

Richmond Conservation Commission Minutes

Tuesday, September 13, 2022

Meeting was held remotely due to the COVID-19 restrictions.

An Executive Order from the Governor of Massachusetts relieves public bodies from the requirement in the Open Meeting Law that meetings be conducted in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body in real time. In addition, all members of a public body may participate in a meeting remotely; the Open Meeting Law's requirement that a quorum of the body and the chair be physically present at the meeting location is suspended. All other provisions of the Open Meeting Law, such as the requirements regarding posting notice of meetings and creating and maintaining accurate meeting minutes, as well as the limited, enumerated purposes for holding an executive session, remain in effect.

Mr. Veillette stated that the meeting was being recorded and asked if anyone else was recording it. No one else was.

Members present: Ron Veillette-Chair, Ernie Smith-Vice Chair, Shep Evans(agent), Adam Weinberg, Tom Potter, John Scorpa, Pat Seckler (late arrival), Karen O'Donnell

Members absent: Rebecca Lord (associate member)

Other participants: Shannon Boomsma (White Engineering), Robert Lowell (DCR), Holly Stover, Elisabeth Goodman (Town Counsel), John O'Leary (Richmond Shores), Alex Haider, Brian Grebelinger (Richmond Shores), Louis Brogan (Branch Farm),

Mr. Veillette opened the meeting at 6:36PM

1. Review & approval of the minutes of the August 16,2022 meeting.

Mr. Veillette made a motion to approve the August 16 minutes. It was seconded by Ernie Smith and passed unanimously by roll call vote.

2. DPW Items

a. Requests for Determination of Applicability: None

b. Notices of Intent

i Notice of Intent, DEP File # 271-0219: Bundled Notice of Intent from Foresight Land Services on behalf of the Town of Richmond Department of Public Works. The property consists of various locations on local roadways in the Town of Richmond. The proposed work consists of routine maintenance and repairs to various elements of the roadway system. This public hearing was conducted in accordance with the Massachusetts Wetlands Protection Act and the Richmond Local Wetland Bylaw. At the applicant's request, **continued from the January 11,2022 meeting.**

Mr. Veillette made a motion to continue the public hearing to the October 11,2022 meeting. It was seconded by Ms. O'Donnell and passed unanimously by roll call vote.

c. Certificate of Compliance (CoC) Requests.

i Notice of Intent, DEP File #271-0216; Dublin Road Bridge

Mr. Veillette stated that the final inspection hasn't taken place because the Commission is still awaiting the 100% drawings.

3. Emergency Certifications Ratifications: None

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Mr. Veillette made a statement that he was going to change the order of the meeting from what the agenda has.

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

b. RDA from Richard Seligman, property at 200 Shore Road, Map 101 Lot 161. Proposed work consists of cutting and removing a large dead deciduous tree +/-20 foot from Richmond Pond.

Mr. Veillette stated that a site visit was made, and the tree is dead and near the cottage and should be removed. Mr. Veillette made a motion for a Negative 3 Determination with the one special condition of the stump and roots should remain to naturally decompose. The motion was seconded by Ms. O'Donnell and passed unanimously by roll call vote.

c. RDA from Pete Killeen on behalf of Branch Farm Condo Association, property at Branch Farm Road, Map 102 Lot 2. The proposed work consists of cutting down and removing several dead, diseased and/or dangerous Hemlock, Pine, and other trees within the Buffer Zone of Richmond Pond.

Mr. Veillette explained to the members the conditions of the trees based on a site visit he did. Several drawings of the positions of the trees in relationship to cottages and parking and driveways were displayed. Ms. Brogan explained the drawings and details about the removal of the trees. She did mention that some healthy trees might have to be removed for the tree removal companies to get their equipment in and to be able to remove the dead trees. Mr. Veillette stated he agreed with the determination that the trees marked for removal needed to be cut down, many were older Hemlocks that are now diseased prone. Mr. Veillette made a motion for Branch Farm Road Cottage 280, State WPA Form 2 to approve with a Negative 3 Determination with 2 special conditions, 1- all stumps and roots are to remain to be allowed to decompose naturally, 2- no unnecessary cutting of healthy trees (A, B, C, D) on the Branch Farm Cottage 280 Plan. The motion was seconded by John Scorpa and passed unanimously by roll call vote.

