



approved
7/20/22

CARVER CONSERVATION COMMISSION
MINUTES OF JULY 6, 2022 MEETING

Present: Chairman Savery Moore, Vice-Chair Alan Germain, Jim Nauen, Dan Badger, David Hall, Environmental Scientist/ Agent Brooke Monroe Gary Flaherty and Recording Secretary Ashley Swartz.

Mr. Moore opened the meeting at 7:12 P.M.

Discussion/Business:

Request for COC (Certificate of Compliance)– 88 South Main St. DEP SE# 126-577

Brooke explained this was for the replacement of a wall – he left the old wall in and pulled the new one back. She stated “everything is done”. Mr. Moore took a look today from the water side and said it looks fine. He shared some specifics and said it looks like everything they asked him to do.

Motion to approve the COC made by Mr. Germain, seconded by Mr. Badger, approved unanimously 5-0-0.

Tree cutting – 120 Cranberry Road

Brooke provided pictures of the site. There are a couple of trees near the house and they appeared ready to fall. She stated there was “no issue”. Motion to approve tree cutting as described made by Mr. Germain, seconded by Mr. Hall, approved unanimously.

Enforcement Order – Rickets Pond

Mr. Germain recused himself from the discussion and took a seat in the audience – due to his work in Rickets Pond.

Brooke discussed the enforcement order on lot 3. A consultant has gone out and took pictures of the pond. A site visit was conducted last Saturday but Brooke didn't see anything that would result in the issuance of an enforcement order. Mr. Moore noted a picture that was supplied that appeared something was covering the water. He noted they don't know when this picture was taken and nothing was covering the water when they conducted the visit. They had someone explain the blowing of the sand, the piles, and how dust is removed. Mr. Badger noted the complaints from this particular group and asked about how they could supply information to the public to help educate regarding these issues. He noted the evidence brought forward by this group and would like to recommend that future complaints be accompanied by the following:

1. Bring documentation to scale
2. Have facts to back up complaints and concerns
3. Photographs need to be clear

Mr. Moore was in agreement that these steps should be taken. Brooke mentioned some of the issues brought up at this particular site are out of their jurisdiction. Mr. Moore followed up by saying their determinations are made based on the drawings of the applicant (engineer's drawings).

Mr. Moore introduced Gary Flaherty, the new Conservation Agent. Mr. Flaherty suggested having a date time stamp on the photos that are submitted. Motion to take no action on the demand for an enforcement order made by Mr. Hall, seconded by Mr. Badger, approved unanimously 4-0-0.

Mr. Moore noted a disconnect regarding when to release minutes to the public. There has been an open meeting law violation issued regarding the minutes being released (according to MA Law). He was under the impression that they had to be approved in order to be shared with the public.

Mr. Germain commented that the rule is 30 days or three meetings. Mr. Fennessey, Town Administrator, was present and noted it is 30-60 days (he would confirm). Mr. Moore said this was in regards to 40-3 of MA Law.

Received a complaint for a resident 15 Holmes Ave – doing work at the water's edge. Photos were supplied. Mr. Moore asked to put a cease and desist for tomorrow, having the property owner coming in the next meeting.

The Conservation property at 44 Lakeview Street – trees have just come down and are being cut into firewood to be donated to the Veterans.

New Hearings

Wareham Street

ANORAD

(Abbreviated Notice of Resource Area Delineation)

Sarah Sterns, Fields and Thomas – on behalf of Gary Garrison's property, 107 Wareham Street.

The majority of the Commission was able to do a site visit and see the delineation. Sarah noted they were looking for confirmation of BVW. Mr. Moore noted the flags were almost at the edge along the foliage and were almost not needed. He said it was pretty cut-and-dry. Mr. Germain made a motion to close the hearing for Wareham Street, seconded by Mr. Badger, approved unanimously 5-0-0. Mr. Germain made a motion to approve the ANORAD #126-645, seconded by Mr. Badger, approved unanimously 5-0-0.

30 Indian Street

RDA

(Request for Determination of Applicability)

Joseph Paolino is the property owner. He noted that some members of the

Mr. Moore noted that the actual location is further away from the wetlands and turned slightly but still within the 100-foot buffer. Gary noted too that the erosion controls were in place.

Mr. Badger noted they measured out where the well was and where the new proposed location for the shed was (roughly 27 feet). The only issue Mr. Badger had was the repairs needed for the erosion controls. They discussed a silt-sock and some fill next to the garage to eliminate the steep embankments that are currently eroding. They are not asking him to do it but noted it as a permissible action he could take. Joseph confirmed the placement of the shed on his plans and signed. Mr. Hall asked what material the shed would sit on – concrete block. Mr. Badger asked about the angle of the building – it was noted the RDA would cover the angle, they were discussing the placement within the 100-foot zone.

Mr. Germain made a motion to close the hearing, seconded by Mr. Badger, approved unanimously 5-0-0.

Motion to issue a negative determination made by Mr. Germain, seconded by Mr. Badger, approved unanimously 5-0-0.

