

**CONSERVATION  
COMMISSION**  
340 Anawan Street  
Rehoboth, MA 02769  
(508) 252-6891 Telephone  
(508) 252-5342 Facsimile



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 – September 14, 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 7:03 PM.

**Public Hearing and Meetings**

1. Goulart – 62 Barney Ave. – NOI – SE60-1264

Mr. Dean Monsees of OSD Systems was present.

Mr. Monsees presented revised plans.

Mr. Materne stated that everything that the commission had asked for has been addressed. Are there any questions or 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.

Mr. Habershaw seconded the motion. Motion passes.

2. Ferreira – So. Of 155 Perryville Rd. – NOI – SE60-XXXX

Mr. Rob Davis of InSite Engineering was present.

Mr. Davis presented plans.

Mr. Nicholson asked are you saying that the drainage structures don't count as disturbance in the riverfront?

Mr. Davis stated he was saying they are allowed, given other constraints.

Mr. Materne stated weather or not that stream is intermittent or perennial, what else would you do to that lot? The road would be going through the wetland. You're going to be putting stormwater management in place there anyway. It doesn't matter if the stream is considered perennial or intermittent.

Mr. Davis stated that is the point.

Mr. Materne stated you spent ¾ of the narrative telling us about the perennial stream.

Mr. Davis stated that's the alternative analysis.

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Mr. Nicholson stated there's a house on the lot north of the drainage structures.

Mr. Davis stated that's what is required in order to do the drainage calculations. The house is going to be a separate filing of a Notice of Intent.

Mr. Morgan asked is that the only place the house could be?

Mr. Davis states unless we reconfigure it. We are requesting a waiver from the Planning Board, eliminating road C. Then we have a concept that will get that house out of the riverfront zone.

This was discussed further.

Mr. Materne asked what is the maximum length these roads can be?

Mr. Davis stated 2000'.

This was discussed further.

Mr. Materne asked why there were so many detention ponds proposed?

Mr. Davis stated that's the new stormwater requirements. They want small discharges.

The commission and Mr. Davis discussed the maintenance of the detention pond as it relates to the Forestry Department.

Mr. Materne stated the only issue he saw was that on the far right of the plan the 100' buffer zone stops, on the east side.

Mr. Davis stated he would extend that.

Mr. Choquette asked if road C was eliminated and everything was to be spread out further, do you think the house on lot 6 could be pushed in a different location, than where it is right now?

Mr. Davis replied absolutely.

Mr. Choquette asked that lot will increase in size?

Mr. Davis stated yes. If we get the waiver, an additional 1/3 of an acre has been slated to be added, so that house can be shifted up.

Mr. Materne asked you're going to be re-doing all the culverts that go under everything, what are your plans to protect the wetlands?

Mr. Davis stated all the orange on the plan is the erosion controls that will be placed for the BMPs. There is only one culvert we are going to fix. That one has an easement. We are going to be opening up the cart paths, another one is being discussed with the consultant about potentially eliminating it. There's another pipe that comes out of the fairway ditch, along the side that dumps into the pond.

Mr. Materne stated you have a driveway going over it.

Mr. Davis stated yes.

Mr. Materne asked if there was a narrative on that?

Mr. John Ferreira, owner of the property, was present.

Mr. Ferreira stated the pipes are already cut.

Mr. Materne asked you're not going to be digging them up?

Mr. Ferreira stated no.

Mr. Roach asked is there an additional pipe next to the 12" RCP pipe on the east side of the property?

Mr. Davis replied yes.

Mr. Morgan asked the culvert/pipe that goes underneath road B between the two ponds is the consultant reviewing that?

Mr. Davis stated that is a possibility.

This was discussed further.

Mr. Ferreira stated if you look at the inlet and outlet they are rusted, it's an old corrugated pipe. There is a 90% chance that we're going to have to dig that out and replace it with a new HDP pipe.

Mr. Morgan asked of like size?

Mr. Ferreira stated of like size or bigger.

Mr. Morgan asked will that increase the possibility for that to be a perennial stream?

Mr. Davis stated it's going to depend on the hydraulics of the pond. That's all being looked at, very closely, by the consultant.

