

approved
6/21/23



CARVER CONSERVATION COMMISSION
MINUTES OF May 17, 2023 MEETING

Present: Chairman Savery Moore, Vice-Chair Alan Germain, David Hall, Curtis Lake, Environmental Agent Gary Flaherty and Recording Secretary Ashley Swartz.
Absent: Dan Badger

Mr. Moore opened the meeting at 7:02 PM.

DISCUSSION/BUSINESS

Request to place a Geocache on the Cole Property

Gary spoke on behalf of the request – Geocache is a “Tupperware” that holds little trinkets as part of a scavenger hunt via an app. They need permission to place the geocache. Motion to approve the geocache made by Mr. Hall, seconded by Mr. Lake, approved 3-0-1.

318 Tremont Street – construction performed beyond Order of Conditions SE126-628

Mr. Moore noted that Mr. Germain was on the board when this project came to Conservation. Mr. Moore read the meeting minutes from that meeting, October 6, 2020. He added that the plans were signed by the engineer and the agent of the applicant. The pavement has not been cut back, there is no split rail fence (there is chain link with barbed wire and a gate). Mr. Moore noted the gate was not in their jurisdiction. This goes against the order of conditions originally set forth. Ben Bryant from was present to discuss the issues. He said the paperwork says they had three years to complete the work. Mr. Moore explained this particular notice of intent was done after the fact. Mr. Germain explained a notice of intent is submitted when there is bare land. This is an after the fact which means the law was already broken and then ask the board to for permission – the order of conditions is after the fact. The variance was given to help them. There was discussion as to whether three years applied to an after the fact NOI. Ben said he was under the impression that they had three years to complete the project. He spoke to how the property was before they acquired the property. He said a berm system was put in that he said was added protection to the wetlands that are the topic of concern for this project. He showed proof of the work done through photos he said were taken earlier today. He was concerned about the parking and added that it would be hard to prove any runoff is compromising the canal. The added berms, the slopes towards Tremont, and other actions they took should be seen as adding protection to the canal that were not currently in place. Ben said he has never seen water go over the berm in the almost two years he has been at the property. He was hoping they could look at this a little differently – saying the prior owner had a parking lot was 57 feet 3 inches and not 65 feet. They are asking for grace in the situation – but the Commission argued they had an order of conditions. Mr. Germain expressed frustration about the pavement that was added where it wasn't before. Mr. Moore said the 65-foot buffer zone is so there is no runoff – and is not the issue (it is the ability for the ground to absorb the water – without an impervious surface). He continued that from the standpoint of grace – there is none. They came to the Commission after something illegal was done, they were asked to change it two years ago and it hasn't been done. Ben argued about the three-year timeframe on the paperwork. Mr. Germain read the order of conditions and explained that JC Engineering signed off on these conditions on the plans. Ben asked about changing out the split rail fence with

boulders – he was instructed to apply for a modification. Mr. Germain said he understood why they wanted to fence off the property and said he had no issue with them securing the property. Ben asked about the need for the split rail fence – which was to keep people away from the protected area. Mr. Germain suggested taking the asphalt out and putting in reprocessed into those spaces that would still allow it to drain. Mr. Moore said it becomes as hard as asphalt over time – he said he wanted this to go back to what they agreed to and putting that area back to nature. They agreed they would be amenable to a chain-link all the way around if they wanted to modify the order of conditions. Gary said they could work with their engineer to get an amendment. Ben said they would cut the asphalt as originally agreed and work on the amended order of conditions for the chain-link fence. Mr. Germain explained what they are trying to avoid when it comes to an after the fact notice of intent. Mr. Moore relayed the issue of precedent and thought they were being lenient by coming to a compromise.

Certificate of Compliance for SE126-469

Off Federal Road – none of the work was done under the order of conditions (as confirmed by GAF Engineering). They want to close the file since its 10 years since the project was started. Motion to approve the COC made by Mr. Germain, seconded by Mr. Hall, approved unanimously 4-0-0.

Certificate of Compliance for SE126-542

Makepeace property – no work was done and was filed in 2017 and want to close out the project. Motion to approve the COC by Mr. Germain, seconded by Mr. Lake, approved unanimously 4-0-0.

Both of these properties are located on MAP 131 Lot 2-4. COC had to be approved in order to close the project.

NEW PUBLIC HEARINGS

134 Main Street

NOI DEP File: SE126-661

Brad Holmes – Webby Engineering - on behalf of the property with property owner Gregory Pflaumer. A notice of intent has been submitted for the construction of a detached garage associated with an existing single-family home in a previously developed portion of the property and a mitigation area within the 100 ft. Buffer Zone to a Bordering Vegetated Wetland and the 200-foot Riverfront Area. The project work is also within the 65-foot Buffer Zone to a Bordering Vegetated Wetland and Bordering Land Subject to Flooding. The area has been delineated. Mr. Moore read from the minutes of November 18, 2021. In these minutes, there was a note about submitting an NOI which there is no record of. Greg summarized what he understood from the meeting on November 18 and explained he didn't realize action needed to be taken. The minutes specify an NOI for the work he anticipated and an after the fact NOI for a variance for what had already been done. Mr. Moore said he wanted to combine the After the Fact NOI with the current NOI for the garage – but require even more remediation. He suggested this could fix both issues. Mr. Hall said it would be reasonable to get rid of the gravel and restore to its natural state. Mr. Germain questioned the idea to go back to the 65-foot. Greg suggested some ideas for more plantings (along the wood chip area). Mr. Moore asked Greg and Brad to go back and come up with plans to repair the boarding wetlands and riverfront area. That will take care of the outstanding notice of intent. He asked to include grading on the plans for the garage (existing and planned). They agreed to come back June 21 with revisions. They are covered for the reparation work planned in the 65-foot buffer zone.

