

**CONSERVATION COMMISSION
REGULAR MEETING
July 10, 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 Hearings:

COC Request:

- **NOI #SE69-0888; 165 Newman Ave (Aitken School) (Map 21/Lots 55-74)**
Applicant: Seekonk Public Schools

Jim Barrett, DRA Architects (Drummy Rosane Anderson, Inc.) represented the applicant. Jackie Proulx, Chair of the Aitken School Building Committee was also present. Mr. Barrett stated architectural elements of the addition of the Aitken Elementary were constructed substantially in compliance with the terms and conditions of the Orders of Conditions. Any deviations from the approved plans are insignificant and do not impair or impact the Orders of Conditions

Agent Bellesheim stated a site visit was conducted on May 31, 2023. She reported that the culvert is functioning, the stream does flow, and there is good vegetation along the banks. She recommended approval of the COC.

R. Emlen made a motion to issue a Complete Certificate of Compliance for SE69-0888; 165 Newman Ave; K. Kearney seconded. Vote: 5-0-0

- **NOI #Local Only; 785 Taunton Ave (Map 16/Lot 78)**
Applicant: Robert Rego – Rego Auto Services

Jean Rego, property owner was present and updated the Commission that since the November 2022 meeting, the mound of dirt has been spread, the wildflowers have been planted along the wetland, and the grass is stabilized.

Agent Bellesheim stated site visits were conducted on June 9 and July 5, 2023. She confirmed 95% vegetative cover on disturbed areas and the split-rail fence is fully intact with placards.

K. Kearney made a motion to issue a Complete Certificate of Compliance for Local Only filing for 785 Taunton Ave; B. Roberts seconded. Vote: 5-0-0

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 June 12, 2023.

Continued to August 14, 2023.

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

B. Roberts made a motion to Continue SE69-0958 to August 14, 2023, sometime after 7:00 p.m.;
N. Braga seconded. Vote: 5-0-0

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 June 12, 2023.

Continued to August 14, 2023.

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

N. Braga made a motion to continue SE69-0972, 181 Hope St, to August 14, 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 June 12, 2023.

Continued to August 14, 2023.

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

N. Braga made a motion to continue SE69-0969, 163 Hope St, to August 14, 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 June 12, 2023.

Continued to August 14, 2023.

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

N. Braga made a motion to continue SE69-0970, 143 Hope St, to August 14, 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 June 12, 2023.

Continued to August 14, 2023.

A signed continuance was submitted at tonight's meeting.

R. Emlen made a motion to continue ANRAD SE69-0978, 375 Walker St to August 14, 2023 sometime after 7:00 p.m.; K. Kearney 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 June 12, 2023.

Continued to August 14, 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 August 14, 2023 sometime after 7:00 p.m.; K. Kearney 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 June 10, 2023.

David Bray, Caputo & Wick represented the applicant. He reported that a field meeting was held last Friday where he added Flag A and moved the wetland line over; he moved Flag A-7 fifteen feet towards Emily Way. After the field meeting, he reconfigured the site plan moving the house 3 inches towards Emily Way. He reported that there is a 50' setback required by Zoning, so it is at 50' 3" giving it a little leeway if the forms move when concrete is poured for the foundation. The house has been moved 20 feet to the northeast so it is 43 feet off the property line; requirement is 40 feet. By doing that we were able to get 50.6 feet off the flag to house. The deck patio was only able to get 43 feet.

