

approved
8/2/23



CARVER CONSERVATION COMMISSION MINUTES OF JULY 19, 2023 MEETING

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

Mr. Moore opened the meeting at 7:00 PM.

DISCUSSION/BUSINESS

Half Day Workshop – Thomas Bott

Discussion about priority development areas (areas you want to improve) and priority protection areas (areas that require protection). Last updates for PDAs and PPAs were done in 2013. Right now they are in the data phase of the process. More public meetings about this will be held in the fall where the initial investigations will be brought to a broader general public. They will work with boards like Conservation, Planning, Select Board and RDA to review the data sets for public meeting. Today he is asking for a member or members who are willing to sit in on these meetings to review the information. Mr. Moore asked what SERPET does with the results. They are a regional planning agency that operates as an advisory board. PPDs and PPAs are not zoning, they are mapping and data - however sometimes zoning concerns result from this meeting that will go to town meeting. Mr. Badger asked about the open planning that recently concluded. Thomas said they work parallel paths and they will identify areas that should be protected versus open areas. Mr. Badger followed, that some of the "red parts" abut conservation restrictions, and even though the final results are not out yet from their last meeting there may be areas that need to be "revitalized". Thomas said there were places in town where at once it was a good idea - and could be considered for redevelopment. The map they have (2017) is not a set plan, it's to show the process of how they will look at these various areas. Mr. Moore asked about the dotted lines on the map and there was nothing in the key that indicated what they were. Thomas said those lines are PPA and PDAs from 2008 - showing the changes since the process has begun. Mr. Moore also asked if agriculture was an okay use for a PPA. Thomas said it starts with the data and goes to a larger public forum so he could not say. Mr. Hall and Mr. Lake volunteered to join the committee that would review these areas. They expect to start in August.

Town of Carver – Montello Street – Certificate of Compliance (DEP #SE-126-617)

Wayne from VHB, they are requesting a COC. They noted how the general and specific set of conditions have been adhered to during this project. Gary, Mr. Hall and Mr. Moore did a site visit this morning and Mr. Moore noted that the work looked great. He noted the boxed culvert looked better than originally anticipated. They planned to extend the culvert but they didn't have good historical records of the culvert - which required them to pivot and create a new one. Mr. Moore continued by noting other areas they were impressed with, noting he had no problem with it. Motion to approve the COC made by Mr. Hall, seconded by Mr. Lake, approved unanimously 4-0-0.

104 Tremont Street – Certificate of Compliance (DEP #SE126-448)

Federal Cranberries - Mr. Moore noted that he, Gary and Mr. Hall visited the site and saw the work that has

already been done, which had matched the drawings that had been approved. Mr. Moore noted the crop “looked fantastic” and everything looked to be done according to plan. Motion to approve the COC made by Mr. Hall, seconded by Mr. Lake, approved unanimously 4-0-0.

36 Bates Pond Road – Work performed without permission

Mr. Moore, Mr. Hall and Gary visited the site earlier today. Frank Buckman, the property owner, was present. The Commission notified him a while back about cutting he done along the water, which he said he would let it grow back. After the site visit today, they saw it did grow back but there was debris that needed to be cleaned up along the water in order to ensure it didn’t get tangled up in the brush and need to be grown back again. Mr. Moore said once this all grows back and cleaned up it will be good. They noted a picket fence which Frank said was to protect some lilies. He also said he cleaned out some areas and replanted. Mr. Moore noted “they were good”.

17 Wareham Street – Complaint

Gary said an abutter complained about fencing and goats that were placed along the brooke, mostly in shrubbed and forested land. Mr. Moore, Mr. Hall and Gary went to the property today and found the property matched the complaint’s description. Mr. Moore said they need to send a letter to remove the fence - they made a decision to not allow an after the fact NOI - the property owner will have to remove and if they want it back they will have to come before the Commission with plans. Motion to send a violation letter made by Mr. Hall, seconded by Mr. Badger, approved unanimously 4-0-0.

Donation offer from Mitigation Land Specialists

Gary provided a copy of the email - they haven’t named the project they would like to contribute, but Gary said he would like The Commission would like to put money towards. Mr. Moore asked to put this on the next agenda since the Commission didn’t have a chance to review the email prior to the meeting. Mr. Badger asked Gary to give them protocol / guidelines about how to receive funds properly. Mr. Moore said he saw this email a couple of weeks ago and didn’t not think they could accept funds. Mr. Badger said he wanted to be aware of their agenda.

Mr. Moore noted they are now a Commission of four and they have an open seat. He said anyone who would like to sit on the Commission can fill out an application online or go to the Town Administrator’s office.

