

**Rochester Conservation Commission  
Meeting Minutes  
November 15, 2022**

The meeting convened via Zoom video conference ID #873 7275 4333. Chairman Gerrior called the meeting to order at 7:00 p.m. and took attendance of Members, staff, applicants, and representatives.

<b>Present:</b>	Christopher Gerrior, Chairman Bendrix Bailey Matthew Bache William Clapp Bill Milka Carl MacDermott	<b>Absent:</b>	Mike Gifford
	Merilee Kelly, Conservation Agent Lori Walsh, Recording Secretary Dawn DeMaggio, Board Administrator		

**Public Hearings**

**A Notice of Intent filed by property Owner Jon Roth, for property located at 119 Dexter Lane, Map 6, Lot 16.** The applicant is proposing to thin out the under and overgrowth on the non-wetland area of the parcel at 119 Dexter Lane.

*Carl MacDermott recused himself from this hearing.*

John Roth was present to discuss thinning out under and overgrowth. Conservation Agent Kelly said that it's in priority habitat so they need to file with National Heritage and that will hold things up. Mr. Roth said he didn't know about that until today but he will take care of it. She said she doesn't feel that National Heritage will have any restrictions. Chairman Gerrior said that he also bought property in the area and trees were being pulled down by bittersweet and grapevines and he asked Mr. Roth if that's what he is talking about. Mr. Roth said that is what he is talking about and if he goes in with an excavator with a brush cutter on it and takes it down, it will open it all up. Chairman Gerrior asked him if they will be going in the 25- foot buffer zone at all. Mr. Roth said not at all and he is going to have a company in South Dartmouth come up and mark the wetlands and the 25- foot boundary. Chairman Gerrior said that is his next question, when has it been marked and how long ago was it marked. Mr. Roth said that he won't clear land until she marks it and then she can identify the wetlands for the Board and see if they want to go out there. He said they aren't going to go into the 25-foot zone. They will stay within the border so they have a comfort zone and of the 8 ½ acres, it will be 4 ½ will be cleared of brush. Chairman Gerrior said she is a wetland scientist and is a friend of his. Mr. Roth said that's what she does and her name is Katherine Nadeau. Chairman Gerrior said that now that they know that he's notified National Heritage it will take some time. He said that they want to hear back from them and then also prepare some order of conditions

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but they aren't going to be able to do anything until they hear from DEP and National Heritage, then they should be able to prepare an Order of Conditions. Mr. Roth said they were trying to move in the horses by December 1<sup>st</sup> but now it will be December 15<sup>th</sup>. Chairman Gerrior said for Mr. Roth to keep in touch with the Conservation Agent once he hears from National Heritage and let the Board know when it is delineated so one or two of the Board members can go look at it.

Member Bailey said that from his conversation it sounds like they might need some clarification of what the rules really are, that would be beneficial. He said without an Order of Conditions you're not allowed to do any work. He said the 25-foot buffer is something in Rochester and the state is a 100-foot buffer and that's where that no touch zone comes from; so the way it works in Rochester is that within that 100 to 25 that's 75 feet we consider that there are things you can do by right and they don't deny that. The by-law says the Board doesn't deny that. Things like clearing and so on is allowed. He said when you get into the 25 it's gets to be a little tricky. There has to be some justification or reason why it has to be done and then it will be granted if necessary. Mr. Roth said they don't anticipate touching the 25 at all. Member Bailey said he knows they don't but he wanted him to know that it's like a voluntary thing where you're coming in and being a good citizen which he is, it's the kind of thing that you can get yourself in trouble if you don't so it's necessary. He said the reason it's necessary is to identify the wetland and flag it and flag the 25 and then get that inspected by the Conservation Agent as a part of making that submission. Mr. Roth said she wanted to come out next week but he wanted to make it subsequent to his meeting with the Board. Member Bailey said National Heritage throws another wrinkle in there too.

Chairman Gerrior asked Member Bailey a question. He asked if they do get it flagged and the Board looks at it and it's the 25 foot, do they even need to ask the Board to do anything in the 75. Member Bailey said yes, they still need an order of conditions because we have the by-law and the by-law says they have to get an Order of Conditions.

