



**Raynham Conservation Commission  
Raynham, Massachusetts  
Regular Meeting  
April 3, 2024 @ 5:30 p.m.  
Donald L McKinnon Meeting Room**

**Members Present:**

Dave McRae – Chair  
Bill Reynolds – Commissioner  
Riley Menconi – Commissioner  
Linda Pacheco – Commissioner  
William Campbell – Commissioner

**Staff Present:**

Azu Etoniru – Conservation Agent  
Amy Engelhardt – Conservation Clerk  
Dawn Caradonna – Recording Secretary

***Called to Order:***

Mr. McRae called the meeting to order at 5:30 p.m. and informed that all Conservation Commission meetings are recorded by RayCam.

**All Public Hearings and Meetings heard by the Raynham Conservation Commission on this date held at the Raynham's Veteran's Memorial Town Hall, Donald L. McKinnon Meeting Room, 558 South Main Street, Raynham, MA are relative to filings and joint hearings and/or meetings under M.G.L Ch 131, Section 40, as amended, and the Town of Raynham Wetland Protection Bylaw.**

**FORMAL**

**Certificate of Compliance**

Elm Street East, Map 2A, Lot 5-B, DEP #269-0974

The parcel is a lot on Elm Street near Rozena's Field. The original house plans were within 50 feet of the wetlands. Before construction, the plans were changed to move all construction outside the 50-foot area. Before work began, Mr. McRae conducted a site visit and issued a Stop Work Order since the tree service was on site and they did not establish a hay bale line. The lot was sold, and the house was built. A request was received for Certificate of Compliance and a waiver of fees in the amount of \$300 due to no work started. Mr. McRae said he would dispute because the Commission issued a Stop Work Order. The Commission did not issue an Enforcement Order because the homeowner took care of it right away.

Mr. McRae asked for public comment. No one responded.

**MOTION:** Moved by Ms. Pacheco and seconded by Mr. Reynolds to deny the request for waiver of fees based on the issuance of Stop Work for Certificate of Compliance, Elm Street East, Map 2A, Lot 5-B, DEP #269-0974. Discussion: None. Vote: 5-0-0

**MOTION:** Moved by Mr. Reynolds and seconded by Mr. Menconi to issue a Certificate of Compliance Elm Street East, Map 2A, Lot 5-B, DEP #269-0974, pending payment of necessary fees. Discussion: None. Vote: 5-0-0

### **Certificate of Compliance**

80 Sunflower Drive – DEP #269-532 & DEP #269-575

Present was Nyles Zager, Zenith Consulting Engineers.

Mr. Zager informed that there are no wetlands located on the property or within 100 feet of the parcel. The parcel is part of a permitted subdivision years ago. There are multiple orders, therefore, Mr. Zager separated the different deed books and pages, so it was easier for everyone to sign off. There are two DEP numbers because the Order of Conditions were corrected.

Mr. McRae confirmed that the original Order was done by the Commissioner and the second was done by DEP who superseded the Commission.

The request for a Certificate of Compliance is for a Partial.

**MOTION:** Moved by Mr. Reynolds and seconded by Mr. Menconi to issue a Partial Certificate of Compliance for 80 Sunflower Drive – DEP #269-532 & DEP #269-575. Discussion: None. Vote: 5-0-0

### **Continued Notice of Intent**

333 Richmond Street – DEP #269-XXXX

The applicant submitted a request to continue the Hearing until the next Conservation Commission Meeting on April 17, 2024.

**Motion:** Moved by Mr. Reynolds and seconded by Mr. Menconi to continue the Public Hearing for the Notice of Intent for 333 Richmond Street, DEP #269-xxxx until April 17, 2024 at 5:30 p.m. Discussion: None. Vote: 5-0-0

### **Continued Notice of Intent**

0 Orchard Street – Map 14, Lot 124 – DEP #269-1054

The applicant submitted a request to continue the Hearing until the next Conservation Commission Meeting on April 17, 2024.

**Motion:** Moved by Mr. Reynolds and seconded by Mr. Menconi to continue the Public Hearing for the Notice of Intent for 0 Orchard Street – Map 14, Lot 124 – DEP #269-1054 until April 17, 2024 at 5:30 p.m. pending receipt of a letter from Natural Heritage. Discussion: None. Vote: 5-0-0

### **Enforcement Order**

63 Gardiner Street

Present was Attorney Adrian LeCesne, 125 Highland Ave, Mansfield, MA representing the homeowner, Ms. Downs.