CONTINUED PUBLIC HEARING

134 Main Street

NOI DEP File: SE126-661

The proposed plans are for a garage addition, and the original plans had a lot of disturbance in the 65-foot-buffer. The Commission had asked him to revise the plans. There is an area on the plans that now show restoration with loam and seed (and return to nature) and plantings of trees - which will replace trees previously removed. Mr. Badger asked about the proposed garage and whether or not it could be reoriented away from the 100-foot-buffer. The plan is to keep the garage how it was planned in order to get a vehicle in there - he hasn’t revisited the idea of changing the garage positioning. It was noted where the delineations are measured - which happens to be the Mean High Watermark. Mr. Moore said there was nothing being built within the 65-foot-buffer and the SE corner of the garage was at approximately the 85-foot mark. Mr. Moore said he was okay with this - noting the restoration of the area was the priority. Gary suggested a barrier of the 65-foot mark, but Mr. Moore said posts and placards were sufficient - but wants them across the 65-foot line of the property, every 50 feet, which would be roughly five (5) or six (6). The property

owner questioned the need for the signs - Mr. Badger explained that this is a standard practice, Mr. Moore added that Town Council has given them permission to put a split rail fence instead of posts. He suggested putting PVC in the ground, which allowed him to remove the post when he mowed his lawn. Motion to close the hearing made by Mr. Hall, seconded by Mr. Badger, approved unanimously 4-0-0. Motion to approve the NOI, with the conditions set forward by the Agent, made by Mr. Hall, seconded by Mr. Badger, approved unanimously 4-0-0.

NEW

PUBLIC

HEARING

132 Plymouth Street

RDA

Thomas Butler; to determine: (a) whether the work depicted on the referenced plan (s) is subject to the Wetlands Protection Act and whether the area and/or work depicted on referenced plan(s) is subject to the jurisdiction of any municipal wetlands ordinance or bylaw of the Town of Carver. The RDA is for constructing an addition to a single family home approximately 90 feet from Coopers Pond. The property is located at 132 Plymouth Street; Assessors Map 17, Lot 85-0-R, Carver, MA. All interested parties are invited to attend.

Tom Butler, the builder on the project, representing the applicant/property owner. The Commission will have to determine if an RDA is sufficient or if an NOI would be necessary. This is a previously disturbed area. Tom noted that the existing line of the house and the deck are past the buffer zones. Moving back puts the property in violation of zoning. The deck is being rebuilt - which will be replaced using the same dimensions. The issue being discussed is the corner of the proposed addition. Gary recommended a negative three determination - noting erosion control when they start the project. Motion to close the hearing made by Mr. Badger, seconded by Mr. Lake, approved 3-0-1, with Mr. Hall abstaining because of a family relationship. Motion for a negative determination made by Mr. Lake, seconded by Mr. Badger, approved 3-0-1, with Mr. Hall abstaining because of a family relationship.

46 Federal Road

NOI DEP File: SE126-670

Notice of Intent submitted by ADM Cranberry Company, LLC for the construction of 22.3 acres of cranberry bog; the construction of a 2.9 acre reservoir/tailwater recovery pond and the enhancement of an existing 7.1 acre cranberry bog through clearing, excavating and grading. A portion of the proposed work is within the 100-foot buffer zone of a Bordering Vegetated Wetland (BVW/cranberry bogs); however, some minor activity (grading, equipment activities) will be conducted within the 65-foot buffer and will require a variance from the Carver Wetlands Protection Bylaw.

Mr. Moore, Mr. Hall and Gary were at the site this morning to see where the proposed work would take place.

Bill Madden of GAF Engineering, on behalf of the applicant, ADM Cranberry Company, LLC. The purpose of the plan is to have an order of conditions issued to move forward with the earth removal permit to advance the project. The Earth Removal committee would like to see an order of conditions. This is a rather large project but limited involvement with conservation since the land is considered agricultural. Bill showed the plans noting buffer-zones, explaining the purpose of the low flow dykes, and other features of the project - he pointed out that the land is exempt from conservation regulations due to it being in agricultural use. The plans contain construction of 22.3 acres of cranberry bog; the construction of a 2.9 acre reservoir/tailwater recovery pond and the enhancement of an existing 7.1 acre cranberry bog through clearing, excavating and grading. A portion of the proposed work is within the 100-foot buffer zone of a Bordering Vegetated Wetland (BVW/cranberry bogs); however, some minor activity (grading, equipment activities) will be conducted within the 65-foot buffer and will require a variance. The Conservation Commission's concern is regarding the earth removal part of the project. The 7 acres of clearing is to remove the trees that are shading the proposed bogs - which can be attributed to frost and air circulation.