*Carl MacDermott resumed his role in the hearing.*

**Public Meetings**

**DEP SE 272-604 A request to discuss a minor plan change to the project on O County Road, Map 17, Lot 10 by Steven Morrell.**

Brian Grady was present from G.A.F. Engineering. Steven Morrell, the Applicant, is also present. He is making a minor change. Steve is looking to do a material change to use some concrete blocks. No impact to the project whatsoever. Brad Holmes has been doing his reports on the replication area. The Board should have been receiving them.

Conservation Agent Kelly asked what a Hesco barrier is. Mr. Grady said a Hesco barrier is like a wire cage with fabric and you need to fold them and fill them with sand on site. He said the Military use it often, they open them up and fill them with onsite material. They were using it to demarcate the lanes and protect the adjacent wetlands, and concrete blocks accomplish the same thing. Conservation Agent Kelly also asked about the location area of the vernal pool. Mr. Morrell said that she should've been receiving Brad's reports and he thinks there is another one coming this week or next, and that will have the current status of the replication area. Material change only. Chairman asked him what the dimensions were of the original barriers. Mr. Morrell said it comes in two different sizes. If you look at the detail they were going to be stacked, the larger one on the bottom and then the smaller one sits on top of that, the larger one was 5 X 5 X 7 and the concrete blocks are 2 X 2 X 4 or 2 X 2 X 6 so they're smaller and it will

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give them a little more room to work with. Chairman Gerrior asked if they will be stacked. Mr. Morrell said they will be stacked. Chairman Gerrior asked if every place that they see a small square or rectangle on the plan, this is where the Hesco was and now where the cinder blocks will be. Mr. Grady said yes. Chairman Gerrior said so it's just a material change. Mr. Grady said yes.

Member Bailey made a motion to approve the material change.  
Member Bache seconded the motion.  
**Motion passes with a roll call vote of 6.**

**Commission Business**

**For Signatures**

**Minutes November 1, 2022**

Member Bailey made a motion to approve the minutes.  
Member Bache seconded the motion.  
**Motion passes with a roll call vote of 6.**

**Vouchers**

MACC, Fundamentals Workshops 12/15, Invoice #200011200 & 200011199, \$110.00  
W.B. Mason, Office Supplies, Invoice #233449935, \$27.35  
Fileguard, Storage/Retrieval, Invoice #81275, \$34.25

Member Bailey made a motion to approve the vouchers.  
Member Bache seconded the motion.  
**Motion passes with a roll call vote of 6.**

**Old Business**

89 Box Turtle Drive – Chairman Gerrior said there was an update last week and nothing further this week.

**Conservation Agent Update**

The Town Planner is trying to do a project where she is ranking land for preservation value and she would like as much input as possible from the Conservation Board. Chairman Gerrior asked if she had a list of properties. Conservation Agent Kelly said it's a matter of what kind of properties and it's a general inquiry.

Member availability for December 6, 2022 Conservation Commission meeting.

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**Chapter 132 – For the Board to read**

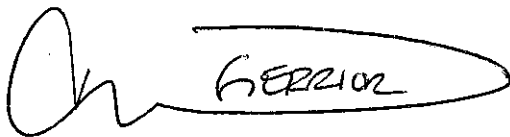
Member Bailey asked if anyone read the Chapter 132. Member Bailey said that he learned that the state can come on your property and cut any trees that they see fit and then present you with a bill which if you refuse to pay they can attach your property. That means that they can cut down your trees for a biological emergency, such as Gypsy Moths. Member Bailey said another thing that was interesting was when you get through all of the requirements that a land owner has to meet, due to the state forestry laws, you get to a section called exclusions and virtually everything that happens in Rochester is excluded: cutting for agriculture and clearing land around a house. We cut trees for the all the reasons that we cut around here and the only things that are included in that law is where you have to go to a state forester and you have to get an approval before you cut it. All the things they see here, it really doesn't apply. Member Bailey also said that they don't really have to be concerned. The person that sent the email to Merilee and she forwarded to us, said are your Commission members cognizant where their duties and this law overlap, and there was no real overlap. Chairman Gerrior said he'd be interested to see what would happen if someone gets handed a bill. Member Bailey said he doesn't like that there is a law that says someone can go on his property and give him a bill for having done so.

**Adjournment**

Member Bailey made a motion to adjourn at 7:28 p.m.  
Member Bache seconded the motion.  
**Motion passes with a roll call vote of 7.**

**Next meeting will be December 6, 2022**

**Date:** 6 DEC 2022



**Christopher Gerrior, Chairman**



**Lori Walsh, Recording Secretary**