Back in November, Attorney LeCesne requested a continuance to contact an environmental specialist. They did reach out to Pinebrook Environmental and Web Survey. The attorney reviewed the Notice of Violation and Enforcement Order with the Commission. He stated that under Section C on page two, it reads “the property owner shall immediately cease and desist from any activity affect the buffer zone.” Furthermore, he read the original violation from September 1, 2022 which states “there may be acts in violation of the Wetlands Protection Act and to contact the office to schedule a visit.” Attorney LeCesne informed that his client scheduled a visit and no new actions have been carried out, therefore, he believes they are complying and not in a violation. He brought up that the Enforcement Oder was not dated and that they did not have the opportunity to come before the Commission to dispute the underlying allegations of violation. Therefore, he requested a hearing for that purpose.

Mr. McRae informed that back in September 2022, he was walking down the street and noticed the violation. There were cutting of brush in the front of the property where the water edge meets the property and cutting of brush between grassy area and edge of street.

Attorney LeCesne stated that the Enforcement Order did not describe the violations.

Mr. McRae informed that the violations were all discussed with the homeowner and how to rectify them. At the time of the meeting, she said she was going to hire an engineer to do an RDA on the property. Time went back and the Commission received no response. The Commission made an attempt in September 2023 to find out what was going on. Following the attempt, the Commission received a request for a 90-day continuance which was granted.

Last week, Mr. McRae received a phone call from Brooke Monroe, Engineer hired by the homeowner to conduct a visit during the week. He then received a follow-up call from the engineer who stated the Attorney could not be present and they would like to reschedule. Mr. McRae phoned the homeowner to schedule the visit on Thursday and within an hour later, he received a call from homeowner who stated she could not speak to the Commission and that she had to wait for her attorney.

Mr. McRae advised that the Commission has been very patience and would like clarification as to what is going to be done.

Attorney LeCesne reviewed the letters and found no particulars on the violation. He also informed that they have been approached by the Highway Department asking for an easement for flooding purposes.

Mr. McRae informed that the Commission and Highway are two separate issues.

If the Highway is proposing a project, Attorney LeCesne said they may have the delineation of the property and activities that may affect the wetlands. The homeowner retained Ms. Monroe who will be able to produce a restoration plan if that is what the Commission is seeking. Attorney LeCesne is not certain if there was a need for a restoration plan as it was not a demand within the Orders.

Mr. McRae confirmed that the Enforcement Order did not have a date. The meeting minutes, which was provided to the Attorney, states the approval of the Enforcement Order, November 16, 2022.

Attorney LeCesne stated there was no formal vote on the actual substance of the Enforcement Order and no specific findings under Section B. After speaking to Mr. McRae, all activity was stopped and believes the current Enforcement Oder is legally operative. The homeowner plans to work with Ms. Monroe and would like walking orders to give her. Attorney LeCesne commented on the two actions by the Town to try and condemn part of this property for flooding purposes and he said he was concerned that these two action were in parallel attempt to try to drive down the price before appraisal which is scheduled this month so that the Town might be able to get their flooding mitigation easement for a low price. He said he will be approaching the Highway Commissioner and ask if they want to help with Ms. Monroe's costs for the restoration plan for the area alleged by the Commission was affected.

Mr. McRae informed that the Commission is not talking about anything involving the Highway Department. The discussion is for the violation which occurred back in September 2022. Upon

speaking to the homeowner on this date, all she had to do was to stop the activities and let the area grow back. The homeowner chose not to do this; therefore, we are here today to discuss.

The Attorney disputed the violation because there is no area described in the violation notice or in the Enforcement Order issued. He said it was vague and ambiguous and is currently unenforceable.

Mr. Campbell asked if there was correspondence that went along with the Enforcement Order requesting a meeting? Mr. McRae confirmed that there were telephone calls with the homeowner and a site visit where members were present.

As far as the Board is concerned, Mr. McRae said, “we have been very cordial to rectify this.”

