

MINUTES

Richmond Conservation Commission

Tuesday November 12 ,2019 at 7PM. Richmond Town Hall 1529 State Road

Call to order and Introductions

- Mr. Veillette, Chair called the meeting to order at 7:00PM.
- Mr. Veillette made this statement:

Notice: This meeting will be recorded by the Richmond ConCom (1) and if any other person will be recording this meeting, they are to notify the committee at this time.

- Commission members present: Ron Veillette-Chair, Dan Scorpa, John Scorpa (associate member) Shep Evans (associate member and agent), Adam Weinberg Vice-Chair, Bob Dahlen
- Commission members absent: Nick Martinelli, Pat Seckler
- Applicants and Others Present: Claudia Ryan (recording secretary), Sarah Gapinski (SK Design Group), Tom Murtha, Ann Kulig (Berkshire Engineering)

1. Review & approval of the minutes from the October 15, 2019 meeting.

- a. **Mr. Veillette asked if there were any comments concerning the previously distributed minutes.** There were none. Mr. Veillette made a motion to accept the minutes, Mr. Dahlen seconded it and it passed unanimously

2. Notices of Intent (New/Continued/Extensions):

- a. **Notice of Intent (DEP File #271-0211):** From Berkshire Engineering on behalf of Thomas & Janet Murtha, property at 220 Shore Rd, Map 102, Lot 2. The proposed work consists of adding a second story to an existing house and building a 14ft. x 12.5 ft. addition attached to the southern face of the house consisting of a ground floor porch area with a master bedroom above, all within the 200ft. Buffer Zone of Richmond Pond.

Ms. Ann Kulig (Berkshire Engineering) presented a plan for the commission to view. She stated that the project was outside of the 50ft. buffer zone and that just 2 helical piers will be within the buffer zone at the furthest end of the new construction site. Silt fence will be around both the driveway and the entire construction. The property is a combination of two smaller building lots.

Mr. Evans requested that Ms. Kulig provide the Commission with 2 stamped signed copies of the plans and she stated she would. Those plans would include any additions that the Commission might request. Mr. Veillette asked about the shed that is to be removed from the property. He wanted to know if it was on a foundation and would require any digging for removal. He was told that it just rests on the ground and no disturbing of the soil will be required. The applicant plans to plant grass and flowers in that space. Mr. Veillette asked about how much digging will be needed to install the two 3inch helical piers. He was informed that very little digging is needed for this type of pier which is one of the reasons they are using them. It is felt that only 2ea. 3-inch piers will be required but the final decision will be made by the architect/builder. The final calculations for the number of piers will be on the signed stamped plans. Mr. Veillette asked if any other special permits were being requested for this project. Ms. Kulig stated that no other special permits were required. Mr. Veillette asked about gutter and drainage from the new roof. Ms. Kulig stated that there will be gutters and cement splash blocks and that the water will then drain onto the established lawn. The gutters and splash block will be put in on the signed/stamped plans. A discussion about the type of dock and chapter 91 License from DEP took place. At this time there is a seasonal dock. Ms. Kulig stated that a permanent dock might be put in. Mr. Veillette reminded the Commission and the applicant that the DEP Chapter 91 License states that there is a 5ft wide corridor above the bank for public access on a great pond (Richmond Pond qualifies as

MINUTES

Richmond Conservation Commission

Tuesday November 12 ,2019 at 7PM. Richmond Town Hall 1529 State Road

such) and that any permanent dock must allow for such access for that.

Mr. Veillette asked if there was any paperwork from the Natural Heritage and Endangered Species Program, and he was informed that Natural Heritage was not involved.

Mr. Veillette read a list of special conditions that he wanted to be included in the approval of the NOI:

