needed.

**2. Point person bog bridge construction**

The Commission has been discussing the idea of having a two to three person committee to address the bog bridges. The areas being considered for bog bridges include; Raynes Forest and Cedar Run, Seavey Acres, Town Forest, and Brown Lane Farm. Permits have been received for the bog bridges on the Jim Raynes Forest and Cedar Run. More information is needed for Seavey Acres and Brown Lane Farm is a future project.

**3. 5 Whitehorse Drive Conservation Easement – Sign**

*Document has been corrected and is ready for signatures.*

**4. Rand Forest Signage**

*Communication with Mike Steinberg from Sea Glass Lane is needed to let him know what RCC is intending for signage.*

## 5. Goals for 2024

- Bog bridges
- Green Trail
- Public outreach
- Goss Farm: pollinator

The Commission discussed the new policy and the process regarding the use of one email for each board, committee, or commission.

## 6. ZBA Meeting Update

Member Garvan reported that the application before the ZBA for 30 Straw's Point passed. The application for Patty Anderson at 117 Washington Road was not heard, as the applicant was not able to stay. That application will be heard at the ZBA meeting in May. He continued that 2242 Ocean Boulevard and 2231 Ocean Boulevard both passed.

Member Garvan noted that he spoke with the ZBA Chair Shawn Crapo about RCC's recommendation on mulch. As a landscaper, Mr. Crapo says that nothing is pure, as compost doesn't necessarily mean it doesn't have bad seeds in it. Mr. Crapo understands RCC's intention of not wanting invasives and weeds in the planting beds. Mr. Crapo thinks that bark mulch is good, which comes from the heart of a tree and doesn't have any seeds in it. Member Garvan is going to work on some language that can be included in the recommendation letters. RCC could refer to a booklet that covers best management practices, which would alert the landowner to not just use anything in these areas.

Member Garvan continued that there was a concern from one of the ZBA members that RCC submits recommendations with the expectation that they become conditions. He pointed out that at the recent ZBA meeting, they threw out some of the Commission's recommendations, which is absolutely within their right; however, some that were thrown out were good recommendations. Member Garvan suggested that they remind the ZBA what the role of the Conservation Commission is. The ZBA has the right to ignore RCC, but the Commission are the people who have the site walks with the landowners, architects, and engineers. The Commission probably has a better feel for the land than the ZBA members, as they don't have the same opportunities as RCC.

After discussion, it was agreed that it may be a good idea to check back in with the ZBA to reeducate them about the Commission's role in protecting the resources.

## 7. Public Hearing Notices

The Rye Conservation Commission will be holding a public hearing on Wednesday, April 17<sup>th</sup>, 5:00 p.m., at Rye Town Hall to hear public comment on the acquisition of 7 +/- acres of land at 0

Appledore Avenue, Tax Map 194, Lot 62 and 11,000 +/- square feet at 0 Wallis Road, Tax Map 173, Lot 26.

RCC will also be holding a public hearing on Monday, April 22<sup>nd</sup>, at 5:00 p.m., at Rye Town Hall to hear public comment on the acquisition of a Conservation Easement purchase of 7.92 acres at 981 Washington Road, Tax Map 007, Lot 045.

## **VII. CORRESPONDENCE**

1. SELT Thank you – Moody Woods and Massacre Marsh protected for 21 years
2. SELT VIP Reception before Wild and Scenic Film Festival: Friday, 4/19, 5-6:30
3. SELT Views
4. NH Dept of Agriculture, Markets, and Food Watershed Special Permit – Pioneer Road Invasive Species Control
5. NH Dept of Agriculture, Markets, and Food Watershed Special Permit – Brown Parcel
6. NHDES Extended Emergency Authorization Harbor Road
7. NHDES Extended Emergency Authorization 1314 Ocean Blvd
8. 2024.04.05 DPW Sawyer's Beach Repair Notice
9. 90 Locke Road Response to DES Request for More Information

## **VIII. BILLS**

1. \$94.90 Dog Poop Bags
2. \$50.22 Purple Martin Products
3. \$870.00 BCM #13574
4. \$435.00 BCM #13861
5. \$1,417.50 CREDIT BCM-CEI #13573, no payment credit \$112.50
6. \$100.17 Goss Barn Cintas Fire Documentation – 546306
7. \$6.99 Seacoast Ace Hardware purple martin gourd identification numbers

**Motion by Suzanne McFarland to pay the bills listed 1 through 7 with a notation that RCC is accepting the credit from BCM (item #5) and applying bills #3 and #4 to that credit. Seconded by Jeff Gardner. All in favor.**

**IX. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (d) Acquisition  
(2) per RSA 91-A:33, II (e) Legal**

**At 8:51 p.m., Mike Garvan moved to go into non-public session. Seconded by Susan Shepcaro.  
Roll Call: Suzanne McFarland – Aye; Paula Mahoney – Aye; Susan Shepcaro – Aye;  
Mike Garvan – Aye; Jeff Gardner – Aye; Karen Oliver – Aye**

**The Commission came out of non-public session at 9:26 p.m.**

**ADJOURNMENT**

**Motion by Karen Oliver to adjourn at 9:27 p.m. Seconded by Suzanne McFarland.  
All in favor.**

Respectfully Submitted,  
Dyana F Ledger