Mr. Bray stated that when the lot was first created in 2005, the wetland line used for the design of the road and creation of this lot was 15 feet or so to the northwest. The house has been since condensed considerably. The applicant would like a deck off the back of the house for easy access into the back yard for family. The area within the 50' setback for the stairs/deck/and portion of the patio is calculated at 105 sq. feet. To mitigate the impact of the improvements within 50' of the BVW, the split-rail fence has been extended straight across (further upslope to the east and west property line) increasing the 25' buffer strip in these areas (more than double). The plan includes a written Variance or Exception Request from the 50' local yard setback. Mr. Bray read the variance request for relief from Section 2.2.2.2 buffer strips prepared in accordance with Section 2.4 of the Regulations. He noted that the lot was created by a Definitive Subdivision approved by the Planning Board in 2005, and the associated work for construction of the roadways and infrastructure by an Order of Conditions, DEP File #SE69-0575 issued by the Conservation Commission on September 29, 2005. At that time the edge of the BVW in the center of the lot was 149 feet +/- from the edge of the Right-of-Way (Emily Way) and allowed room to construct a structure larger than what is currently presented while maintaining the buffer strips in the Regulations. Since the creation of the parcel, the edge of the wetland in the center of the lot has shifted closer 131 feet +/- to Emily Way.

Following a review of alternatives, the scale of the project activities has been modified from the original submission. The dwelling is now smaller and has been relocated 20 feet +/- closer to the easterly property line. With these revisions, the overall project activities have been minimized to the greatest feasible extent. He asked for a reduction of the 50' yard setback to be 43' from the edge of the BVW (a proposed reduction of 7 feet in the immediate area of Flag A-7A) from the Regulation.

K. Kearney stated for the record that if this exception is allowed for this small area, the homeowner must be made aware that this does not mean the Commission will make any future exceptions. She clarified the need for the request of a variance commenting that since the road was constructed and the subdivision development was built, the wetland line has changed. It was discussed that incorporation of these conditions will be included in the OOC's Special conditions.

Agent Bellesheim commented that both she and Mr. Bray felt a split-rail at the top of the topo break makes sense because it is more visible; it is front of the twin Red Maple Trees. Mr. Bray stated that it will be installed prior to construction. The Commission suggested the patio underneath the deck at the walkout basement be construction with pervious pavers. Mr. Bray reported that the grade around the house is 6 feet above the back yard.

Agent Caledonia asked if the client could install a gravel driveway. Mr. Bray replied he could not speak to that for his client. He reiterated that the drainage computations took 2,000 sq. ft. of roof area and 2,000 sq. ft. of paved driveway. The house itself is 1,800 sq. ft.; the subdivision calculations were for 2000 sq ft. per lot. The driveway is about 1,700 sq. ft, 500 sq ft less impervious area than the approved drainage computations. N. Braga suggested to bring the fence on a line straight through to clean it up and gain a few more square feet; the Commission agreed.

Ch. Socha reiterated the conditions discussed to be incorporated in the Order of Conditions: fence adjustment; patio not to exceed 120 sq. ft. (10x12); deck not to exceed 120 sq. ft. as shown on the plans; notification that this exception does not set a precedent for future development for permanent structures within the 50'; instead of a concrete slab, pervious pavers to be used for walkways and patio (or pervious concrete).

**K. Kearney made a motion to close the public hearing for SE69-0981; 42 Emily Way;
B. Roberts seconded. Vote: 5-0-0**

K. Kearney made a motion to approve the variance from Section 2.2.2.2 of the Seekonk Wetland By-law Regulation as noted on the plan (pending revised plan) and in the submittal for NOI #SE69-0981; 42 Emily Way, seconded by B. Roberts. Vote: 5-0-0

K. Kearney made a motion to approve the plan under the Seekonk Wetlands Protection By-law (pending revised plan); seconded by B. Roberts. Vote: 5-0-0

K. Kearney made a motion to approve the plan under the MA Wetlands Protection Act (pending revised plan); seconded by B. Roberts. 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 updated the Commission that Town Council was consulted. It was their advice that the Commission should provide a cover letter with each ticket. Ticketing begins tomorrow.

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.

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

Agent Bellesheim stated a site visit was conducted on June 23, 2023 with Agent Caledonia and her biggest concern was the destabilization of the bank (which has trails on either side). The Agents advised the property owner, Jared Minieri, to utilize some of the straw from the leftover straw wattle from the restoration project (separate issue) and temporarily stabilize the bank.

