

**CONSERVATION COMMISSION
REGULAR MEETING
June 12, 2023**

REGULAR MEETING

Present: K. Kearney, N. Socha, R. Emlen, N. Braga, Brett Roberts, Adeline Bellesheim, Conservation Agent, and Lisa Caledonia, Interim Conservation Agent

7:00 p.m. Ch. N. Socha opened the meeting of the Seekonk Conservation.

Public Meeting:

(Taken/heard out of Agenda order)

RDA; 14 Curt St (Map 21/Lot 342)

Proposed removal of a hazardous tree within jurisdictional wetland resource areas.

Applicant: Jason Flaxington

Property owner, Jason Flaxington summarized the project to remove a hazardous tree (large dead oak tree). He reported a crane would be used and parked in the emergency turnaround; the stump would be left in the wetland.

Agent Bellesheim reported that she performed a site visit on 5/26/2023 and confirmed the tree creates a hazardous condition. She believes that if the tree were left to fall naturally, it would actually fall towards the house and yard, not into the wetland. The method of removal proposed causes the least amount of disturbance, and the stump would be left to decompose naturally in the buffer zone. She recommended a negative determination of applicability.

**N. Braga made a motion to approve a Negative 3, that the work described in the request is within the buffer zone as defined in the regulations, but will not alter an area subject to protection under the act. Therefore, said work does not require the filing of a Notice of Intent subject to the conditions:
The stump to be left in wetlands.**

Seconded by K. Kearney. Motion passed unanimously. Vote: 5-0-0, approved.

RDA; 17 Sanctuary Lane (Map 28/Lot 84)

Proposed construction of an 18' x 20' carport within jurisdictional wetland resource areas.

Applicant: Wesley Grela

Property owner, Wesley Grela explained he wished to construct a carport (metal structure with a roof on it) where an above-ground swimming pool had been previously. The area is peastone, and the use would be to park a trailer under the carport.

Agent Bellesheim showed photos of the proposed location of the carport which included an intermittent stream and bridge. The applicant would like to install a carport within 200-foot riverfront area on the opposing side of the intermittent stream behind house where there used to be an above-ground pool. She reported she conducted a site visit on 5/26/2023. She stated she had communication with the homeowner as well as the neighboring homeowner of 5 Sanctuary Lane about the idea that in exchange for allowing the carport, the two property owners would work on the restoration of the bank. Our office did not hear back as to whether or not the homeowners were in favor of that. She asked if a permit was obtained for the bridge or for the shed because all of that is within the 100' Riverfront Area.

Mr. Grela replied that he did not obtain a permit for the shed 34 years ago because sheds under 200' square feet are not required to be permitted through the Building Department. Agent Caledonia commented that Conservation would regulate any work or structures within 100 feet.

Ch. Socha commented that it gets tricky, because Conservation is tasked with protecting the wetlands; the standard is not to touch anything within 25' of the wetlands (no structures at all within 50'). You are asking us to be okay with the unpermitted structures that are existing and add another structure to it. The Commission is trying to get on the right side of this so there is a clear understanding of what are protected areas and how we move forward best path. At the end of the day, we don't want to prevent you from using your land to the greatest degree possible; but we have to do it in a fair and consistent manner to the greatest degree possible, trying to understand the issues that exist. You are asking us to allow a structure within that 50'.

Access to the proposed carport area was discussed. Mr. Grela stated he has an agreement to access the area on the opposite side of the stream via a neighbor's long driveway. The carport structure is "temporary" with anchors into the ground; it will not have a foundation.

Agent Caledonia commented that in order to give permission for a new structure, the other structures (bridge and shed) should be filed as an "after-the-fact" permit with Conservation as well. We were also concerned about the invasive species. It leads back to the question; can the other structures be permitted? It was discussed that the Commission would not have permitted the structures per the No Touch 25'.

N. Socha commented if the Commission acts in a way where residents get what they want by not asking is a better result than asking, it puts the Commission in a really tough position and sets a bad precedent.

K. Kearney asked if there had been a discussion that because the two homeowners might invest in the banks, that this would be a 1-time exception because of the investment in clearing and helping the banks.

Agent Bellesheim reported that following the last Conservation Meeting, she reached out to the two homeowners via email; she read the email sent to owners of 17 and 5 Sanctuary Lane suggesting they work together to eradicate the invasives.

