

**CONSERVATION
COMMISSION**
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Robert Materne, Chairman
David Evans, Vice Chair
Thomas Nicholson
Krisna Prachanronarong
Stephen Choquette
Matthew Habershaw
Matt Kershaw
William Morgan, Assoc. Mbr
Daniel Roach, Agent

REHOBOTH CONSERVATION COMMISSION
Meeting Minutes – July 20, 2021

Present: Robert Materne, Chairman, Thomas Nicholson, Krisna Prachanronarong, Matt Habershaw, Stephen Choquette, Matt Kershaw, Associate Member William Morgan, Daniel Roach Conservation Agent.

Absent: Dave Evans.

CALL TO ORDER

Mr. Materne called the meeting to order at 7:00 PM.

Mr. Materne explained the appeals process.

Public Hearing and Meetings

1. Ledgard - 24 Danforth St. – NOI – SE60-XXXX

Mr. Materne stated that the commission had received revised plans and a DEP # has been issued.

Mr. Nicholson made a motion to close the public hearing.

Mr. Habershaw seconded the motion. Motion passes.

Mr. Nicholson made a motion to issue Order of Conditions.

Mr. Habershaw seconded the motion. Motion passes.

2. Pioneer Investments – 267 Homestead Ave. – NOI – SE60-1249

Mr. Greg Drake of Outback Engineering was present.

Mr. Drake presented plans.

Mr. Materne asked if they had a variance from the Board of Health?

Mr. Drake stated the Board of Health approved the plans.

Mr. Materne stated that the commission had gone out to the site and verified the wetland line. It is accurate as depicted on the plans. Asked the commission if there were any questions or concerns, there were none.

Mr. Materne stated that there are no conservation signs on the plan. Place them at flags 2, 8, and 11.

Asked the audience if there were any questions or concerns, there were none.

Mr. Nicholson made a motion to close the public hearing.

Mr. Prachanronarong seconded the motion. Motion passes.

Mr. Nicholson made a motion to issue Order of Conditions with conservation signs added to the plans.

Mr. Prachanronarong seconded the motion. Motion passes.

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3. Solo Realty – 16 Short Street – RDA

Mr. Brad Fitzgerald of FSG Engineering was present.

Mr. Fitzgerald presented plans.

Mr. Materne stated that Mr. Evans had gone out to the site and verified the wetland line as accurate.

Asked why it couldn't have been moved to the west and taken it completely out of the buffer zone?

Mr. Fitzgerald stated we are finding a very steep incline there and a wooded area. We're trying to reduce the number of trees we're taking down.

Mr. Materne asked the commission if there were any questions or concerns, there were none. Asked the audience if there were any questions or concerns, there were none.

Mr. Habershaw made a motion to issue a Negative 3 determination.

Mr. Nicholson seconded the motion. Motion passes.

4. Roias – 98 Reynolds Ave. – NOI – SE60-1250

Mr. David Santos of Prime Engineering was present.

Mr. Santos presented plans.

Mr. Materne stated the commission had gone out and verified the wetland line. It is accurate. Because we don't have a historical understanding of where the tree line truly was, we do have an idea of what it could look like. One of the things that we do require is the restoration area be restored in kind.

Mr. Santos stated ok.

Mr. Materne stated you need a planting schedule. You said you were going to put down a wetland mix, that's not good enough. You do need to put what kind of trees and shrubs are there and a basic idea of where you are going to plant them. He read the NHESP review, you're all set with them. As far as the flower planting, you made a comment that there's a schedule to mow that. What is the schedule?

Mr. Habershaw stated two times a year. That's adequate. In the spring and in the fall.

Mr. Materne stated that needs to be made clear on the orders. We can't close the hearing without the restoration report. In order to receive your Authorization to Proceed the restoration area has to be started.

Mr. Santos replied ok.

Mr. Materne asked the commission if there were any questions or concerns, there were none. Asked the audience if there were questions or concerns, there were none.

