

**DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL - 7:00 P.M. in Room 103
PRELIMINARY AGENDA - TUESDAY, MAY 21, 2013**

Next scheduled Dartmouth Conservation Commission meeting: Thursday, June 06, 2013 at
7 p.m. - in Room 304

APPROVAL of the minutes of April 09, 2013 meeting

RECEIVE the minutes of May 07, 2013 meeting

APPROVAL of the field trip report of the May 07, 2013 meeting

FIELD TRIP REPORTS

1. A continued Request for Determination of Applicability from Summit Smith Healthcare Facilities re: Map 66, Lot 31 & 32 on Faunce Corner Road (delineation) (Sitec)
2. A Request for Determination of Applicability from George Berrish re: Map 112 Lot 30 on Bourne Place (delineation and clearing) (Boucher & Heureux, Inc)
3. A Request for Determination of Applicability from Radu Gafitanu re: Map 50 Lot 5-1 on 21 Chase Road (natural gas line trench) (Radu Gafitanu)

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1. **CONTINUED PUBLIC HEARING** - Jonah J Mikutowicz re: Map 98 Lot 23-3 on 7 Stonebridge Lane File 15-2195 (Single Family Home) (Site Design)
 2. **CONTINUED PUBLIC HEARING** - Allens Pond Wildlife Sanctuary - Mass Audubon re: Map 5 Lot 4 on Horseneck Road File 15-2194 (Grassland improvements) (Massachusetts Audubon Society)
 3. **CONTINUED PUBLIC HEARING**- Saladar Nominee Trust re: Map 104, Lot 6-7 on Smith Neck Road File 15-2182 (expand kayak storage building) (Prime Engineering) (Continuance until June 6, 2013 requested)
 4. **CONTINUED PUBLIC HEARING** - A&A Jewelers re: Map 167 Lot 102 on 279 State Road file 15-2180 (parking lot improvements and stormwater infiltration) (Sitec, Inc)
 5. **PUBLIC HEARING**- Blue Wave Capital re: Map 84 Lots 7,8 and 8-18 and Map 85 Lots 7 and 8 off Castaldi Drive File 15-2196 (Solar array) (Field Engineering Co. Inc)

ITEMS FOR DISCUSSION:

- A) Release parcel Map 95 Lot 5-2 on Featherbed Lane from Agricultural Act 61A
- B) Alteration violation - Edgar P & Stephanie W Pereira - Map 79, Lot 48-31 on Sundance Road
- C) Alteration violation - Victor Reis - Map 62, Lot 13 on Hixville Road
- D) **New Business** - This time is being reserved for topics that the chair did not reasonably anticipate would be discussed.

(Please be advised this agenda is subject to change. We advise you to call that afternoon of the schedule meeting for any updates to this agenda.)

RECEIVED
2013 JUN 20 A 8:21
DARTMOUTH TOWN CLERK

**DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- ROOM 107 - 7:00 P.M.
MINUTES - TUESDAY, MAY 21, 2013**

Present Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice-chair, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk

ABSENT: Patricia Sweriduk

Mr. Kehoe, Chair convened the meeting at 7:05 PM.

Approval of the minutes of April 09, 2013 was unanimously accepted by those Commissioners present.

Minutes of the May 07, 2013 meeting received for reading.

Approval of the field trip report of the May 07, 2013 meeting was unanimously accepted by those Commissioners present.

Discussion regarding release parcel Map 95 Lot 5-2 on Featherbed Lane from Agricultural Act 61 A- Mr. O'Reilly explained the owner is asking to release this property from 61A which is currently being farmed by Silverbrook Farm. The Town has the ability to exercise their right of first refusal on the property. The owner would like to construct a single family home on the 2.8 acres. The property is staying within the family so there is no purchase and sales. Ms. Brindisi asked if this property borders on the marsh. Mr. O'Reilly explained it does. Mr. Kehoe stated the owner takes the risk since there is no appraisal on the property. Mr. O'Reilly had not approached DNRT formally, so he would like the opportunity to give DNRT the information about the property to see if they maybe interested. Ms. McDonald motioned to continue this so Mr. O'Reilly could contact DNRT with Mr. Mallen seconding the motion.

Discussion regarding alteration violation on Map 79 Lot 48-31 on Sundance Road, Edgar P & Stephanie W Pereira - Mr. O'Reilly was called out on a complaint, and there was a backhoe in the backyard. The owner of the property piped and covered the stream. Mr. O'Reilly spoke with the owner and told him to remove the pipe and restore the wetlands. Mr. O'Reilly is concerned the owner may put grass seed to restore the wetlands. Mr. Kehoe expressed that planting grass seed is not restoration. Mr. Mallen suggested sending Mr. Pereira a letter putting him on notice. Mr. O'Reilly would like to take a drive by the premises again before the Commission issues an enforcement order.