This was discussed further.

Mr. Choquette stated the cart path crossings, tell me about what your thoughts are on protecting them, keeping them clean and preventing them from getting filled in?

Mr. Davis stated there is a pretty good gradient. We would be putting straw wattle down. He wouldn't imagine it would be under water during construction.

Mr. Ferreira stated no. Right now, we're just going to remove the cart path and the pipes. Put everything back, put some wetland mix down and let it revert back to what it is.

Mr. Choquette stated the equipment operator will make sure not to get any spillage in there. If it's wet it's going to flow into the pond.

Mr. Davis stated we have proposed to place the straw wattles across the stream bed, it's going to be done when there is no flow.

Mr. Materne asked the commission if there were any other questions?

Mr. Materne asked if the stream becomes intermittent are you going to amend the orders?

Mr. Davis stated that is a very good question. We have respected a perennial stream in a riverfront protection zone for this design. If at some point the stream does dry up, the only possible thing is we would either amend the ANRAD or we would do a separate filing all together for lot #6's house placement.

Mr. Choquette asked Mr. Roach to let the Planning Board know the commissions thoughts on if they eliminate road C.

Mr. Roach stated certainly.

Mr. Materne asked the audience for questions or concerns.

Ms. Joan Caoutte oof 110 Perryville Road was present.

Ms. Caoutte stated she had a problem with the way this was put on the agenda. All other hearings have been RCC Development. This one was put on as John Ferreira. She thought a lot of other people would have been here if they knew they would be talking about the development.

Mr. Roach stated it depends on the application.

Mr. Materne stated if this is how the applicant filed with DEP, it wasn't done to hide it from the public.

Mr. Ferreira asked is Ms. Caoutte was notified?

Ms. Caoutte stated yes, it just said the public hearing was coming up. The original public hearing in March a person from the state was supposed to come in and talk about the stream.

Mr. Materne stated that was the ANRAD, which the discussion we had was we had a consultant go out and he made recommendations. The applicant agreed to the recommendation, including that stream.

Originally that stream was called a ditch. Our consultant considered it a wetland. The applicant agreed with that. So, the ANRAD was changed to go along with what our consultant said.

Ms. Caoutte stated there is a lot of water flowing between ponds 2 & 3, where the roads going to go. Is that going to be contained with the stormwater?

Mr. Davis stated absolutely. That's one of the big things for the Planning Board consultant, they are looking at that now. To properly size it. Right now, it's considered a box culvert, that will be on the surface. Above and beyond whatever is done with the existing 24" pipe. It's possible that they will be combined. Depending on what the consultant works out.

Ms. Caoutte stated that she agreed with Mr. Morgan regarding lot 6. The way is it now the only way they could put a house on lot 6 is a little tiny spot. So, if they make it bigger it would be a lot better.

Mr. Choquette stated that Ms. Caoutte should go to the Planning Board meeting and let them know you're in favor for that reason. That would help us also.

Mr. Ferreira stated that the Conservation Commission should know when we designed this preliminary plan, we had no intention to eliminate road C. We just designed it according to the Subdivision Control Regulations. Michael Costello, Highway Superintendent, wrote a letter to Mr. Roach and contacted myself and asked why 600' of road was being put in that highway will eventually have to maintain, it made no sense. There's no frontage on that road. We explained because of the length of the dead ends. At the Planning Board meeting last week, all of the neighbors didn't want road C, they don't want it to become a cut through. The Fire Department was also concerned about safety.

Mr. Materne stated that the only concern he had with road C is what it does to the lot by Perryville Road.  
Mr. Davis requested a continuance until October 5, 2021.  
Mr. Nicholson made a motion to grant a continuance until October 5, 2021.  
Mr. Habershaw seconded the motion. Motion passes.

## **Concerns & Complaints**

### **1. 72 Martin Street -Concern**

Mr. Brandon Faneuf of EcoSystem Solutions was present.

Nathaniel Stevens of McGregor & Legere was present.

