

approved
12/1/21



CARVER CONSERVATION COMMISSION MINUTES OF OCTOBER 20, 2021 MEETING

Present: Chairman Savery Moore, Alan Germain, Jim Nauen, Dan Badger, Peg Blackwell, Environmental Scientist/ Agent Brooke Monroe, and Recording Secretary Ashley Swartz.

Mr. Moore opened the meeting at 7:08P.M. In order to make the meeting more efficient and to respect the time of the new hearing (due to the length of time expected for Pinegate Renewables) Mr. Savery suggested changing the order of the meeting: 5 Johns Pond Road,

Motion to change the order of the agenda, made by Mr. Germain, seconded by Mr. Nauen, approved unanimously 5-0-0.

5 Johns Pond Road

NOI DEP#126-630

Notice is hereby given, in accordance with the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and the Carver Wetlands Protection Bylaw, that a public hearing will be held at 7:00 p.m. on Wednesday, October 20, 2021 in Meeting Room 1 at the Carver Town Hall to hear the Notice of Intent; submitted on behalf of Tony Lombardo; for after-the-fact repair/construction of a retaining wall, with stairs and a patio and the disposal of trees stumps and brush. The proposed work was conducted within the 65-and 100-foot buffer zone to; and on the bank associated with; John's Pond.

A variance from the Carver Wetlands Protection Bylaw, Section 9.2.1.3 (3), is required for the activities within the 65-foot buffer protected under the By-law.

The project is located at 5 John's Pond Road, Carver, MA; Map 12, Lot 4-4. All interested parties are invited to attend.

Patio and cement retaining wall. Owners described the history – the existing structure was falling apart (decomposing rail ties) and the owners decided to repair the existing, not knowing they had to get permission for repairs. They submitted some pictures and they reference where the beach is – said if they had known better, they would have had better pictures. The pictures date back to 2018 and before. The pictures were passed around. Mr. Germain pointed out that the issue is that it is after the fact – he did note that it is not modified or enlarged. He thinks in this case he thinks the owners just didn't know. He also spoke to how the owner came to the Commission with work he did in regards to the business and was amicable. Mr. Badger added that nothing malicious was done and that the only thing he was concerned about was the new materials and how they drain. Mr. Germain reminded the Commission that the board agreed to not have the owners go back

and do any more damage. One of the owners stated that they left everything they were supposed to alone and the natural vegetation has come back and it looks "good". Mr. Moore noted a similar situation the Commission is currently dealing with. He spoke to the integrity of the board and that we should replace same with same (take the rock wall out and put in timbers). Mr. Germain spoke to Mr. Moore's comments – the difference here is that this case was not with forethought. Mr. Germain asked where does this stop with the precedent? Mr. Moore said this should probably be continued and there should be better before and after photos. The homeowner said if he had come to the board first and showed them the materials, they probably would have been okay to replace. There was an abutter present who had photos which she said showed that the footprint had been modified. Mr. Germain asked if the blocks used for the wall were 2 feet or 18 inch. There was a question as to what was used. There was a conversation about a site visit being the next steps. There was a question about whether or not sand had been brought in – the abutter said the slope had been vegetative. Mr. Moore asked Brooke to get the Google earth photos and set up another site visit.

Mr. Germain made a motion to continue until December 1, seconded by Mr. Nauen. Approved unanimously 5-0-0.

Pinegate Renewables, LLC – Discussion of Stop work order / timber poles

Mr. Moore, Kevin Forgue (Health Agent) and Brooke, Environmental Agent visited the site yesterday, Mr. Moore was going to give

Will Fisher and Julianne Wuton of Pinegate Renewables

Pinegate is the owner of the bogs on Tremont and Rochester Roads

The plans originally were steel and after the site assessments in 2020 they learned there was about 30 feet of peat under the bogs. Various options were tested (including helical piles) but that would have required drilling below 50 feet. Steel piles below the peat would have to be replaced every ten (10) years for the project life. Wooden poles were determined to be the best alternative.

CCA preserves the wood and can help them last for up to forty (40) years – this would require fewer piles, less depth, resulting in displacing less earth and reducing impact on the bogs while providing the stability needed. Once the decision was made in the change of material, Pinegate notified planning department, fire department and town's third-party engineer. Provided notice in a cover letter to the company of the building and permit applications and the technical specifications of the wooden poles were included in the issue for permit drawings.

Brought experts not affiliated with project. Steve Vetere Environmental Engineer – studies release to metals to the environment. Looked into the CCA treated timbers. These poles have been used in agricultural and aquatic applications since the 1940's. 150million of these poles – convey utilities through neighborhoods, recreational applications through ponds, potential exposure of risk is low. A few studies have been done on the metals in these poles – added as a preservative – chromium and arsenic – there are limited amounts that will migrate into soils – a foot to a foot and a half and penetrates less than 2 feet downwards. Also, the forms of chromium, arsenic and copper don't end up in soluble form – they stick to the soil drains and don't move very far (especially with peat underneath). Concluded in memo that this is a low risk. May be a release of metals in the areas immediately around the poles.

