

Conservation Commission Meeting Minutes 1/11/2023, 7:30 PM

Commission Members Attending: John Sullivan, Tim Holiner, Amey Moot, Anna Nagy, Jim McLaughlin, Christy Violin
Absent: Sarah Monaco.

Other Attendees: Consultant Agent Janet Bowser, Lori Hagerty, Conservation Office, Nina Pickering and Olympia Bowker, Anderson Kreiger, Town Counsel.

Kevin O'Leary, Jillson Co., Russ Waldren, Applied Ecological Science for Pegan Ln ANRAD

Diane Simonelli, Field Resources, for 92 Haven St. NOI

James Grillo, Davagian, Grillo & Semple, LLP and Brett Berman, Fox Rothschild representing Justin O'Connell and Danielle Sheer, 25 Haven St.

Casey Sack, Preston Clinton, Jonathon Freidman, and Rudolph Friedman from Rudolph Friedman, LLP representing Patrick Corrigan.

Residents: William Murray, John D'Souza, Sam Lin, Vardhan Srinivasa.

Continued ANRAD Hearing

144-888 Pegan Ln., Lots 24,25,26-Malm

Present for the continued hearing was Kevin O'Leary, Jillson Co. and Russ Waldren, AES. Russ Waldren visited the site with Paul McManus and they adjusted several wetland flags in a few areas. Agent Bowser recommended approval of the ANRAD and issuance of an ORAD. Motion made and seconded to close the hearing. Roll call vote: Jim-Y, Christy-Y, Amey-Y, Anna-Y, Tim-Y, John-Y. Motion made and seconded to approve the ANRAD as presented. Roll call vote: Jim-Y, Christy-Y, Amey-Y, Anna-Y, Tim-Y, John-Y.

Continued NOI Hearing

144-885 92 Haven St., site work in the buffer zone, Iansiti

Diane Simonelli, Field Resources was not able to attend. The hearing was continued to the next meeting on 1/25/23.

Cont. Hearing to Review / Revoke Orders of Conditions Permits

Request to Revoke OOC #144-842 Haven Meadows

Request to Revoke OOC #144-874 Haven Manor

Order of Conditions DEP#144-842 was granted a Certificate of Compliance for no work done and that document has been recorded at the Norfolk County Registry of Deeds.

Order of Conditions DEP#144-874 – There is a dispute and an Option. Parties have requested this Order be revoked as they did not agree with the Order of Notice of Intent. Property owner signature was not obtained. Trustee did not sign so application is incomplete. The Conservation Commission's job is to enforce the Wetland Protection Act for the Town of Dover and not to adjudicate legal decisions.

The Chair asked if there is any additional information the Commission has not received since the last meeting. Brett Berman asked the Commission to consider the property owner signature is a missing requirement. He said the Order is void and must be revoked.

Jonathon Friedman said all information has been submitted, but they want to make the Commission aware of a fact they did not previously have. He discussed the Option with the 5-yr period to exercise. The Court will decide if this Option is terminated. His client is the applicant with rights to the Option of the land as the applicant. The Notice of Intent was

executed by one of the beneficiaries and they had granted permission and they have the right to exercise documents on their behalf per the option. He asked the Commission to take no steps until the Court decides the Option.

Nina Pickering asked Jonathon Friedman if he is saying the beneficiary has the right to sign on behalf of the owner. He said they have been granted that right through the Option. That is why he is asking the Commission to wait until the Court decides. The Nominee Trust says the beneficiary can sign on behalf of the owner. The Trustee acts on behalf of beneficiaries.

Brett Berman said they cannot sign on behalf of the owner and also the Option has not been exercised by the applicant.

Nina (to Jonathon Friedman) said you're asking the Commission to not grant revocation. If a revocation is granted, what is the harm to your client? Jonathon said he has no loss, but it appears to be an interpretation that the Commission agrees with one side rather than the other side. Mr. Corrigan doesn't have to exercise the Option rights to have the Option rights in the future.

The Chair asked if Commission members had any questions. There were none.

Nina said in these circumstances it is prudent to require a Trustee signature. If the Option allows beneficiary signature, but the beneficiary is saying this is not what they want to do, it seems the Trustee should be signing as owner.

The Chair asked if any members of the public had any questions/comments. There were none.

Jonathon Friedman asked how the revocation would benefit the Commission or the land itself. He asked why it would be appropriate rather than suspension or a court order resolution.

Nina spoke on the reason to revoke. She said there is a legal concern about granting an Order of Conditions which is invalid without a signature and there is a cloud on the Title of a resident's property. There is legal risk to the Town leaving the Order as issued.

There were no further comments.