Hello Mr. Force and Mr. Grela,

As discussed during the 5/15/2023 Conservation Commission meeting and in the Conservation office, we would like for you (Mark and Wesley - both copied on this email) to work together to restore the bank of the river behind your homes. This restoration would provide as compensation for the placement of unauthorized structures and removal of trees that has taken place on your properties within jurisdictional wetland areas. I have attached a list of consultants that may be able to assist with the planning for removal of the invasive Japanese Knotweed and the restoration of the riverbank behind your homes. When speaking with the consultants and gathering information, please stress to them the importance of **removing the invasive Japanese Knotweed effectively** and the desire to **plant native riparian vegetation**. An approvable restoration plan must be submitted to the Conservation Commission by **August 1, 2023**, with the intention of restoration being completed for the next growing season. If you have any questions, please do not hesitate to reach out!

Thank you, *Adeline Bellesheim*

Mark Force, 5 Sanctuary Lane stated he contacted all 5 companies on the provided list as well as a landscaper; none would take the job. He has been working in the intermittent stream for 3 weeks removing knotweed. Agent Caledonia explained to Mr. Force that he was asked at the last meeting to come up with a sustainable plan, not to remove the knotweed. Any work in the stream is unauthorized. She clarified that these companies on the list do not perform physical work, they help to come up with a sustainable restoration plan.

Mr. Grela said he has lived there 35 years, and nobody from the Town has come to clean the brook. It gets clogged with debris and overflows. He removes debris twice a year, in spring and fall.

K. Kearney commented that what the Commission is trying to convey is that eventually putting the right plants on the bank, instead of the knotweed, will keep that from happening.

Mr. Socha said, from the Conservation Commission's perspective, the goal is not to touch resource areas; they have value in all different ways. The unfortunate truth is sometimes houses get built where they shouldn't be built; and here we are 34 years later arguing over protecting land. Agent Caledonia said DPW director is aware of the problems; and the easement is only close to the road. Mr. Force stated that the Town Administration informed him that the easement is 20 feet from sidewalk inward only. The property owners are responsible for everything after the 20 feet. Agent Bellesheim stated that the Conservation Commission still has jurisdiction over the resource, but we are not responsible for maintaining it, we are responsible for protecting it.

K. Kearney stated what the Commission would like to help the two homeowners find out is a way to protect the bank, plant it, and leave it alone and have it work. Find a way to create a solution.

Mr. Force further discussed not being able to get a consultant to perform the removal. Agent Caledonia explained/reiterated to Mr. Force that the Commission is asking him to ask the consultants to come up with a Plan (so he can manage it properly) for the Conservation's review/approval, not for the consultants to perform the work (a licensed chemical applicator would perform the work).

Ch. Socha explained that the reason the Commission wants Mr. Force to have a plan is that the Commission is not responsible for designing how it is to be remediated; that is to be done from a 3rd party. K. Kearney stated that she took the Invasives Course at UCON, which explained when and what chemicals to use that would eradicate the invasives. She suggested the paperwork be given to Mr. Force; he was encouraged to read the paperwork about knotweed.

Mr. Grela, said years ago after McCarron's Greenhouses were sold and houses built, drainage structures were covered up on that side of Route 152. He provided photos of where the drainage was.

Ms. Bellesheim reported that the bank has been treated since our last meeting. She confirmed with Dave Cabral, Superintendent of DPW that the work done on the bank was not done by DPW. In addition, the timber tops were also not done by DPW. Mr. Force said he treated it with vinegar, salt, and Dawn. He placed the timber tops for aesthetics.

Ch. Socha suggested a split-rail fence stating there shouldn't be a ripped hard edge on that streamside and there shouldn't be a bridge; we are trying to find a happy medium between the two. He reiterated that the ultimate desire is to have them not touch the area at all; but the Commission understands his desire to maintain flow and not have it flood in his yard. He said a restoration plan needs to be put together by a professional and submitted to the Commission.

Mr. Grela stated that he has never done work on his banks; he has only removed debris by hand.

Ch. Socha stated that the next step is for the homeowners to have plans developed to get on the right side of this issue; talk to the Agents; figure out what seems reasonable; and present that at the July or August Conservation Meeting.

Agent Bellesheim stated more direct communication with the Conservation Office would be helpful so we can work together. She informed Mr. Force that he was added to this Agenda in the Enforcement section of the meeting in response to her site visit with DPW and noticing additional work being done/treatment of the vegetation on the opposing bank. The Commission informed Mr. Force that he has to tell the Commission his plan before he does it.

Agent Caledonia clarified with Mr. Force that what the Commission is asking is “the question is not can they work on knotweed, its can they help you develop a plan so that you can manage it properly, for the Conservation Commission’s review. It’s not “can they treat it, can they cut it, do they have laborers;” they do not do any of that, they are just consultants. The list we gave you is just for consultants.

Mr. Force stated he will recontact the companies on the list and ask they to develop a plan.

Ch. Socha summarized stating that at the end of the day, those bridges shouldn’t be there. The wetlands law states you can’t touch within 25’ of it. K. Kearney stated the Commission is willing to work with the homeowners if they will work to get that bank clear of the knotweed and get the right plants in there.

