

Meetings are being held virtually (GoToMeeting) due to the COVID-19 pandemic. The meeting began at 7:00 PM.

Present: Bob Elliott, Chairman; Pat Swain Rice, Rob Rand, Kris Masterson, Pete Steeves, and Emily Boeing

Absent: Tim Dinsmore

6/2/2020 - Minutes

1. Packet

Packets of all documents submitted for the June 2, 2020 meeting were available on the Town of Pepperell website with a link to these documents provided on the Agenda. In addition, each Commission member was provided with hardcopies of all plans discussed prior to the meeting.

2. Public Hearings, Public Meetings & Appointments

A. 7:00 PM - APPOINTMENT - Update Sucker Brook Restoration Project At Keyes Parker Conservation Area - Results Of Sediment Testing, Preliminary Design, Access Road Culvert Replacement, Associated Data Collection

Joseph Gould, Restoration Specialist with the Division of Ecological Restoration (DER) MA Department of Fish and Game, provided an update on the dam removal and access road culvert replacement project at the Keyes Parker Conservation Area. DER accepted this project as a Priority Project in 2019. The firm Horsley Witten was selected for the project and DER committed \$45,000 for the initial field work and data collection, which has been underway for almost two years. Work to date to evaluate bankfull width, longitudinal profile, wetlands, sediment sampling and volume, hydrologic and hydraulic analysis, and other field work and data collection have allowed Horsley Witten to draft a preliminary design memo, which was provided to the Commission and used to start the MEPA process. MEPA is an environmental review process used to draft an EENF for public and agency review and input. Sediment tests were clean and they expect to be able to address some of the permits by the end of the fiscal year. Once the MEPA process is completed, the next phase of design will begin, which will move the project into the permitting process, which can take six to nine months. Fundraising for construction will begin in Fall 2020 and communications with NHESP will continue to address rare mussels and wood turtles. Masterson said this was a good educational opportunity and an opportunity to get volunteers to help. Terrasi said the draft documents were shared with the Commission in April as well as the MEPA filing. Elliott asked about emails and discussions DER staff have had regarding the Brookline Street culvert. The Brookline Street culvert is the first impediment/obstacle from the Nissitissit River and Elliott asked if it could be included as part of this project. Gould responded that the Brookline Street culvert is very important but DER is only able to take on the smaller project but they are happy to help with Brookline Street and they have discussed this culvert. Gould said additional information will be shared as they move forward with additional data collection and design.

B. 7:25 PM - CONTINUATION OF PUBLIC HEARING FOR 23-29 HOLLIS ST. FOR AN ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION

Jack Visniewski with Cornerstone Consultants represented David Babin for the Public Hearing. Visniewski stated the ANRAD was filed to confirm the location of wetlands for future planned site work. Norse Environmental flagged the wetlands. Terrasi reviewed the wetlands. Boeing asked whether there was a project associated with the ANRAD. Visniewski stated Babin Landscaping purchased the former Conway Chevrolet car dealership property and will now be operating their landscaping business from the site. Visniewski said an NOI was filed earlier today with the Commission and a Site Plan Review was filed with the Planning Board. On a motion from Elliott, seconded by Rand, all VOTED: to issue an Order of Resource Area Delineation.

C. 7:30 PM - CONTINUATION DISCUSSION: The Commission Shall Determine If They Will Consider The Request For Amendment To The Order Of Conditions From Etchstone Properties For MassDEP 259-0778, Lot 12, 32 Birch Drive

Joe Peznola, engineer with Hancock Associates, represented Etchstone Properties. Peznola said there is currently a Superseding Order of Conditions (259-0790) for the roadway and related infrastructure. MassDEP Policy 85-4 provides guidance on how to amend an Order of Conditions and this Discussion

is to determine if the Commission will consider an amendment. Elliott said the Policy provides guidance to Commissions and an Order of Conditions can be amended if the impacts to wetlands are the same or less. Etchstone requested the Commission consider an amendment to the Order of Conditions for MassDEP 259-0778. The Applicant's engineer discussed the changes and the Commission reviewed the updated plan for Lot 12, 32 Birch Drive. The changes are relatively minor and will be less impactful to resource areas. On a motion from Elliott, seconded by Rand, all

VOTED: to consider an Amendment to the Order of Conditions for MassDEP 259-0778. The applicant is required to notify the abutters and a legal ad will be included in the Nashoba Valley Voice advertising the date and time for a public hearing to discuss the Request for Amendment to the Order of Conditions.