Ms. Bellesheim also discussed narrowing the trail including moving the logs and letting it revegetate; paths should be 3-5 feet wide. K. Kearney commented that one reason for the narrow paths is for it not to be a temptation to be used for ATV's.

Ch. Socha discussed that no mechanized equipment is to be used for maintenance. It was discussed that Bull Briar could be cut by hand.

Agent Caledonia asked to see photos of the other side of the bank. It was discussed that erosion control of straw wattle to be spread on one side, wait for it to dry up, then erosion controls on the other side.

As an update, the Agents also visited the ongoing restoration area in front of the house from a previous violation (Wetland Restoration through NOI #SE69-0923). Plantings have been installed and seed mix has taken nicely. The property owner stated that the split rail fence would be installed after the retaining wall is finished.

Other Business:

- Discussion Item: **Local Bylaw (100' & 25') for Vernal Pools.**

Research showed that a previous Commission, that Ms. Kearney and N. Socha were members of, were working to draft/update Seekonk's Local By-laws. That Commission decided to NOT add 25' to the vernal pool radius for the resource area with no additional buffer zone attached to it.

The Commission agreed to leave things as is currently, and revisit it when a new working group convenes to remove any ambiguity.

- Discussion Item: **Discussion regarding pumping of ponds into wetlands at 475 Prospect Street.**

Agent Bellesheim reported that it was brought to her attention that the property owners may be pumping the water out of the pond at the front of 475 Prospect Street during heavy rain events into the wetland resource behind the home.

Property owners Kurtis Wheeler and Ken Brownstein were present. Mr. Wheeler explained that he does pump the water when the rain water from Prospect Street (all the way to the north neighbor) empties into the pond in the front. It essentially acts as a storm collection pond. When it overflows, there has been a system in place for over 20 years that pumps it over his septic system and into a secondary gathering pond on his property to the north side of the house which is down river from him. He stated that everything on Prospect Street drains into that pond. If he allowed the pond to naturally overflow, it will fill the grass area between the driveway and the pond to the south. The driveway is sloped so water will run over the driveway and to the south into the wetland between his house and 455 Prospect Street (Septic is on opposite site). He noted that back in 2001 when the addition was added and the septic system was redone, a system was installed so that when the front pond overflows instead of draining over the driveway and into the wetland to the south, it is pumped over the septic and into the wetland to the north which is down river from him.

Mr. Wheeler stated that if he allowed the pond to naturally, it would be draining to his neighbor's property. He stated this has become an issue since the flooding on May 21st; the whole Runnins River Watershed flooded. The pond in the back came up into his lawn flooding the entire back area. Prior to the storm, they proactively drained some water to the north. When it overflows, they pump two days before a pending storm to a secondary catch basin, which when the river overflows, the secondary catch basin will join with it. What he has done since the purchase of the house is added a fountain which aerates and filters the water (cigarette butts and nip bottles).

Mr. Brownstein stated that they didn't drain pond, the water from the driveway would be worse and flow more to the neighbor's property. K. Kearney commented that it looks like it is flowing into the watershed either way. She suggested the Commission look at the historical record of the 2001 documents/minutes of the meeting) and the water flow.

Mr. Brownstein said the neighbor's backyard has lawn where there used to be wetland; and there is a wall buried. Mr. Wheeler stated the neighbor removed all the natural vegetation, including the trees, in the backyard straight up to the edge of the wetland. He is causing his own flooding issues. It was discussed that in May 2005, Mr. Guay (455 Prospect St) was served with a cease and desist; there was an Enforcement Order (#2005-02) issued. The neighbor has continued to clear vegetation in small increments. Mr. Brownstein commented that if anything, what the neighbor did impacts the wetlands behind his and Mr. Wheeler's house.

