

**Town of Wareham
Conservation Commission Minutes
AUGUST 3, 2022**

I. OPENING: Chairperson, Sandra Slavin opened the meeting at 6:30pm.

II. ATTENDANCE: Chairperson, Ms. Slavin, Vice Chairperson Denise Schulz, Carol Malonson, Michael Mercier, and Nichole Locurto.

Absent: Clerk, Kwame Bartie

Conservation Agent, Dave Pichette was also in attendance.

III. PRELIMINARY BUSINESS:

Review and Approve Meeting Minutes of June 15, 2022. Ms. Schulz made a Motion to accept the minutes of June 15, 2022, and was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0)

IV. PUBLIC HEARINGS:

a. RDA – Carole Bender, c/o JC Engineering, Inc. 63 Onset Ave
Ms. Schulz read the advertisement for the record.

From J.C. Engineering, Mr. Bertolo was present.

Mr. Pichette reviewed the project for an upgraded septic pump system in a coastal flood zone. The property is in an AE15 flood zone. The septic system and pump station will be installed in the flood zone. He said hay bales will be installed. He recommended approval with a Negative Determination #2.

Ms. Schulz thanked the applicant for staking out the property. There were no further questions.

Ms. Slavin asked for public comment there were none.

Mr. Mercier made a motion to close the public hearing and was seconded by Ms. Schulz. The motion passed unanimously. (5-0-0).

Mr. Mercier made a motion to approve the RDA with a Negative Determination #2 and was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0)

b. RDA Peter Stevens, c/o JC Engineering Inc. 7 Stillman Memorial Drive

Ms. Schulz read the advertisement for the record.

From J.C. Engineering, Mr. Bertolo was present for the applicant.

Mr. Pichette reviewed the project to construct an addition, a patio, to demolish a deck, and to construct a sunroom addition in a flood zone, AE14. The deck is to be removed and a 14x25' sunroom addition is proposed in the same location. A patio is also proposed. It is not in a buffer zone, and no grade changes are proposed. Mr. Pichette recommends approval with a Negative Determination #2.

Mr. Bertolo had no further comment.

There were no further questions from the commission members. Ms. Slavin asked if there was any public comment, to which there were none.

Mr. Mercier made a motion to close the public hearing and Ms. Schulz seconded it. The motion passed unanimously. (5-0-0).

Mr. Mercier made a motion to approve the RDA with a Negative Determination #2 and was seconded by Ms. Schulz. The motion passed unanimously. (5-0-0).

V. CONTINUED PUBLIC HEARINGS:

a. Scott Green c/o J.C. Engineering Inc. 17 Murphy Street

Mr. Mercier made a motion to continue 17 Murphy Street to August 17, 2022 and was seconded by Ms. Schulz. The motion passed unanimously. (5-0-0).

b. NOI – Paula Hamilton, c/o G.A.F. Engineering, Inc. – 44 Agawam Beach Road – SE76-2747

Brian Grady, with GAF Engineering, was present for the applicant.

Ms. Slavin asked if there were new plans, as they had asked for the shed to be moved.

Mr. Grady stated there were no new plans, he said there was no place to put the shed out of the 30'. He said they would have to go to the board of appeals to put it in the front yard.

Ms. Slavin asked if it could be moved a little way back near the tank.

Ms. Slavin apologized and asked Mr. Pichette to review the project.

Mr. Pichette stated the project involves upgrading a septic tank in the coastal beach and coastal flood zone. He said the system is to be replaced, 50' from the sea wall and edge of the marsh. He said they spoke about the shed that had to be located, but there doesn't seem to be a spot on the site that would be out of the 30' No Activity Zone. He said at the last meeting there would need to be new plans or have to have the shed removed. Mr. Pichette stated that the building commissioner confirmed there was never a building permit pulled for the shed. He said he would recommend approval of the septic system, but would also recommend that the shed would have to be removed if it can't be put relocated outside the 30' No Activity Zone.