Discussion regarding alteration violation Map 62, Lot 13 on Hixville Road, Victor Reis- Mr. O'Reilly informed the Commission he met Mr. Reis' consultant Thomas W Hardman from Site Design. Mr. Hardman stated the alteration is approximately an acre. Mr. O'Reilly stated the Commission hasn't received the restoration plan that was requested in the Enforcement Order that was issued to Mr. Reis. Mr. Kehoe suggested speaking with Mr. Hardman letting him know that the restoration plan would need to be submitted two days before the next meeting or it would be turned over to Town Counsel. Mr. O'Reilly explained Mr. Hardman has spoken with his client explaining if he keeps continuing to drag his heels a judge will order him to fix the problem, either way it needs to be done.

With nothing further to discussed, Mr. Kehoe entertained a motion to adjourn the public meeting. Ms. McDonald motioned to adjourn the public hearing at 8:26 PM with Mr. Mallen seconding. It was an unanimous decision of those present.

Respectfully submitted,

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
PUBLIC HEARING MINUTES OF
JONAH J MIKUTOWICZ
15-2195

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Jonah J Mikutowicz who wishes to construct a single family home on land located at Map 98 Lot 23-2 on 7 Stonebridge Lane in Dartmouth. The hearing was held on Tuesday, May 21, 2013 in Room 304 in the Dartmouth town Hall at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, chair convened the hearing at 7:08 p.m. It was voted to waive the reading of the public hearing notice. Project number 13034 dated April 23, 2013.

Mr. O'Reilly explained the Commission was waiting on a file number.

Ms. McDonald motioned to close the public hearing with Mr. Mallen seconding the motion.

With nothing further to be added, Ms. McDonald motioned to issue a Standard Order of Conditions according to the plan submitted at the last meeting with Mr. Mallen seconding the motion.

Respectfully submitted,

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
PUBLIC HEARING MINUTES OF
ALLENS POND WILDLIFE SANCTUARY
15-2194

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Allens Pond Wildlife Sanctuary who wishes to do grassland improvements on land located at Map 5 Lot 4 on Horseneck Road in Dartmouth. The hearing was held on Tuesday, May 21, 2013 in Room 304 in the Dartmouth town Hall at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, chair convened the hearing at 7:09 p.m. It was voted to waive the reading of the public hearing notice. Pictures of the site dated April 2, 2012.

Mr. O'Reilly explained the Commission was waiting on a file number.

Ms. McDonald motioned to close the public hearing with Mr. Mallen seconding the motion.

With nothing further to be added, Ms. McDonald motioned to issue a Standard Order of Conditions according to the plan submitted at the last meeting with Mr. Mallen seconding the motion.

Respectfully submitted,

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
CONTINUED PUBLIC HEARING MINUTES OF
SALADAR NOMINEE TRUST
15-2182

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Saladar Nominee Trust who wishes to construct expand kayak storage shed on land located at Map 104 Lot 6-7 on Smith Neck Road in Dartmouth. The hearing was held on Tuesday, May 21, 2013 in Room 304 in the Dartmouth town Hall at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, chair convened the hearing at 7:10 p.m. It was voted to waive the reading of the public hearing notice.

An email had been received by Richard Rheume from Prime Engineering asked for a two week continuance on behalf of his client.

Ms. McDonald motioned to continue the public hearing until Thursday, June 06, 2013 with Mr. Mallen seconding the motion.

With nothing further to be added, the public hearing was continued until Thursday, June 06, 2013 at 7PM.

Respectfully submitted,

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
CONTINUED PUBLIC HEARING MINUTES OF
A&A JEWELERS
15-2180

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of A&A Jewelers who wishes to do parking lot improvements and stormwater infiltration on land located at Map 167 Lot 102 on 279 State Road in Dartmouth. The hearing was held on Tuesday, May 21, 2013 in Room 304 in the Dartmouth town Hall at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, chair convened the hearing at 7:11 p.m. It was voted to waive the reading of the public hearing notice.

Mr. O'Reilly explained the Commission is waiting on a written report from Sitec on where the location of the sewage disposal system is located. There has been no progress and this is an enforcement case. Mr. O'Reilly would suggest sending a letter to Sitec. Mr. Mallen asked if there was any reason for the delay. Mr. O'Reilly stated they're having trouble locating the septic system. Mr. Kehoe would like the letter to state they have until our next meeting to get something into the Commission.

With nothing further to be added, Ms. McDonald motioned to send a letter to Sitec that they will need to submit a plan on their findings by Tuesday, June 04, 2013 and continuing the public hearing until Thursday, June 06, 2013 at 7 PM with Mr. Mallen added the letter to be addressed to both applicant and Sitec then seconding the motion.