- i. The project shall be accomplished in Accordance With Berkshire Engineering Dwg.19-09-07 Sturdy Builders Rev 0, dated 9/17/2019 and Planning Data in NOI Dated October 2019 with approved revisions if required.
- ii. The use of herbicides, pesticides, fungicides, fertilizers or other chemical treatments constitutes an alteration of the Buffer zone, as defined in the Bylaw, and is thus prohibited in perpetuity unless explicitly allowed by the Commission in an Order of Conditions. This condition shall be included in the Order of Conditions and any subsequent Certificate of Compliance.
- iii. Planting vegetation along the shoreline with Native Species (shrubs or trees) at a minimum of 1100 sq. ft is required. A plan showing location of the plantings shall be provided to the ConCom no later than a date of ConCom approval of the silt fence/ limit of work line establishment with the ConCom.
- iv. If site conditions require a change from the use of 3" helical piers to some other methods, then proposed change of method and accompanying mitigation measures need to be reviewed with the ConCom.
- v. Driveway surface shall remain pervious and be maintained as such.
- vi. The new dock landing as approved Under the Chapter 91 License shall land inland & above the bank and not require any permanent abutments, unless a permanent dock is to be permitted.
- vii. The maintenance activities specified in this Order shall not expire with the issuance of a Certificate of Compliance. It shall be the responsibility of the property owner of record to see that maintenance conditions are complied with as required by this order and any subsequent Certificate of Compliance.
- viii. The applicant has 60 days from the end of the project to apply for a Certificate of Compliance from the ConCom.

The addition of the requirement for applying for a Certificate of Compliance was a request made by Mr. Evans. He would like all future NOIs to have as a required condition that there is a specified number of days for the applicant to apply for a Certificate of Compliance from the Commission. It is important that a Certificate of Compliance to be recorded in the Registry of Deeds to clear the titles and enable a property transfer to take place.

Mr. Veillette requested that from now on as a Standard Condition for an NOI or RDA that the the above wording about pesticides and herbicides be part of the normal permit requirements.

Mr. Veillette closed the public hearing at 7:40.

Mr. Veillette made a motion to approve the NOI with the Special of Conditions that listed above. It was seconded by Mr. Weinberg and passed unanimously.

- b. **Continued Notice if Intent (DEP File # 271-0209):** From SK Design Group on behalf of Lisa & Daniel Lehmann. Property at 120 Shore Road, Map #101 Lot 175. Proposed work includes removal of timber retaining wall, construction of a rip/rapped slope with plantings along the shoreline, stone-steps, reconstruction of a flagstone patio and creation of new planting areas. The Natural Heritage and Endangered Species Program has determined that the project will have no adverse impact on rare

MINUTES

Richmond Conservation Commission

Tuesday November 12 ,2019 at 7PM. Richmond Town Hall 1529 State Road

species in Richmond Pond and thus will not constitute a "Take".

Ms. Gapinsky (SK Design Group) spoke on behalf of the applicants. She showed the Commission the newest set of plans which included the information that the Commission had requested from the last meeting; the exact square footage of the proposed patio replacement, the material (gravel) which would be used for the patio base and that gravel would be used for the base of the stone steps, the new planting outline and a tree that would be planted.

Mr. Veillette asked what the sequence of the work would be. Ms. Gapinsky stated it was going to be from the bank towards the house and that the plantings would be the last project so any disturbance of soil would be fixed during the planting phase. It was noted that the work sequence is in the NOI. They hope to be able to get the work on the rip-rap done while the Pond is in its drawn down stage but if not, they have made contingency plans for having to work in the water. Mr. Veillette also wanted to make sure that they were going to use "clean" stone in the rip-rap slope. Ms. Gapinsky told the commission that since the rip-rap is considered a structure they will have to go to the DEP and file for a Chapter 91 License.

Mr. Veillette presented special orders of conditions he would like to have put into the Order of Conditions.

- i. The project shall be accomplished in Accordance With SK Design Group Dwg.190091 Rev November 5, 2019 dated 9/17/2019 and Planning Data in NOI Dated September 20, 2019 with additional information provided in SK Design Letter date November 5, 2019 with approved redlines.
- ii. The use of herbicides, pesticides, fungicides, fertilizers or other chemical treatments constitutes an alteration of the Buffer zone as defined in the Bylaw and is thus prohibited unless explicitly allowed by the Commission in an Order of Conditions. This condition shall be included in the Certificate of Compliance.
- iii. Vegetation along the shoreline with Native Species (shrubs or trees) at a minimum of 1000 sq. ft. is required.
- iv. The patio shall be no larger than the existing and shall remain pervious by property owners of record in the future.
- v. If driveway surface is replaced, it shall be pervious and maintained as such.
- vi. The new dock landing as approved Under the Chapter 91 License shall land inland & above the bank and not require any permanent abutments.
- vii. The maintenance activities specified in the Order shall not expire with the issuance of a Certificate of Compliance. It shall be the responsibility of the property owner of record to see that maintenance conditions are complied with as required by this order.
- viii. The applicant will have 90 days from the completion of the project to apply for a certificate of Compliance.

