

## **Conservation Commission Meeting Minutes 5/10/2023, 7:30 PM**

Commission Members Attending: Tim Holiner, Amey Moot, Jim McLaughlin(8:02), Sarah Monaco, Anna Nagy, Christy Violin. Absent: John Sullivan

Other Attendees: Consultant Agent Janet Bowser, Lori Hagerty, Conservation Office.

Applicants, Residents, Members of the Public: Francois Mallette, owner 12 Miller Hill Rd., Attorney Peter Brooks representing 12 Miller Hill Rd., Attorney Nathaniel Stevens and Attorney Gregor McGregor. representing 36 Farm St., Ken Soderholm, Builder, representing 36 Farm St., Vincent Montemaggiore, owner 14 Miller Hill Rd., Sally Naser, Trustees of Reservations, Pete Santoro, owner, 36 Miller Hill Rd., Diane Simonelli, Field Resources, representing 36 Miller Hill Rd., Stephen Bates, Ranger, DLCT, Blake Property, Deborah Anderson, Wetland Scientist and Ardi Rrapi, Cheney Engineering for 4 Haven Terrace, Kristen Scalabrine, 6 Sterling Dr., Tom Dodd, TTOR, Rachel Dewey.

**7:30 PM**

### **Notice of Violation- Unpermitted tree removal**

36 Farm St., 12 Miller Hill Rd., 14 Miller Hill Rd.

Mr. Holiner stated that the property owners of 12 Miller Hill Road, 14 Miller Hill Road and 36 Farm Street were all issued a Notice of Violation for the unpermitted removal of trees in a wetland resource area and/or buffer zone without permission or a permit from the Commission and the Commission requested that all three owners attend tonight's meeting to discuss this situation. Agent Bowser reviewed the following chronology of events that led to the Notice of Violations:

1. In November 2022, Sally Naser and Tom Dodd of The Trustees of Reservations (TTOR), conducted a site inspection of the conservation restriction (CR) held by TTOR as grantee on a portion of the property at 36 Farm Street owned by Kevin and Debra Rollins and they were accompanied by Ken Soderholm, the agent and property manager for the 36 Farm Street property. During the site inspection of the CR land, they observed that a significant number of trees had been cut down on the 36 Farm Street property and that a large area of land had also been disturbed on the abutting property at 12 Miller Hill Road and they estimated that approximately an acre of land had been cleared. The owners of 36 Farm Street, Kevin and Debra Rollins, were unaware of the tree cutting on their property until discovered during the November site inspection of the CR.
2. The Commission Chair, John Sullivan, was informed of the tree cutting by Ms. Naser, who indicated that some of the tree cutting may have occurred in wetland resource areas and/or buffer zone under the jurisdiction of the Commission. The Chair requested that Conservation Agent, Janet Bowser, inspect the site and conduct a preliminary evaluation of the tree cutting.
3. On November 21, 2023, Conservation Agent Janet Bowser inspected the property at 12 Miller Hill Road after obtaining consent from the homeowner and also inspected the property at 14 Miller Hill Road, where the homeowner was not home. Agent Bowser took photos of the back of these properties where the tree cutting had occurred and reported her findings to the Commission.
4. On December 6, 2022 the Commission received a copy of a Police Report from Dover Police Chief Peter McGowan dated December 6, 2022 with the subject heading "Conservation Restriction Violation Advisory." The report documented that the Police Chief had been contacted by Ken and Sam Soderholm on December 5, 2022 and that they reported that a violation of the CR held by the TTOR had occurred as described in item #1 above.
5. During the months of January through May 2023, Agent Bowser had regular conversations with Ken Soderholm and Sally Naser in order to be informed of the response actions being taken by the 36 Farm St. property owners and TTOR regarding the removal of trees within the scope of the CR, which she reported to the Commission.

6. In March 2023, Mr. Soderholm shared with the Commission the Wetlands Delineation Plan and the Tree Removal Inventory Plan completed by LEC Environmental that was developed for the owners of 36 Farm Street and shown on a site plan dated 3/3/23 as prepared by Cheney Engineering.

7. The Commission had numerous public meeting discussions regarding the most effective compliance and enforcement effort to address the reported violations and determined that a Notice of Violation should be sent out to all three property owners requesting their attendance at the Commission's May 10, 2023 Meeting to review with the Commission the alleged violations and discuss appropriate restoration actions.