Mr. Choquette asked if this project was going to be started this fall or in the spring?

Mr. Santos stated the owner is looking to move forward now.

Mr. Choquette stated when they come back with the plan, we can instruct them on a timeline based on what they are planting with limits of germination.

Mr. Materne stated We also do not have conservation signs.

Mr. Prachanronarong stated to place them at flags 8, 10, and 11.

Mr. Nicholson stated to also place one at flag 18 as well.

Mr. Materne stated that there is a dirt pile in the BVW that needs to be removed.

Mr. Santos stated ok. Requested a continuance until August 3, 2021.

Mr. Nicholson made a motion to grant a continuance until August 3, 2021.

Mr. Habershaw seconded the motion. Motion passes.

5. Kelley - 12 Linden Lane – NOI – SE60 – 1244

Mr. Habershaw recused himself.

Mr. Chris Andrade of InSite Engineering was present.

Mr. Andrade presented plans.

Mr. Materne stated the commission had been to the site to verify the wetland line, it is accurate. Asked the commission if there were any questions or concerns, there were none.

Mr. Nicholson made a motion to close the public hearing.

Mr. Choquette seconded the motion. Motion passes.

Mr. Nicholson made a motion to issue Order of Conditions.
Mr. Choquette seconded the motion. Motion passes.

6. Kelley – 14 Linden Ln. – NOI – SE60-1245

Mr. Habershaw recused himself.
Mr. Chris Andrade of InSite Engineering was present.
Mr. Andrade presented plans.
Mr. Materne stated the commission had been to the site to verify the wetland line, it is accurate. Asked the commission if there were any questions or concerns.
The commission discussed the drainage easement near the property.
Mr. Choquette asked are there any storm drains in the street that need filter fabric in them for run off?
Mr. Andrade explained where the paved water ways are on the subdivision.
Mr. Nicholson made a motion to close the public hearings.
Mr. Choquette seconded the motion. Motion passes.
Mr. Nicholson made a motion to issue Order of Conditions.
Mr. Choquette seconded the motion. Motion passes.

7. Costa – 15 Hillside Ave. – NOI – SE60-1248

Mr. Chris Andrade of InSite Engineering was present.
Mr. Andrade presented plans.
Mr. Materne stated that flags A12-A17 were verified. The other were not because there isn't any work near them. The one issue we had was we took our augur out there from flags A11-A9 we found hydric soils from flags A6-A10 upgradient from the flagging. We can't verify that line. Asked what the commission thought about the construction site, without the line being verified?
Mr. Andrade stated he would concede 10' constantly along the edge of the wetland line.
Mr. Kershaw stated he would be ok with that.
Mr. Morgan asked about the well location.
Mr. Andrade stated the well could be moved over appropriately. Starting at flag A11 the line will be moved 10' upgradient.
The commission was satisfied with the change.
Mr. Nicholson made a motion to close the public hearing.
Mr. Choquette seconded the motion. Motion passes.
Mr. Nicholson made a motion to issue Order of Conditions with the changes discussed.
Mr. Choquette seconded the motion. Motion passes.

8. DuVally – 10 November Ln. – NOI – SE60-XXXX

Mr. Chris Andrade of InSite Engineering was present.
Mr. Andrade presented plans.
Mr. Materne stated that the wetland line had been verified by an ANRAD. At flag 42 the work is very close, what does the commission think of that?
Mr. Choquette stated if they dig it carefully and follow the notes on the plan it should be fine. They should notify Mr. Roach when they dig out the corners, to make sure the soil is casted away from the wetlands.
Mr. Materne asked on all of these projects have new flags been hung?
Mr. Andrade replied yes and staked.
Mr. Choquette asked that in the orders it states that we must be notified when they are going to dig the corners.
The commission agreed.

Mr. Choquette stated to notify Mr. Roach 48 hrs. prior, from the owner of the site, when the foundation is going to be excavated. It can be excavated from inside the rear side very carefully. All spoils are to be case 100% away from the wetlands. The same will occur for backfilling.

