



approved  
5/15/19

*Cranberry Land USA*

## **Carver Conservation Commission**

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### **Meeting Minutes for May 1, 2019, Room 1, 7:00 PM**

Attendees: Savery Moore; Tim Dempsey; Alan Germain; Peg Blackwell; Dan Badger

Absent: Jim Nauen

Also Present: Brooke Monroe, Environmental Scientist

Meeting was called to order by Mr. Moore at 7:02 PM

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Note: Peg Blackwell will not be voting this evening.

#### **Appointments:**

- Discussion of Enforcement, Order and Plan for 17 Wareham Street –

Mark Garrett Principal investigator, representing Ashley Mesaluski. I have prepared a letter of response. We have responded to all requests made. The plan is due May 31<sup>st</sup>. We intend to file a NOI. Mr. Garrett provided copies to Ms. Monroe.

On the first pages, I sited actual issues, with responses to each. In short, at the site visit 2 weeks ago, we discussed moving most of the debris back beyond 65' buffer and have moved them beyond 100' buffer. The cutting is stopped and we will let it naturally re-vegetate and revisit later in the year. The ramp is actually processed permeable material. That is part of what we will request in the NOI. The restoration plan will be part of the NOI, which is required by 5/31/19. We are intending to file a NOI prior to May 31. We did not have time to meet the May 15 meeting date. Brooke advised us that the May 31 meeting may take place on June 5. We will be ready either way. I understand that a vote at Town Meeting that may impact my client's ability to conduct the business that they want to conduct. There may be a grandfathered issue here, I don't know. This may impact our ability to file. My clients also removed the metal and plastic debris that was not subject to the order. We have done everything that we can do, to resolve those issues. We ask that the board rescind the order with condition that we file by 5/31/19. Mr. Moore – Is everything out to the 100'? Mr. Garrett – No the long logs are still there. Mr. Moore – The small section? Mr. Garrett – Yes our understanding was to not touch those? Mr. Moore – We had agreed to make a decision tonight and I think we should. Zoning issues are not under our purview.

## Discussion

Mr. Dempsey – Mr. Chairman, I would recommend that the enforcement order stays in place until and NOI is received. Mr. Garrett – Would you be comfortable if your vote was conditional on the receipt of the NOI? Mr. Dempsey – Yes, in writing.

Mr. Germain – What is going on that we are burning light towers and cutting wood late. I ran into a neighbor who is distraught. We are trying to find a balance. I am hearing that we are still not really being a good neighbor. He's looking to us for relief. I would like the whole thing postponed until you meet with Stephen Cole. With the by-Law changes, I don't know where this operation will go. Mr. Garrett – I can not speak to the lights but will ask my client to speak to that. Mr. Germain – You have done what we have asked you to do. Mr. Garrett – If there is no grandfathering provision for the new by-Law, then I agree, the operation is done. In my experience, when town meeting votes pass, they aren't official until AG signs off. Mr. Germain – I don't disagree with you. Mr. Garrett – Brooke told me about this this evening; I believe there is a big gray area with this. If we can continue, we will continue on. Mr. Dempsey – We deal with Conservation only. Mr. Germain – I don't want to sign off on this at this point. I recommend that you sit down with Stephen. Mr. Garrett – I will condition all of this. We've had the discussion that zoning is waiting to see what you decide.

- o File before 5/31
- o If zoning trumps the use, we will not file and remove all material