Mr. Veillette closed the public hearing at 8PM. He made a motion to approve the NOI with the Special Conditions that were previously stated. Mr. Weinberg seconded and it was a unanimous vote by the Commission.

- c. **Signing the Rewritten Order of Conditions (DEP 271-0207):** From Daniel Bove, MA Division of Fisheries & Wildlife. Property located at 0 Swamp Road, Map 409 Lot 104 (aka Fairfield Brook Natural Heritage Area/ Richmond Fen).

Mr. Evans passed out the new Order of Conditions for the Commission members to sign. The issue with the original Order was created because of a old form that was used for the filing, it should have been the new form that was submitted.

MINUTES

Richmond Conservation Commission

Tuesday November 12, 2019 at 7PM. Richmond Town Hall 1529 State Road

3. Requests for Determination of Applicability:

- a. **Request for Determination of Applicability from Berkshire Engineering on behalf of James Hartford**, property located at 29 Osceola Notch Road, Map 404 Lot 83. The proposed work consists of replacing the current septic system with a new Title V Compliant system that will be sited within the Buffer Zone of an intermittent stream, due to land constraints and the location of an existing private water supply well.

Ms. Kulig spoke on behalf of the applicants. The house is being put up for sale and a Title V inspection was done and the septic system failed. It is very steeply sloping property and the area that they perched was the only flat portion of land where a system could be located. An Infiltrator system that is lined with stones will be installed. It will be a mounded system due to high ground water. The trees that will have to be taken down will be shown on the plans. Mr. John Scorpa asked about replacing some of the trees that will need to be taken down. Mr. Weinberg suggested that instead of trees they could plant smaller non invasive shrubs on the steep slope adjacent to the nearby BVW.

Mr. Veillette made a motion to issue a Determination of Applicability (Negative # 3) and to include special conditions as follows:

- i. The project shall be accomplished in Accordance With Berkshire Engineering Dwg. 10-09-10 Hartford, dated 10/2/2019 and Planning Data in the associated RDA dated 10/3/2019 with ConCom approved redlines.
- ii. Replace trees removed from leach field area. Shrubs or trees can be used for replacement. Locate them on downhill side of leach field towards the intermittent stream and associated BVW.
- iii. The use of herbicides, pesticides fungicides, fertilizers or other chemical treatments constitutes an alteration of the Buffer zone as defined in the Bylaw and is thus prohibited unless explicitly allowed by the Commission in an Order of Conditions.
- iv. The maintenance activities specified in this Order of Conditions shall not expire at the completion of the project. It shall be the responsibility of the property owner of record to see that maintenance conditions are complied with as required by this order.
- v. Planting of native shrubs/ trees along the work line.

Mr. Veillette's motion was seconded by Mr. Dahlen and passed unanimously.

- b. **Request for Determination of Applicability from Berkshire Engineering on behalf of Melvin Marion**, property located at 1772 Swamp Road, Map 408 Lot 92. The proposed work consists of replacing the current septic system. The location of the leach field falls between the 50 foot and 100foot buffer zone of nearby Bordering Vegetated Wetlands.

Ms. Kulig spoke on behalf of the applicants. It is mostly a septic repair with the wetlands in the back of where the work will be done. Mr. Marion would like to save his garden. The soils are good, there will be a raised mound and an infiltrator system with stone. Two trees which are marked on the plans will be taken down.

Mr. Veillette proposed his special conditions for this Determination of Applicability.

- i. The project shall be accomplished in Accordance With Berkshire Engineering DWG. 19-08-19 Marion, dated 9/26/2019 and Planning Data in the associated RDA with ConCom approved redlines.
- ii. The use of herbicides, pesticides, fungicides, fertilizers or other chemical treatments constitutes an alteration of the Buffer zone as defined in the Bylaw and is thus prohibited unless explicitly allowed by the Commission in an Order of Conditions.