Mr. Grela asked where his permit for the carport stood. **The Commission stated the work done to the bank and the invasives issue should be handled first.** Agent Caledonia stated that the Commission must act today: either issue a positive determination or a negative determination; or as an alternative, she recommended Mr. Grela withdraw his application for now until the stream bank issues are solved.

Mr. Grela said he already paid for the carport. **He agreed to withdraw his application at this time.** K. Kearney commented that she would think that the carport company would allow Mr. Grela to reschedule.

Enforcement

- **NV #2023-03 (5 Sanctuary Lane): Discussion** *(taken out of Agenda order)*

Property owners, Mark & Bethany Force were present.

Agent Bellesheim reported that the homeowner of 5 Sanctuary Lane approached the Board of Selectman to appeal the requirement of restoration. She performed a site visit with DPW on 6/8/23 to inspect drainage easement. Further violations of the bank were observed.

Ch. Socha asked Mr. Force if he felt he had clarity from the Commission after the discussion in conjunction with the RDA filing for 17 Sanctuary Lane. Mr. Force replied yes, and said he will comply with what the Commission recommends.

Agent Bellesheim stated she will follow-up with the same email chain with all parties involved on it. She will look for more resources to help the two homeowners; and stated it would definitely be good to recontact the consultants on the list clarifying that he is looking for a restoration plan.

Public Hearings:

OOO Extension Request:

NOI #SE69-0825; Burnside Ave (wetland crossing)

Applicant: Gary Sagar

Property owner, Gary Sagar was present. He said he intended to complete the crossing by the permit expiration date, but mother nature is not cooperating; his permit states he cannot work on the culvert when there is a flowing stream. The Culvert was constructed September 1st, and over Labor Day weekend we received 4-5 inches of rain. The stream has not stopped running since. The outstanding work consists of going in the stream to line it with special gravel/rocks; we are prevented from doing that as long as there is water in it. The stream has now stopped flowing; we anticipate being able to complete the work in July or August. Mr. Sagar stated that the original replication area associated with this filing has been transferred over to the MassDEP Permit #SE69-0928 filing (Brigham Farm 3 roadway for Matt's Way). He stated the remaining work consists of the inside of the culvert and loam and seeding.

Agent Bellesheim commented that this is the first she has heard about it being filed under a different permit number. She performed a site visit on 6/9/2023; the erosion controls are stable and flagging is visible.

Agent Caledonia clarified to avoid confusion for the commissioners reporting that there is an area/swath that is unstable. Normally erosion controls are required down low, but they still need to work on the elevation here. Down gradient the stream is flowing to the other side. They do have filtration controls across it; no silt is getting through. The water coming out is clear.

Ch. Socha stated the issue is that there have been 4 extension requests which is just reason to get the project done and we don't have unfinished work for a long period of time. From the Commission's perspective, we want it growing grass and concern for the environment. Mr. Sagar commented that it is not a dormant project. The retaining wall and culvert are constructed; the sides will be stabilized.

K. Kearney said the Commission feels Mr. Sagar is making efforts and stated for the record that it will be the last extension. Mr. Sagar stated that if the work cannot be done by June 2024, he will have a discussion with the Commission earlier in the year about blocking off and pumping it.

Mr. Sagar reported that he hopes to complete the roadway in July or August (SE69-0928 valid through 10/6/2024). The wetland replication plantings will follow in late summer so we get the fall growing season.

**K. Kearney made a motion to grant a 1-year extension for SE69-0825; Burnside Ave;
R. Emlen seconded. Vote: 5-0-0**

NOI #SE69-0982; 893 County St (Map 5/Lot 18)

Proposed water service repair/replacement withing jurisdictional wetland resource areas.

Applicant: John Yando

Representative: InSite Engineering

K. Kearney recused herself from the filing (she is an abutter) and left the meeting.

Continued from May 15, 2023.

Chris Andrade, InSite Engineering represented the applicant and explained the water service on this property has a leak in the line somewhere. The goal is to excavate down to the water line in the area of upland and tap into the line. The problem is that the current location was installed well before wetlands were an issue on this property; the line runs right through the existing wetlands. The goal is to not cause any disturbance within the wetland, it's to tap into it and sleeve the line to stop the leaking of Town water. The existing line will be used as a guide to pull another line, not through it, but as a channel; it splits the existing line and pulls the other one in.

Agent Bellesheim reported she and Agent Caledonia visited the site with the property owner. It is pumping water into the wetland, and she feels they are making the best effort to avoid impacts to the wetland. Even though they are excavating within the buffer zones, they are making a first attempt at not excavating the biological wetland. She felt it is a sensible approach, with the understanding that if the leak was not found in this area and additional work within the resource area is required, a new approach would need to be addressed.