Respectfully submitted,

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
PUBLIC HEARING MINUTES OF
BLUE WAVE CAPITAL
15-2196

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Blue Wave Capital who wishes to construct a solar array on land located at Map 84 Lots 7,8 and 8-18 and Map 85 Lots 7 and 8 off Castaldi Drive in Dartmouth. The hearing was held on Tuesday, May 21, 2013 in Room 103 in the Dartmouth town Hall at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Leland Queen, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, Chair convened the hearing at 7:12 p.m. It was voted to waive the reading of the public hearing notice. Plan file number 1946 dated May 8, 2013 of site were displayed. Certified mail receipts showing proof of abutter notification were submitted for the file.

Richard Riccio from Field Engineering was present to represent the applicant. Mr. Riccio introduced Robert Field from Field Engineering, Tom Davis from GNBIF, Mike Howard from Epsilon, Trevor Hardy from Blue Wave Capital, and John DeVillars from Blue Wave Capital.

Mr. DeVillars gave a brief overview of Blue Wave Capital. Richard Riccio from Field Engineering presented the overall site plan. Mr. Riccio explained the southerly wetland had been filed under an Abbreviated Notice of Resource Area Delineation and the northerly side was filed under the A-1 Wetland Site Inspection which Mr. O'Reilly approved. The project is for a 3 ½ megawatt project with a single access off of Castaldi Drive. There will be two wetland crossings and the roadway would be gravel. Mr. Riccio stated they have an extensive mitigation plan to offset the clearing, and done a shading analysis based on clearing to the wetland line would be 22% during the winter and 4% during the equinox. It would be less than 10% if they were allowed to cut trees within at least 30 feet of the wetland.

Michael Howard a wetland scientist from Epsilon was hired to identify measures for best management practices for this project. Mr. Howard explained they will be doing selective clearing of trees. They would be working with Northern Tree Service. This company would not be bringing in any mechanized equipment into the wetland. The equipment they would be using has a 30 foot reach. They plan on leaving the stumps to minimize soil disturbance and to allow them to re-vegetate. They would be leaving the under story intact and there would be no dragging through the wetlands. After the trees are cleared it would be allowed to re-vegetate. It would be at the discretion of the Commission to monitor the area and after two growing seasons if the Commission wanted a wetland seed mix could be put down, but Mr. Howard didn't feel it would be necessary. Mr. Howard explained there will be two access drives which are proposed, and at the narrowest crossing they will try and stay on the cartpath. There will be no separate crossing for the conduit and they would be staying within the cartpath. One of the crossings does cross an intermittent stream which they will comply with DEP's stream crossing standards. Mr. Howard explained they could access the site by constructing a 1,400 linear foot driveway in the North. This 4 ½ acre parcel of land is part of the mitigation to donate this to the

Conservation Commission. Mr. Riccio showed this 4 ½ acres of land would be contiguous with other Conservation areas.

Mr. Howard explained the mitigation for the permanent fill of 4,500 +/- square feet for the two properties. They would create 6,300 square feet of replication area, which will be monitor for two growing seasons. Lastly, they would create a wildlife habitat. Mr. Howard gave pictures of the types of machinery that would be used to remove the trees.

Ms. Brindisi asked if they had looked into other possibilities. Ms. Brindisi had seen another solar array in Vermont that the panels were higher than the trees. Ms. Brindisi asked if panels 1-3 could be raised so no shading would occur.

Mr. DeVillars explained about the certification process, feasibility of the project and how the panels would have to with stand storm impacts.

Ms. Brindisi explained she saw this in the Northern part of Vermont and feels this was interesting way of solving not cutting trees. Mr. Hardy explained the solar arrays Ms. Brindisi saw were on a single pole. This solar array is a different type of system. The system they are proposing is a fixed tilt system.

Ms. Brindisi asked how large the panels would be. Mr. Hardy stated 30 times more than those for the whole system. Ms. Brindisi asked about just topping the trees.

Mr. Howard explained this could be more harmful to the trees than just cutting them to stumps where they will hopefully re-sprout.

Mr. O'Reilly explained he has spoken with Mr. Field from Field Engineering about work being shown on Map 84 Lot 8-17 which the Notice of Intent will need to be amended with the owner of that properties signature. Mr. O'Reilly went into the different possibilities for transfer of the land to the Conservation Commission in which Blue Wave Capital would like to donate. Mr. O'Reilly explained during his site visit he saw a single spotted salamander egg mass in the vernal pond.

Mr. Riccio stated they had their botanist Robert M Gray from Sabatia, Inc. view the site. Mr. Riccio handed out the botanist report at the meeting. They observed no egg masses and there was evidence of fish population. Their botanist doesn't feel this is a vernal pool.