Mr. Faneuf stated since he was here last, he had delineated the wetland on site. Which he's calling the 2021 delineation. We GPS it just yesterday and put it on an arial overlay. This is on a 2019 overlay. It's very long, narrow, thin site. The wetlands occur on the west side of the property. The wetland line is shown in green. You can see the A series flags. Then what he did was took Mr. Davis, InSite Engineering's plan from 2009 and he overlayed it onto the arial graph with the parcel data from MassGIS. He came up with this red line with yellow triangles showing more or less that flags from 2009. Gave a history of his involvement with the site since 2009. If you look at sheet 1 you can see the entire property. The solid yellow lines are the 25', 50', 100' buffer zones associated with the 2021 delineation. The red line is the 2009 delineation and the dashed yellow lines are the 25', 50', 100' buffer zone associated with the old buffer zones associated with the old line. In between there is some

Unauthorized activity, which is what concerns all of you. Explained what is currently on the property now. If you go to sheet 2 it's a blow up of the area of interest. Mr. Morrissey, owner of the property, is willing to do the restoration. Mr. Faneuf spoke in regards to some potential long-term goals for the property. Mr. Morrissey would be filing either an RDA or NOI for these changes. He would like to keep some portion of his lawn in the backyard because the wetlands come up close to the house. If possible, we would like to invoke and plead with the commission to allow up to 5000 sq. ft. of alteration to allow, after the fact, with a 1:1 alteration with what the commission requires further back in the lot to compensate for whatever lawn is able to be kept. He has had problems with drainage going into his basement, in the past, because of the way the land is graded. By keeping a portion of the lawn, he can keep the land pitched away from his house and going towards the wetlands as apposed to towards the house.

Mr. Materne stated he wouldn't have an issue with him keeping a portion of the lawn because you can do that under a filing of a NOI. The impact is 2900 sq ft, what does the commission think? If this was anyone else that came before us, they would have to file. There would have to be a good reason for it. Generally, you can't just go into a wetland if there is another alternative. So as far as keeping parts that would be under a filing.

Mr. Faneuf stated we expect that.

Mr. Materne stated what needs to be done is from this point on it needs to be an NOI. So were not talking speculations. Come before us with an NOI, definitive drawings. How long is that lot, what's the length of the lot, 1500 sq ft. Remember if we have to verify the wetland line, they may need to file an ANRAD, if it's over 600 linear feet.

The commission discussed which line would need to be verified.

Mr. Materne stated that when you file the NOI that red lines become green. So, file an NOI with what the applicant wants, including restoration. Remember that this has to have a 75% success rate in 2 years or you're going to have to start over again. A 1:1 ratio is very risky.

Mr. Faneuf stated right. You are going to need the ANRAD ahead of time.

Mr. Materne stated once you do the filing, we can talk about lifting the Enforcement Order.

Mr. Morgan stated he had a question about the 2021 wetland line and the placement of the green line. The symbols suggest that the wetlands are on the west side of the green line?

Mr. Faneuf stated correct.

Mr. Morgan asked so the area where you hypothetically would do some work would be on the east side?

Mr. Faneuf stated correct. It would be between the red line and the green line. The reason why he did the green line with in the red line was so we could come up with a calculation of how many sq. ft. of BVW were indeed altered.

2. 582 Winthrop St – Concern

Mr. Materne asked if there was an update?

Mr. Roach stated he spoke with the owner. It will be ready for the next site walk.

3. 97 Salisbury Street – Concern

Mr. Materne stated that the wetland signs are not up yet.

Mr. Roach stated he had sent a letter.

Mr. Materne stated to send another one.

4. 29 County Street – Concern

Mr. Roach stated that no work had been done on the property. What did the commission want the owner to do now?

Mr. Materne stated there is an Enforcement Order.

Mr. Roach stated the owner hasn't touched anything.

Mr. Materne stated we need to figure out what to do with the wetlands. He damaged the wetlands. He needs to restore the wetlands, planting in kind. We need to make sure everything's been stabilized and the shed he knocked down, under the Enforcement Order, we need to find out what's going on with that.

5. 23 Winthrop Street – Concern

Mr. Materne stated they've never responded. They locked the gate. We can't get on the property.

Mr. Roach stated that even if we could get on the property, we can't legally go on the property without permission from the owner.