C. Andrade stated that if a different need is identified, they will come forward with an Amendment to the centerline.

R. Emlen made a motion to close the public hearing for SE69-0982, 893 County St;

B. Roberts seconded.

Vote: 4-0-0 (K. Kearney recused)

R. Emlen made a motion to approve the plan under the Seekonk Wetlands Protection By-law;
seconded by B. Roberts.

Vote: 4-0-0 (K. Kearney recused)

R. Emlen made a motion to approve the plan under the MA Wetlands Protection Act;
seconded by B. Roberts.

Vote: 4-0-0 (K. Kearney recused)

There is a 10-day appeal period from the date of the issuance of the Order of Conditions.

K. Kearney re-entered the meeting.

NOI #SE69-0958; 0 Allen Ave (Map 3/Lot 16)

Proposed paved finished material lay-down area and associated stormwater management structures within jurisdictional wetland resource areas.

Applicant: Oldcastle APG Northeast, Inc.

Representative: Roux Associates, Inc.

Continued from May 15, 2023.

Continued to July 10, 2023.

A signed continuance was received prior to tonight's meeting.

B. Roberts made a motion to Continue SE69-0958 to July 12, 2023, sometime after 7:00 p.m.;

N. Braga seconded.

Vote: 5-0-0

SE69-0974; 3 Patricia Drive (Map 26/Lot 158)

Proposed construction of a single-family house, well, and septic system with associated grading within jurisdictional wetland resource areas.

Applicant: Michael Costa

Continued from May 15, 2023.

David Bray, Caputo & Wick represented the applicant and provided an updated/revised plan. He reported they had a field meeting on May 24, 2023 with Dave Cabral, DPW Superintendent, Commission Board members, and the Agents to look at Flags #7 and #8; he adjusted those 2 flags slightly forward. He said the reason the flags were moved forward is because it appears that after they dug out the detention pond, they didn't fill all the way to where they had grubbed it creating a little bit of a low pocket between the edge of the BVW and the bottom edge of where the pond was being created.

Mr. Bray stated that he submitted a revised plan at the request of the Commission who suggested he put a drywell for the roof water. He stated for the record that he wanted to be clear that the Stormwater calculations for the roadway in the subdivision had taken into account the site disturbance for well over 23,000 sq. ft; including 3,600 sq. ft. of roof and driveway area. This roof and driveway are slightly less than that. The revised plan shows a thinner driveway to accommodate telephone, electric, and cable wires; a single car access in which widens out to the garage. Mr. Bray reported that the applicant has revised the house plan taking 6 feet off the back of the house. Mr. Costa wishes to put a 12' x 16' deck with Sono tubes instead of stairs and crushed stone underneath (pending a revised plan).

Michael Costa, Costa Development stated he is reducing the house by 6 feet across 33 feet, roughly a couple hundred sq feet. The deck is proposed further away from wetlands and will be impervious.

Mr. Bray stated stormwater management was already calculated. In the drainage computations as the subdivision was approved, there was 23,557 sq. ft. of disturbance; of that there is 17,412 sq. ft. of lawn area and 3,505 sq. ft. of impervious area (roof and driveway); pervious area is 900 sq. ft. less, and the roof and driveway are 460 sq. ft. less. He mentioned more will be taken off with the deck proposal; and will still put the water in the drywell which will further reduce the runoff than what the subdivision was even anticipating.

Agent Bellesheim stated that her personal biggest concern is that this house does not come with outdoor space for the homeowners which could lead to a possible future wetland violation when they want green space in the future. A deck is heading in the right direction giving the homeowners space to enjoy the outdoors.

Mr. Costa stated he is reducing the house by 198 sq. ft. and adding 192 sq. ft. to the deck, so he is really giving them an extra 400 sq. ft. of the living space (increasing outdoor space).

Mr. Bray commented that he supplied a detail of the drywell and there is actually a detail of the roof leader that will flow out a T. Elevations were discussed. The slope will be loamed and seeded; overgrowth of vegetation will eventually will take over.

Agent Caledonia expressed concern with the slope between the fence and the system being too steep to mow. Mr. Bray reported that it is a 4:1 slope, it could be left to infill and eventually woody vegetation will take over.

Agent Caledonia asked the applicant if he would be okay with a condition that it is not a mowable slope.

Mr. Costa replied that it is a more difficult area to mow, but certainly can be mowed. As the house will be built and put up for sale, he would not like to have that restriction. New owners may want to mow it.

K. Kearney stated that legally the homeowners have the right between the 25' and the 50' to do that.

Mr. Bray commented there is a split-rail fence at the bottom of the bank.