Mr. Germain – As long as those logs are within 100', we haven't complied. I will be voting to continue this. There are too many unanswered questions. Mr. Dempsey – There is another department waiting for our answer. Mr. Germain – They aren't. Mr. Dempsey – They stepped up and did what they had to do, right away. Mr. Germain – Now we have neighbors complaining. Mr. Dempsey – That is not in our purview. They've accomplished what we asked. Mr. Germain – We have not granted relief. Chris Mesaluski and Ashley Mesaluski - We have done everything that you asked. This neighbor has been harassing this property for years. We have spoken with previous owners. This neighbor will never stop. He's never come to talk to us. The neighbor directly in front of us has no issue. There is no proof this is happening. Mr. Germain – I did ask for evidence. Chris – I don't even own a light tower. Ashley – We have done everything that you have asked. Mr. Germain – If there is something additional going on, I don't want to sign off. Chris – Saturday is when we moved everything and we were working late. Mr. ???? I don't think the activity from the neighbor's complaint is in our wheelhouse. In terms of future activity (wood processing) – there would be a concern of species that you might bring in from other locations, that would become a conservation issue. Chris – We try to not travel too far; we try to keep it in 45 minutes. Mr. Garrett – We are responding to that specific concern in the NOI. We are aware with issues that come along with that. Mrs. Blackwell – Anyone that has a complaint, there is an official form that the complainant can fill out. Mr. Germain – I appreciate that, but I will always listen to a resident. Mr. Moore – When we went on the site visit, we asked that everything be moved outside the 100' buffer except the long logs. Mr. Garrett – I believe the request was for 65'. Mr. Moore – You are correct. However, we have to deal with the enforcement order as if the Town Meeting never happened. I am of the opinion that they have done everything asked of them. We have assurance of a NOI

Mr. Dempsey – Check out the following - CMR310 sec 10.58 sub section D #1

*Motion to lift the enforcement order on 17 Wareham St with contingency of letter stipulating the discussion had today, including the NOI: Mr. Dempsey  
Second: Mr. Germain  
Approved: Unanimous (4-0-1)*

- Informal discussion of maintenance of Peg's Pond (South Meadow Village)

Bob Neenan – 59-9 South Meadow Village and Merry Patton – 59-7 South Meadow Village - Thank you for inviting us this evening. This is a man made pond, created in the 1980s, to build two more clusters. There is a 1300' perimeter with a depth of 20' in center and 3' at the banks. When I bought a home in cluster 59, I was invited in to help maintain the pond. I am the last one left. I am no longer able to maintain it. Mr. Neenan has a schedule of maintenance. There are fish in the pond too! When I wrote this to our board, requesting that our maintenance do this. I am here to renew the approvals. The ability to drag weeds out of the pond became very difficult. We used two chemicals to help with weeds. This was successful. At the same time, we did our wells and a system. We test and have never found a chemical in our water. Mr. Germain – Do you have a copy of the original agreement? Mr. Neenan – No I don't. At one time we asked to move boulders to keep from a small area washing out. Ms. Blackwell – Do you remember approximately when you spoke to Sarah? Mr. Neenan – about 2007. Mr. Germain – Can we continue this and have an opportunity to talk with Sarah? Maybe a site visit? Mr. Moore – How is the water level maintained? Mr. Neenan – Naturally, but does go up and down with bog use.

*Motion to continue this discussion to May 15, 2019: Mr. Germain  
Second: Mr. Dempsey  
Approved: Unanimous (4-0-1)*

- Discussion of Best Practices on Cole Property

Mr. Moore – Dan sent me an email. Mr. Germain – Can we postpone this discussion as it is 9:00? Mr. Moore – I was going to suggest it for a different reason – Jim is not here. Mr. Badger was fine with this and requested a copy of the “Best Practices.” Mr. Badger - Just to be clear, my intent is not just for Cole Property.

### **Business:**

- Blake Crist to discuss details of fence at 91A Plymouth Street

Mr. Crist – I am requesting permission to put a 2-3 post split rail through the 100' buffer to the edge of the waterline. My guess is that it would be at about 80' into the 100' buffer zone, but this is only a guess. Ms. Monroe – This is the same isolated wetland as off of Godfrey Circle.

*Motion to allow the installation of the 180' fence at 91A Plymouth Street, as indicated on plan: Mr. Germain  
Second: Mr. Dempsey  
Approved: Unanimous (4-0-1)*

*Ms. Monroe will send a letter to applicant noting the approval.*

- Request for Amended Order of Conditions – Edaville Land Holdings, DEP# SE126-559

Representing Edaville Land Holdings, Jon Delli Priscoli and Art Borden

This amendment reflects previous discussion. Mr. Germain – This was the informal discussion, just being formalized. Mr. Germain – I am an abutter but can vote without prejudice with the Chairman’s permission.

*Motion to accept the amended Order of Conditions: Mr. Germain  
Second: Mr. Dempsey  
Approved: Unanimous (3-0-2)*

**COC Requests:**

- 64 Wenham Road – DEP# SE126-484

Sheri Sibley – I am the agent selling this property.