6. 172 Summer Street – Concern

Mr. Materne stated he spoke with Mr. Dave Perry, the liaison for the commission from the Board of Selectmen, all of the selectmen have seen the information. Now what they want is instead of them writing to DEP. They want me to write the letter and they will sign it.

7. 35 Starr Lane – Concern

Mr. Morgan stated they took the straw wattle down right after the last rain storm.

Mr. Roach asked the double row that they put up on 35?

Mr. Morgan stated they've been tracking back up into the property again.

Mr. Habershaw asked is it loamed and seeded?

Mr. Morgan stated no.

Mr. Roach asked is it still along the roadway?

Mr. Choquette stated no.

Mr. Materne asked did we issue an Enforcement Order? What if we call the company that's doing the work?

Mr. Habershaw stated no, we have no teeth in that.

Mr. Choquette stated the owner is the one responsible.

Mr. Roach stated he would talk to him tomorrow.

Mr. Habershaw stated that the problem is our next meeting is October 5<sup>th</sup>. It's getting late.

Mr. Materne stated the planting season is getting late. Asked what if we told the owner, you have to put turf down?

Mr. Habershaw stated he didn't think we could do that. We can only tell them to stabilize it.

Mr. Materne stated we can tell them how to stabilize it for the winter.

Mr. Habershaw stated if there is an Enforcement Order on the property we can.  
Mr. Materne asked when is the growing season over?  
Mr. Nicholson stated it's September 15<sup>th</sup>.  
Mr. Habershaw stated it's October 15<sup>th</sup>. Growing season for grass ends around Halloween.  
The commission discussed the option of a Cease & Desist on the property until the lawn is stabilized.  
Mr. Materne stated that the issue is they are silting up the pond and storm basins. It has to be done.  
Mr. Roach stated if they don't want to seed it, they need to have a heavy-duty straw wattle.  
Mr. Habershaw stated they can have straw wattle down for the winter.  
Mr. Roach stated it has to be staked properly.  
Mr. Nicholson made a motion to issue an Enforcement order for 35 Starr Lane because of on going erosion control issues and the lack of soil stabilization.  
Mr. Choquette seconded the motion. Motion passes.

## **General Business**

### **1. Conservation Commission – Violations – Fines**

Mr. Materne asked the commission if anyone had thought of fines? We want a by-law. He doesn't like the idea of \$25.00/day. He's thinking first fine \$200.00 - \$250.00, second fine \$500.00.  
Mr. Roach stated the maximum is \$300.00.  
Mr. Materne stated the maximum is \$300.00, no matter what?  
Mr. Roach stated a day.  
Mr. Materne stated he's just saying to issue a blanket fine, not per day. Unless the commission wants to do it per day?  
Mr. Nicholson stated that is usually how it's done, per day.  
Mr. Roach stated that Town Counsel described it as per day.  
Mr. Materne asked Mr. Habershaw what Attleboro does?  
Mr. Habershaw stated they charge \$300.00 a day.  
This was discussed further.

### **2. Conservation Commissioners Updates**

#### **• Middlebrook – Conservation Restriction**

Mr. Materne gave the commission an update regarding the conservation restrictions on the properties of the Middlebrook Country Club. Mr. Materne emailed both the buyer and the seller to explain that the Conservation Commission would no longer be involved with the situation. The situation is between the buyer and the seller.

#### **• Retention Ponds Maintenance**

Mr. Materne stated that he had spoken with Rob Johnson, Forestry Department, Mr. Johnson is going to be taking over maintenance of the retention ponds in town.  
This was discussed further.

### **3. Agent Update**

Mr. Roach gave his list of Authorizations to Proceed that had been issued since the last meeting.

## **Meeting Minutes**

### **1. March 30, 2021**

Mr. Choquette made a motion to approve the above-named meeting minutes.  
Mr. Nicholson seconded the motion. Motion passes.


## **ADJOURNMENT**

Mr. Choquette made a motion to adjourn the meeting.

Mr. Nicholson seconded the motion. Motion passes.

Meeting adjourned at 8:29 pm.

For the Conservation Commission



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Robert Materne, Chairman

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David Evans, Vice-Chairman