N. Braga made a motion to close SE69-0974; 3 Patricia Drive; K. Kearney seconded. Vote: 5-0-0

Motion made by N. Braga to approve the plan under the Seekonk Wetlands Protection By-law, conditioned on submittal of a revised plan, K. Kearney. Vote: 5-0-0

Motion made by N. Braga to approve the plan under the MA Wetlands Protection Act, conditioned on submittal of a revised plan, seconded by K. Kearney. Vote: 5-0-0

There is a 10-day appeal period from the date of the issuance of the Order of Conditions.

SE69-0972; 181 Hope St (Dev Lot 1) (Map 18/Lot 211)

Proposed construction of a single-family house and associated grading within jurisdictional wetland resource areas.

Applicant: George Murphy

Continued from May 15, 2023.

Continued to July 10, 2023.

A signed continuance was received prior to tonight's meeting.

K. Kearney made a motion to continue SE69-0972, 181 Hope St, to July 10, 2023 sometime after 7:00 p.m., R. Emlen seconded. Vote: 5-0-0

SE69-0969; 163 Hope St (Dev Lot 2) (Map 18/Lot 212)

Proposed construction of a single-family house and associated grading within jurisdictional wetland resource areas.

Applicant: George Murphy

Continued from May 15, 2023.

Continued to July 10, 2023.

A signed continuance was received prior to tonight's meeting.

K. Kearney made a motion to continue SE69-0969, 163 Hope St, to July 10, 2023 sometime after 7:00 p.m., R. Emlen seconded. Vote: 5-0-0

SE69-0970; 143 Hope St (Dev Lot 3) (Map 18/Lot 213)

Proposed construction of a single-family house and associated grading within jurisdictional wetland resource areas.

Applicant: George Murphy

Continued from May 15, 2023.

Continued to July 10, 2023.

A signed continuance was received prior to tonight's meeting.

K. Kearney made a motion to continue SE69-0970, 143 Hope St, to July 10, 2023 sometime after 7:00 p.m., R. Emlen seconded. Vote: 5-0-0

ANRAD #SE69-0978; 375 Walker St (*Wheeler School*) (Map 23/Lot 5)

Abbreviated Notice of Resource Area Delineation for verification of field-delineated wetland resource areas.

Applicant: The Wheeler School

Continued from May 15, 2023.

Continued to July 10, 2023.

A signed continuance was submitted at tonight's meeting.

R. Emlen made a motion to continue ANRAD SE69-0978, 375 Walker St to July 10, 2023 sometime after 7:00 p.m.; B. Roberts seconded. Vote: 5-0-0

NOI #SE69-TBD; 375 Walker St (*Wheeler School*) (Map 23/Lot 5)

Proposed construction of 3 docks around Run-of-the-River Pond within jurisdictional wetland resource areas.

Applicant: The Wheeler School

Continued from May 15, 2023.

Continued to July 10, 2023.

A signed continuance was submitted at tonight's meeting.

Filing on hold based on ANRAD submission and peer review. *MassDEP file number not issued yet.*

R. Emlen made a motion to continue NOI #SE69-TBD; 375 Walker St (*Wheeler School*) for docks project to July 10, 2023 sometime after 7:00 p.m.; B. Roberts seconded. Vote: 5-0-0

NOI #SE69-0981; 42 Emily Way (Map 26/Lot 147)-Subdivision Record Lot 7

Proposed construction of a single-family house and associated grading within jurisdictional wetland resource areas.

Applicant: Michael Costa

Representative: Caputo & Wick, Ltd.

Continued from May 15, 2023.

Continued to July 10, 2023.

David Bray, Caputo & Wick represented the applicant and submitted revised plans at the meeting (1 week after the cutoff deadline). The Commission stated they need proper time to review plans prior to the meeting, and this will be a discussion only.

Mr. Bray stated there are 2 wetland lines established on the property: 1) in 2001 by Scott Hobson of Caputo & Wick, and 2) in 2022 by Brandon Faneuf of Ecosystems Solutions (flagged it instead of re-establishing the flags knowing that the road had been constructed and the surface water had been redirected in different ways). Mr. Faneuf flagged the A-Series line A1-A12. Mr. Hobson flagged the J-series in July of 2001.

Mr. Bray showed the upland soils on the plan. He stated he spoke to both Mr. Hobson and Mr. Faneuf and they both feel their lines are within 10-15 feet of each other and are confident in their delineations.

He stated Agent Bellesheim and Agent Caledonia disagree with the delineations stating they are 25-40 feet off and asked for the property to be re-flagged. We need a meeting onsite in the field to be resolved. If the line moves any further, the Commission will take this lot. Mr. Bray said Mr. Hobson strongly felt that there was enough land left and he showed a line with flags along it showing non-hydric soils. He stated that they have downsized the house from the previous plan. He stated that he took Scott Hobson and Brandon Faneuf's line and, wherever they overlap, took the highest of the 2 flags. Through the 25', 50', and the 100' from that, he moved the LOD on the revised plan. He reiterated the importance of coming to an agreement on the wetland line.