Mr. Wheeler commented that if they stopped pumping the pond, the water would flow across their driveway into the wetland directly towards the neighbor's house. K. Kearney asked for permission for the Conservation Agent to make a site visit with Mr. Wheeler and Mr. Brownstein.

Mike Bingham, 540 Prospect Street commented that historically there has always been a flooding issue with the pond. He stated that where the water is pumped to is physically impossible that it is raising the level of water in the neighbor's backyard.

Agent Caledonia suggested an engineer could provide resources to Mr. Wheeler and Mr. Brownstein on how to fix the issue if the Commission requested that. Mr. Brownstein stated it is not necessary for a new system to be engineered. Mr. Wheeler felt they should not have to incur the cost of hiring an engineer to fix something that is not broken. Mr. Brownstein additionally reported that the road in front of the pond has a pothole and it splashes; chunks of asphalt are sent into his front yard. Mr. Wheeler asked that the Town fix the pothole. Mr. Wheeler asked with the Prospect Street runoff and the pothole, the Town help guide the water from the street into the pond. He reported when they first purchased the house, the water would come down the street into a little ditch next to an island of trees next to their driveway and directly into the pond. But now, due to that pothole next to the telephone pole, the water is coming down and coming straight over their front yard sending giant chunks of asphalt and everything from the pothole into their front yard. It is no longer being channeled the way it was before. He stated that is a DPW problem. He said he has called DPW numerous times, and his mailbox is full and cannot leave messages for the last year. He said he doesn't understand how Town employees can be unobtainable to contact with issues like this.

Agent Bellesheim said she will contact DPW. The first step is to make a site visit with DPW, homeowners, and DPW to show how the system works that has been in place for 20 years.

Mr. Wheeler stated that they are being proactive in trying to stop the flooding; they have gone through and planted trees in their front yard and the back yard that are water absorbing (Great Willows and Great Birch).

N. Socha commented that if Mr. Wheeler and Mr. Brownstein were open to the idea, a check dam, a natural mechanism is more cost effective than a pump. It would get the water where it needs to go without impacting them or the neighbor. Mr. Wheeler commented that if he did that it would automatically drain toward his neighbor's yard that is complaining about his back yard overflowing. He invited the Commission to accept his invitation to make a site visit. It was decided a site visit would be conducted before the next Conservation Meeting. Mr. Wheeler commented that once the Commission sees the current system that has been in place for 20 years, they will agree it is the best system that could be implemented.

- Discuss other topics not reasonably anticipated by the Commission 48 hours before the meeting. No votes to be taken.

~Agent Bellesheim stated a tree survey was completed at Gammino Conservation Area where 30 different species were identified. She reported that posts, concrete, and an auger/attachments were purchased for informational tree signs. B. Roberts suggested an alternative of helical piling. It is less invasive, lasts much longer, and is super cost effective; there is no curing time and will not rot the posts. It would be cheaper labor and time. There are 2 types, including one with ground screws.

~K. Kearney discussed the stairway on the upslope of Gammino Pond. She said the right side of the slope is filled with invasive species. If you took a little out of that slope, you wouldn't damage any habitat at all. B. Roberts said the alternative helical piling could help with the stairway slope issue as well.

~N. Braga suggested the Commission plant a tree or two each year at Gammino Conservation Area. K. Kearney commented that when smaller trees were planted at the trailhead at the time of the ribbon cutting, invasives took over. Larger caliper trees would need to be planted.

Approval of Minutes: June 12, 2023

B. Roberts made a motion to approve the June 12, 2023 minutes, N. Braga seconded. Vote: 5-0-0

N. Braga made a motion to adjourn the meeting at 8:29 p.m.; K. Kearney seconded. Vote: 5-0-0

Respectfully submitted,
Kim A. Lallier
Conservation Secretary

Formally accepted on 8/14/2023 5 in favor, 0 against, 0 abstention

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

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