Mr. O'Reilly explained if there is fish found it precludes it from being a vernal pool but Mr. O'Reilly hadn't an opportunity to read the botanist report. Mr. O'Reilly had seen water in the pond when he was out there and if there is water there all the time then it isn't a vernal pool. Mr. O'Reilly mentioned about the gravel roadway being rutted and having the vernal pool species migrating across the gravel roadway but Mr. O'Reilly will need to review the botanist report. Mr. O'Reilly commented on the shading on the eastern and northeastern border which doesn't look that significant and they could reduce some impact of the cutting in the wetlands in those areas. Mr. O'Reilly stated this concept has been brought up to the Commission before, and it is up to the Commission to determine whether or not the mitigation offsets the potential loss of wetland. Mr. O'Reilly is concerned about precedent on this site.

Mr. Kehoe asked if Mr. O'Reilly means setting a precedent in the fact of mitigation of alteration in wetlands by something upland other than wetlands. Mr. O'Reilly explained allowing a certain type of alteration within the wetlands for a commercial project. Mr. O'Reilly

stated there are alterations allowable but if you did the square footage calculation of the alteration being proposed and consider it to be alteration it would far exceed what would normally be permitted. Mr. Kehoe's understanding is even though there will be trees cut there will still be the same amount of square footage of wetlands as there was before they did anything which is something other projects couldn't provide. Mr. O'Reilly agreed but the question is if conversion is considered alteration because it is being converted from a mature forested wetland to a scrub shrub wetland.

Ms. Brindisi asked approximately how many trees will need to be removed from the upland. Mr. Riccio stated under 20 acres.

Mr. O'Reilly will be forwarding Commissions stormwater consultant Gus Raposo's comments to Field Engineering.

Mr. Davis addressed the Commission about the environmental benefits if this is granted.

Mr. Howard feels that they have complied with the performance standards.

Mr. Kehoe feels through this presentation Blue Wave Capital has been sensitive and up front.

Mr. Golen asked if the Commission can in their order put some line stating do to the unique feature or issues raised here that this order only applies to this particular project and not any way interpreted setting precedent and the Commission looks at each project separately.

Mr. Kehoe feels the minutes will reflect the Commission views each project differently and the Commission doesn't use previous decisions.

Ms. McDonald wants to make certain they have the number of trees they want to cut down because she doesn't want to see them coming back wanting to cut down more. She too feels Blue Wave has been upfront and presented the good and bad.

With nothing further to be discussed, Ms. McDonald motioned to continue the public hearing until Thursday, June 06, 2013 at 7PM with Mr. Mallen seconding the motion.

Respectfully submitted,

Donna Farias
Administrative Clerk

Dartmouth Conservation Commission

May 22, 2013

Field Trip Report

1. A continued Request for Determination of Applicability from Summit Smith Healthcare Facilities re: Map 66, Lot 31 & 32 on Faunce Corner Road (delineation) (Sitec)

ABSENT: Patricia Sweriduk

Ms. McDonald motioned to wave the reading of the public meeting with Ms. Brindisi seconding the motion.

Mr. O'Reilly explained this request had been continued because there was some additional information needed. The purpose of this request was for resource area delineation on Faunce Corner Road. Mr. O'Reilly would recommend a positive determination with a note stating vernal pool habitat exists within the Bordering Vegetated Wetlands delineated by the D-Series/#Series of wetland flags as shown on the Plan-of-record. Extent of vernal pool habitat has not been determined.

DECISION: Ms. McDonald motioned to issue a **POSITIVE 2A** determination with a note to be placed on the Notice of Intent identifying the vernal pool with Mr. Mallen seconding the motion.

2. A Request for Determination of Applicability from George Berrish re: Map 112 Lot 30 on Bourne Place (delineation and clearing) (Boucher & Heureux, Inc)

ABSENT: Patricia Sweriduk

Ms. McDonald motioned to wave the reading of the public meeting with Mr. Golen seconding the motion.

Mr. O'Reilly explained this request was for a delineation and clearing. Mr. O'Reilly feels there is quite a bit of clearing that is proposed within the thirty-five of the wetland. Mr. O'Reilly would recommend a positive determination due to too much clearing requiring a filing of a Notice of Intent.

DECISION: Ms. McDonald motioned to issue a **POSITIVE 3** determination with Mr. Mallen seconding the motion.

3. A Request for Determination of Applicability from Radu Gafitanu re: Map 50 Lot 5-1 on 21 Chase Road (natural gas line trench) (Radu Gafitanu)

ABSENT: Patricia Sweriduk

Mr. O'Reilly explained this request is for the installation of a natural gas line within the buffer zone. Mr. O'Reilly doesn't see any negative impacts and would recommend the issuance of a negative determination.

DECISION Ms. McDonald motioned to issue a **NEGATIVE 3** determination with Mr. Mallen seconding the motion.