



approved
11/15/23

**CARVER CONSERVATION COMMISSION
MINUTES OF OCTOBER 25, 2023 MEETING**

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

Absent: David Hall

Mr. Moore opened the meeting at 7:01 PM.

DISCUSSION/BUSINESS

Extension Request for Order of Conditions – DEP File #SE126-587

Sarah Sterns with Beals and Thomas, Hank the project developer requesting an extension for the order of conditions. They are looking for a one-year extension to complete remaining work on the projects (delays are a result of Covid). A substantial portion of the project has been completed but want to remain compliant which is why they are requesting the extension (0 Pond Street). Gary said due to the Covid state of emergency, their permit would go to November 26, 2024. Motion to grant the extension request made by Mr. Lake, seconded by Mr. Badger, approved unanimously 4-0-0.

Certificate of Compliance – DEP File #SE126-596

Motion to approve the COC for 46 Spring Street, made by Mr. Miller, seconded by Mr. Badger, approved unanimously 4-0-0.

17 Wareham Street - Update

Letter written by Gary (second letter) includes a sketch of the area of concern. He has begun filling out the enforcement order and wanted to check on the verbiage used. They have no replied to any previous letters – the second was sent by certified mail. They had until October 15th to respond. Gary was questioning the restoration plan and whether or not it should include a date. Mr. Moore noted that a restoration date would be a part of the discussion when they came in for a discussion. They agreed to send the letter out now. Motion to send the enforcement order as proposed made by Mr. Miller, seconded by Mr. Badger, approved unanimously 4-0-0.

NEW PUBLIC HEARING

Utility Right of Way - Map 61 Lot 7

NOI DEP File: #126-675

Notice of Intent submitted by NStar Electric Company d/b/a Eversource Energy for the construction of three (3) monopole structures on eight (8) inch diameter concrete foundations, associated underground cables, a 32-inch cast iron manhole and potential minor tree trimming/removal within the 100 ft. Buffer Zone to a Bordering Vegetated Wetland. Most of the work will be temporary in nature. A portion of the project work is also within the 65-foot Buffer Zone protected under the Carver By-law and will require a

variance from the Carver Wetlands Protection Bylaw. Peter Defisco – Environmental Agent for NStar. This is a transmission project – which delivers high voltage energy to the stations. This is constructed in an existing right-of-way. They will need to cut some brush and grade within the buffer zones – they like to give crews 100' x 100' working area. They need to excavate to install the poles and then will restore the site. There is also work underground (previously disturbed) and potential trimming to stay clear of the lines. Motion to close the hearing made by Mr. Miller, seconded by Mr. Badger, approved unanimously 4-0-0. Motion to approve the NOI, made by Mr. Miller, seconded by Mr. Badger, approved unanimously 4-0-0. Motion to grant the variance made by Mr. Miller, seconded by Mr. Badger, approved unanimously 4-0-0.

46 Spring Street

AOOC DEP File: SE126-0596

The request to Amend the Order of Conditions for the construction of a portion of a commercial building, bituminous concrete parking area, block retaining wall, grading and drainage system within the 100-foot buffer zone to a Bordering Vegetated Wetland, which are modifications from the original NOI & OOC. A portion of the project work is also within the 65-foot Buffer Zone protected under the Carver By-law and will require a variance from the Carver Wetlands Protection Bylaw. Mr. Moore said this came up at the last meeting for a certificate of compliance and they learned changes had been made since plans were approved. Eric Shoemaker had a formal request for an amended order of conditions. He recapped the changes and explained why some changes were made. Pictures of the retaining wall that was constructed were provided at the last meeting. Mr. Moore asked about the retaining wall being coordinated with Conservation – he said he had no record of that. They agreed that Conservation was never included in that change. Mr. Moore continued stating (in his opinion) that the retaining wall was a valid solution. Mr. Miller agreed that it was the best solution. Kathryn Harrelson wanted to comment on the impact on the natural resources. She said they sent comments at 4:00 PM this evening – therefore the letter cannot be part of tonight's record because no one has seen it. She is concerned about the impacts across the span of the project and the impact on Rickett's Pond. She also believes that they are not looking at the project in its entirety. Brandon Fannon, professional wetland scientist, also had some comments regarding the project. His concern was the variance should be a rarity and additionally was concerned about the vernal pool. Ultimately, he didn't like that the applicant was asking for forgiveness instead of permission. Mr. Moore said he agrees about the after-the-fact order of conditions – stating that the plans that were approved didn't work and they should have come before the Commission before changing direction. He also stated the solution was ultimately better than the original plans. The proof that was provided at the last meeting was reason for them to be more flexible because of the damage that could have ultimately been done to the surrounding area. Finally, he said that the lots have to be looked at individually because they are individual projects. He noted the trees that have planted as well as other measures taken. Mr. Badger said one of the biggest problems he has with this is that procedure was not met. He said it was hard to be proactive when there is no monitoring team checking on compliance for each project. He noted that he agreed that variances should be rarities as well as working towards more robust by-laws. Mr. Badger stated that he believes there should be a penalty when procedure is broken. Mr. Moore added that the by-law for the 65-foot buffer was different in 2018 – the more robust by-law is now in place. The conversation continued about how the by-laws have been strengthened year over year. Eric made some additional comments regarding the slopes, the hardships and the vernal pools. There were some additional comments about the vernal pool – certified or not – resource area or not. Motion to close the hearing made by Mr. Miller, seconded by Mr. Badger, approved unanimously 4-0-0. Motion to approve the amended order of conditions made by Mr. Lake, seconded by Mr. Miller, approved unanimously 4-0-0. Motion to approve the amended variance, with the applicant donating to the MA Wildlands Trust of recommended \$1,000, made by Mr. Miller, seconded by Mr. Badger, approved unanimously 4-0-0.

CONTINUED PUBLIC HEARINGS

14 Indian Street

NOI DEP File: #126-674

The plans have been revised to rotate the house to remove the impervious surfaces outside the 100-foot buffer. Mr. Moore was pleased that the changes have been made that they were asked, stating this was a great solution. Motion to close the hearing made by Mr. Lake, seconded by Mr. Badger, approved unanimously 4-0-0. Motion to approve the NOI made by Mr. Lake, seconded by Mr. Badger, approved unanimously 4-0-0. They agreed to the standard order of conditions with three signs along the 65-foot line (parallel with the easement).

UNANTICIPATED

Mr. Badger wanted to publicly thank the town and the Commission as he has decided to step down at the end of this year. Mr. Badger stated he learned a lot while serving this community and wants to take a step back to start implementing some Conservation projects and provide himself more bandwidth. Mr. Moore said Mr. Badger has been an asset the last six years and he has learned a lot from him as well. He noted the insight he brings to the Commission. He said he looks forward to the insight he brings as a public citizen. There was another candidate who submitted their application recently they plan to reach out to – but will advertise the position online.

MINUTES

Motion to approve the minutes as amended from October 4, 2023 made by Mr. Miller, seconded by Mr. Badger, approved unanimously 4-0-0.

Motion to adjourn made by Mr. Badger, seconded by Mr. Miller, approved unanimously 4-0-0.

Meeting ended at 8:05 PM.

Minutes submitted by Ashley Swartz.