- D. 7:30 PM - CONTINUATION DISCUSSION: The Commission Shall Determine If They Will Consider The Request For Amendment To The Order Of Conditions From Etchstone Properties For MassDEP 259-0780, Lot 14, 28 Birch Drive

Peznola discussed the changes and the Commission reviewed the updated plan for Lot 14, 28 Birch Drive. Elliott noted the change in the infiltration basin would require the house be moved further from the infiltration basin as identified in the Stormwater Handbook Volume 2, Chapter 2, requiring the installation of infiltration basins be a minimum of 10' downslope or 100' upslope of building foundations and the house is about 60' and the elevations indicate the house is downslope of the basin (basement elevation at 94.5, bottom of basin 96 and top of basin 99.5) Peznola will speak with his client about relocating the house and using a slab. Elliott would like to see erosion control added between the infiltration basin and house. Elliott asked where a sump pump would discharge for lots 14, 15, and 19 because of the high water table and soils and knowledge of a considerable amount of water in the basement of a newly constructed lot next to these house lots. On a motion from Elliott, seconded by Rand, all

VOTED: that the work is not less impactful as proposed and the Request for an Amendment is denied and a new Notice of Intent is required.

- E. 7:30 PM - CONTINUATION DISCUSSION: The Commission Shall Determine If They Will Consider The Request For Amendment To The Order Of Conditions From Etchstone Properties For MassDEP 259-0781, Lot 15, 26 Birch Drive

Peznola discussed the changes. The Commission reviewed the updated plan for Lot 15, 26 Birch Drive and believe the house needs to be moved further from the infiltration basin as identified in the Stormwater Handbook. The house is only 6' from basin and the basin is at 96 with the top of the basin at 99.5 with the basement at 94.5, so downslope. On a motion from Elliott, seconded by Rand, all VOTED: that the work is not less impactful as proposed and the Request for an Amendment is denied and a new Notice of Intent is required.

- F. 7:30 PM - CONTINUATION DISCUSSION: The Commission Shall Determine If They Will Consider The Request For Amendment To The Order Of Conditions From Etchstone Properties For MassDEP 259-0782, Lot 19, 8 Birch Drive

Peznola discussed the changes and the Commission reviewed the updated plan for Lot 19, 8 Birch Drive. Elliott questioned the deep test hole (19-1) where the house is located showing estimated high groundwater levels. Peznola said the testing was done with a hand auger to confirm there was no ground water 2' below the surface to support the disconnected impervious receiving areas. Elliott suggested another test hole to confirm there is no water at 2' and expressed concern for the discharge location of a sump pump, if necessary. The changes are relatively minor and will be less impactful to resource areas. On a motion from Elliott, seconded by Rand, all

VOTED: to consider an Amendment to the Order of Conditions for MassDEP 259-0778, providing the new plan shows the additional test hole. The applicant is required to notify the abutters and a legal ad will be included in the Nashoba Valley Voice advertising the date and time for a public hearing to discuss the Amendment to the Order of Conditions.

- G. 7:35 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For Determination Of Applicability Filed By Etchstone Properties To Construct A Single-Family House Within The 100' Buffer Zone To BVW At 9 Birch Dr. Lot 1

Peznola said this is the very first house on the right and a portion of the driveway is within the 100'

buffer. On a motion from Elliott, seconded by Rand, all
VOTED: to issue a negative #3 that the work is within the buffer but will not require the filing of a Notice of Intent and #6, is allowed under the Pepperell Wetlands Protection Bylaw.