8. On April 25, 2023, a Notice of Violation (NOV) Letter was sent by Certified Mail to: Francois Mallette, Owner of 12 Miller Hill Rd.; Vincent and Alexis Montemaggiore, Owners of 14 Miller Hill Rd.; and Kevin and Debra Rollins, Owners of 36 Farm St. The NOV Letters stated, in part, that "It has come to the attention of the Dover Conservation Commission that trees have been removed at the above referenced properties within the 100' buffer zone to wetlands. As you may know, any work or activity within 100 ft. of a wetland resource area is subject to review and approval by the Dover Conservation Commission. The aforementioned tree removal may be in violation of the Massachusetts Wetlands Protection Act, G.L. c. 131, sec. 40, the Dover Wetlands Protection Bylaw, and the Rules and Regulations of the Dover Wetlands Protection Bylaw, Chapters 181 and 263 of the Dover Code, respectively. The Dover Conservation Commission requests your attendance at the Conservation Commission's May 10, 2023 7:30 PM virtual meeting. At this meeting, the Commission will review the alleged violations and discuss appropriate restoration actions. Please contact the Commission office to confirm attendance at the meeting."

Attorney Peter Brooks stated that he was attending the meeting as the representative for Francois Mallette, the Owner of 12 Miller Hill Road and stated that Mr. Mallette admitted that he had the trees in question cut down and that he takes full responsibility for doing so.

Attorney Nathaniel Stevens said on behalf of 36 Farm St., that they have been in contact with Attorney Peter Brooks for 12 Miller Hill Rd. Attorney Brooks confirmed they have communicated with representatives for 36 Farm St. Rob Gemma, Metrowest Engineering and an Arborist have been hired to submit a restoration plan. They are also working with the Trustees.

Vincent Montemaggiore, owner 14 Miller Hill Rd. said he doesn't have legal representation present but will cooperate with the restoration.

Based on the information provided by Attorney Brooks, the Commission determined that an enforcement order will be issued and that they will review a draft enforcement order at their May 24, 2023 Meeting.

Agent Bowser advised the representatives to contact her and she will work with the Conservation Commission. She will draft the Enforcement Order that will require a wetland delineation with DEP data sheets and a tree inventory with diameter and species of trees in order to provide sufficient information for the development of a restoration/replacement plan.

#### **Notices of Intent**

144- 36 Miller Hill Rd-pool, fence, patio, wall. Present were owner Peter Santoro and Diane Simonelli, Field Resources. Having been duly published the Commission opened the hearing. Diane said the original delineation was updated in 2018. Deborah Anderson was present and could verify her letter. Agent Bowser visited the site. She said a new delineation is required under the Bylaw and the WPA since the previous delineation was done over 5 years ago. Deborah Anderson said the original delineation was 2016 and again in 2018. Deborah found the wetland, bank and perennial stream the same. She re-flagged last week and the first

6 flags were confirmed. She re-delineated the BVW and bank. Tim said a small amount of the project is in the 100' buffer. Diane Simonelli described the NOI Plan.

8:02 Jim McLaughlin arrived.

Agent Bowser read her 9 comments from her Regulatory Report and Recommendations dated 5/7/23. No DEP number had been issued at the time of the hearing. The applicant requested a continuance to the meeting of 5/24/23 and the Commission granted the request.

144-895      4 Bridle Path Cir.-garage additions-Fineman/Marquedant-The applicant requested a continuance to the meeting of 6/14/23 and the Commission granted the request.

#### **Cont. Notice of Intent**

144-894      129/143 Dedham St.-barns, paddocks, structures, landscaping. Mark Cooperman, EcoTerra Design requested a continuance in writing on behalf of the applicant to the meeting of 5/24/23 and the Commission granted the request. Agent Bowser said Town Engineer is reviewing changes to the Stormwater Plan and the Applicant must still submit the Stormwater Report and all supporting documents as required by the MA Wetlands Regulations.

#### **Notices of Violation**

6 Sterling Drive - BZ Restoration Monitoring Reports DEP#144-0815-Agent Bowser said she received a report from Joyce Hastings, GLM Engineering, who was unable to attend the meeting. Agent Bowser will meet with Joyce to discuss.

4 Haven Terrace - Replication/Restoration OOC Amendment Submittal, #144-0773-Agent Bowser said restoration and replication are required. An Amendment is to be submitted for the June 14 meeting. Agent Bowser and the Commission discussed the required information to be submitted with the Amendment Request that should include:

1. A chart and narrative of what was required and what is proposed and the regulatory justification under the WPA and Bylaw.
2. Cul Tec system
3. Deed restriction

#### **Minutes**

2/8/23-Motion made and seconded to accept the minutes with the recommended amendments. Roll call vote: Christy-Y, Anna-Y, Amey-Y, Jim-Y, Tim-Y, Sarah-Y.

2/22/23- Motion made and seconded to accept the minutes as amended. Roll call vote: Christy-Y, Anna-Y, Amey-Y, Jim-Y, Tim-Y, Sarah-Y.

3/8/23- Motion made and seconded to accept the minutes as amended. Roll call vote: Christy-Y, Anna-Y, Amey-Y, Jim-Y, Tim-Y, Sarah-Y.

3/22/23- Motion made and seconded to accept the minutes as amended. Roll call vote: Christy-Y, Anna-Y, Amey-Y, Jim-Y, Tim-Y, Sarah-Y.

