

**Richmond Conservation Commission Minutes**  
**Wednesday, November 9, 2022 at 6:30pm**  
**Held by Zoom in accordance with Governors Open Meeting Laws**

Members Present: Ron Veillette-Chair, Ernie Smith-Vice Chair, Thomas Potter, Karen O'Donnell, Pat Seckler, John Scorpa, Adam Weinberg, Shep Evans-Agent, Rebecca Lord-Associate member.

Members Absent: None

Other Participants: Shannon Boomsma (White Engineering), Marc Levasseur (Foresight Land Services), Elisabeth Goodman (Town Counsel), Robert Lowell (MA Department of Conservation & Recreation (DCR), Nancy Putnam (DCR), Tom Lautzenheiser (Mass Audubon), Holly & Dick Stover, Jennifer Stover, Peter Miller, John Mountain

Mr. Smith was Chairing the meeting. Mr. Smith called the meeting to order at 6:32 PM. He read the Governor's statement allowing for a zoom meeting as per the open meeting laws.

Mr. Smith made a motion for the approval of the minutes from the September 13, 2022, meeting and from the October 19, 2022, executive session meeting. Ms. O'Donnell made the motion, it was seconded by Mr. Seckler and passed unanimously by roll call vote.

**1. Department of Public Works (DPW) Items**

**a. Requests for Determination of Applicability (RDA) : None**

**b. Notices of Intent (NOI)**

**i Notice of Intent, MA Department of Environmental Protection (MADEP) File # 271-0219:** Bundled Notice of Intent from Foresight Land Services on behalf of the Town of Richmond Department of Public Works. **At the applicant's request, continued until further notice.** This was continued to the December 13, 2022, meeting but Ms. Goodman stated that the applicant will need to readvertise when they finally want to continue the discussion of their NOI.

**c. Certificate of Compliance (CoC) Requests**

**i Notice of Intent, DEP File #271-0216; Dublin Road Bridge - Await final drawings.** Mr. Evans stated that the Commission needs an as built plan and that he will email the Town Administrator for one.

**2. Emergency Certifications Ratification: None**

**3. Requests for Determination of Applicability (RDA) New/Continued/Extensions (Non DPW):**

**a. RDA from Jenifer Stover**, property at 495 Swamp Road, map 404 Lot 25. The work proposed will consist of constructing a garage addition (+/- 12' x 26') to an existing garage and single-family house within the buffer zone of a vegetated wetland. Mr. Veillette made a motion to open the discussion, it was seconded by Ms. O'Donnell. Ms. Jennifer Stover stated that they want to add an additional bay to their garage. Mr. Smith stated that a site visit was made. Mr. Veillette stated that the original permit dates to 2009, he saw no problem with the addition to the garage. Mr. Veillette made a motion for a Negative Determination #2, it was seconded by Mr. Seckler and passed unanimously by roll call vote. Ms. Goodman suggested that Mr. Veillette read what a Negative Determination #2 is, as issued by the Conservation Commission using the Wetlands Protection Act (WPA) form 2 – Determination of Applicability, Part B. Mr. Veillette read to the members and audience what a Negative 2 Determination is.

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- b. RDA under the Berkshire Scenic Mountains Act (SMA),** Massachusetts General Laws (MGL) Chapter 131, Section 39A, regulations from Foresight Land Services on behalf of Paul Lennard, property at 234 East Slope Road, map 402 Lot 29. The work proposed consists of constructing a 560 sq.ft. footprint addition to an existing single-family house with garage below and living space above. Mr. LeVasseur spoke on behalf of the applicant. He explained to the members what the project will entail. He explained how they will mitigate any erosion issues. He displayed the plan for the Commission and explained exactly what they will be doing. He stated that they are applying for an RDA not an NOI since the work will not be detrimental to the water supply or have any negative effect on the Scenic Mountain Act. The only questions that the Commission had were concerning the drainage and how they would handle the runoff. Mr. Le Vasseur explained that they will have a catch basin and French Drain is being installed so that it will be able to handle any runoff. Mr. Smith requested a member to make a motion. Mr. Weinberg made a motion for a Negative 2 Determination, it was seconded by Ms. O'Donnell and passed unanimously by roll call vote.
- c. RDA from John Mountain,** property is at 1448 Dublin Road, map 408 Lot 77. The work proposed consists of removing 12 dead, diseased or dangerous trees in the Buffer Zone of an intermittent stream. Mr. Smith stated that a site visit was made by Commission members. A drawing of the proposed work was displayed for the members. Ms. O'Donnell stated that the trees in question are dead. She said that there is a policy of leaving several feet of the trunk for wildlife habitat. Mr. Mountain stated that he will plant more trees, he stated he plants trees every year. Mr. Scorpa made a motion for a Negative 2 Determination, it was seconded by Mr. Veillette and passed unanimously by roll call vote.
- d. RDA from Carol Silverman,** property at 40 Lake Rd. Extension, map 102 Lot 41. The work proposed to be completed over the coming three years is all in the Buffer Zone of Richmond Pond and consists of removing 8 dead, diseased, or dangerous trees and trimming two trees over-hanging a residence. No one was present to represent the applicant. Ms. O'Donnell stated she was unclear as to exactly where the applicant's property lines are in relation to the trees that they want to take down. A sketch of the area and the trees that the applicant wants to take down was put up for the Commission to view but it didn't make clear exactly which trees and the health of the trees. Mr. Veillette asked if anyone knew who the applicant hired for the tree removal, no one knew the name. Mr. Evans stated that, in light of the Commission's comments and uncertainty, the Commission should vote on a Positive Determination and that they add to it that someone needs to be present at the Commission meeting when their application is taken up again. Mr. Veillette made a motion to reject the RDA (a positive determination) due to lack of information and that the applicant needs to refile with more information and that a representative must be present. The motion was seconded by Mr. Weinberg and passed unanimously by roll call.