Mr. Grady stated the applicant says she did get it permitted. He said as the site exists currently, there are a few options. He said they would move the shed off-site if there was no space for it outside the 30' No Activity Zone. He said he didn't think that was why the 30' No Activity Zone by-law was in place. Mr. Grady stated that without the shed, the lawn mower and other stuff in the shed would be placed under the deck of the house. He said he believes the commission has the right to work with applicants regarding this by-law. Mr. Grady said she is spending quite a bit of money and investment to upgrade the septic system. He said he didn't think the outside storage of certain items should just be out under a deck and/or under a tarp. This is not the safest environmentally. Mr. Grady stated he believed there is some latitude within the bylaw for the shed to stay where it is on the site.

Ms. Schulz stated the shed isn't permitted nor the sono tubes were permitted and she said the commission needs to stay consistent within the 30' No Activity Zone.

Mr. Mercier stated he is having a hard time believing that it can't be moved over.

Mr. Grady stated he had the Building Commissioner come out and review and if they could move it over, they would. He said they also must stay within the setbacks. He said if they can move it they would if there was any alternative.

There were no further questions.

Ms. Slavin asked about the size of the shed. Mr. Pichette said an 8x12. Ms. Slavin asked about a possible smaller shed.

Mr. Grady stated that is an option to explore. He said he would meet with David on-site and see if they can move it.

Ms. Slavin asked if there were any public comments, to which there were none.

Mr. Mercier made a motion to continue the hearing to August 17, 2022 and was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0).

c. NOI – Wareham, MA 3, LLC, c/o Atlantic Design Engineers, Inc. 91 & 101 Fearing Hill Road SE 76-

Joe Shanahan, Senior Project Manager, and Nick Clini from Atlantic Design Engineers.

Mr. Price was also present.

Mr. Pichette stated there were revised plans.

Mr. Shanahan asked if they were reviewing the plans from July 9, 2022, to which Mr. Pichette said they were.

He reviewed the project which involved a commercial solar project at the site. This project would clear a major amount of vegetation and the site to be fenced in. He said they've been discussing it at a few meetings. He said the commission asked for Mr. Price to come in to answer some questions, he is the hydrology scientist who did the reference presentation. He said he would like to hear some updates on the plans and show the modifications to the retention basis and other features. Mr. Pichette will recommend a continuance for a review from the Town Engineer, Charlie Rowley as well as so he can review all this new information on the plans.

Mr. Shanahan stated as an overview that the Commission has been waiting some time for the hydrologist report. He said as of last Thursday with plans and specifications, that they believe they have addressed all current comments and incorporated Mr. Rowley and Mr. Price's comments in the revised plans and the calculations. He said it is understandable they want to wait for Mr. Rowley's comments.

Mr. Clini reviewed the changes to the plans. He said based on Mr. Rowley's comments, which applies to all three basins. He said within the basin they would install culvert pipes and a trench on both sides, as a continuation of the gravel swale down to the pipe. He said there was a question on the diversion swale, he said there is a gravel trench to take the water and redirect it away from abutters. He said the pipe has been calculated to the 100-year water flow. He said there is a pipe to Basin #3. He said the swale ends about halfway through the array and is directed toward the wetlands on the eastern side, and the pipe continues down to the bottom of the basin – so there is no overflow to the pipe. He said that swale also crosses the road and makes one adjustment; cross that road (the access road)-maintain water to go through and for safety. He said the site disturbance overall has gone down 24% to maintain site distance, a buffer to the abutting properties, and also to remove some panels near Basin #1 and Basin #3. There are no panels within the basin area. He said they pulled back near Basin #2 where the road access is outside of the waterway.

Mr. Pichette asked what design/volume would be retained before overflow.

Mr. Clini stated Basin #1 and #2 would handle the 100-year water flow. He said there would be a small amount of overflow from Basin #3. He also said the overflow would be either maintained or decreased to the wetlands as it stands today.

Ms. Slavin reiterated that there wouldn't be more water flow to the wetlands, but perhaps less and more of the water flow would go into Basins #1 & #3. Mr. Cini agreed.

Mr. Pichette asked that's assuming weather conditions are included in the infiltration. He said even if the ground is frozen it would still retain that. Nick Clini agreed.

Neil Price, the hydrologist scientist was present. Ms. Slavin asked for conclusions and more of a recommendation focus.