Mr. Bray reported he plans to go out and put Scott Hobson's flags in by survey, and then have Brandon Faneuf confirm that his flags are correct as well as Mr. Hobson's flags.

Agent Caledonia showed a stake and split-rail fence in a photo and pointed out wetland plants. Agent Bellesheim pointed out hydric soils pulled from the area between their delineation and the 25' split-rail fence. She said she stated to Mr. Faneuf that there is a serious topo break on the site which drops down in elevation. She said they believe that the true line falls closer to that break as over the years water has run off from new subdivisions into this one spot. She commented that what used to be she believes is no longer. She said she has photos of isolated pockets/drainage features that feed into the wetland; the wetland is more complicated; it has fingers of drainage that come into the wetland. She showed a photo of a tree with buttress roots (roots elevated above because of the water table) and sensitive fern all outside of the delineated boundary that they found in the field. She commented that this is the only green space in the subdivision of massive houses; this is where all the water goes.

Mr. Bray stated there is very little stormwater that goes into there because the detention pond goes to the south into a very big pond in the back. He requested a field meeting to resolve the issue.

Agent Bellesheim stated she explained to Mr. Faneuf it is his responsibility, as the applicant's consultant, to perform the delineation that she can agree with. She is not responsible to place flags for him in the field. She does not believe they should be following an old delineation. She believes 20-year-old data is invalid.

Mr. Bray reiterated that Ecosystems Solutions flagged that line in August independent of the original delineation, and they were within 10-15 feet of it. Ms. Bellesheim responded that these are the features she found outside of the resource area. Agent Caledonia stated she also disagrees with the delineation; she stated she has over 20 years' experience. It is closer to the split-rail fence.

Mr. Bray proposed to survey in Mr. Hobson's flags, have Mr. Faneuf confirm that his flags are correct as well as Mr. Hobson's flags, and if he agrees with it, there is a discrepancy that needs to be resolved either here or at MassDEP under a Superseding Order of Conditions.

Ch. Socha agreed the best course of action is to have the flags confirmed first, have a meeting, and come to an agreement.

Agent Bellesheim stated they were working off of data forms that did not match the field conditions; they are waiting for the requested revised data forms. Mr. Bray stated the Mr. Faneuf felt his data forms were accurate.

Agent Caledonia stated she believed the hydrology changed with the Woodbridge Soils; Mr. Bray disagreed with a change in hydrology.

K. Kearney made a motion to continue SE69-0981; 42 Emily Way, to July 10, 2023 sometime after 7:00 p.m.; R. Emlen seconded. Vote: 5-0-0

ANRAD #SE69-0980; 81 Wheaton Ave (Map 4/Lot 308)

Abbreviated Notice of Resource Area Delineation for verification of field-delineated wetland resource areas.

Applicant: Scott Smith

Representative: Oakhill Engineering, LLC

Continued from May 15, 2023.

Mark Mariano, Oakhill Engineering represented the applicant. He stated the filing was continued last meeting for items to be completed on fieldwork. The filing was opened at the March meeting; Agent Caledonia made a site visit on April 14 to walk the site and review the line. There was one change on MEAWL, which moved back 8 feet (Mean Annual High Water 101 [greyed out on plan], now delineated as 101A). The A-Series BVW label changed from "Land subject to Flooding". In reviewing the vernal pools, they were almost dry, but we had a rainstorm, they refilled and were muddy. Mr. Mariano reported that wetlands were found off property and are shown on the plan as an approximate. He went through the revisions: Revision #1: 3/13/23 add the elevations; Revision #2 incorporated items from the site walk on 4/14/23 and comments from the Agent on Friday, 6/9/23.

Mr. Mariano raised a discussion point regarding one of the Agent's comments to have a 125' buffer zone. He stated he did research, referenced the Seekonk Regulations, and presented the following information to the Commission regarding the request to place a 100' buffer plus a 25' buffer. The information presented was a reading of the Conservation Commissions Regulations. A reading of 2.2.2.2 Buffer Strip where it was identified the buffer strip is only to be applied to work within the regulatory area. Because the regulatory area extends only 100 feet from the banks of a vernal pool, the buffer strip was not applicable because they were not entering the regulatory area.

Information presented was rulings under two different Conservation Agents. A project was presented from 2011 on Walker Street, permitted under Bernadette Deblander. This showed that a 100' no touch zone was maintained and enforced, not a 125' buffer zone. A second project on 272 County Street was permitted under Jennifer Miller where the 100' buffer zone was observed.