MINUTES

Richmond Conservation Commission

Tuesday November 12 ,2019 at 7PM. Richmond Town Hall 1529 State Road

- iii. The maintenance activities specified in this Order shall not expire at the completion of the project. It shall be the responsibility of the property owner of record to see that maintenance conditions are complied with as required by this order.

Mr. Veillette asked the members if there were any additional questions. There were none so Mr. Veillette made a motion to approve a Negative Determination #3 with the special conditions stated. It was seconded by Mr. Dahlen and passed unanimously.

4. Certificate of Compliance Requests:

- a. **Request for Partial Certificate of Compliance** from SK Design Group on behalf of Richard Levy. Property located at 20 Swamp Road. The project areas subject to the partial certification are the approximately 195 feet of driveway(s) from Swamp Road to the Security Gate (see the as-built plan by SK Design Group dated 1-16-2019, scale 1"=30'.)

Ms. Gapinski (SK Design Group) spoke on behalf of the applicant. She requested and received from the Commission the Partial Certificate of Compliance. Ms. Gapinski told the Commission that by spring/summer of 2020 they plan on having all the work at 20 Swamp Road completed and so will be requesting Certificates of Compliance from the Commission for these projects.

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

- a. **159 Willow, Map 101, Lot 190: Enforcement Order Stop Work Order Disregard**
The Town counsel has reviewed the violation chronology and recommended that DEP be approached to see if they will take on the violation enforcement. Shep sent the chronology of event information to the DEP for them to review and consider a follow up.
Mr. Veillette is advocating that the Town incorporate a bylaw adjustment that will allow for the issuing of fines in a non-criminal method. It will need to be passed at a town meeting. The Bylaw as it is now having a limit of \$100 per violation, the state has a cap of \$300. The town could issue a \$100 each day for each violation.
- b. **24 Scace Brook, Map 402, Lot 40: DEP Superseding Order Violated**
Mr. Evans told the commission that the DEP is addressing the issue and is keeping the ConCom in the loop.

6. Special Permits, Variances or Appeals Recommendations to ZBA:

- a. None such far this month

7. Open NOI/OOC's & RDAs: Status and Action Items

- a. No discussion

8. Inquiries to ConCom about future/ possible applications

- a. No discussion- Mr. Evans indicated there maybe a NOI for tree removal from Branch Farm Road property

9. Richmond Pond Association Mtg Attendance Report Out- John Scorpa & Ron Veillette

- a. The draw down plan for the Pond was approved, it was to begin on November 1st, it will be a 2-foot draw down of the pond.
- b. The idea of a watershed management plan was put forward and Berkshire Regional Planning has grant some money for it.

10. Discussion of OSRP action items:

- a. WPA Brochures status- Mr. Veillette stated they have been mailed out.
- b. Other action items status-no discussion

11. Conservation Fund Discussions:

MINUTES

Richmond Conservation Commission

Tuesday November 12, 2019 at 7PM. Richmond Town Hall 1529 State Road

-
- a. MOU Amendment #1 status-Mr. Veillette stated that it has been signed and notarized and recorded at the Registry of Deeds this week.
 - b. New fund use proposals- Mr. Veillette asked the Commission members if they had any ideas for uses of the Conservation Funds.

12. ConCom Bylaw and Process Update Discussions:

- a. MACC Proposed change- Mr. Veillette passed gave each member a handout:Appendix F-Model Regulations for the Buffer Zone Under The MACC Model Wetlands Protection Act Bylaw.
- b. Ticketing bylaw changes status-already taken up
- c. Mr. Evans passed out copies of the town Wetland Bylaws and copies of the Conservation Commission Regulations. He made a point of explaining that Town Bylaws need a town meeting vote to be changed where as Conservation Commission Regulations can be changed by a vote of the ConCom.

13. Citizen Speak Time: None

14. Other discussions not reasonably anticipated prior to Agenda posting


- a. New member discussions-Mr. Veillette stated that the Commission needs 2 new members,1 full and 1 associate member

15. Adjournment: Mr. Veillette made a motion to adjourn at 9PM, it was seconded by Mr. Evans and passed unanimously.

Next Meeting: Tuesday December 10, 2019

New Submittals Requested By: Wednesday, Nov 27, 2019


Mr. Ron Veillette-Chair


Mr. Adam Weinberg- Vice Chair

Date: