

**Rochester Conservation Commission**

**June 1, 2021**

**Present:** Christopher Gerrior, Chairman  
Daniel Gagne, Vice Chairman  
Léna Bourque  
Maggie Payne  
Kevin Thompson

**Absent:** None

Laurell J. Farinon, Conservation Agent  
Victoria D'Antoni, Board Administrator  
Lori Walsh, Recording Secretary

The meeting convened by telephone and video conference via Zoom Meeting ID: 815 5910 0647. Chairman Gerrior called the meeting to order at 7:00 p.m. and took attendance of Members, staff, applicants, and representatives. Chairman Gerrior read a message about remote participation and ground rules for the meeting. He stated the meeting was being recorded. Each presentation was limited to 10 minutes and 3 minutes were allowed for public comment. Chairman Gerrior stated that votes would be taken by roll call.

**Public Meeting**

**Request for Determination of Non-significance by Stevie Carvalho, E.I.T. of Farland Corp on behalf of Property owner Nick Araujo, 67 Old Schoolhouse Road, DEP SE 272-572, Request to Pave Driveway.**

Mr. Carvalho stated that the applicant is looking to determine whether or not he can convert the gravel stone to a paved driveway. Agent Farinon explained that the applicant is looking for feedback from the Commission on whether the change is significant enough to warrant an Amended Order of Conditions. There is an existing Order on the property that allowed him to improve the driveway and construct the dwelling. Mr. Gagne asked if they are proposing any best management practices (BMP's), as he doesn't see any siltation measures and asked how they intend to do this project. Mr. Carvalho stated that the initial work didn't include any improvements to the gravel roadway, hence why the erosion controls are limited. Agent Farinon expressed concern about adding that much impervious surface and a need for a swale or a BMP to prevent any adverse impacts to water quality to the wetlands system. Vice Chairman Gagne concurred and noted that proposed work is within the 25' No Disturb Zone.

Discussion ensued about the need for more detailed information. A motion was made by Member Payne, seconded by Member Bourque, to request an Amended Order of Conditions. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0).**

**Public Hearing**

**DEP SE# 272-0607 A Notice of Intent filed by property owner DBT Investments, LLC, 556 Center Street, Suite D, Middleborough, MA 02346 property located at 22 High Street, designated as Lot 9 on Rochester Assessors' Map 14.** The applicant proposes grading and landscaping associated with construction of a single- family home. Work is proposed within 100 feet of a Bordering Vegetated Wetland as well as Bordering Land Subject to Flooding (Flood Zone A). Existing debris within the 25 Foot No Disturb Zone shall be removed from the property. The

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applicant's representative is Zenith Consulting Engineers, LLC, 3 Main Street, Lakeville, MA 02347.

Nyles Zager, from Zenith Consulting Engineers, presented the project and explained the property is approximately 6.5-acres in size. The wetlands were delineated by Steve Chmiel of Hydric Solutions. The east side of the property is bounded by the Sippican River which has an associated 100 and 200 foot inner and outer riparian zone. There is an old abandoned cranberry bog located across High Street that has a 100-Foot Buffer that extends onto the property. The property is impacted by FEMA Flood Zone A. The proposed project consists of razing the existing single-family structure, constructing a new 3-bedroom home, and landscaping and grading within the 100 Foot Buffer Zone. There is no work at all proposed within the 200 Foot Riparian Zone. Mr. Zager explained that they are proposing a dewatering basin (within the Zone A) in case there is any water encountered at time of construction.

Agent Farinon requested that the applicant install erosion control barriers downgradient from where a ditch was dug near the well; exposed soil is washing towards the wetland area. Agent Farinon reported that she has reviewed the wetland delineation and has questions about the line. She contacted wetland scientist Stephen Chmiel and requested data sheets for the wetland delineation, that the limit of fenced garden and top of bank of the river be located and shown on the plan. Agent Farinon requested that the dewatering basin re-located so that it's out of the flood plain area. She noted that the subject property is within an area mapped by the Natural Heritage & Endangered Species Program (NHESP) and the Commission is awaiting comment.

Kymberly Ashley of Old Tuck Cranberry Corp, an abutter to this project, noted that the property line is not shown on the plan. Ms. Ashley claims the dewatering pit is on Old Tuck property and the elevation is of concern.

A motion was made by Thompson, seconded by Member Bourque, to continue the public hearing to July 6, 2021. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0).**

**DEP SE# 272-0606 A Notice of Intent filed by Bendrix Bailey, 34 Gerrish Road, Rochester, MA 02770, for property located at 0 Gerrish Road, designated as Lot 29F on Rochester Assessors Map 43A.** The applicant seeks approval to construct a 700-foot long roadway to access a single-family house lot. Proposed work within the 100 Foot Buffer Zone to a bordering vegetated wetland consists of site clearing, construction of a 20' wide 700-foot long recycled asphalt roadway, site grading and construction of a water quality basin. The property owner of record is Edgewater Bog Realty Trust, 34 Gerrish Road, Rochester, MA 02770. The applicant's representative is Brian Grady of G.A.F. Engineering, Inc., 266 Main Street, Wareham, MA 02571.

Brian Grady from G.A.F. Engineering requested a continuance on behalf of the applicant.

A motion was made by Member Payne, seconded by Member Bourque, to continue the public hearing to June 15, 2021. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0).**

**DEP SE# 272-0597 A Notice of Intent filed by filed by Snipatuit Road Solar, LLC, P.O. Box 1320, Portsmouth, NH 03801, for property on 0 Snipatuit Road, designated as Lots 26, 27 on Rochester Assessors Map 46 and Lots 1, 4, 9, and 9A on Rochester Assessors Map 47.** The

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applicant proposes construction of a perimeter access roadway, stormwater collection system and installation of portions of a 4.6 MW DC ground-mounted solar photovoltaic array within the 100-foot Buffer Zone to Bordering Vegetated Wetlands. Road improvements will include widening the access road and upgrading the existing 18" metal culvert to a new timber span bridge crossing, which will result in the alteration of 4,570 square feet of Bordering Vegetated Wetland, 22 linear feet of Bank, 33 square feet of Land Under Waterbodies and Waterways, and 9,800 square feet of Riverfront Area. The applicant's representative is Beals and Thomas, 144 Turnpike Road, Southborough, MA 01772.

***Dan Gagne recused himself from the hearing.***

Eric J. Las, Beal & Thomas, shared his screen and presented the project. Mr. Las explained that the Planning Board is requiring that the existing cart path be widened for public safety reasons. There is an existing 18-inch corrugated metal pipe and perennial stream crossing. The Fire Chief deemed the existing road inadequate and that it needs to be widened to 20 feet. Mr. Las explained that they propose significant improvement to the stream crossing in accordance with the MA DEP stream crossing standards. Wetlands alteration is unavoidable to widen the road, and wetland replication is proposed. Mr. Las said that a lot of new information that has been prepared and submitted to the Commissions peer review consultant BSC back on May 12<sup>th</sup>, and they are still waiting a response. The proposed timber bridge will provide significantly greater connectivity to the two BVW's on either side of the access road. They will be spanning the bank 1.2 times for width and achieving an openness ratio greater than 0.82 which is the criteria set by Mass DEP. Sheet 7.1 shows the proposed replication area, and that area has been known for logging in the past. An existing logging road travels right through the area, and there is open canopy that can be used for staging and stockpiling of replication materials.

A motion was made by Member Thompson, seconded by Member Bourque, to continue the public hearing to July 6, 2021. **The motion passed in a roll call vote of 4 in favor, 0 opposed, 1 abstained. (4-0-1).** Vice Chairman Gagne abstained.

**DEP SE# 272-0608 A Notice of Intent filed by A.D. Makepeace Company, Inc., 158 Tihonet Road, Wareham, MA 02571, for property located at the Morse Swamp Reservoir, 0 County Road designated as Map 17, Lots 9 and 13.** The applicant filed a Notice of Intent in response to an Enforcement Order issued by the Rochester Conservation Commission on December 16, 2020. Proposed work involves restoration and replication of the following wetland resource areas: 1,458 linear feet of Bank, 17,001 square feet of Bordering Vegetated Wetland, 200,376 square feet of Land Under Waterbody, 29,305 square feet of Bordering Land Subject to Flooding, and 2,737 square feet of Riverfront Area. The applicant's representative is G.A.F. Engineering, Inc., 266 Main Street, Wareham, MA 02571.

***Dan Gagne recused himself from the hearing.***

Mr. Madden of G.A.F. Engineering explained that the Notice of Intent was filed as a result of an Enforcement Order issued to the AD Makepeace Company for activities they conducted at 0 County Road. He stated that that area is land in agricultural use comprised of a water supply reservoir for cranberry operations, cranberry bog acreage, uplands, wetlands, the affected bank, the affected BVW, the affected bordering land subject to flooding, and a portion of the land that is land under water bodies. Pursuant to the Enforcement Order, they prepared a set of five drawings that outline

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wetlands resources areas and the mitigation that is proposed to remedy the violation. Mr. Madden explained that A.D. Makepeace Company thought that they were conducting an exempt maintenance activity when they were doing the dredging and the cleaning up the water supply at that site. In the process of conducting those exempt activities, they did a couple of things that were beyond the scope of any exemption, namely the casting of dredge spoils on to a bordering vegetated wetland, inland bank, riverfront area and bordering land subject to flooding. Mr. Madden said that they prepared a plan that shows removal of all the materials that were inappropriately cast on resource areas and repair of the bank. Mr. Madden said that the drawings indicate each one of the resource areas that were impacted. Mr. Madden stated that they plan to take out the material that is in the BVW by hand and take some of the material away.

One of the features of the site is that it is in an Eversource right of way and there's vegetation management that Eversource undertakes in those areas as well and there is a limitation as to what we can place there and really low vegetation is what is required there due to the right of way management criteria and Brad will speak on that situation. Mr. Maddon said that they may have to use low pressure water to any material that we can't get out of the BVW manually without disturbing the root system of it and they had thought about just washing that material down to the edge of the reservoir and hopefully impound at our core log that we're putting in place for the restoration of the bank. The coastal bank element was to be restored using a core log and some plantings as well and it's on the drawing. Mr. Maddon feels that the BVW and the bank work hand in hand as far as the repair and the restoration.

As far as the larger piles of gravel you see to the east of the site, they are pretty large and they would have to be loaded into trucks and disposed from the site and anything removed from the site would have to be moved to another cranberry bog land under the control of the Makepeace Company, we would either stock pile it or use it to enhance some roadways within the cranberry bogs system that they have. If there is a desire to remove it, which there isn't one right now, then we will have to get an earth removal permit from the Town. Also, that material is in that border land flooding.

Mr. Maddon went on to say that with the mitigation for the material that's stored in the BLSF, would be the removal of all that material and stone in that area designated as the 8<sup>th</sup> flood zone and once they remove the vast majority of it they will get to a situation where it will be hand labor down to the end of things, that's really the only way we're going to be able to remove that material from that site. Mr. Maddon also added that dredging and cleaning of a water supply is an exempt activity.

He said that it is the intention of Makepeace to continue on and to develop the water supply and the question is what do they do with the rest of the project. They have included a farm plan done in 2001.

Agent Farinon addressed the Commission about the submittal and said that she does not agree with the assessment that all the dredging that was done was an exempt activity. She proposes that the Commission hire a peer review consultant and that a proposal from LEC Environmental was included in the Commission's packet. The proposal includes two phases of work (review and construction oversight) and the total is \$11,500. Agent Farinon recommended requesting the entire \$11,500. This is a big project and there is a lot of work that needs to be done, as well as assuring that all the local rules and regulations are addressed.

Chairman Gerrior asked Brad Holmes if he has any comments he would like to add.

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Brad Holmes said they prepared a restoration plan with a restoration process that goes through each one of the activities and describes how each one of the wetlands resources will be restored. It's all detailed in a step by step manor. He hopes that everyone works together to get the Order of Conditions issued and work started.

Maggie Payne and Kevin Thompson stated that they support hiring a peer review Consultant. Agent Farinon clarified that the first phase is \$6,500 and the second phase is \$5,000.

Kevin Thompson made a motion that the Commission request \$11,500 for a peer review consulting fee to hire LEC Environmental, Lena Bourque seconded the motion, all in favor. **The motion passed unanimously on a roll call vote. (4-0-1).** Vice Chairman Gagne abstained.

Kevin Thompson made a motion to continue this public hearing until July 20, 2021, Lena Bourque seconded the motion, all in favor. **The motion passed on a roll call vote. (4-0-1)** Vice Chairman Gagne abstained.

### **Commission Business**

**For Signature - Minutes:** (voting quorum: *Lena, Maggie, Kevin, & Christopher*)

Kevin Thompson made a motion to approve the minutes, Lena Bourque seconded the motion, all in favor. The motion passed on a roll call vote. (5-0-0)

### **Old Business**

Chairman Gerrior updated Commission members on the status of the Conservation Agent position. Three interviews were held on May 24, 2021 and recommendations made to the Board of Selectmen.

### **New Business**

Chairman Gerrior confirmed member availability for the next meeting to be held on June 15, 2021.

Discussion ensued about whether a site visit was needed for the 22 High Street property, which is continued until July 6, 2021. It was agreed that members would visit the site individually after a revised plan is received.

Chairman Gerrior noted that a letter from an abutter was received on the Bailey filing, and will be included in the Commission's packet for the next meeting.

Discussion ensued about the need for two new members on the board. An ad will be placed in the paper informing the public.

### **Adjournment**

Kevin Thompson made a motion to adjourn the meeting at 8:52 p.m., Lena Bourque seconded the motion, all in favor with Vice Chairman Gagne voting no. The motion **passed with a roll call vote. (5-0-1.)**

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Lori Walsh, Recording Secretary

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Christopher Gerrior, Chairman