Mr. Moore asked Bill to discuss the wells - there is a public supply well on the OceanSpray side - used for domestic and process needs on the site. There is one well for the Ocean Spray plant and a municipal one well for Cranberry Village. He also explained the different zonings for different wells - and said when they do work in an area of a zone two well, there are certain regulations they need to work with. Mr. Hall asked for clarification regarding the zone two dash line on the plans, if these are the calculated impact of the well, and the other being the proposed zone two impact. Bill confirmed he was reading the plans correctly. Mr. Badger said, in terms of agricultural exemptions, he had a question about work that could be done to projects that are grandfathered in versus new projects. He asked if there were any gradient plans - Bill said the existing and proposed topography was on the plans but Mr. Badger clarified he is looking for the groundwater table and gradients. Bill said he has that information from USGS and can provide it if needed. Bill also said that the existing bogs are lower than the ones they are proposing. Gary said there was a notification from DEP for the Wetlands Protection Act and there were no comments for this filing. Mr. Moore said almost this entire area has been excavated about 80-82 feet and the contour lines that show on the east side of the bogs were man-made buffers from a previous order of conditions to block the construction being done now. Mr. Moore noted that this is a big project and it is agriculture. Jen Bogart was asking for clarity of the work going on, saying the notice for these plans were similar to the notice in 2017 - Bill said what is being presented today was also presented in 2017. Jen referred to a report from 2022 that says the clearing has been done and was confused why more clearing needs to be done. Mr. Moore added that the area that needed to be cleared was furthest from the bog - which is the area with the trees that would impact frost. Gary spoke with AD Makepeace said the last phase will happen in the Spring. The area being cleared next to proposed bog three is for maintenance equipment. Gary said if they plan on putting plugs in the Spring everything else would have to be ready before that. Bill said he doesn't have an answer to the completion date and he was here to discuss the information related to the filing. Jen asked to consider two items for the order of the conditions - (one) all vehicles used on the property use white noise back ups rather than the traditional back ups. Mr. Moore said that request was not in their jurisdiction - but thinks either Zoning or Earth Removal could add that condition. Jen asked about working hours but Mr. Moore said that would likely be on the planning department. Bill said he would provide an additional orthophoto to show the extent of the tree clearing. Katherine Harrelson (community land and water coalition). She discussed the excavation projects being done on Federal Road, referred to an affidavit that was submitted, and a report by a hydrologist about the possible impacts of this project of the drinking water. Mr. Moore commented that he read the affidavit and that Conservation wasn't mentioned at all and thinks the points may be misdirected - especially since the affidavit covers all the AD Makepeace projects, not this particular one. Meg Sheehan also had comments about the project and perceived violation of by-laws. A resident, Mary, was concerned about this project and the drinking water. Another resident, Dan, also voiced concerns about the plans (stating they were incomplete) and said he wasn't aware of another bog that required tree clearing for the purpose of the bogs. Wendy, another Federal Road resident, who said she has logged 200 trucks that go down Federal Road every day. She suggested the tree clearing was to get at the sand, not because of the health of the bogs. Mr. Badger referred to the precedents the Commission is trying to set - stating that the more information that comes in, the more they are able to enhance their by-laws. In the last few years, he has been requesting to have more say over things that happen underground. He said he is concerned about the timelines of these projects - also noting the disconnect between some of the Commissions. Mr. Badger said he has some serious concerns regarding the hydrological evidence and wanted to look at this project "big picture" and is not comfortable making a decision this evening. He told Bill he would give him a list of concerns for him to review. Mr. Badger added that some of the comments were merely scare tactics and he wanted to work with the public and the commissions instead of antagonizing. Mr. Hall agreed that this hearing needed to be continued and was concerned about the groundwater concerns. Mr. Moore asked Gary (due to his experience) whether this was a grey area in terms of jurisdiction, and wanted to know how this works in other towns. Gary said in other towns (he is familiar with) Conservation's jurisdiction ends at the 100-foot-buffer. Mr. Moore pointed out that the tree clearing happens in projects and because it is nowhere near water, Conservation isn't even aware of it - and in this case it was debatable if this was or wasn't in their jurisdiction. Gary noted that a comment was made about the 1 to 60 scale and the Commission was in agreement that this scale was acceptable. Bill pointed out that this scale was done to show the entirety of the project in one sheet. Gary also addressed the audience about where Conservation has jurisdiction.

Conversation continued with resident concerns. Mr. Moore asked Bill for data on how the shading of the trees impacts the bog health. Mr. Moore also asked if he could review the plans to see alternatives of the excavating. They also requested another site visit for those who could not attend today, and discussed the various ways that water testing could be done. With a frustrated audience, Mr. Moore made a point that if 3 of the 9 bogs were just a little smaller, this wouldn't even be coming before the Commission because their work would be outside the 100-foot-buffer zone. He said this to help illustrate that many of the concerns of the residents were not in Conservation's jurisdiction.

Motion made to continue the hearing until August 19, 2023 made by Mr. Lake, seconded by Mr. Hall, approved unanimously.

UNANTICIPATED

MINUTES

Mr. Moore asked to table the minutes until next meeting.

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

Meeting ended at 10:01 PM.

Minutes submitted by Ashley Swartz.