Lot 11 Stanley Lane**RDA**
(Request for Determination of Applicability)

The Request is for the clearing and grading; required to fit the proposed house and septic system; located approximately 65 feet from resource area bordering vegetated wetland (BVW). Gregory Drake of C.E. Development.

Mr. Moore noted that he, Mr. Hall, Mr. Badger, Brooke and Gary were at the site visit.

Gregory noted that the grading and other work was outside the 65-foot. Mr. Moore said the work within the 100-foot zone did not include any construction – the Commission said without this incursion into the 100-foot they could still have a substantial backyard and was hesitant to approve the incursion in the 100-foot just to create a larger back yard (with no need for septic, etc.) Mr. Moore continued that this was not born out of necessity but born out of luxury. Mr. Hall noted he agreed. Mr. Badger said if the fence is located where he hoped, it would require cutting of trees unnecessarily. He continued by explaining having the 100 and 65 did not suggest they wanted people to work right up to the 65-foot-buffer. Mr. Moore asked if grading was already occurring – it is occurring outside the 100-foot. Brooke noted a lot of trees would need to be cut. Mr. Germain asked if the grading occurred up to the 65. Mr. Moore clarified that would be the case, the land dips and comes back up. The other members present at the site visit agreed the proposed plan was not a necessity. Mr. Germain followed up that this was not a hardship and he couldn't agree with the grading just for a larger yard. Mr. Badger summarized the current work done and noted that the language should reflect their decision. Gary noted that an RDA would not be applicable if the work continued where it was, since Conservation has no jurisdiction over their current plans. As long as work doesn't infringe on the 100-foot zone, the application for the RDA could be withdrawn. They suggested smoothing out the area within the 100-foot. Gary suggested withdrawing without prejudice so they could come back with another set of plans if necessary. Gregory agreed to withdraw without prejudice. Another NOI would have to be issued if the applicant decides to go beyond the 100-foot.

22 South Main Street**NOI DEPSE #126-648**
(Notice of Intent)

Ivo Cole looking to request a variance to install a 4-4 ½ foot aluminum fence coming up to the water. Brooke filed an RDA and Ivo had to file a NOI. Mr. Badger asked about the location of the stone wall. Ivo explained that there is an existing fence around the pool at the 100-foot – this would be an additional fence – putting it along the tree line but not taking any trees down. Ivo explained that an invisible fence would be in the water, acting as the fourth side of the fence. Ivo suggested stopping the fence at the gazebo if that was preferred. Mr. Germain didn't see a problem but there were questions from the other members as to whether this was too far. Mr. Hall explained that this was not a necessity and would be okay if the fence went up to the 65-foot. Mr. Badger noted precedence. He too was in agreement that the fence could go up to, but not extend beyond the 65-foot. Mr. Moore agreed with Mr. Badger regarding precedence. Mr. Germain questioned why they couldn't fence their own property, disagreeing with Mr. Moore, Mr. Badger and Mr. Hall. Mr. Badger viewed this as a gateway issue – what other things would people want to put down to the waterline. Mr. Hall noted the by-laws and said they should adhere with them. Ivo reiterated that the fence would only be placed in an already accessible area and nothing would be cleared to do so. Ivo expressed that he was trying to keep the dogs contained but didn't want to rely on electric fence. He continued by saying he was willing to stop at the gazebo on one side and the grass line on the other. Mr. Moore wanted a continuance and have the wetlands (stream) delineated. Ivo provided delineation plans from 2013 but they did not show his side of the stream. Mr. Germain argued that there was no difference using the delineation – the

Ivo said he would like a vote. Motion to close the hearing made by Mr. Germain, seconded by Mr. Badger, approved unanimously 5-0-0. Mr. Moore said two votes were necessary – one for the NOI (work

between 100 and 65) and the second would be a variance (build within the 65). Motion to approve the NOI made by Mr. Germain, seconded by Mr. Hall, approved unanimously 5-0-0. Motion to approve the variance made by Mr. Germain to build within the 65 down to the grass line, seconded by Mr. Hall, 2-3-0, not granting the variance. Mr. Germain said he can come back with more definitive plans. Mr. Moore expressed that his concern was bringing the fence to the water's edge (not the intermittent stream) he just wants to see where the wetland's designation is. After discussion the motion for the variance was withdrawn.

Motion to approve the variance with the following: allow the fence to be up to the edge of the intermittent stream and sides running up to 65-feet of the wetlands delineation of the pond as shown on the map. No fencing should be within 65-feet of the parallel line of the pond. Moved by Mr. Hall, seconded by Mr. Badger, approved 4-1-0.

MINUTES

To be read and approved for June 1, 2022

Motion to approve the minutes as printed made by Mr. Germain, seconded by Mr. Hall, approved 3-0-2 with Mr. Badger and Mr. Nauen abstaining due to their absence.

To be read and approved for June 15, 2022

Motion to approve the minutes as printed made by Mr. Germain, seconded by Mr. Badger, approved 4-0-1 with Mr. Moore abstaining due to his absence.

Motion to adjourn made by Mr. Germain, seconded by Mr. Hall. Unanimously approved 5-0-0.

Adjourned 8:49 PM.

Minutes submitted by Ashley Swartz.