

Richmond Conservation Commission Minutes

Tuesday, March 12, 2019 at 7:00 P.M. Richmond Town Hall, 1529 State Road

[NOTICE: This meeting will be recorded by the Richmond Con Com (1)]

The Chair asked if any other recordings will be made: None Responded

Call to Order and Introductions.

- The Co-Chairperson, Ron Veillette, called the meeting to order at 7PM
- Commission members present: Freya Segal Co-Chair, Ron Veillette Co-Chair, Adam Weinberg, Nick Martinelli, Patrick Seckler, Robert Dahlen, John Scorpa (associate), Dan Scorpa (associate).
- Commission members absent: Shepley Evans (agent)
- Applicants and Others Present: Carol Scorpa, Eric Shrim, Paul Supranowicz, Marc Volk (Foresight Land Services), Roger Manzolini

1. Review & approval of the minutes of January 8, 2019 meeting:

Ron Veillette asked if there were any questions or comments concerning the previously distributed minutes from January 8th (the February meeting was cancelled due to bad weather). There weren't any questions. Freya Segal made a motion to accept, it was seconded by Nick Martinelli and passed unanimously.

2. Notices of Intent:

2A. NOI 271-0203 from Foresight Land Services on behalf of John Scorpa, property at 300 Shore Road, Map 101 Lot 146. The proposed work consists of finishing construction of an enclosed deck and related site work including a predominantly underground stormwater management system, all within the Buffer Zone of Richmond Pond.

Co-Chair, **Applicant, ConCom, Audience, spoke in this order.**

2B. Ron Veillette passed out a letter to the members (DEP File No. WE 271-0203, dated 30 January 2019, Mark Stinson contact) from the DEP assigning the file number and their notes on this project. The letter is attached to these minutes, please refer to it for exact wording and content. Freya Segal made a comment that it was very unusual for Mark Stenson of DEP to comment on applications that were sent into the DEP so she felt it was very important for the commission to take his comments seriously. Ron Veillette agreed with her and said it was necessary for the applicant to respond to the issues directly to the DEP and to the Conservation Commission. This way the Commission is not held responsible if the DEP is not satisfied with the results. The hearing should not be closed on these issues until they hear back from the DEP that the applicants have satisfied the DEP Chapter 91 and WPA requirements.

The Scorpas recused themselves from voting on this project.

2C. Mark Volk from Foresight Land Services spoke to the Commission about what they have done and, more proposed work on the storage filtration system and passed out new plans (Proposed Site Plan, John Scorpa, 300 Shore Rd., Sheet SP-1, Revision 3/6/2019) for additional plantings that will be done along the shoreline. A closed porch project is what has been proposed. The structure will remain where it is. The additional roof area will not make it more impervious, it will maintain the same amount of area as before. Single family homesites are not under storm water regulations. First ½ inch of runoff is where most contamination comes from and the stone that they have proposed to place underneath the deck will filter that runoff, 4 inches deep of ¾ inch stone. 100-year storm capacity for storm water runoff. Capturing the water and then a slow release of the runoff through the stone filtration. There are several other forms of drainage that have already been put in place. There will be a fabric underlayment that is porous so water will be able to filter thru. The stone voids hold excess water and then it will slowly drain out if there is a massive rainstorm. All water coming from these roofs is considered clean water by DEP standards. They are proposing to set up waddle fencing and fabric erosion controls to keep

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everything within the work site, to prevent any runoff from the worksite, while construction is going on. Stonework will be the only project breaking grade at this point of the job, all other work to be done is considered vertical work, (ex. installing windows siding & roofing). They would like to close the meeting so that they can get approval to install the windows. DEP is starting to get more involved with enforcing regulations mainly Chapter 91, which refers to public access to lakes and ponds in the state. Mark Volk said that all projects that they have worked on that are located on lakes or ponds have gotten the same requests from DEP. Foresight Land Services requested that the commission give an okay for completion of the project with the understanding that the Scorpas will commit to go thru a chapter 91 if the DEP requires it and that the commission needs to understand that if the DEP requires a Chapter 91 from the Scorpas concerning their dock than the commission would have to look into all the docks on the pond and see if they adhere to Chapter 91 regulations. The other issues that the DEP had raised have been taken into account. Plantings have been proposed in the new plans, 24 new low native bushes will be planted along the shore line and 65 square feet of low bush blueberries will be planted around the gazebo. Ron Veillette asked about the retaining wall but no one knew when it was built, the Scorpas stated that it was there when they bought the property in 1978. Foresight said that reconfiguring the dock and seawall would be a whole different project that is not being considered at this time, no work will be done to the docks or any reconfiguring of the shoreline.

2D. Comments from the Commission

2D1. Nick Martinelli said he has no comments about the letter from DEP and that the proposal that Foresight Land Services has drawn up is reasonable, he is satisfied with what was requested from the Commission is being addressed.

2D2. Adam Weinberg stated he also felt that it was a reasonable proposal but did ask about the runoff from the new proposed roof and if it would create more runoff than was there previously and could it be mitigated properly. Foresight Services stated that the extra runoff would be handled by the 4 inches of stone being placed underneath the deck. The 350gallon storage tank with its outlet pipe should be sufficient. All the new vegetation that is proposed will help with water absorption.

2D3 Pat Seckler concurred with Mr Martinelli's and Mr Weinberg's comments

2D4. Freya Segal asked if they really need the gazebo now that they will have the deck, couldn't they remove the gazebo and put in plantings. The gazebo is no longer necessary and there was no permit ever given for it. The Scorpas stated the gazebo is screened so it allows for outside sitting when the mosquitos are bad. Mr. Veillette concurred with Ms. Segal's comment.

None of the other members had any comments.

2E. Comments from the audience

Roger Manzoloni stated that he has known that property for many years and that they had a dry cellar until the sewer system went in. Drainage system that was put in after the sewer system went in has been handling the drainage problem but Ron Veillette stated that the runoff was from ground water going into the basement which is not what the Commission is referring to now, they are referring to surface water coming from the paved roads and down from other upland areas.

Roger Manzoloni recommended to the Commission that they allow the project to continue.

Ron Veillette asked if permits for the original retaining wall and dock work were taken out and Mr. Scorpa stated that they thought they were but that after several hours of searching for them they couldn't be found. Roger Manzoloni stated that there is a major issue in town with not being able to locate older permits that for many years proper record keeping had not been done but the town is trying to do a much better job at record keeping now.

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Ron Veillette stated that they can close the hearing but put in special conditions about adhering to the DEP Chapter 91 and the other WPA issues related to the previous dock activity and work below the high water mark identified in the DEP letter. Freya Segal also stated that and said that the Commission cannot ignore the letter from the DEP. No time frame will be put into the special conditions as to the work that was previously done on the shoreline. Ron Veillette also wants it noted in the special conditions that no pesticides or chemical fertilizers be used on the property in perpetuity which could leach into the pond. Mr. Scorpa had no problem with that, as he has a shallow well.

Although absent, Shep Evans in a previous note to the Commission felt that the gazebo removal issue should remain in the special conditions. The discussion was to leave the plan as is. The gazebo removal issue will be removed from the proposed special conditions.

Ron Veillette made a motion to approve the project with special conditions as follows:

1. No fertilizer or pesticides ever to be used on the property
2. DEP letter issues will have to be dealt with and a copy given to the Commission before the Commission can issue a Certificate of Compliance.
3. Buffer zone be indicated on the plans as 200 feet not 100 feet to be in compliance with Richmond Bylaws
4. On the side deck, walkway, pervious surfaces under the deck should remain and any impervious surfaces should be removed.

Freya Segal moved the motion, Bob Dahlen seconded, passed unanimously. They have 10 days for the neighbors to appeal before they can start work again.

3. Request for Determination of Applicability: NONE

4. Discussion of Enforcement Orders: NONE

5. Recommendations to permit granting authorities on Special Permits, Variances & Appeals:

5A. Special Permit Variance, 81 State Road, from Christian Hanson – Con Com input and vote.

Ron Veillette said that the commission needs to vote on it since the select board needs to vote on it before the next Commission meeting. The Balderdash Winery special permit for holding events.

Ron Veillette wrote a letter to be given to the selectmen with the Commission's requests and comments in granting the special permit.

Nick Martinelli made a motion that they send the letter that Ron Veillette wrote with the conditions that the Commission would like the select-board to take into consideration before granting the special permit to Balderdash Winery. Adam Weinberg seconded, it passed unanimously.

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6. Discussion of the status of the Conservation Fund:

Update on Berkshire Farm property acquisition. BNRC received their grant money. Ron Veillette and Adam Weinberg will work with BNRC and the Richmond Land Trust to prepare a conservation restriction.

7. Discussion of the status of action items(s) in the Town OSRP:

7A Action Item Update: Goal #1: Ron Veillette had sent out a draft of a 2-page educational brochure to the ConCom that summarized the MA WPA regulations and Richmond Bylaws for protecting the wetlands in Richmond. Discussion was held on how to distribute to all Richmond Landowners, real estate brokers and contractors. Requested the team provide comments.

8. Status of review of Richmond Wetland Bylaw and Scenic Mountain Regulations: NONE

9. Richmond Pond Association - meeting attendance & subjects of interest:

Debrief on 2/26/19 RPA goose management meeting. Ron Veillette attended because he wanted to find out how they are going to control the geese issue within buffer zones and resource areas. A 3 tier approach was proposed by the RPA; 1. habitat modification, which is the one area that would concern the ConCom, if they want to put fencing up in the buffer zone, 2. nesting management (oiling the eggs), 3. using border collies to herd the geese off the pond shore line properties. Ron pointed out to the RPA that any fencing to be installed would have to be reviewed by the Conservation Commission and would not be allowed to impede wildlife movement. It was also pointed out that the planting of native species plants, shrubs and trees does not require a permit from the ConCom.

10. Update of Instructions for Applicants: NONE

11. Open NOI/OOC's & RDAs Status and Action Items: NONE

12. Inquiries to ConCom re possible future applications, etc.: Judy Dougherty advised she was going to be putting in her horse fencing. Shep advised that the fence must not impede movement of wildlife. Ron Veillette said he mentioned to her that the fencing should be designed to allow safe parking/entrance along the field side of the road.

13. Citizen speak time: None

14. Other matters:

14A. MACC Annual Meeting debrief. Pat Seckler went to a workshop on Vernal pools. Ron Veillette went to a workshops on invasive species removal, Buffer Zone function and values and one on reviewing wetland mitigation(replication plans).

14B. Ron Veillette reminded members of the online courses available from MACC for members.

14C. Education status. Discussion that realtors should let their buyers be aware of the Conservation issues of the property that they are buying.

14D. A budget has been requested to have a dinner with a guest speaker for the Commission.

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Other issues not reasonably anticipated prior to Agenda posting:

Adjournment motioned made by Ron Veillette at 8:45 pm, Seconded by Nick Martinelli passed unanimously.

Data Provided at/for meeting; 2 Items Identified in minutes above for agenda item #2.

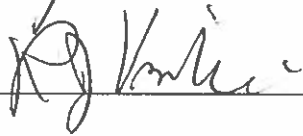
**Next Meeting: Tuesday, 4/9/2019?
3/20/2019?**

New Submittals Requested By: Wednesday,

- (1) **NOTE: Pursuant to MGL. 7c. 30A sec. 20 (f)**, after notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body or may transmit the meeting through any medium. At the beginning of the meeting, the chair shall inform other attendees of any such recordings. Any member of the public wishing to speak at the meeting must receive permission of the chair. The listings of agenda items are those reasonably anticipated by the chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

ConCom Approved Date: 4/9/19

R.J. Veillette/Co-Chair



F. Segal/Co-Chair





COMMONWEALTH OF MASSACHUSETTS
 EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 WESTERN REGIONAL OFFICE
 436 DWIGHT STREET, SPRINGFIELD, MA 01103 413-784-1100

CHARLES D. BAKER
 Governor

MATTHEW A. BEATON
 Secretary

KARYN E. POLITO
 Lieutenant Governor

MARTIN SUUBERG
 Commissioner

DATE: January 30, 2019

Municipality RICHMOND
 (city/town)

RE: NOTIFICATION OF WETLANDS PROTECTION ACT FILE NUMBER

The Department of Environmental Protection has received a Notice of Intent filed in accordance with the Wetlands Protection Act (M.G.L. c. 131, §40):