**4. Notices of Intent (New/Continued/Extensions):**

- a. Notice of Intent, DEP File # 271-0229** from White Engineering on behalf of Vincent & Shawna Stango, property at 951 West Road, Map 407 Lot 56. The proposed work consists of removing from a private pond on the property accumulated sediment and road material deposited by a hurricane in 2012, restoring the historic flow into the pond from Furnace Brook, restoring the dam and spillway to re-establish control over pond water levels and related site work. **Updated plans received -Continued from September 13, 2022.** Ms. Boomsma spoke on behalf of the applicant. She displayed a colorized plan for the Commission members. She then explained to the members exactly what the project will entail. The main issue that the members seemed to have concerning the project was the proper handling of the aquatic wildlife that resides within the pond. How the contractor will ensure the safety and viability of the wildlife that is removed during the dredging process. Ms. Boomsma explained that from the bank to 5

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feet within the pond no dredging will take place, so there shouldn't be a great deal of wildlife removed. Mr. Evans suggested that the Commission make a condition of the permit that a licensed wildlife specialist be hired to oversee the removal and transporting of whatever wildlife is removed from the pond to a safe a location for their survival and that the Commission receives emails as to the progress of the removal of wildlife. Ms. Boomsma stated that they have letters from both Natural Heritage and a wildlife species specialist that they do not have any issues related to this project. Mr. Potter has requested copies of those letters from Ms. Boomsma. Mr. Veillette put up and read off a list of special conditions he had come up with for this project. One item that was not on his list which the Commission stated needed to be was the inclusion of aerators for the pond it wasn't being fed by a river there by not having a constant water flow. Mr. Evans suggested that Ms. Boomsma should submit an updated NOI because the original NOI states that the project will entail work on the culvert and allow water from Furnace Brook to flow into the pond. This is a project that the Richmond DPW stated they cannot allow. Ms. Boomsma stated she would submit an updated NOI to the Commission. Mr. Veillette made a motion to continue the hearing to the December 13, 2022 meeting for the preparation of special conditions and for the receiving of an updated NOI. The motion was seconded by Mr. Potter and passed unanimously by roll call vote. One item that was not on the list which the Commission stated needed to be included was the inclusion of aerators for the pond as it isn't being fed by the river thereby the pond not having a constant water flow.

**5. Certificate of Compliance (CoC) Requests: NO NEW ONES**

**6. Discussion of Violations and/or Enforcement Actions, Superseding Orders:**

**a. View Drive Fire Tower Pole Line Easement Violation: Enforcement Order Status,**

Continued from June 22, 2021. DCR has presented a proposed restoration plan which DCR is prepared to implement in the 2022/23 growing seasons. A Peer Review of the proposed restoration plan has been completed by Berkshire Engineering. **Continued from September 13, 2022.**

Mr. Lowell spoke on behalf of DCR. He stated that the plan they received from Berkshire Engineering is in line with what they proposed and has no issues with implementing the additions that Berkshire Engineering has suggested. Mr. Lowell stated that a gate and barriers have been installed but here have been complaints from neighbors about people riding All-Terrain Vehicles (ATVs) through the property. He stated that the issue is they start on private property not something they can really enforce. Mr. Lautzenheiser stated that he has a few issues with the plans from Berkshire Engineering. He would like to see a reduction in the width of the access road, and he would request a gate be installed at the Mass. Audubon property line. Mr. Lowell stated he and Mr. Lautzenheiser should speak before he puts together the finalized plans for submission to the Commission later this month. Mr. Lowell stated he could have the finalized plan to the Commission for a special Conservation Commission meeting which they have scheduled for Thursday November 17, 2022. Mr. Lowell stated **that** he and Mr. Lautzenheiser should speak before he puts together the finalized plans for submission to the Commission later this month.