- H. 7:35 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For Determination Of Applicability Filed By Etchstone Properties To Construct A Single-Family House Within The 100' Buffer Zone To BVW At 11 Birch Dr. Lot 2
Peznola said Lot 2 is next to Lot 1 as you first enter off Birch Drive with a portion of the house within the 100' buffer. On a motion from Elliott, seconded by Rand, all
VOTED: to issue a negative #3 that the work is within the buffer but will not require the filing of a Notice of Intent and #6, is allowed under the Pepperell Wetlands Protection Bylaw.
- I. 7:35 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For Determination Of Applicability Filed By Etchstone Properties To Construct A Single-Family House Within The 100' Buffer Zone To BVW At 13 Birch Dr. Lot 3
Peznola discussed the proposed house. Elliott asked what was being done for erosion control between the lots and the road. Peznola said the phasing of the project means the lots stay treed before the next phase for construction of the individual lots. There is an erosion control plan as part of the Superseding Order of Conditions. Boeing asked if the lot sloped to the wetland. Peznola said there is a retaining wall between the lot and wetland. On a motion from Elliott, seconded by Rand, all
VOTED: to issue a negative #3 that the work is within the buffer but will not require the filing of a Notice of Intent and #6, is allowed under the Pepperell Wetlands Protection Bylaw.
- J. 7:35 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For Determination Of Applicability Filed By Etchstone Properties To Construct A Single-Family House Within The 100' Buffer Zone To BVW At 15 Birch Dr. Lot 4
Peznola discussed the proposed lot. On a motion from Elliott, seconded by Rand, all
VOTED: to issue a negative #3 that the work is within the buffer but will not require the filing of a Notice of Intent and #6, is allowed under the Pepperell Wetlands Protection Bylaw.
- K. 7:35 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For Determination Of Applicability Filed By Etchstone Properties To Construct A Single-Family House Within The 100' Buffer Zone To BVW At 17 Birch Dr. Lot 5
Peznola discussed the lot and stated there is a small amount of work within the 100' buffer. On a motion from Elliott, seconded by Rand, all
VOTED: to issue a negative #3 that the work is within the buffer but will not require the filing of a Notice of Intent and #6, is allowed under the Pepperell Wetlands Protection Bylaw.
- L. 7:35 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For Determination Of Applicability Filed By Etchstone Properties To Construct A Single-Family House Within The 100' Buffer Zone To BVW At 20 Birch Dr. Lot 18
Peznola stated there was some grading within the 100' buffer. Elliott expressed concern with the basement elevation at 95.5 and the nearest corner of the house 20' from the basin, which is at elevation 96 to 99.5 so it would be above the basement floor. He also would like to see erosion control between the house and infiltration basins. Peznola agreed and he will review the basement elevation and adjust accordingly. He asked to continue the public meeting for 20 Birch Drive, Lot 18.
- M. 7:35 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For Determination Of Applicability Filed By Etchstone Properties To Construct A Single-Family House Within The 100' Buffer Zone To BVW At 24 Birch Dr. Lot 16
Peznola requested that the public meeting for 24 Birch Drive, Lot 16 also be continued.
Boeing commented that she is in agreement with continuing Lots 16 and 18 and she is in favor of issuing a Determination of Applicability for Lot 5 but Lots 1, 2, 3, and 4 are too close to the wetlands and there are too many lots next to wetlands. Steeves agreed with Boeing and he disapproves of issuing a Determination of Applicability for Lots 1-5.
Due to COVID-19 and this being the first Conservation Commission Virtual Meeting, the Commission is going through a learning process. Elliott wanted to confirm the vote for the seven Requests for Determinations of Applicability to ensure the votes for and against the Negative Determinations were

accurately counted.

RDA Lot 1, vote 4-2 Negative Determination; RDA Lot 2, vote 4-2 Negative Determination; RDA Lot 3, vote 4-2 Negative Determination; RDA Lot 4, vote 4-2 Negative Determination; RDA Lot 5, vote 5-1 Negative Determination, RDA Lots 16 and 18 to be continued.

In summary, five of the Requests for Determinations of Applicability were issued Negative Determinations and two Requests were continued.

