



**Pembroke Conservation Commission  
Minutes of the Meeting of  
November 2, 2023**

*Disclosure: These minutes are not verbatim – they are the administrative agent’s interpretation of what took place at the meeting.*

*Open Meeting Law, G.L.c. 30A § 22.*

All materials presented during this meeting are available in the Pembroke Conservation Commission office.

**At 7:00PM Chairman Art Egerton opened the meeting and stated, “Please note that this meeting is being made available to the public through a video and audio broadcast on Comcast Government Access channel for broadcast at future dates. Comments made in open session will be recorded.”**

**Members present:** Arthur Egerton, Chair; Gino Fellini, member, Rick Madden, member; Nicole Pelletier, member; James Campbell, member.

**Members not present:** Teresa Harling, vice chair; Bob Clarke, member, and agent.

**Also present:** Administrative Agent, Andrew Wandell

**ADMINISTRATIVE BUSINESS**

**Agent’s Report:** No Report.

**Certificate of Compliance – 23 Ridge Ave DEP# SE056-1091** – Mr. Fellini made a motion to issue a certificate of compliance for 23 Ridge Avenue, seconded by Mr. Madden, the motion was passed unanimously.

**Certificate of Compliance – 66 Hemlock Drive DEP# SE56-518** – Mr. Fellini made a motion to issue a certificate of compliance for 66 Hemlock Drive, the motion was seconded by Mr. Madden and was passed unanimously.

**Certificate of Compliance – Longhill DEP# 056-459** – Mr. Fellini made a motion to issue a certificate of compliance for the Longhill subdivision, the motion was seconded by Mr. Madden and was passed unanimously.

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**Certificate of Compliance – 37 Deerfield Lane DEP# SE56-1054** – Mr. Fellini made a motion to issue a certificate of compliance for 37 Deerfield Lane, the motion was seconded by Mr. Madden and was passed unanimously.

## **ONGOING BUSINESS**

### **Edgewood Bogs – tree and vegetation restoration plan – Lucinda Browne – 101 Elmer Street**

Brad Holmes representing the homeowner at 101 Elmer Street reviewed with the commissioners the restoration plan to replace the trees erroneously removed from the Edgewood Bogs adjoining 101 Elmer Street. The trees that were removed were on town owned conservation land. The proposal is to populate the area with bare root species native to the area to replenish the vegetation on the site. Varied species will be used in addition to the white pines previously planted by the Conservation Commission. Mr. Madden asked about the mowing that had taken place on the conservation land and asked that it be left to grow naturally. Mr. Holmes recommended a wildflower mix with a meadow maintenance plan. Mrs. Pelletier asked if markers could be used to delineate the town-owned conservation land so that a similar mistake would not happen in the future. Mr. Holmes and the commissioners discussed several options for border markers.

Mr. Fellini made a motion to accept the restoration plan as presented with provisions made for adequate marking of the town-owned conservation land. The motion was seconded by Mr. Madden and passed unanimously.

**Congress Street Culvert and Herring Run Culvert** – The Administrative Agent reviewed the emails from the DPW and Project Engineers regarding timeline and schedules for each project. Both are behind schedule due to several factors and the commissioners will be updated on a timely basis on both projects' progress.

### **Hearings:**

#### **Enforcement Order and Notice of Intent – 98 Barker St. & 409 Washington St., (Enforcement Order continued from September 19, 2023, no DEP number has been provided for the Notice of Intent)**

Chair, Art Egerton opened the public hearing at 7:15PM. Andrew Spath and Attorney Brodsky were in attendance along with Brad Holmes, wetland scientist for the applicant and John Zimmer, peer review wetland scientist for the Conservation Commission.

Attorney Brodsky reviewed the history of the site focusing on chapter 61 usage for a tree farm. He explained that the front of the property was cultivated in the 1980's and that several violations were acknowledged by the former owners with no official restoration required by the town. He explained that since the area at the front of the site was previously disturbed that the restoration at the front of the site be limited to removing the recently added fill with related restoration and to leave a smaller access way remaining which is not in the scope of the current NOI submitted. He also mentioned that the NOI submitted is to build an access way for forestry activities at the rear of the site. Attorney Brodsky also explained that the NOI would require a replication of 4,980 square feet of wetland to be removed to build the access way. He reminded the commissioners that DEP allows replication of up to 5,000 square feet of wetlands and that the replication area would be at the rear of the property. Brad Holmes representing the applicant reviewed the restoration plan. The plan is to remove all the fill recently brought in to fill the