Pete Dillon – Chromate is very stable and mobile in the environment and won't dissolve – the copper and arsenic as well will be “grabbed up” by the peat and won't “go anywhere”. In order to move through ground water, you have to have it in a dissolved phase – this is not and it won't transport anywhere. USGS 1992 Source did a study of the aquifer and produced a map of groundwater flow – it includes both these bogs. You can see the groundwater flow in both of these areas. One flows from E-W and discharges to Cranebrook. The other flows from W-E and discharges at Indian Brook. Both eventually discharge into Weweantic. There is a public water supply (that is tested on a regular basis).

Mr. Germain questioned some of the wording in the report. He asked if this goes bad, who is responsible. There is a problem in North Carver and this is still a concern about it. He referenced a comment from the last meeting, “What happens when South Carver turns into North Carver” and he said it stuck with him. He said his primary concern is we don't know what we don't know – who is going to go on the hook and protect this?

Mr. Nauen said he thinks Mr. Germain's comments are “un-based” and thinks solar is a very good idea. Ms. Blackwell asked if there were any studies showing these poles buried at this depth and how long they can last at this depth. Steve explained there are no studies of poles buried this deep and not going over an aquifer. The suggested hypothesis is that impact only affects two feet around the poles.

Mr. Badger asked to define the arsenic – arsenic 5. Mobility and migration are of concern. The parameters are a certain depth, a concentration, an area that is agriculturally based (and where the water leads in and out), which does not meet the parameters that concerns the board. “No adverse risk” of handling the poles – there are studies that show the opposite as well. There is a letter to the Conservation Commission that implies that delays are leading to local jobs.

Pete said arsenic 5 is immobile in the environment – “the chemistry is the chemistry” and backs up the studies that have been looked at.

Mr. Badger said he was relieved to hear there was a groundwater monitoring plan. Mr. Badger isn't just concerned about the drinking water but also what the growers think about how this affects their products. Mr. Germain asked the total number of poles in the 2 projects (3200).

Mr. Moore said in regards to the leaching of the CCA from the pole – it is your hypothesis that this only happens above the pole. Steve confirmed that it doesn't matter if the pole is 2 feet or 100 feet deep.

The berry-guys well is below the elevation of where the poles would be – not far from where the peat is. Mr. Moore asked if testing is done and the results are bad, what would happen. The experts said they would have to remediate – Pinegate would be responsible. They would have to prevent migration (hydraulically contain is an example). There was a discussion about how the residents who were here for this discussion can walk away feeling safe and feel better about the project. Mr. Germain asked about the reaction between the pesticides used on the bogs and the CCA. Mr. Moore asked Pinegate about the life of the project which was 40 years, but the steel poles was only 10 years – because of the peat. This was all accurate. Mr. Moore asked if there is a percentage of yield that has to be met (to satisfy the state) based on what the crop was prior to the solar being installed. Julianne did not believe there was a set standard, but instead based off a submitted application and what was stated on said application as part of the approval (then measured against it). Mr. Moore continued by asking what is the outcome if not met – they would lose part of the profitability of the project (the agricultural adder).

Bob Bentley, Environmental Scientist – here on his own behalf. CCA leaches from wood at higher rates than the experts are stating. The lower the pH the more leaching you experience –

for 10 to 40 years and in Carver we will never see a pH of 8 (the wells are 4.5 – 5). The chemicals found in these poles can also mutate and some can even be toxic. He also thinks there should be a soil monitoring program in addition to the groundwater monitoring program. He is not as concerned about the chemicals getting into the aquifer but is concerned about the bogs and the immediate area.

Mr. Higgins Pinegate came to the town with a plan and a product and changed it. He wants to know if they are okay with this.

Donna Forand study National Institute of Health – regarding arsenic in the water and groundwater. This was a pole study done in 2008 and was very concerned about the findings. She asked if anyone considered what would happen to the bog industry if people learned there was arsenic in the water. She asked for clarification about the remediation plan and the history of North Carver and not able to remediate. She argued that these businesses will do their work and leave – but not drinking the water. She was frustrated that Julianne laughed while delivering her statement. Donna argued that Carver has gone through this before and felt that the town was being treated as a Guinea pig.

A discussion broke out and it landed on the parameters of the studies being used versus the parameters of this particular situation. Steve said the contamination is “low” and Mr. Badger asked for the term “low” to be defined. When the answer was “a small percentage”, Mr. Badger argued that this should be a proactive measure not a reactive measure. The poles have been in the ground for some time now and the signs will already be there.