Mr. Etoniru stated that when Mr. McRae, Mr. Menconi and himself met with the homeowner, they were very very clear on the area. A fence along the side of the house was built in the disturbed wetland area because you could see emerging wetland species that are growing. The homeowner was directed to stop work and come before the Commission with a plan on how to restore the area. Looking back, the Commission should have had a hearing to establish a fine amount for noncompliance. Typically, this is what the Commission has done in the past to have the homeowner come into compliance. The fine would not be punitive, but it is a motivation for the violator or the property owner to remedy the issue. While the Enforcement Order may not necessarily have been descriptive in detail, the assumption was that Commission members along with the Conservation Agent was clear and understood. If the Commission was more aggressive, then we may not be having this discussion. The property owner, at the time, seemed to be cooperative and was going to hire someone to survey the property, look at existing structure, review the fence and define the wetlands. Mr. Etoniru explained the reasons for hiring a wetland specialist. He said, “a specialist will document what is historically on the property.” In the front area, there was emerging species on the property, even though it was mowed over, there was a lot of sage rush and lot of dogwood and sweet pepper bush sprouting up. These were all mowed down.

Mr. Etoniru suggested scheduling a site visit to document, with measurements where the violation is, then followed by a public hearing and specifics outlined on the Enforcement Order. The Commission should be a bit more aggressive because the congenial effort is bringing them to this response.

The Board has been lenient and Mr. McRae has tried since day one to have this taken care. It appears that since September 2022, the Commission has been stalled.

Attorney LeCesne apologized to the Commission for actions if it made the Board feel attacked. An expert will be hired. The Conditions will have to restarted and the attorney suggested entering in negotiations for a solution. The first step will be scheduling a meeting with Ms. Monroe. He said he wanted to make it clear that they believe that the meeting is not based off a valid Enforcement Order but rather on the Notice of Violation from before seeking to determine what the scope of the alleged violation is.

Attorney LeCesne is not saying no cutting of grass occurred, but there was no proper notice of what the area believed was affected. They are open to a site walk.

Attorney LeCesne informed that his client reached out to six firms who had eight-week backlog and they were not able to get somebody by the November meeting date.

Mr. McRae asked what happened between September 13, 2022 and October 2023.  
Attorney LeCesne informed that a Cease-and-Desist Order was issued, and the homeowner ceased.  
Mr. McRae questioned why an engineer was not hired in that time.  
Attorney LeCesne informed that there was a backlog and his client had retained him.

Mr. Campbell stated that the retaining of the attorney does not matter, it is the action of his client.  
Attorney LeCesne agreed.

Mr. Etoniru suggested tabling the discussions for the listed Enforcement Order and scheduling a site visit to document details. A public hearing should follow with an issuance of an Enforcement Order, and timeline for completion of violation.

### **INFORMAL**

Johnson's Pond

Approval of the company known as Water & Wetland to treat/maintain invasive plant species and/or aquatic weeds.

**Motion:** Moved by Mr. Reynolds and seconded by Mr. Menconi to issue an approval letter to Water & Wetland to treat/maintain invasive plant species and/or aquatic weeds at Johnson Pond. Discussion: None. Vote: 5-0-0

### **General Business**

Acceptance of Minutes – March 20, 2024

**Motion:** Moved by Mr. Reynolds and seconded by Mr. Menconi to approve the Conservation Commission meeting minutes of March 20, 2024 as printed. Discussion: None. Vote: 5-0-0

### Bills

Bills reviewed and signed by the Commission.

### Correspondence

No correspondence

### Site Visits

Mr. McRae informed that he received a report of a tree down in the Taunton River, non-issue.

Complaint of land clearing but it was only grinding of brush, non-issue.

Mr. McRae met with the Highway, Planning, Sewer, and Water regarding the roadway on Pine Street for bridge restrictions.

Mr. McRae asked for a motion to adjourn.

**Motion:** Moved by Mr. Campbell and seconded by Mr. Menconi to adjourn from the Conservation Commission meeting of April 3, 2024 at 6:13 p.m. with no business to be conducted afterwards.

Discussion: None. Vote: 5-0-0

*Respectfully submitted,  
Dawn Caradonna  
Recording Secretary*

***Next Scheduled Meeting***

April 17, 2024 @ 5:30pm
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