- N. 7:40 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For An Extension MassDEP 259-0777; Lot 11, #29 Birch Drive From June 29, 2020 To June 29, 2023
The delay, due to almost three years of appeals for the roadway and related stormwater infrastructure, require that a Request for Extension Permit be requested for Lot 11, 29 Birch Drive. Elliott stated this is a reasonable reason to extend the Order. Rice asked that the record show that the three year delay and three year extension means the wetlands will not be confirmed for six years if an additional extension is requested. If an additional extension is requested, the site should be reflagged. On a motion from Elliott, seconded by Rand, all
VOTED: to issue an Extension Permit for Lots 11, 12, 13, and 19.
 - O. 7:40 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For An Extension MassDEP 259-0778; Lot 12, #32 Birch Drive From June 29, 2020 To June 29, 2023
Included in Vote taken for Lot 11 above.
 - P. 7:40 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For An Extension MassDEP 259-0779; Lot 13, #30 Birch Drive From June 29, 2020 To June 29, 2023
Included in Vote taken for Lot 11 above.
 - Q. 7:40 PM CONTINUATION Public Meeting Re: The Commission Will Consider A Request For An Extension MassDEP 259-0780; Lot 14, #28 Birch Drive From June 29, 2020 To June 29, 2023
The Commission did not consider an amendment and a Notice of Intent must be filed for Lot 14. An Extension Permit is not necessary.
 - R. 7:40 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For An Extension MassDEP 259-0781; Lot 15, #26 Birch Drive From July 6, 2020 To July 6, 2023
The Commission did not consider an amendment and a Notice of Intent must be filed for Lot 15. An Extension Permit is not necessary.
 - S. 7:40 PM - CONTINUATION Public Meeting Re: The Commission Will Consider A Request For An Extension MassDEP 259-0782; Lot 19, #8 Birch Drive From June 29, 2020 To June 29, 2023
Included in Vote taken for Lot 11 above.
3. Review Of Draft Minutes
- A. Review Of Draft Minutes Of January 21, 2020
The draft Minutes for January 21 were not presented due to the lengthy agenda but will be reviewed at the June 16 meeting.
4. For Signature: Schedule Of Bills Payable
- A. Request A Motion To Authorize Chairman Elliott To Sign Bills Payable, With Commission Email Approval
The Commission approved Chairman Elliott's signature on Bills Payable, with approval through email, during COVID-19.
5. Conservation Administrator's Report
- A. Emergency Order - DCR, Nashua River Rail Trail - Flooding Of Homes And Maintenance Of Culverts
An Emergency Order was issued to address flooding of homes and yards along Shawnee Road due to a blocked culvert under the DCR Nashua River Rail Trail.

- B. Emergency Order - 43 Jewett Street- Flooding Of Common Driveway (Beaver)
Working with the Board of Health on a permit to control beaver and muskrat, an Emergency Order was issued to address a controlled removal of the beaver dam to eliminate flooding on the common driveway.
- C. Emergency Order - Lawrence Street ROW At Gulf Brook
Working with the Board of Health on a permit to control beaver and muskrat, an Emergency Order was issued to address a controlled removal of the beaver dam to eliminate flooding on Lawrence Street.
- D. Unauthorized Timber Harvesting/Cutting At 128 And 126A Brookline Street

The property owners at 128 Brookline Street hired a “free tree removal” company to remove trees on their property. The town and state are familiar with this company because of past practices with removing trees in wetlands, across property lines, damage to property, etc. Trees were removed from the buffer and into the BVW. A letter was sent to the property owner and the Natural Heritage and Endangered Species Program representative, the State Forester, and the Environmental Police were brought in to stop any additional work and to discuss restoration. Rice asked that the road closure sign for the common driveway be removed as there is a strip of land next to the common driveway that should be available for public access because it is town owned land. The sign was discussed with those on the common driveway as being temporary due to the interest in visitors wanting to see the damage caused by the microburst that impacted this area. When Brookline Street was closed due to downed power lines, many people thought the common driveway would be a good access or exit, which it isn't because it is a dead end.

- E. Certificate Of Vote Authorizing Conservation Administrator To Sign Wetlands Permitting Forms With Prior Approval Of Commission
On a motion from Elliott, seconded by Rand, all
VOTED: to authorize Terrasi to sign documents i.e. Orders, Determinations, Extensions, etc. under the MA WPA when instructed to do so by the Commission.

6. Other Business

Terrasi wanted to thank Commissioner Rand for trail work and tree clearing and Marc Basti, a DCR employee who is spending alternate weeks on trail maintenance, including addressing erosion issues, and trail marking. Volunteers, including scouts, have been assisting with trail clearing and picking up trash. Our conservation areas are seeing a higher usage than normal and trail maps, which are available at most kiosks, are being replenished weekly, with over 800 trail maps provided since late March.

- 7. Matters That May Be Raised That The Chairman Didn't Reasonably Anticipate
None

Respectfully submitted,
Paula Terrasi
Conservation Administrator