Mr. Morgan stated to specify the corner between flag 41, 42 & 43.

Mr. Materne asked if there were any other concerns, there were none.

Mr. Nicholson made a motion to close the public hearing.

Mr. Habershaw seconded the motion. Motion passes.

Mr. Nicholson made a motion to issue Order of Conditions with the added stipulations.

Mr. Habershaw seconded the motion. Motion passes.

9. DuVally – 14 November Ln. – NOI – SE60-XXXX

Mr. Chris Andrade of InSite Engineering was present.

Mr. Andrade presented plans.

Mr. Materne asked what the distance was between the corner and the haybales?

Mr. Andrade stated 22' from the wetland line to flag 25.

Mr. Materne asked the commission if there were any concerns with this project?

Mr. Morgan asked if there were any issues with the well on the adjacent property?

Mr. Andrade stated no.

Mr. Andrade stated there was no DEP number for this project and requested a continuance until August 3, 2021.

Mr. Nicholson made a motion to grant a continuance until August 3, 2021.

Mr. Habershaw seconded the motion. Motion passes.

10. DuVally – 18 November Ln. – NOI – SE60-XXXX

Mr. Chris Andrade of InSite Engineering was present.

Mr. Andrade presented plans.

Mr. Materne asked if there were any questions or concerns, there were none.

Mr. Andrade requested a continuance until August 3, 2021.

Mr. Nicholson made a motion to grant a continuance until August 3, 2021.

Mr. Habershaw seconded the motion. Motion passes.

11. DuVally – 22 November Ln. – NOI – SE60-XXXX

Mr. Chris Andrade of InSite Engineering was present.

Mr. Andrade presented plans.

Mr. Materne asked if there were any questions or concerns, there were none.

Mr. Andrade requested a continuance until August 3, 2021.

Mr. Nicholson made a motion to grant a continuance until August 3, 2021.

Mr. Habershaw seconded the motion. Motion passes.

12. DuVally – 26 November Ln. – NOI – SE60-XXXX

Mr. Chris Andrade of InSite Engineering was present.

Mr. Andrade presented plans.

Mr. Materne stated the retaining wall is abutting the haybales.

Mr. Choquette stated we need more haybales there.

Mr. Materne asked can they build the retaining wall? Why have the haybales 10' away when they are going to be mowing up to the haybale line?

Mr. Nicholson stated the haybales are only for constructions.

Mr. Materne stated the haybales are the limit of disturbance. You're not supposed to go past them. Why not move the haybales to the wetland line?

Mr. Andrade stated they could move them down to 5'.

Mr. Choquette stated to install a double row of haybales in the corner from flag 13 down to flag 10.
Mr. Andrade replied that is fine.
Mr. Materne asked if there was anything other concerns, there were none.
Mr. Nicholson made a motion to grant a continuance until August 3, 2021.
Mr. Habershaw seconded the motion. Motion passes.

13. DuVally – 30 November Ln. – NOI – SE60-XXXX

Mr. Chris Andrade of InSite Engineering was present.
Mr. Andrade presented plans.
Mr. Materne asked if the commission had any questions or concerns?
Mr. Morgan stated to move the haybales in a straight line from flags 12 to 1.
Mr. Andrade stated there is no building there. It will be maintained as a lawn. He'd rather leave it to the applicant's discretion. It won't be cleared.
Mr. Materne asked so, it won't be cleared?
Mr. Andrade stated no. If they wanted to do anything structural, they would need to refile.
Mr. Morgan asked if the lot had been cleared?
Mr. Andrade stated no.
Mr. Choquette stated to connect the haybales for construction purposes.
Mr. Andrade stated ok, from flags 1 to A13. Requested a continuance until August 3, 2021.
Mr. Nicholson made a motion to grant a continuance until August 3, 2021.
Mr. Habershaw seconded the motion. Motion passes.