Neil Price clarified the design change and small details. He stated he expects one more version of the final plans and then one last comment/narrative will be completed. Mr. Price asked if Mr. Buckland sent them the PowerPoint presentation. Mr. Pichette stated he was not part of that conversation and didn't get the PowerPoint.

All members agreed they had received the multi-page report.

Mr. Price gave an overview recap and stated his goal was not like a typical peer review for regulatory stormwater standards. He said he specifically addresses the water, and hydrology concerns with the project from forest to solar panels and is focused on that. With that being said, his recommendations for stormwater (there is a cross over there) would groundwater rise to the detriment of neighbors and would water increase; those are the two focus areas. He said they are entirely different models and analogies, and they use assumptions contradictory to each other.

Mr. Pichette asked him to focus on both issues for the Commission. They wanted to hear about the impact on abutters as well as conservation properties, (next to Basins #1 and #3), and were concerned about runoff as well as volume

Mr. Price stated his opinion would be the impact would be stormwater runoff. He said that was Mr. Rowley's primary focus, but they did some review. He said the modeling of the design system, especially the revised one, does not show an increase in volume. He said the regulatory plans will ensure monitoring during construction, post, and afterward and it would be critical that the stormwater structures be built properly and designed correctly, so adverse conditions aren't occurring long term.

Mr. Pichette asked if the water volume would stay the same or be increased.

Mr. Price said his focus would be on erosion, whereas it is more or less water-starved in the wetlands. He said the water going near the Fearing Hill Road would be unchanged, but they did

not look at the area going north, where the stormwater discharge is. He said he doesn't know if it'll be an issue as they didn't look at that area, but they could.

In review, he continued with stormwater management in the area with both proposed changes and what was there; he said Atlantic was okay with the design points. He said heading to the West and the East he did find issues with the initial submittal of too much water, and that has since been corrected with revisions. The post-discharge has been corrected so as not to have more water both for rate and volume, he said. He said they were looking at the West side (railroad area, where there are low properties in that area), and that was the primary concern. He said per his recommendations they backed up the basin away from the railroad area, put in a bigger basin further uphill, and addressed their concerns regarding stormwater runoff. He said this area has water issues already and this project is not going to make things significantly better, but it won't make it significantly worse either.

Ms. Slavin compared the stormwater runoff to a roof with or without gutters. She said they currently have a roof with no gutters, which means the water just runs right down to the ground. She said what they are proposing is a gutter and it'll go into three swales and water retention areas.

Mr. Price said that's an accurate picture. He said there is a net change from forest to solar. He said there's a net increase of water that will flow down and that's where the stormwater management happens, so it doesn't create more water flow. He said it's per the standard of all developments that are analyzed.

Ms. Slavin asked what happens with the frozen ground in the winter.

Mr. Price stated one of the conservative assumptions is there is no infiltration; so all the math done on the stormwater management does not have infiltration. Mr. Price said if the ground is frozen, and there is no infiltration, that's what was used for the modeling.

Mr. Pichette asked about the new plans for the stormwater showing stormwater being moved from one side to the other, he asked if that

Mr. Price stated there were two issues to resolve, one how the swale in the road (the access road) gets the water runoff and the remainder of the access road is under Mr. Rowley's recommendation to be paved because of the grade; however, got them thinking about the stormwater runoff to that area. He says it's a small area that looks like it won't run off to any of the basins.

Ms. Slavin reiterated that the access road has no runoff area. She said so it would either run off into the basketball court or roll down onto Fearing Hill Road.

Mr. Price agreed. He said it would be just the lower part of it.

Referring to groundwater, stated that the excess water goes to the basins. They assume infiltration for groundwater. The ground water rises, under the retention base and that causes the groundwater to rise. He says they assess this process in two different ways.

He said the water rose at the neighboring houses to about an inch. He says they deemed that as an insignificant change. He said they looked at a different model, a spreadsheet to raise the water, raise the water again with a rainstorm; to give what would happen short-term (rainstorm) vs. long-term level rise. He said those numbers also came out to less than an inch. He said that's within an acceptable change that's not considered highly significant.

As a result of all this, stormwater is their focus.