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. Continued at applicants request from July 12, 2022.

Mr. Veillette stated that the Commission members just received the updated plans from White Engineering. Ms. Boomsma spoke on behalf of the applicant. She displayed the updated plan for the members to view and explained what the new plan is and how they will implement it. They will draw down the water in the pond during the dry season to dredge a portion of the pond to remove built up road sediment, the pond is right now about 6-8 feet deep they think that after dredging it might be up to 9 feet deep. The plan calls for a small stream channel to remain in the pond so that the aquatic life has a place to live while the work is being done. If they need to, small animals and fish will be removed alive and transported to another pond or stream by the contractors. The plan calls for the re-creation of the habitat for the fish and aquatic life. As per the DEP requirement a shelf along the inner bank of the pond will be

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created. The applicants plan on having both aerators and filters in the pond to maintain the aquatic life and keep down the buildup of algae. A hydrology report was done which found that during an average year of rainfall there should be enough water from rain runoff to keep the pond full. Mr. Veillette made a motion to continue to the October 11, 2022 meeting. The motion was seconded by Mr. Smith and passed unanimously by roll call vote.

b. Notice of Intent, DEP File # 271-0228: Amendment to original approved permit filed for building footprint expansion from White Engineering on behalf of Vincent & Shawna Stango, property at 951 West Road, Map 407 Lot 56. The proposed work consists of partial demolition and construction of an addition to an existing single-family house in the Buffer Zone of a private pond. This hearing will be conducted under the Mass. Wetlands Protection Act and the Richmond Wetland Bylaw. **Continued from August 16, 2022: Awaiting final buffer planting plans and Operation and Maintenance Plan for Buffer Strip and Drainage Swales.**

Ms. Boomsma spoke on behalf of the applicant. Ms. Boomsma presented the updated planting plans for the Commission to view. She showed the addition of shrubs and trees that the Commission requested. Mr. Veillette made a motion to approve the amended NOI with the new planting plan in place. The motion was seconded by Mr. Seckler and passed unanimously by roll call vote.

c. Notice of Intent, DEP File # 271-0232 from SK Design Group on behalf of Charles Gowen, property at 525 Canaan Rd, Map 406 Lot 6. The proposed work includes construction of a garage as an addition to the existing house, related site work and maintenance of the existing fire storage impoundment. The Commission conducted a site visit on Thursday, April 7, 2022. **Approved at the June 14, 2022, meeting-subject to receipt of final planting plan indicating the number of trees versus shrubs, acceptable to the Commission, before issuing the Order of Conditions and subsequent start of work.**

No one from SK Design Group was at the meeting. The new plan which the Commission had, showed the ratio of trees to shrubs. Mr. Potter displayed the planting plan for the members to view. Mr. Veillette made a motion to approve the NOI. The motion was seconded by Mr. Scorpa, it was by roll call vote with Ms. O'Donnell abstaining from the vote.

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

a. RDA from Guntlow & Associates, Inc, on behalf of Alex Haidar, property at 0 Walnut Road, Map 101 Lot 7. Proposed work includes the installation of a split-rail fence along the northern property line of this parcel. Also proposed is removal of any dead trees only within Wetland Buffer Zone and not in any delineated Wetlands or Priority Habitat. **Continued from August 16, 2022**

Mr. Haidar stated that he would like the Commission to separate the fence from the removal of trees. Ms. Goodman stated that the Commission could give a determination on just the fence. Mr. Haidar asked if there was a deadline for the completion of the fence. Mr. Evans stated that RDAs have a 3-year term and can be renewed if the renewal is requested at least 30 days prior to its expiration date. Mr. Veillette made a motion WPA Form 2 for a Negative #3 Determination for only the split rail fence. Mr. Weinberg seconded the motion which passed unanimously by roll call vote.