#### **Work Group Updates/Discussion**

The Commission discussed Conservation land signage. Jim McLaughlin will contact the Chair to get the signs he has and Tim Holiner said he has 2 more.

Amey Moot discussed the Open Space walk at Larrabee Whiting Estates, Strawberry Hill St. She said the fields are shoulder height with multi flora rosebushes. The Commission also discussed the garlic mustard.

Carol Lisbon was present to discuss easements. The Planning Board has been reviewing easements. None were accepted at Town Meeting(TM). The owners of 6 Village Hill Rd. property asked that their easement be extinguished because it no longer connects to anything. The Planning Board decided to take no action while the Open Space Committee discusses. Carol said there is no government department responsible for keeping easement records and Conservation Commission was discussed as the responsible department. Amey said Conservation is the only department that does not need to get TM approval for their easements. They use the Chapter 61 procedure to evaluate the property. The Planning Board maintains the legal responsibility of easements. Carol explained a “perfected easement” is approved at TM then the Planning Board may extinguish upon request. If not, then TM must decide if it is to be extinguished.

The Commission discussed the Village Hill/Taylor Estates easement and use of private properties to access Noanet. The Commission will wait for the Chairman to return to discuss and visit the site. His is one of the properties.

### **Agent's Report**

#### 1. Updates on Active Permits, Compliance, Enforcement & Wetland Protection Issues-

Agent discussed 24 Donnelly Dr. unpermitted removal of pine trees, which she inspected with Anna Nagy, who reported the violations. She recommended a letter be sent to require the owner file an after the fact RDA with a sketch, list, letter of what trees were removed and the Commission agreed with this recommendation.

Agent asked Commission if she has the authority to approve removal of 3 healthy trees within the buffer zone to install solar panels. The Commission agreed on Agent approval and said no letter is needed.

#### 2. Update on Red Robin 40B Project #144-0880 & Stormwater Infrastructure Installation-They may need to file an amendment for new, unpermitted a drainage pipe.

#### 3. Site Inspection & Regulatory Report Re: DLCT Blake Reservation Culvert Project-Agent Bowser and Amey Moot visited the site on 5/2 with Stephen Bates, DLCT. He will file an RDA.

Also, Bridge St. culvert work to be done soon by DPW.

#### 4. Update on Town of Mashpee Approval to Expand Wetlands Buffer Zone to 150 ft. and the No Structure Setback to 70 Ft.-Agent sent information to the Commission about Mashpee expanding their buffer zone to 150 feet and their “No Disturb Setback to 70 feet and she stated that their education and outreach materials were very well done.

#### 5. Possible Violation at 105 Haven St. & Recommended Enforcement Action/Letter-The Commission discussed a report of lawn debris in the buffer zone as observed and reported by Jim McLaughlin. Agent recommended to send a letter to remove lawn clippings from the buffer zone and riverfront riparian within 2 weeks and copy Berkshire Hathaway, the property's current realtor on the letter. The Commission stated that the owner should be required to remove the clippings behind the house and notify the office when debris is removed.

#### 6. Update on Dead/Hazardous Tree Removals on Conservation Land-Agent Bowser and Jim McLaughlin will visit the sites on Springdale Ave. and along Main Street with the DPW, who may be able to handle the removals.

Anna Nagy asked if Agent Bowser heard back from other Towns regarding their process for mosquito control by private companies. Agent said she had not yet heard back. She was not aware of any requirement that private landowners have to notify the Conservation Commission.

Meeting Adjourned at 9:30 PM

Documents:

36 Farm St., Cheney Eng. Existing Stumps Plan, 3/3/23. NOV letter 4/25/23  
12, 14 Miller Hill Rd. NOV letter 4/25/23  
36 Miller Hill Rd. NOI dated 4/15/23 and Cheney Eng. Plan dated 9/8/22  
Agent Bowser Regulatory Report and Recommendations dated 5/7/23  
4 Bridle Path Cir. NOI 4/20/23, JD Marquedant & Associates Sketch Plan of Land 4/12/23  
6 Sterling Dr. NOV letter 4/24/23  
4 Haven Ter. NOV letter 4/24/23  
Minutes - 2/8/23, 2/22/23, 3/8/23, 3/22/23

Agent's Bowser's Comments on Commission's Draft Meeting Minutes of 2/8/23, 2/22/23, 3/8/23, and 3/22/23

Agent Bowser's email dated 5/8/23 Re: DLCT Blake Reservation Culvert Project

Agent Bowser's email dated 5/9/23 Re: Site Inspection Report Related to Unpermitted Tree Removals at 24 Donnelly Drive

Agent Bowser's email dated 5/8/23 Re: Town of Mashpee's Vote to Expand BZ to 150 feet and the "No Disturb Setback" to 70 feet including copies of education and outreach materials.