Mr. Pichette asked when the presentation was made to the Planning Board, the discussion wasn't factored in, the 100-year storm event.

Mr. Price said from a stormwater focus, the 100-year storm event was looked at. He said the hardest part of this study was to quantify the change in hydrology from this land use. He said the change from trees to the meadow. He said they spent a lot of time looking at different methods and they looked at long-term data on how much it rains.

He said he believes they have a very good and safe analysis for groundwater at this location.

Mr. Pichette stated that large rain events may be more infrequent, but they do the most damage.

Mr. Price said the site currently has issues with water and could it possibly get worse with a 100-year storm, he said sure it could; but it's unlikely that it would be significantly worse based on the analysis.

Mr. Pichette asked how many acres of forest would be cleared now for this project.

Mr. Clini said 20.17 acres will be cleared out of the 44 acres of the property.

Mr. Shanahan said that 20.17 acres are down from the 26 acres that were first proposed.

Mr. Pichette asked about the slopes on the detention basin on the first basin as well as the third. He said he wanted to know how it was going to be stabilized to be kept in place because 2:1 is fairly steep.

Mr. Clini said it would be a rip-rap line, that way there's no erosion.

Ms. Slavin asked board members for their comments.

Ms. Schulz asked how the conclusion that a rise of two inches is acceptable.

Mr. Price said there is no rhyme or reason. He said there's only so much accuracy that can be done. He said, "we". And Ms. Schulz asked who "we" was that he was referring to. Mr. Price said he and his colleagues who performed the analysis but also the Scientific Community that utilizes these tools.

Mr. Mercier asked how often the access road and land would be used post construction. He said he is concerned about those

Mr. Shanahan stated it is a twelve-week construction and then probably one vehicle every three months for inspections or repairs.

Ms. Locurto asked if the 2" of groundwater that was asked about if that's in the neighborhood where neighbors are getting that already.

Mr. Price said the maximum is .125, 1.5" of water in the worse possible conditions. He said that would be the steady state of alterations plus the 100-year storm on top of that. He said he wasn't getting too concerned about 1.5 or 2" of water, he said most of the plan for the septic system in that area would be accurate to one and a half. He said it would take a lot of effort on each property to get that analysis. He said it would have to be something big, but this is not.

Ms. Slavin asked if Title 5 would be flooded.

Mr. Price said that would be another step and would have to include the Board of Health and their records.

Ms. Slavin asked if there was town water at the properties. Mr. Price said he couldn't remember how many had town water, but there were some.

Mr. Clini stated that he is aware that Fearing Hill Road has Town water, but besides that, he is not sure.

Ms. Slavin said that even though there is town water running through the area, it doesn't necessarily mean they are connected. She asked if there was data on the wells in the area.

Mr. Price said he could answer conceptually if there were wells; he said it should not be concerned for the wells from a water-rising standpoint.

Ms. Slavin asked about the erosion and wondered about the meadow that is under the solar panels. She said she had concerns about the stabilization of the meadows.

Mr. Price said he agrees that erosion is a big impact. He said that's why monitoring is important and assurances for repair if erosion happens. He said that's why it is conditioned. He said everything has to be managed.

Mr. Pichette had a comment about knowing that solar projects have a lot of water with runoff. He says that all the analysis is done with models, and we don't know until the project happens and then there is water runoff.

Ms. Slavin asked for any public comment.

Resident, Annie Hayes was present to speak. She said she did the immediate data on the immediate circle and some people do have well water. She explained how she got to the number of 211 private wells. She went on to say that she didn't agree with Mr. Price's analysis that this won't cause a huge disturbance to the area she said that when you remove trees you remove the conversion of carbon monoxide, the habitat, and others.

Resident, Eric Lintale, 15 Squirrel Island Road said his property abuts the back of all of Fearing Hill Road. He said he had concerns about the runoff from the panels. He said he was concerned with monitoring the erosion at the site. He brought up concerns from Mr. Rowley and addressed them with the commission.

Resident, Nancy McHale from Fearing Hill Road. She asked about the one well that hit a rock, and where it was located.