Mr. Moore – We did go out today and look at it. I think we were pretty happy with the plantings that had been done. There was a little concern that perhaps there should be a handful more on the property line. This would just be a suggestion.

*Motion to accept COC Request for 64 Wenham Road: Mr. Germain  
Second: Mr. Dempsey*

Discussion:

Mr. Germain – He put back 40 blueberry plants! I am not in favor of doing any more plantings. It’s a nice piece of property. There is new growth already today. Ms. Blackwell – I think there should be, there is erosion in the area. Mr. Germain – There is no erosion on this property. Ms. Sibley – The owner was unaware of the conditions on the property. The owners spouse passed away. I went out and got the plants personally and planted as instructed by Jim. The erosion area actually belongs to the Harju’s. Ms. Blackwell – For his protection, there should be some plantings there. We understand that no one intentionally did this. Mr. Germain – Is this what Jim wanted done when he went out? No, she did exactly as he asked. Mr. Dempsey – Just to be clear, it doesn’t matter if the owner was here when it happened. Mr. Moore – I would still suggest some kind of plantings as close to the property line as possible. It will delineate what he is responsible for and what he isn’t. Ms. Sibley – I think his intent was to block that pump house anyway.

*Approved: Unanimous (4-0-1)*

**Minutes:**

Minutes were reviewed by members.

***April 17, 2019 -***

Discussion:

*Motion to approve minutes of April 17, 2019, as written: Mr. Dempsey  
Second: Mr. Germain  
Approved: (4-0-1)*

**New Hearings:**

**RPBP, LLC Spring Street. (Various Lots)**

**NOI**

Notice is hereby given in accordance with the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and the Carver Wetlands Protection by-Law, that a public hearing will be held at 7:15 P.M. on Wednesday, May 1, 2019 in Meeting Room 1 at the Carver Town Hall to hear the Notice of Intent, submitted by RPBP, LLC; for the proposed construction of a commercial subdivision, including roadway and associated storm water management system and utilities to support the future development of 6 lots. The proposed storm water management system is located within the 100-foot buffer zone to Ricketts Pond (resource area bank, land under a water body/waterway and bordering vegetated wetland) protected under the Regulations/by-Law. The project is located off Spring Street, Carver, MA, Map 32, Lots 1, 3, 5-E, 5-AN, 6-A, 6-CN, 6-DN and 6-EN, Carver, MA and one parcel in Plympton, MA, Map 19, Lot 2-4. All interested parties are invited to attend.

Representing RPBP, LLC - Brad McKenzie and Peter Opachinski

Mr. McKenzie – We had a site walk today. Last year, Mr. Opachinski purchased the land. A definitive plan was approved by the Planning Board last week. The TOPO has changed. The site was issued an earth removal permit last year; it is being mined at this time. An extensive amount of earth work is required to build the road. The only portion that falls within the 100’ buffer zone is the storm water basin. There are 6 lots to be developed, by phases. What you see are place holders on these lots. We had to make some assumptions regarding lot development. We are asking for approval and that the commission list an order of conditions. The plans were reviewed by Fuss and O’Neil. The basins were designed with 100-year storm in mind. Each lot will have its own private well and Title V systems. Mr. Germain – No DEP Number? No. Ms. Monroe – There is an issue with filing fee. They think it should be Category 3 not a Category 2. All you need to do is submit a revised transmittal. Mr. McKenzie – She might think we are permitting buildings? Ms. Monroe – No. Mr. McKenzie – reviewed the categories and is in disagreement. Mr. McKenzie will call Ms. Maissoun. Mr. Dempsey CMR310 Section 2 subsection G should be checked as it has to do with impervious surfaces. Mr. McKenzie – We are not here for that tonight. Mr. Dempsey – In the future, can you please look at that? Mr. Germain – The trucking company that I own independently currently contracts at SLT – I work for many contractors and this will not affect my vote on this. This has no affect if I work there or not. Mr. Dempsey – I think you should recuse yourself. Mr. Germain – I had Michael check with counsel and they said it is up to me to recuse myself. Mr. Dempsey – I think you should recuse. Mr. Moore – I understand Mr. Dempsey’s point of view. I look at it differently. I think that maybe to keep the peace, we do have a quorum if you abstain. Mr. Germain – I think it’s wrong but I will go along with it. It attacks my integrity. Mr. Dempsey – I feel if you have anything to do with a company you should abstain. Mr. Moore – I don’t think this has anything to do with your integrity. Mr. Germain – I am all about fair. Mr. Moore – I think that to move this project along, you should abstain. You can take part in any discussion. Ms. Monroe – We still have the issue of no file number. I can’t issue the order without it.