14. DuVally – 34 November Ln. – NOI – SE60-XXXX

Mr. Chris Andrade of InSite Engineering was present.
Mr. Andrade presented plans.
Mr. Choquette asked Mr. Andrade to speak in regards to the drainage easement.
Mr. Materne stated that next to the drainage easement are construction lines, they don't curve.
Mr. Andrade stated the intent is to continue grading so that the water flows. So, almost like a valley swale. So, the water flows along the edge of the property, not going into the driveway. Along the edge of the driveway. It will go towards the wetlands and not the drainage pond.
Mr. Choquette stated the drainage easement is already established on this site, correct?
Mr. Andrade replied yes.
Mr. Choquette stated his concern is on this site we've had problems during construction and prior to setting haybales that they are going through the drainage easements and running them over. We've had to have them go back and had them corrected.
Mr. Andrade stated the limit of disturbance will be staked out in the field as straw wattles. The intent is that nothing gets past that. If they drive over the straw wattles they are in violation.
Mr. Materne stated he thought that retention/detention pond have to be finished before construction of the houses.
Mr. Roach stated as far as planning is concerned, they can do both. As long as they are functioning.
Mr. Materne asked Mr. Choquette if his questions was answered?
Mr. Choquette stated no.
Mr. Andrade stated that the peer review engineer is supposed to go out on site during construction.
Mr. Choquette asked who the peer review engineer was?
Mr. Roach stated Fuss & O'Neil.
Mr. Materne stated Mr. Andrade is correct. The only way that can be controlled is if regular site visits are made.
Mr. Choquette asked by who?
Mr. Materne stated the agent or the commission.
This was discussed further.

Mr. Materne asked if there were any other questions or concerns, there were none.
Mr. Andrade requested a continuance until August 3, 2021.
Mr. Nicholson made a motion to grant a continuance until August 3, 2021.
Mr. Habershaw seconded the motion. Motion passes.
The commission and Mr. Andrade discussed the replication area on the subdivision.
Mr. Andrade stated DEP has been to the site in regards to this.
Mr. Habershaw stated on the next site walk we can visit the site.
Mr. Materne stated he would like the owner, Mr. DuVally and the engineer, Rob Davis, to both be there to answer any questions.

General Business

1. Reorganization of the Commission

Mr. Habershaw made a motion to nominate Mr. Materne as the chairman.
Mr. Nicholson seconded the motion. Motion passes.
Mr. Habershaw made a motion to nominate Mr. Evans as vice-chairman.
Mr. Nicholson seconded. Motion passes.

2. Signatory Authority - Vote

Mr. Habershaw made a motion to appoint Mr. Materne, Mr. Evans, and Mr. Roach to be the signatory authority.
Mr. Nicholson seconded the motion. Motion passes.

3. Date Changes – August 31st, September 14th - Discussion

The commission discussed changing the meeting dates. The first meeting of September needs to be changed because the Board of Selectman have a meeting on that date. Should be changed to August 31, 2021.
Mr. Materne stated we would also be meeting on September 14, 2021. That will be the only meeting in September. It would have to be September 21, 2021. November 2, 2021 is town meeting. We might have to change the month of November meetings to the 9th and the 23rd. This will be voted on at the next meeting.

4. Conservation Commissioners Updates

*** 243 Homestead Ave.**

Mr. Materne stated we have visited the site, they are not here to discuss this. The abutters are concerned that their property is being flooded because of the driveway being installed. There are 7 equalizer pipes, the water level was the same on each side. He thought this is a factor of the months weather. The backyard to the abutters is low to begin with.
Mr. Nicholson stated it's got a ground cover that doesn't promote the flow of water.
Mr. Materne stated the abutters had a lot of concerns when this project came before us. We addressed those concerns at the meeting. He thought it is just a bad month due to so much rain. He didn't think it's the builder's fault.
Mr. Habershaw stated that the existing grade verses the pipe grade, it looks slightly lower.
Mr. Materne asked so, it would drain faster?
Mr. Habershaw stated yes.
Mr. Materne stated they did what we asked of them. Asked Mr. Roach to write a letter to the abutters and explain the situation with the rain.