Mr. Price explained where the wells were in question hit rock or bedrock. Mr. Price explained what a detention basin's goal is and that is not to infiltrate, but to hold the water at the top.

Ms. McHale asked about the quantity of water will be okay, and if the quality of the water isn't going to change. She asked about pesticides on the meadows and has had at been addressed.

Ms. Slavin said they'll be asking that question.

Mr. Shanahan stated they filed an NOI and with the Planning Board also over a year ago. He said that Mr. Rowley heard from neighbors about water runoff, and he said he didn't want to make recommendations to them, as this wasn't his expertise. Mr. Shanahan said that's why Mr. Price and his colleagues were called in because they are hydrologists. He said the analyzations are from the experts. He said they all got the reports and should adhere to what the experts say. He said he didn't hire this firm, the Town did.

Mr. Shanahan said the landowner has already said that if the proposed project doesn't go through, he is going to build a subdivision in that area. He said he thinks that would be a far greater effect than the solar project.

Mr. Pichette stated that Mr. Rowley would wait on final plans, so he would recommend continuing to August 17, 2022.

Ms. Schulz made a motion to continue to August 17, 2022 and was seconded by Mr. Mercier. The motion passed unanimously.(5-0-0)

VI. EXTENSION REQUESTS:

Buzzards Bay Coalition – Burgess point Shrubland Habitat Restoration – SE 76-2481

Mr. Pichette said this was a project that BBC submitted to do some wildlife improvements on this property off Burgess Point. He said their order of conditions is running out and that BBC would like to extend that order. Mr. Pichette said they can do one to three years, and he would recommend extending.

Ms. Schulz made a motion to grant the extension request for three years to BBC on Burgess Point and was seconded by Mr. Mercier. The motion passed unanimously. (5-0-0).

VII. ENFORCEMENT ORDERS:

- a. Ed Harris – 2530 Cranberry Hwy

Mr. Pichette stated a violation occurred at 2530 Cranberry Hwy and activity involved fill and stumps to the wetland property without a permit. He said Mr. Harris has agreed to get this addressed and has hired an engineering firm. He said they have already filed an NOI and will be at the next meeting.

Mr. Ed Harris was present. He said at the time he bought the property and the access road near the Cranberry bogs was on the property in the rear. He thought it was okay to fill as long as with natural fill. He said he cleared 3800 square feet of property and did fill with the natural fill. He said he did put up soil and build it up to put grass.

Ms. Schulz made a motion to ratify the enforcement order and was seconded by Mr. Mercier. The motion passed unanimously. (5-0-0).

VII. CERTIFICATE OF COMPLIANCE:

A brief discussion was had on how the certificate of compliance requests are made and the different fees that the Town charge if they have to go back seven or ten years. Ms. Schulz asked what the difference is between going back seven years or ten years to gain the information. Mr. Pichette said he wasn't sure why Towns would charge more to go back further, and it is something that he would like to look into as well.

VIII. ANY OTHER BUSINESS/DISCUSSION AND/OR VOTE:

In other business, Ms. Schulz stated she looked at fees being charged in the neighboring Towns. She said she looked at everything that was on neighboring Town websites and asked if people wanted to discuss it as a working group and add or update their own Wareham fees, or perhaps add a sub-committee that will make recommendations. She said that Carver and Rochester are very well broken out with the rates.

Ms. Slavin said that Wareham is certainly cheap compared to the surrounding Towns.

In other business, Ms. Slavin stated she sent information to everyone regarding 50 Avenue A for tree cutting on someone else's property. Ms. Schulz stated that they asked them about the tree cutting and it's not even their property. Ms. Slavin said the owners brought it up to the Conservation Commission's attention. Mr. Pichette will look into it.

Ms. Jessica Parr introduced herself to join the Conservation Commission. She introduced herself as a Real Estate Attorney and a Garden Club Member.

Ms. Schulz made a motion to adjourn and was seconded by Mr. Mercier. The motion passed unanimously. (5-0-0)

Respectfully,

Patricia A Pacella

Date Approved: _____

Sandy Slavin, Chair

WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: _____

APPROVED

12/7/22

6-0-0

WAREHAM TOWN CLERK
2022 DEC 12 PM 12:33