*Motion to close Public Hearing for RPBP, LLC Spring Street contingent on getting the DEP#: Mr.*

*Germain*

*Second: Mr. Dempsey*

*Approved: 4-0-1*

*Motion to issue the notice of intent for RPBP, LLC Spring Street, various lots, NOI / DEP Number to be determined, as provided on the drawing, with order of conditions: Mr. Germain  
Second: Mr. Dempsey*

**Discussion:**

Mr. Germain – I can tell you that SLT has the highest level of integrity. Mr. Dempsey – Are you saying that you will be coming before us for each building? Mr. McKenzie - Yes. Mr. Badger – Yes the term “Place holder” is being used.

Dorothy Pollitt, 158 High St – I am a direct abutter. My main concern is that the project started with an earth removal permit. Its been stripped! It’s an eye sore. I wish that we would go in the direction of other towns so that it maintains the area. It looks like Brockton, not Carver. The noise is non stop. I am concerned about the permit to allow a drainage. PA Landers left us a mess already. This is 40 acres; why do we have to infringe on our endangered species. This used to be a residential area. Frank Mazilli always told us that the Rickard Pond area was protected. I looked with Brooke and we couldn’t verify that. We still need to try to save some integrity with the pond. I am hoping there will be no variance allowed by the Board. Mr. Germain confirmed where Ms. Pollitt’s property was. This was state land and it was part of the deal that this be a commercial property. Mr. Opachinski – We had to submit our plans for approval with the state. Ms. Pollitt – Peter said that the area between the property was going to be left alone. Mr. Opachinski – I am leaving 200-300’ there. Mr. Dempsey confirmed that information. Ms. Pollitt – Will the pit be covered? Mr. McKenzie – There will be no water in this? It is not a retention basin. Mr. Dempsey – I agree; no water will stay in there. Ms. Pollitt – It will go into the ground water? Prior to excavation, nothing drained into Rickard pond. Mr. McKenzie – The water will go into the ground like it does now. Mr. Dempsey – The developing area is more than 300’ from your well. I don’t think you will ever have an issue. Ms. Pollitt – We are trying to protect the wetlands. Mr. Dempsey – He is not touching the wetlands. Mr. McKenzie – We are meeting all local and state regulations for treatment of storm water. Mr. Germain – When the trees got cut down, this was already 3 years in the works. They had come before many Boards by then. The state wanted a commercial development? Mr. Opachinski – They wanted to award the property for the best usage proposed. Mr. Germain – From a Finance Committee standpoint, this is the absolute best thing to put in the town; no resources will be used. Ms. Pollitt – I am not disputing the fact that this piece of land will be an innovations park I am disputing the fact that Spring Street will look like Brockton, strip mining the whole topography. We could have done this better. Do we jeopardize Rickards Pond, the 100’ buffer zone? I have attended meetings; I have spoken to Stephen Cole. Mr. Dempsey – We are way off base here. We deal with 100’ of a pond, 200’ of a river. You are talking to the wrong people. How long until all the dirt is removed? Mr. McKenzie – 3-5 years. Mr. Dempsey – They can not go within certain areas, without our approval. Ms. Pollitt - The water drainage site will be approved tonight? Mr. Dempsey – Yes, but it is 300’ from your property. Ms. Pollitt – Can we do it in a way that it is not an eyesore? Can we do it underground? Mr. McKenzie – It would have 5 times the surface area if it was above ground. You will not see this. Mary McGrath, 2 Solar Circle – Reviewed the charts with Mr. Moore and Mr. Dempsey and Mr. McKenzie.

*Approved: (3-0-2)*

**Continued Hearings:**

None

**Site visits anticipated for May 1, 2019:**

Spring Street Project:

64 Wenham Road:

**Adjournment:**

*Motion to adjourn at 9:08 PM: Mr. Germain  
Second: Mr. Dempsey  
Approved: 4-0-1*