*** Warrant Article – Town Meeting.**

Mr. Materne asked what the deadline for warrant article for Town Meeting was?

Mr. Roach stated we will be notified by the Board of Selectman mid to late August. Most likely the deadline will be mid to late September.

Mr. Materne spoke in regards to town owned property. Stated how some of them should be in the name of the Conservation Commission not the town. To change these some of them will take a vote of Town Meeting. Mr. Roach and him are working on this.

The board discussed this further.

Mr. Morgan agreed to help Mr. Roach with this process.

Mr. Materne stated he wants town counsel to write the warrant articles.

5. Agent Update

There was no agent update.

Concerns & Complaints

1. 582 Winthrop Street – Concern – Working Past the Scope of RDA

Mr. Roach stated that the owner said the gate was locked because he has equipment stored on site.

Mr. Materne stated the commission was told that someone would meet them on site on Sunday.

Mr. Roach stated he had sent out an email stating that the commission could go on the property, but the owner would not be there. Everything is done except the stumps are still there. The owner is going to need bigger equipment to get in that area and pull them out.

Mr. Habershaw stated if we can walk around the fence, with permission, lets go back out to the site.

The commission agreed.

Mr. Roach stated the commission had permission to be on the property.

2. 72 Martin Street – Concern

Mr. Materne asked if there were any updates?

Mr. Roach stated they asked for a copy of the Enforcement Order this week. There has been no filing yet.

3. 97 Salisbury Street – Concern

Mr. Materne asked if there were any updates?

Mr. Roach stated he dropped off the conservation signs a few days ago

Mr. Materne replied ok.

4. 29 County Street - Concern

Mr. Materne asked if there were any updates?

Mr. Roach stated he had pulled a soil sample and had sent it out.

5. 23 Winthrop Street – Concerns

Mr. Materne stated that no one was there on Sunday when the commission visited the site.

Mr. Roach stated he had been there almost everyday this past week and no one has been there.

Mr. Materne stated that they were supposed to be there on Sunday. The commission made a decision that if they weren't there, we were going to meet in executive session to have town counsel involved.

6. 172 Summer Street – Concern

Mr. Materne stated that Mr. Drown, Health Agent, had not yet called him. Mr. Materne called the Fire Chief and spoke with him. The chief can't go on the property without permission, unless there is a fire. So, it's up to either the Board of health or the Building Inspector. The Building Inspector could go there if there were dilapidated buildings, but there isn't any. He wanted to know from the commission is if the Board of Health doesn't move forward would you agree to let me contact the Board of Selectman on this? DEP is now calling him to find out where it stands.

Mr. Nicholson stated to just give it to DEP.

Mr. Materne stated we can't. The only people from DEP that can go on the property without the owner's permission is DEP enforcement. The only way DEP is going to get involved is if they get a report from the commission, Board of Health, the Fire Chief, and possibly the Building Inspector. DEP said once they get a report, they'll take action.

Mr. Roach stated he would go see the Board of Health Agent tomorrow,

Mr. Materne stated to Mr. Roach to tell the Health Agent that if he doesn't hear from him in the next day, we are going to initiate action with the Board of Selectman.

The Commission agreed.

Executive Session

Mr. Materne stated the Commission will be entering into Executive Session to discuss litigation and will be returning to regular session solely for the purpose of adjournment.

Roll call vote:

Materne – Aye

Nicholson – Aye

Prachanronarong – Aye

Habershaw – Aye

Choquette – Aye

Kershaw - Aye

ADJOURNMENT

Mr. Habershaw made a motion to adjourn the meeting.

Mr. Choquette seconded the motion. Roll call vote; all replied aye. Motion passes.

Meeting adjourned at 9:02 pm.

For the Conservation Commission


Robert Materne, Chairman

David Evans, Vice-Chairman