Applicant: JOHN SCORPA

Owner: JOHN SCORPA

Address: P.O. BOX 415
 LANESBOROUGH, MA 01237

Address: P.O. BOX 415
 LANESBOROUGH, MA, 01237-0415

LOCUS: 300 SHORE ROAD

This project has been assigned the following file # : WE 271-0203

A FILE NUMBER ONLY INDICATES THAT THE APPLICATION CONTAINS THE MINIMAL SUBMITTAL REQUIREMENTS AND IS ADMINISTRATIVELY COMPLETE - NOT THAT THE INFORMATION IN THE APPLICATION IS ADEQUATE FOR ISSUANCE OF AN ORDER OF CONDITIONS.

Although a file # is being issued, please note the following:

[1] The site appears to be in violation of both the Wetlands Protection Act and the Public Waterfront Act, MGL Chapter 91. It does not appear any permits have been issued for the retaining wall or the dock.

[2] Please provide information to the Commission on when the retaining wall was constructed, pre or post Wetlands Protection Act. If constructed after 1972, it may not have been permissible and the commission can require its removal.

[3] Any activity at or below the high water mark, retaining wall, dock, steps, etc, should be included in the Chapter 91 license application and this NOI.

[4] The current dock location may not be permissible by the Chapter 91 program. Since Chapter 91 requires an OOC showing the dock and other activity below the high water mark as being approved by the commission, the commission should keep the hearing open until program staff and the applicant have agreed on what will be permissible under Chapter 91.

[5] Please explain the rip-rap below the high water mark as that may be a violation. Bioengineering methods are

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD# 1-866-539-7622 or 1-617-574-6868.
<http://www.mass.gov/dep>

Printed on Recycled Paper

JOHN SCORPA
 P.O. BOX 415
 LANESBOROUGH, MA 01237

preferred for any Bank stabilization and not rip-rap.

[6] The commission has the ability to require plantings along the lake boundary. Per 310 CMR 10.53(1) "where a Buffer Zone has already been developed, the Issuing Authority may consider the extent of existing development in its review of subsequent proposed work and, where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of M.G.L. c. 131, § 40."

ADDITIONAL REQUIREMENTS:

Chapter 91 license may be required. Application and transmittal form are available on the MassDEP website <http://www.mass.gov/eea/agencies/massdep/water/approvals/wetlands-and-waterways-forms.html#2>. If necessary, contact MassDEP Waterways Program at 617-292-5929 for direct mailing or provide information why license is not required.

If you have any questions regarding this letter, please contact: MARK STINSON @ (413)-755-2257

Cc: Richmond Conservation Commission, TOWN HALL, ROUTE 41, Richmond, MA, 01254
Owner: JOHN SCORPA, P.O. BOX 415, LANESBOROUGH, MA, 01237-0415
Representative: FORESIGHT LAND SERVICES, INC., 1496 WEST HOUSATONIC STREET, PITTSFIELD, MA, 01201

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

THIS ATTACHED FROM THE REGS.

10.53: General Provisions

(1) If the Issuing Authority determines that a Resource Area is significant to an interest identified in M.G.L. c. 131, § 40 for which no presumption is stated in the Preamble to the applicable section, the Issuing Authority shall impose such conditions as are necessary to contribute to the protection of such interests. For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. The potential for adverse impacts to Resource Areas from work in the Buffer Zone may increase with the extent of the work and the proximity to the Resource Area. The Issuing Authority may consider the characteristics of the Buffer Zone, such as the presence of steep slopes, that may increase the potential for adverse impacts on Resource Areas. Conditions may include limitations on the scope and location of work in the Buffer Zone as necessary to avoid alteration of Resource Areas. The Issuing Authority may require erosion and sedimentation controls during construction, a clear limit of work, and the preservation of natural vegetation adjacent to the Resource Area and/or other measures commensurate with the scope and location of the work within the Buffer Zone to protect the interests of M.G.L. c. 131, § 40. Where a Buffer Zone has already been developed, the Issuing Authority may consider the extent of existing development in its review of subsequent proposed work and, where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of M.G.L. c. 131, § 40. The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.