Motion was made and seconded to close the hearing. Roll call vote: Jim-Y, Christy-Y, Amey-Y, Anna-Y, Tim-Y, John-Y.

Motion was made to revoke Order of Conditions #144-874 for good and just cause. Motion seconded. Roll call vote: Jim-Y, Christy-Y, Amey-Y, Anna-Y, Tim-Y, John-Y.

The Order of Conditions is hereby revoked.

Request for CoC

144-867 4 Sterling Dr., Rafter/Calumet, GLM Eng.

This item was continued to the next meeting on 1/25/23 at the applicant's request.

Discussion

Town Report – Commissioner approval of draft

Motion made and seconded to accept the Town Report as presented. Roll call vote: Jim-Y, Christy-Y, Amey-Y, Anna-Y, Tim-Y, John-Y.

TM Warrant Articles

Warrant Article for appropriation to Conservation Fund

Warrant Article for Dover Wetlands Protection Bylaw Ch. 181-update language

Motion made to approve the 2 TM Warrant Article placeholders as listed on the agenda. Roll call vote: Jim-Y, Christy-Y, Amey-Y, Anna-Y, Tim-Y, John-Y.

Work Group Discussion

Christy updated the Commission that discussions and meetings have included the wording on signage related to conservation land regulations including the prohibition of motorized vehicle/motor bikes so police can enforce and reference the statute.

There was discussion of the Wylde Woods boy scout bridge and fixing with professional help and also winterize the current bridges.

Jim McLaughlin left the meeting at 8:52 PM.

Agent Bowser said no RDA would be required for trail maintenance because it is replacement of a prior structure.

Agent's Report

1. Updates on Active Permits, Compliance, Enforcement & Wetland Protection Issues:
2. Red Robin 40B Project - Pre-Construction Site Meeting, Monitoring & Project Schedule-Agent Bowser said Red Robin received their approval and when reports begin coming in she'll update the Commission.
3. ConCom Land Mgt. Work Group Update & Conservation Fund Warrant Article - Deadline Jan. 13th
4. Bridge Street/DLCT Culvert Repair Project - Jan. 9th Site Inspection & Update-Agent Bowser met with Kevin McCabe, DPW Director, and he will clean out. It is maintenance of an existing structure so no permits needed.
5. Charles River Watershed Climate Compact - ConCom to Complete Strategic Plan Stakeholder Survey-Agent Bowser previously distributed the survey to the Commission and requested that they complete the strategic plan survey.
6. 6 Sterling Drive - Notice of Violation Needed for OOC Required BZ Restoration Plantings Report-Agent Bowser said seasonal monitoring reports during the growing season are due and she suggested a Notice of Violation and send to 6 Sterling by certified mail with photos and information with current conditions – email also.
7. 25 Miller Hill Road - Update on Stormwater Management Corrective Actions-Agent Bowser said David Parrish, Sherborn Development, fixed the situation with silt sock and improved erosion control.
8. 12 & 14 Miller Hill Road - Update Re: Report of Possible Tree Removal Violations in Buffer Zone-Agent Bowser said the owners are hiring arborists to give valuation of the trees removed.

Adjourned 9:13 PM.

Documents:

1 Pegan Ln ANRAD:

Conservation Minutes 1/11/2023

Jillson Co. rev. plan Kevin O'Leary, 12/21/22
DEP Field Data Forms, Russ Waldren, AES 9/22/21, 11/28/22, 12/2/22, 12/9/22
EcoTec Report, Paul McManus, 12/22/22

92 Haven St. Field Resources NOI Plan rev. 12/15/22, Bradley Simonelli, PLS

25 Haven St., Haven Meadows/Manor:
144-842 CoC, 25 Haven St., Haven Meadows, 4/4/22 (recorded copy)
OOC 144-874, 25 Haven St., Haven Manor, 6/29/22
Davagian Grillo Semple, LLP, James Grillo, letter re: 25 Haven St., 12/7/22
Rudolph Friedman, LLP, Jonathon Friedman, letter re: 25 Haven St., 12/13/22

Town Report draft, no date
TM Warrant Articles draft, no date
Agent Bowser Regulatory Report and recommendation memo dated 1/8/23
Email from Agent Bowser Re: Bridge Street/DLCT Culvert Repair Project Site Inspection with
Kevin McCabe, DPW Director, Dated 1/6/23
Email from Agent Bowser Re: Charles River Watershed Climate Compact Strategic Plan
Stakeholder Survey, Dated 1/6/23
Email from Dave Parrish of Sherborn Development Re: 25 Miller Hill Road - Update on
Required Stormwater Management Corrective Actions, dated 1/2/23