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

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c. 5 Walnut Rd & Adjacent Lots, Town Beach Road, Violation / Enforcement Order issued to Alex Haidar, Land Clearing in BVW and Buffer Zone at #5 Walnut Road. Site plan has been produced by Berkshire Engineering, and site visit had been conducted on May 9th by Tom Ingersoll pursuant to developing a restoration planting and stewardship plan. Applicant has switched to Guntlow & Associates for representation and preparation of restoration plan. Site visit held 7/28/22. Hearing continued to 13 September 2022

Mr. Veillette stated that the Commission received an email from Guntlow & Associates and from Mr. Haider stating that Guntlow & Associates were no longer on the project. Mr. Haider stated that he has already spent \$30,000 on plans and doesn't intend to spend more on having plans drawn up for the Commission to review. He stated that the plan drawn up by Guntlow & Associates was a good plan and nothing more was necessary. Ms. Goodman spoke about what she thinks should be the next step for the Commission to take. She stated that the Commission could consider amending the Enforcement Order to give Mr. Haider adequate time to prepare a restoration plan to be done by a professional, and for the Commission to identify all the parcels. As of now it is confusing as to which parcels are involved in the restoration, which parcels Mr. Haider owns and of those parcels which ones had trees removed without obtaining a permit. Mr. Haider stated that he already had 3 plans done by professionals (Berkshire Engineering, Tom Ingersoll, and Guntlow & Associates.) and didn't want to spend more money on professionally done plans. Mr. Veillette stated that none of those plans were complete. There was discussion between Mr. Haider, Mr. Veillette and Ms. Goodman about the work that was already done to the property and the work that still needs to be done. Mr. Haider stated that one of the areas of discussion was an area (portion of the Buffer Zone) that according to him had been permitted by Mr. Evans. Mr. Evans stated that he never gave the okay for trees to be cut down in the Buffer Zone, the only permit he signed off on was the building permit for the home which is outside of the Buffer Zone. Ms. Goodman stated that from now on all Determinations will be in writing nothing just verbally given. Mr. Veillette stated that Mr. Haider removed some of the Buffer Zone delineation marker flags that Berkshire Engineering had placed on the property, making it difficult for the Commission to know exactly where the boundaries for BVW and Buffer Zones are. Mr. Haider stated that he knows exactly where the boundaries are and didn't remove flags. Mr. Veillette wants the flags to be put back and the GPS coordinates that Mr. Haider was given by Berkshire Engineering. Mr. Haider stated that they had to put down grass seed according to Mr. Ingersoll's plan, which Mr. Evans stated was just a stabilization plan to prevent further erosion of the soil, so they had to remove rocks and maybe moved a couple of flags during the removal of the rocks. Mr. Veillette stated that a restoration plan means to restore to what was previously there not necessarily what the applicant wants. Mr. Veillette stated that the Commission will retract the NOI request and will require an updated, revised Restoration Plan. The Commission will Amend the Enforcement Order. Ms. Goodman stated that all requirements and conditions are put into the amended Enforcement Order. Mr. Evans stated that he will need to verify and identify all the parcels (Lots # 3,4,5,7,10,11) prior to putting together the Revised Restoration Plan and Enforcement Order. Mr. Haider stated that he thought he could plant trees on his property without any permits from the Commission. Mr. Evans in response to that read from the Enforcement Order which states no work of any kind can be done in the BVW or Buffer Zones without permission of the Commission. Mr. Veillette made a motion to amend the Enforcement Order -1. to add in the specific lot numbers that are involved in the restoration plan, 2-Relflagging of the edge of the BVW,3-removal of NOI request.4- this will be ratified at the October 11, 2022 meeting. The motion was seconded by Mr. Smith and a roll call vote was taken there was 1 nay from Mr. Seckler all other members voted aye.