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wetlands and widen the road at the front of the site and beyond and to replace with 201 saplings and 452 shrubs along with an herbaceous seed mix. New high organic soil would be brought in as part of the restoration. The commissioners asked questions regarding depth of fill removal and types of soil used to replace the fill. Mrs. Pelletier asked about John Zimmer's peer review report and stated her reservations regarding having enough information to issue an order of conditions for the restoration plan. Mr. Holmes stated that he will be reviewing Mr. Zimmer's report and revising the plan accordingly. Other issues addressed by the commissioners were related to the hydrology on the site and water passage related to the access way. Attorney Brodsky asserted that the access way would be a bridge above the restored wetlands with box culverts built to accommodate the hydrology of the site. Also discussed was the well added to the site.

Amy Kwesell, Town Counsel addressed the commission. She asked whether the road proposed would accommodate chapter 61 forestry use and that should be reviewed as part of the NOI. She also asked about the restoration plan and removal of the fill and what will happen with that material and what material will be brought in. She also questioned forestry use and requests more information regarding the use under chapter 61.

Mr. Zimmer provided a review of his report and asked for several issues to be addressed including whether the commission will approve the access road as it will affect the restoration plan. He also asked whether the commission would consider a separate NOI for the restoration plan as there are two projects being proposed. He asked for a detailed construction sequence including how much fill to be removed, truck trips and other data required. The buffer zone was not included in the plan and asked that restoration of that area be included. Mr. Zimmer also asked for an invasive species plan as the area has been disturbed. He also addressed the box culverts proposed for the access road and asked if the square footage of the grates and box culverts was included in the square footage required to be replicated. Attorney Brodsky said that the square footage of the box culverts was not included, and Mr. Zimmer pointed out that it should be and would put the replication area more than the 5,000 square feet replication area limited by DEP. He also pointed out that replication of more than 5,000 square feet would require additional permitting and compliance with 401 water quality certificates, MEPA and the Army Corps of Engineers.

Attorney Brodsky remarked that he and his client agree with everything Attorney Kwesell and Mr. Zimmer addressed and that the restoration plan be reviewed under the enforcement order and that the access road and related wetland replication be addressed by the NOI.

Mr. Fellini made a motion to request an NOI for the restoration plan, seconded by Mr. Madden, the motion passed unanimously.

Mr. Zimmer requested that his recommendations be incorporated into the restoration plan prior to an NOI being submitted.

There was limited public comment regarding drainage concerns of neighbors abutting the property.

Mr. Fellini made a motion to continue the public hearing until December 7 at 7:15 PM. The motion was seconded by Mr. Madden and was unanimously approved.

### **Notice of Intent – Arnold School Pond Management Plan**

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James Treacy from TRC, an environmental consulting company reviewed the NOI for the aquatic management plan for Arnold School Pond, submitted by Arnold Hall, Pembroke. Mr. Treacy reviewed the current conditions at the pond including the invasive species present and aquatic conditions. He explained that the herbicides to be used for treatment are approved by Mass DEP and would include spraying and hand removal of the dead invasive plant life weeks later. There is also a habitat management plan that will be included as well as an invasive species management plan. Mass Wildlife has reviewed the plan and approved. Initial treatment will begin in summer of 2024 with hand removal 3 months later. Treatment of the pond will commence after removal of the materials. Treatment will be limited to invasive species with isolation of native plant life. Several applications may be required over the three-year term of the order of conditions. A discussion regarding the areas to be treated and the extent of the treatment continued. Mr. Treacy mentioned that the treatments would be limited to the aquatic areas and no upland woodland areas would be affected. Mr. Madden requested that the commission be notified of each treatment before application.

Mr. Fellini made a motion to close the public hearing, Mr. Campbell seconded, and the motion passed unanimously.

Mr. Fellini made a motion to issue an order of conditions for Arnold Pond Management, seconded by Mr. Madden. The motion passed unanimously.

Mr. Fellini made a motion to accept the meeting minutes of October 5, 2023; Mr. Madden seconded the motion, and it was passed unanimously.

At 8:24PM Mr. Fellini made a motion to adjourn seconded by Mr. Madden. The motion passed unanimously.

#### Materials and Exhibits

Notice of Intent – 98 Barker St – No DEP number assigned.

Notice of Intent – Arnold School Pond – DEP# SE056-1099

Certificate of Compliance – 23 Ridge Ave DEP# SE056-1091

Certificate of Compliance – 66 Hemlock Drive DEP# SE56-518

Certificate of Compliance – Longhill DEP# 056-459

Certificate of Compliance – 37 Deerfield Lane DEP# SE56-1054

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