Mr. Mariano, Oakhill Engineering contested that, Ms. Deblander was the originator of the current regulations, and the 2011 Walker Street approval project displayed how the intent of the regulation was to be enforced.

Mr. Socha commented that for the past 9 years, we have only protected 100 feet from the vernal pool. Both K. Kearney and N. Socha agreed that given their legacy on the Commission, the 100' has been enforced and 125' has not been enforced.

Agent Caledonia felt the vernal pool itself needs at least 100 feet as part of the resource for those amphibians. She stated the 100' actually acts as part of the vernal pool, that is not the buffer zone. The definition of the vernal pool itself is 100' off the MEAHW. The buffer zone starts at the 100 foot.

Mr. Mariano reported that Attleboro considers that the vernal pool starts at the 100; and that is how they establish the 25'. The previous 2 Seekonk Conservation Agents feel it starts at the 100 feet.

K. Kearny stated that the new Agents may be right, but our Regulations are not clear enough at this point, and the precedent is not under 100'.

The Commission discussed that a policy could be developed after further review of our Regulations. Mr. Mariano stated that typically to change Regulations, it has to be voted on at Town Meeting. The Commission agreed that legal counsel would need to be involved. A By-law would need to be revised.

Agent Bellesheim stated that Mr. Mariano has made the changes Agent Caledonia asked for (*which was a minor revision to the plan and 2 comments*).

**N. Braga made a motion to close [ANRAD #SE69-0980; 81 Wheaton Ave.](#); K. Kearney seconded.
Vote: 5-0-0**

**Motion made by N. Braga to approve the plan under the Seekonk Wetlands Protection By-law,
conditioned on submittal of a revised plan, K. Kearney. Vote: 5-0-0**

**Motion made by N. Braga to approve the plan under the MA Wetlands Protection Act, conditioned
on submittal of a revised plan, seconded by K. Kearney. Vote: 5-0-0**

There is a 10-day appeal period from the date of the issuance of the Order of Conditions.

Public Meeting:

Enforcement

- **NV/EO #2023-02 (286 Taunton Ave):** Restoration Plan / Update

No representation present. Agent Bellesheim reported that an Enforcement Order was sent by Constable and received May 25, 2023 at 9:00 a.m. There has been no communication from the property owner. Previously on March 10, 2023, a Notice of Violation was hand delivered by Constable as well as sent certified/return receipt.

K. Kearney made a motion to allow Agent Bellesheim to work as the Commission's Agent on their behalf to begin issuing fines after June 24, 2023 per the Enforcement Order #2023-02 (286 Taunton Ave) after contacting Town Counsel; R. Emlen seconded. Vote: 5-0-0

- **NV/EO #2022-04 (86 Greenwood Ave):** Update

Beau Akers, Brainsky Levinson, LLC represented the property owner. He stated that his client's position, based off the statute of repose, is that this is brought up many years after the purchase of this property. Brandon Faneuf, Ecosystems Solutions did a plan and put in erosion controls.

Ms. Bellesheim reported she consulted Town Council on May 31, 2023 with the information provided to the Conservation Commission during the April 2023 Meeting, and it is still under review.

- **NV #2023-06 (59 Anna Ct):** Ratify (Building unauthorized trails in a wetland)

Agent Bellesheim reported that the unauthorized trails were observed by her from an adjacent property; vegetation was removed to establish a trail within wetland resource areas based on visual observation.

Jared Minieri, property owner stated that after a previous violation for removal of trees/and the subsequent restoration plan, he spoke to Agent Miller and she educated him about what he could and couldn't do there. He reported that she informed him that he could not build anything there, but could create a walking path. She gave specifics including no machinery to be used, no cutting of trees, minimal disturbance, etc. Mr. Minieri said the purpose was to build walking trails for his children and dogs on the southern side of the property.

Mr. Socha asked about the status of the Restoration for the previous violation (SE69-0923).

Mr. Minieri stated there were 4 things ordered: 1) plant a wetland seed mix, 2) replant 3 maple trees, 3) construct a retaining wall, 4) construct a split-rail fence.

Mr. Minieri reported that the wetland seed mix is down and growing, the trees were planted today, the retaining wall is planned to be constructed by next spring, the split-rail fence has not been constructed yet. With the help of high school kids, he lined the trail with downed trees and logs to create a border; nothing was cut down.

Mr. Minieri gave permission for Agent Bellesheim to make a site visit with him. Agent Caledonia stated that trails up to 6-feet wide without clearing brush is "Exempt," but normally you need to speak to the Commission first.

Mr. Minieri reported that a makeshift bridge (piece of wood) was put in to cross the stream; the water has moved the bridge to an abutting property, which he will remove. He asked if he could lay planks across so they could walk across.