The amended Enforcement Order will be issued prior to the October 11 meeting but it will be ratified at the meeting by the members then served to the applicant. Mr. Haider requested a link to the video of the meeting, Mr. Veillette stated he would send him the link. Mr. Veillette made a motion to continue the hearing to the

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October 11, 2022, meeting. The motion was seconded by Mr. Weinberg and passed unanimously by roll call vote.

5. Certificate of Compliance (CoC) Requests:

a. **Levy property**, 20 Swamp Road, Map 102 Lots 53 & 54. Three Orders of Condition: DEP #271-0192; DEP #271-0202 and DEP #271-0210. **Certificates of Compliance issued on 8/26/2022**

Done

b. **King Property** 916 Lenox Road Map 241 Lots 57& 81. Order of Conditions SMA File #5-10-2016 and Enforcement Order of 7-1-2018. **Certificate of Compliance issued 9-01-2022- Done**

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, with the expectation that DCR would present a restoration plan acceptable to the Commission and which DCR is prepared to implement in the 2022 growing season. Awaiting more complete details including plantings and retention of a peer reviewer to advise the Commission. **Continued from July 12, 2022. Awaiting DCR advance to cover Peer Review Consultant.**

Mr. Lowell (DCR) stated that he spoke with Mr. Evans and the money required to be put into escrow for payment of the peer reviewer will be sent to the Town. Mr. Evans stated that the engineers are ready to begin as soon as the Town receives the money.

b. **159 Willow Drive** Enforcement Order Status, awaiting status re: 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 stated that he is in the process of creating the letter.

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

a. **Dublin Rd bridge** post construction – awaiting completion of planting by the Town. Awaiting a 100% Drawings including a final planting plan Mr. Evans stated nothing new

8. Agent Report

a. Site Plan reviews; nothing new

b. Other Board Permit reviews- Fox Homes Building Permit sign off

c. Miscellaneous- Mr. Evans stated he spoke with Engineering Dept at Spectrum because Spectrum flags were spotted on the Lenox Mt., View Drive Fire Tower Pole Line. Mr. Evans informed Spectrum that they are within the Scenic Mountain Act and have to submit a permit application. They stated that they would inform the contracting company the requirement of applying for permits.

d. Open Issues: None

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9. Richmond Pond Association: RPA Meetings will resume April 2022

- a. Report out by Mr. Veillette on August meeting.

Mr. Veillette stated that at the meeting there was a discussion about the high levels of phosphates that were discovered during the testing of the water. The phosphates seem to be coming from the runoff of water coming from Mt. Lebanon Brook.

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:

Mr. Veillette stated that they are still waiting for the report from the surveyor.

- b. USDA Agricultural Land Preservation. Mr. Veillette stated that he passed the information on to the Selectboard, Alan Hanson is chair of the Agricultural Committee.

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

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

- a. MACC Conference October 15th, Mr. Veillette stated there was money in the budget for members to attend if they want to.
- b. Mowing along Town Beach Road- The ConCom submitted a rational for restricting the mowing and NHESP map for mowing to the BOS & DPW.
- c. Awaiting response from DEP re an RDA from Wood Environment & Infrastructure Solutions on behalf of CSX Transportation seeking certification of resource area boundaries.
- i. DEP is now the permit granting authority.

14. Bylaw/Process/Operating Instructions Change Discussions:

- a. Filing Instructions for applicants-minor adjustments have been made. Now needs to be put on Richmond Website
- b. Standard Conditions: Update: working on it with members
- c. Applicant contacts documentation-nothing new

15. Adjournment: Mr. Veillette made a motion to adjourn the meeting at 9:38PM passed unanimously by roll call vote.


Mr. Veillette-Chair


Date