Mr. Moore asked Bob Bentley as a grower, what are the safety standards that are put on the crop (cranberry) – what do they check for, if there were a contaminated crop, would they catch it? – Bob said the chemicals in this project may not be tested. He said the handlers could be notified ahead of time. The only study he found with plants was with spinach and the roots were contaminated with arsenic but the leaves were not.

Maggie trained toxicologist human health exposures – worked hands on with the three chemicals in question. She referenced a study from Nova Scotia in 2014. Wanted to know the cores taken – which were for geotechnical. She asked about the saturation (which was wet soil). The studies she looked that CCA leaches in the type of soil that these poles are running through – damp, saturated poles will leach in acidic environments. She argued that telephone poles are everywhere, but they are not in a concentrated area but they are not in a state where they are constantly wet. Mr. Badger talked about the drinking water standard and reiterated the need for a study that was more closely suited to this particular case. Maggie asked what the monitoring plan looked like including the sensitivity of the testing – MASS DEP methods to compare against human health risk base standards. They said they would continue to look into this and work with the Commission regarding this as well as the extent to how these chemicals move. Maggie argued that there is no safe dose of arsenic and this will impact so much more than just the water (home values, bogs, livelihoods, etc.)

Will Turner said a few words about the comments that were being said – stating that the concerns would not be brushed off. He said there would be a comprehensive multi-year program put in place, post a bond, start testing the water, and have an opportunity to show good faith. Laura McNamera she is concerned not only for the safety concerns but also the aesthetic concerns for property values. She moved to Tremont Street in 2011 and is always concerned about the products she uses because of her proximity to the bogs (in terms of environmental safety).

Sean Bogart asked once the bog is scraped off, what happens to the topsoil – will it be remediated? Steve said it depends on the percentage that is impacted – in his opinion once its tested it would be determined what could be done with it. He believes it will be able to be reused. He also asked what additional pesticide treatment was being injected into the poles to prevent insect damage (aside from pesticides used for bogs). Steve said no further pesticides are used. Sean asked about alternatives like cedar poles – the assumption is fiscal answer.

James Gain drives piles for a living – steel, wood, etc. What is the cost difference between the two pilings? He talked about his experience in the business as well as his experience living next to this project. He talked about the importance of the water, how to pull the piles and replace with steel.

Loreen Wilson talked about the amount of solar in the town and said we need to find a balance and be responsible about it. Deerfield Lane (her neighborhood) is being surrounded by solar. She said “we have the best water” and she is concerned about the levels of arsenic that can be in the water. She asked about precedents and questioned the couple who were here earlier tonight – saying they either don’t know their job or don’t care – the precedent needs to be set. She doesn’t understand why these poles are allowed to remain. She’s also questioning why these poles are remaining in the ground while impacting drinking water, berries, land, animals, etc.

Chip Nylen, attorney for Pinegate – he clarified that the project was purchased by NextSun. They thought they were doing the right thing by the community and doing their due diligence. He was retained because of the cease and desist. He talked about the literature that has been sited and wants it to be reviewed by Pinegate. He asked for a continuation so they can review all the questions that were raised and be able to respond. He agrees that everyone should feel safer leaving then they came in today. Mr. Moore had written down names for a peer review of the research done by Steve and Pete. Mr. Germain argued that there are alternatives that are not CCA treated poles.

A discussion broke out about work potentially being done

Site Manager said the stop work order was issued October 8 and received that Friday afternoon. Mr. Nauen left the meeting.

Motion to continue to November 17 where Pinegate will have answers to the questions raised during the October 20 meeting, the Conservation Commission will have the studies brought forward by Pinegate peer reviewed, a water test done, and soil test done, an alternative plan to the wooden poles, and test waterflow at harvest time.

Seconded by Ms. Blackwell approved unanimously, 4-0-0. Water and soil testing within 6 inches of the pole, 10 feet of the pole within the pole incrementally. Starting where the construction began and spread the samples out.

Chip said he would notify the board when the testing took place. Chip also said he would communicate to move equipment off the site.

Motion to table to the rest of the agenda made by Mr. Germain, seconded by Ms. Blackwell. Approved unanimously 4-0-0. Motion to adjourn made by Mr. Germain, seconded by Ms. Blackwell. Approved unanimously 4-0-0.

Discussion on culvert at Cranebrook Restaurant – John Mason – moved to NOVEMBER 3
Discussion of potential uses of 44 Lakeview Street
Use of Wetlands Protection Fund for OSRP survey

MINUTES: OCTOBER 6

To be read and approved next meeting.

CONTINUED HEARINGS

287 Tremont Street

Continued to November 17.

NOI DEPSE#126-626

Motion to adjourn Mr. Germain. Seconded by Ms. Blackwell. Unanimously approved 5-0-0.
Adjourned 10:34 PM.

CONSERVATION COMMISSION

20-Oct-21

ATTENDANCE SIGN IN SHEET

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