**b. 159 Willow Road Enforcement Order Status: Richmond Zoning Board of Appeals (ZBA) Filing for Special Permit was rejected for lack of detail. Continued from July 12, 2022. Sending warning letter leading to start of Citations.**

Mr. Evans told the Commission that he is planning on sending an Enforcement Order stating that Citations will be issued based upon Violations of the Town's Conservation Codes. Mr. Evans asked the members what they want from Mr. Bohlman to submit, a restoration plan or a retroactive permitted NOI. Mr. Evans stated he suggests requesting an NOI. Ms. Goodman stated that the Commission can state the date that it must be

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entered into the Commission along with the date that it will be taken up by the Commission. If the Commission doesn't receive the NOI by the date requested, then citations can begin to be given. Mr. Potter stated that he thought every violation should be spelled out so that if the NOI isn't submitted and Mr. Bohlman doesn't appear before the Commission then there can be a \$100 fine issued for every violation. Mr. Veillette made a motion for an NOI to be submitted to the Commission by December 7, 2022, and that Mr. Bohlman needs to appear at the meeting on December 13, 2022. It was seconded by Ms. O'Donnell and passed unanimously by roll call vote.

- c. **5 Walnut Rd & Adjacent Lots, Town Beach Road**, Violation / Enforcement Order issued to Alex Haidar, Land Clearing in Bordering Vegetative Wetland (BVW) and Buffer Zone at #5 Walnut Road. Site plan has been produced by Berkshire Engineering, and site visit was conducted on May 9<sup>th</sup> by Tom Ingersoll pursuant to developing a restoration planting and stewardship plan. Applicant switched to Guntlow & Associates for representation and preparation of restoration plan. Site Visit held 7/28/22. Guntlow & Associates has left the project. **Amended Enforcement Order issued 9-23-2022. At the request of the applicant, the hearing was continued to the November meeting.**

Ms. Goodman spoke to the members. She stated that she has been in contact with Mr. Haidar's lawyer and that it was not possible to have the restoration plan ready for the November meeting. They have requested that it be continued to the December 13, 2022 meeting. Ms. Goodman stated that the Commission needs to request that a plan be submitted to the Commission by December 7 for the members to review prior to the December 13, 2022, meeting and that someone needs to attend the meeting. If these actions do not occur, then Violation Citations will be issued. Ms. Goodman stated that a certified letter was sent (11-9-2022) to Mr. Haidar clarifying the conditions for the installment of the fence that the Commission had permitted at a prior meeting.

- d. **Discussion and consideration of adopting "Rules for Hiring Outside Consultants Under General Law, Chapter 44, Section 53G".**

A copy of the rules was displayed for the members to read. Ms. Goodman explained the rules to the Commission stating that it is necessary for the Commission to adopt these because right now the Town's Bylaw only allows for the outside hiring of an outside consultant for a NOI. The members can adopt it as it is, or they can make changes to the wording to incorporate more items that might require an outside consultant. It is considered a rule and not a bylaw.

**7. Open NOI/OOCs, RDAs: Status, Recent In-process Inspections and Action Items:**

Mr. Veillette asked Mr. Evans what was happening with the approved NOI for 715 West Road. Mr. Evans stated that it hasn't yet been issued and that the 3-year time limit starts the day the permit is mailed out by certified return receipt letter to the applicant.

**8. Agent Report-None**

- a. Site Plan reviews.
- b. Other Board Permit reviews:
- c. Miscellaneous:
- d. Open Issues:

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**9. Richmond Pond Association:** Last meeting of year held on October 25, 2022: No report

**10. Discussion of Open Space and Recreation Plan action items:**

- a. Conservation Land/Fund Discussions: Richmond Shores Parcel 101.0-0142-0000.0, Corner of Shore & Beach Rd and Shore Line up to Town line approved for Conservation by Select Board and West Shore Proposed Lot Survey: Status. A new surveyor is needed.
- b. United States Department of Agriculture (USDA) Natural Resources Conservation Service Agricultural Land Easement Program - no issue for the Commission, selectman wants it to be between the USDA and the landowner.

**12. Citizen Speak Time / Commission Speak Time / Press Speak Time: None**

**13. Other discussions including items not reasonably anticipated prior to Agenda posting**

Mr. Veillette stated he will be resigning as Chair in January of 2023 but would remain as a regular member. He asked the members to discuss his replacement and that he would like other members to volunteer for projects that need to be done. Mr. Potter has already taken on a couple of special projects. Mr. Veillette stated he will email the members with projects that he feels need to be accomplished. He expects that a member would take over the Chairmanship of the Commission.

**14. Bylaw/Process/Operating Instructions Change Discussions:**

- a. Filing Instructions for applicants: Approved update posted on Richmond Website
- b. Standard Conditions: Update in process, trying to organize the conditions into a logical order
- c. Applicant to Conservation Commission contacts written documentation: Any contact with applicants needs to be documented in an email not just conducted verbally. There must be a way to verify what was said and when.

**15. Adjournment:** A motion was made at 9:49 PM, passed unanimously

**NEXT MEETING:** December 13, 2022, at 6:30 PM, **NEW SUBMISSIONS DUE:** November 29, 2022

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Ernie Smith, Vice-Chair

\_\_\_\_\_ Date