K. Kearney commented anchored structures are not allowed; just a foot-wide piece of wood. If there is water flow, you just have to wait for it to go away, you cannot fill it in with mulch to make it more walkable; it might mean the trail might not be usable someday.

Mr. Minieri stated when it rains, the stream can have quite a bit of flow and comes up to his rear neighbor's lawn. K. Kearney commented that is what wetlands do. Agent Caledonia commented that is why the Conservation Commission was developed back 50 years ago to try to eliminate problems with development and stormwater.

Mr. Minieri stated that he delineated his property boundaries with mason string as a visual to keep people from using his property and has put "no trespassing" signs up.

K. Kearney told Mr. Minieri that the fact that he hired someone to go in to perform work is what triggered the concern; it is different than his family just wearing a path through the woods that they use.

K. Kearney made a motion to vote to ratify NV #2023-06 (59 Anna Ct), R. Emlen Seconded. Vote: 5-0-0

Other Business:

- Select a representative from the Conservation Commission for the Medeiros Farm Committee
The Committee will consist of 7 members for the purpose of overseeing the Medeiros Farm project at Elm Street and Lincoln Street, under the direction of the Board of Selectmen for the planning, design, cost estimates and oversight of expenditures.

The Committee will be composed of 1 member from ~Community Preservation Committee; ~Historic Commission; ~Conservation Commission; ~Parks & Recreation Committee; ~Planning Board; ~BOS appointee; ~Member of the Medeiros Family.

R. Emlen made a motion to appoint Nate Socha as the Conservation Commission representative to the Medeiros Farm Committee; B. Roberts seconded. Vote: 5-0-0

- Discussion Item: Local Bylaw (100' & 25') for Vernal Pools.
(See this evening's discussion with Mark Mariano for ANRAD #SE69-0980; 81 Wheaton Ave.)
- Discussion Item: General discussion regarding pumping of ponds into wetlands.
Agent Bellesheim explained she received a complaint from a property owner who is seeing new extensive flooding in their yard. It has come to her attention that an abutting property owner is pumping their fresh water pond in front of their house out to the wetland system behind their house. Historically, when it rains, the pond floods; it is a problem they have brought to DPW's attention. It is common knowledge that the property with the pond's driveway completely floods out during rainstorms. What is happening is they are adding the water into the wetland system which is interconnected through the whole town. She expressed her feeling that this may be just the beginning of a really large can of worms where too much water is going into a resource that doesn't have the room. She said she wanted to open this discussion with the Commission because she doesn't know what the solution is for the homeowner with the pond. She felt a plan should be designed by an engineer.

K. Kearney said that there is no policy that pumping of ponds into wetlands is an acceptable practice. N. Socha commented that ideally a pond should be designed to have an overflow with it piped out to an appropriate location; the pipe would need a property discharge mechanism via rip rap and swale. He said the cost of using a sump pump for electricity alone would be more than the long-term cost of constructing the overflow system correctly. Mr. Socha stated that in a situation like this with his limited knowledge, he felt it was not really an issue of the pond; it was an issue of the groundwater. And when there is a heavy storm event, regardless of how that water is treated, the abutting flooding issue will be there. Presumably that was an interconnected piece of the water body that was dug out and isolated. Reconnecting it to the system seems the best solution; the water needs to be routed. The Commission noted that this area is in a Flood Zone.

Agent Bellesheim stated her greater question is, “do we agree that the responsibility of a situation like this still falls on the homeowner and not to DPW.” She commented that the driveway flooding has been reported to be from roadway runoff as well. Roadway runoff was discussed. It was discussed there should be a meeting held with the Conservation Agent, the homeowner, and Dave Cabral, Superintendent DPW where the hydrology of that road system could be discussed.

Agent Caledonia felt it was the homeowner’s responsibility to hire an engineer before using the Superintendent. She stated that it was worth a conversation with the homeowner first and then ask them to hire an engineer. The minutes of this discussion should be provided to them.

K. Kearney stated that the homeowner would like to fix it correctly in order to use their driveway. She noted for the record that the driveway flooding precedes their ownership of the house.

- Discuss other topics not reasonably anticipated by the Commission 48 hours before the meeting.
No votes to be taken.
There was none.

Approval of Minutes: May 15, 2023

K. Kearney made a motion to approve the May 15, 2023 minutes, R. Emlen seconded. Vote: 5-0-0

N. Socha made a motion to adjourn the meeting at 9:26 p.m.; N. Braga seconded. Vote: 5-0-0

Respectfully submitted,
Kim A. Lallier
Conservation Secretary

Formally accepted on 7/10/2023 5 in favor, 0 against, 0 abstention

[Full Video available to view on TV9 Seekonk Community Access Television](#)

Link: <http://tv9seekonk.com/>