213 Meadow Street**NOI DEP File: SE126-666**

GAF Engineering on behalf of Red Meadow LLC. A notice of intent has been filed for the construction of a farm stand and improvements to a crushed stone parking lot within the 100 ft. Buffer Zone to a Bordering Vegetated Wetland and Bordering Land Subject to Flooding. The project work is also within the 65-foot Buffer Zone to a Bordering Vegetated Wetland and Bordering Land (with no elevation assigned). The farm stand was placed as close to the street as possible (and it is located next to Red Meadow's own bog). The building is on stills which can be moved; however, it is 4,000 square feet of fill. Abutters have been notified. Mr. Moore said they were out there today. Mr. Hall said the building is an agricultural accessory and they can't really put the building anywhere else. When the property owner met with the building inspector he asked if this was the best spot. They were approved by the building inspector to put the building there, and led to believe that was all that needed to be done. The amount of gravel is what puts this structure into Conservation's purview. Mr. Germain said he believes the owner did everything right but was misled – noting all the things he liked about the stand. The property owner noted he has intentions to be sustainable and there was never an intent to make it a permanent structure. Mr. Hall asked to clarify what the variance is needed for – the gravel needs to be approved by a variance. Motion to close the hearing made by Mr. Germain, seconded by Mr. Hall, approved unanimously 4-0-0. Motion to approve the NOI made by Mr. Hall, seconded by Mr. Lake, approved unanimously 4-0-0. Motion to grant the variance made by Mr. Germain, seconded by Mr. Lake, for the work done within the 65-foot, approved unanimously 4-0-0.

0 Old Center Street (Lot 1)**NOI DEP File: SE126-667**

Bob Rego - RiverHawk Engineering, on behalf of JLK Realty and Development. This was a larger parcel that has been subdivided into three lots. There is an existing abandoned bog and was delineated. They are filing an NOI for the grading associated with the construction of a single-family dwelling within the 100-foot Buffer Zone to an Isolated Land Subject to Flooding. There is limited grading between the 65- and 100-foot buffer zones. They thanked Bob for well done plans and staking out the house. Mr. Germain said the bog now looks like a forest and there were other comments about these plans being a "job well done". They said they would like wetland signs at the 65-foot buffer. Mr. Moore noted there was no tree line on the plans. Bob said they would be about 80 feet from the wetlands, almost parallel of the 65-foot zone. On the southerly boarder, Bob said they plan to leave every possible tree (to screen from the powerlines) and to protect the wetlands. (They would like to have in the conditions the tree line stay as close to the 100).

0 Old Center Street (Lot 2)**NOI DEP File: SE126-668**

This NOI is for the grading, retaining wall, driveway and well associated with the construction of a single-family dwelling within the 100-foot Buffer Zone to an Isolated Land Subject to Flooding. A little bit of the deck, the grading and the dry well is in the 100. Gary asked if they would like the conditions to state the tree line stay in the 65-foot. (For this specific lot).

0 Old Center Street (Lot 3)**NOI DEP File: #SE126-669**

This NOI is for the grading and deck associated with the construction of a single-family dwelling within the 100-foot Buffer Zone to an Isolated Land Subject to Flooding. The project work is also within the 65-foot Buffer Zone to an Isolated Land Subject to Flooding protected under the Carver By-law and will require a variance from the Carver Wetlands Protection Bylaw. They discussed the little bit of concrete and the dry well fell in the 100-foot.

They would like eight signs across the other two properties. Motion to close the hearings for lots 1, 2, and 3, made by Mr. Germain, seconded by Mr. Hall, approved unanimously 4-0-0.

Motion to approve the NOI as drawn for Lot 1 made by Mr. Germain as drawn on the plans dated May 1, 2023, seconded by Mr. Hall, approved unanimously 4-0-0.

Motion to approve the NOI as drawn for Lot 2 made by Mr. Germain as drawn on the plans dated April 5, 2023, seconded by Mr. Hall, approved unanimously 4-0-0.

Motion to approve the NOI as drawn for Lot 3 made by Mr. Germain as drawn on the plans dated May 1, 2023, seconded by Mr. Hall, approved unanimously 4-0-0. Motion made to approve the variance for Lot 3 by Mr. Germain – allowing the well within the 65-foot zone, seconded by Mr. Hall, approved unanimously 4-0-0. It was noted the order of conditions there should be wetland signs (6-8 across Lots 1 and 2) and have three signs on Lot 3, one at Center Street, one placed at the corner of the garage nearest the 65-foot zone and the one placed down the other end coming off the corner of the house.

MINUTES

Motion to approve the minutes from April 19, 2023 made by Mr. Germain, seconded by Mr. Hall, approved unanimously 4-0-0.

Mr. Moore said at the next meeting they have to reorganize Conservation Committee.

Motion to adjourn made by Mr. Germain, seconded by Mr. Hall, approved unanimously 4-0-0.

Meeting ended at 8:34 PM.

Minutes submitted by Ashley Swartz.