



**Pembroke Conservation Commission  
Minutes of the Meeting of  
May 4, 2023  
Veterans Memorial Hall, Pembroke Town Hall**

*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.

**Members present:** Arthur Egerton, Chair; Gino Fellini, member; James Campbell, member;  
Richard Madden, member; Teresa Harling, vice chair;  
**Not present:** Robert Clarke, Sr., member

At 7:00PM, Mr. Egerton, chair, opened the meeting and asked the members to introduce themselves, then stated that the proceedings would be made available to the public at future dates and that all comments made in open session would be recorded.

**ADMINISTRATIVE BUSINESS**

**Minutes** – April 6, 2023 – A motion to accept the minutes as written was made by Mr. Fellini and seconded by Mr. Campbell. Motion passed unanimously.

**Hearings:**

**Notice of Intent (NOI) - DEP #SE056-1092 – 0 & 74 Congress Street**

Mr. Fellini made a motion to issue an Order of Conditions with the addition of the stipulations discussed tonight seconded by Mr. Madden. Motion passed unanimously. Mr. Egerton stated that anyone aggrieved by this decision has the right to appeal within 10 business days.

**Abbreviated Notice of Resource Area Delineation – (ANRAD) – 51 & 55 Chapel Street**

A motion to continue pending the submission of the peer review report was made by Mr. Fellini and seconded by Mr. Madden. Motion passed unanimously. Review will be continued at the June 1 meeting.

*Materials or other exhibits used by the public body in an open meeting are available to the public, within 10 days, upon request.*

### **Enforcement Order – 98 Barker Street & 409 Washington Street**

The owner of the property, Mr. Andrew Spath addressed the Board. He explained that he purchased the property in October of 2022 and kept its status as Chapter 61 farmland and that he had a Forest Management Plan prepared for the property that was reviewed by the state and filed with the town. He mentioned that it was his understanding that Ch. 61 forestry plans are exempt from the Wetlands Protection Act and any by-laws related to it. The plan prescribes clearing the existing access roads at the front and rear of the property of brush and other growth. The plan also states that other ways be found to connect the road system so the entire property can be reached from Barker St. As per the plan, Mr. Spath said he extended the road to the middle of the property where a 2.5-acre circle was cleared and that has been the extent of the work to date.

Board Chair Mr. Egerton asked if Mr. Spath could produce any written documentation that the property's Ch. 61 status made it exempt from the wetlands Protection Act. Mr. Spath replied that he spoke to the state forester assigned to the project who recommended he change the status from Ch 61 to Ch 61-A and that his intention was to plant fruit trees in addition to Christmas trees and that would require Ch 61-A status.

Ms. Harling asked if Mr. Spath was re-directing water on the site and Mr. Spath replied, no.

Mr. Madden asked if Mr. Spath was planning to keep the property in agricultural status until it dried out so he could develop the property in the future.

Mr Spath's attorney, Steven Rider addressed the Board, stating that he wants to come out of the meeting with a commitment by his client to hire a wetlands scientist to inspect the property.

Ms. Harling asked why that was not done before Mr. Spath began the project.

Mr. Spath explained that he can cut up to 50-cord of wood before a cutting plan is implemented and that a cutting plan provides an exemption from the Wetlands Protection Act. He believes that he has recently reached the 50-cord threshold. He also noted that he was advised of this today by the state forester who he is consulting on the project and that the forester offered help from the state on the building of the road.

Town Counsel, Alex Weisheit from KP Law proposed that given the limited information provided about the building of the road and its proximity to the wetlands that Mr. Spath retain the services of a professional wetlands scientist as well as a surveyor or PE to delineate the wetlands so a more informed discussion can take place as to what has been done so far and what kind of permitting will be required for future activities.

Attorney Rider concurred with Town Counsel and added that both counsels prepare a list of things Mr. Spath shouldn't have done or that the Town did not want him to do so a resolution can be approached.

Attorney Rider also stated that Mr. Spath had 235 seedlings he would like to plant and asked if the Acting Conservation Agent could walk the site with Mr. Spath to ok planting of the seedlings in an area outside of the wetlands. The Commission made no motion or commitment to this request.

*Materials or other exhibits used by the public body in an open meeting are available to the public, within 10 days, upon request.*

Mr. Egerton asked if the Cease-and-Desist order was being followed. Attorney Rider said that the order only applied to the jurisdictional areas under the Conservation Commission and did not include work done in other areas of the property.

Town Counsel Weisheit reminded everyone that the jurisdictional boundaries have not yet been established by a delineation of the wetlands and so the Cease and Desist is in force. He also added that there is a procedural matter in that the Enforcement Order issued earlier in the week needed to be ratified by the Commission at this meeting.

Motion was made to complete a peer review by a wetlands scientist of the site, to be reviewed by DEP with a restoration plan and that the plans be presented to the Commission within 30 days of this meeting. The motion was made by Mr. Fellini and seconded by Mr. Madden. Motion was passed unanimously.

Motion was made by Mr. Fellini to ratify the Enforcement Order issued for 98 Barker St. and 409 Washington St., seconded by Mr. Madden. Motion was passed unanimously.

Several residents of Pembroke offered public comment. James Adams, Fairwood Dr. remarked about the wetlands and streams on the property and concerns for displacing wildlife. James Hill, Barker St. asked about the scope of work and permitting required. Bob DeMarzo, Stagestop Ln. asked if a business was being run on the property. Julie Caruso, Fairwood Dr. asserted that a forestry plan is not completely exempt from the Wetlands Protection Act. Bob Ahola, Barker Square Dr. asked how the Cease and Desist order would be enforced.

George Verry, Pembroke Building Inspector reviewed overlay maps of the site and has concerns over stormwater runoff and water displacement issues that may impact abutters.

Mr. Egerton reiterated that the Enforcement Order and Cease and Desist are in effect and that all work stop at the site including use of the road.

Mr. Madden questioned the need for the berms at the entrance to the property. Mr. Spath said that he needed them for privacy and posted no trespassing signs every 50 ft to keep people from entering the property uninvited. He has also found beer cans left behind on several occasions.

Mr. Fellini made a motion to continue the hearing until the next Conservation Commission meeting on June 1<sup>st</sup> and a two-week check-in by Mr. Spath to report on progress. Motion seconded by Ms. Harling and passed unanimously.

### **Ongoing Business:**

**Lage Preserve update** – Town Manager Bill Chenard provided the update. The delineation of the wetlands is complete and has been reviewed by a wetland scientist. The house and outbuildings have been razed and Merrill Engineering is preparing plans for the site.

### **Town Beaches update –**

Bill Chenard provided updates regarding the Town Beaches. The Town Landing work is nearing completion, sidewalks will be added, and shade structures erected as per the plan. Dock maintenance and replacement will also be performed. Signage will be updated. Mr. Chenard also reported on maintenance and repairs under way at Little Sandy, Stetson Pond and Furnace Pond.

*Materials or other exhibits used by the public body in an open meeting are available to the public, within 10 days, upon request.*

A motion to end the meeting was made by Mr. Fellini at 8:25pm, seconded by Mr. Madden. Motion passed unanimously.

Materials and Exhibits

Notice of Intent and accompanying documents – 0 & 74 Congress Street

Abbreviated Notice of Resource Area Delineation and accompanying documents – 51 & 55 Chapel Street

Enforcement Order – 98 Barker Street & 409 Washington Street

*Materials or other exhibits used by the public body in an open meeting are available to the public, within 10 days, upon request.*