

**APPROVED MINUTES**  
**CONSERVATION COMMISSION MEETING**  
**THURSDAY, JANUARY 5, 2023 AT 6:30 PM**  
**PRESENTED ON A ZOOM PLATFORM**

**IN ATTENDANCE:**

Chris Macfarlane (CM), Chair  
Christopher McIntyre (CI), Member  
Eric Eisenhauer (EE), Member  
Tom Bell (TB), Vice Chair  
Will Ashton (WA), Member

**STAFF IN ATTENDANCE:**

Charlotte Pechtl (CP), Conservation Agent  
Angela Geso, Administrative/Recording Secretary  
Alex Weisheit (AW), KP Law, Town Counsel

**ABSENT:**

Kathy Berigan (KB), Secretary

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**6:30 PM: Call to Order - Introduction**

**Roll Call Attendance: E. Eisenhauer – Aye; T. Bell – Aye; W. Ashton – Aye; C. Macfarlane – Aye; C. McIntyre - Aye**

**Abbreviations Used:**

**NOI** - Notice of Intent; **RDA** - Request for Determination of Applicability;  
**SWP** – Stormwater Permit; **ZBA** – Zoning Board of Appeals

**SWP 22-33: 11 Norfolk Lane – Home Additions and Detached Garage**

**In Attendance:** Xander Oram (XA)/Merrill Engineering; Can Tiryaki (CT)/Architect; Thomas Shipp (TS)/Applicant

**Documents Presented:** Site Plan; Infiltration Design

There are two (2) infiltration fields in the front and back of the property. The applicant wants to collect some runoff into two (2) cisterns, one (1) for each system that will go into an outlet pipe and overflow into the infiltration fields. The beds each have a 1-ft. depth and test pits were done at 36-in. and 24-in. so a 1-ft. deep system was installed. TB asked to see a cross-section of infiltration devices and the inlet and outlet infiltration elevation. He said there were two (2) outlets at 168-ft. and 180-ft. and pointed out the distribution of bedrock outcrop on the site. XA said they didn't hit bedrock and just dug until groundwater was hit. He doesn't believe there is any ledge or bedrock outcrop on the site. The volume of the cisterns is 50-sq. ft. with a 5-ft. depth. Water from the cistern to the garden will travel from roof leaders to the cistern that, once filled, will be gravity-driven into the infiltration fields. CM is concerned that the infiltration areas are not really large and is counting on good percolation where test pits may overflow in a storm event. The sub-catchment plan is fairly large and, after a good rain, the entire sub-catchment is coming out of a small pipe into a 2-ft. x 2-ft. splash pad. XA said they are capturing selected impervious areas to enter the system. CM said the area is broad where heading into the neighbor's property and if you could spread more than 2-ft. it would be helpful. XA agreed to make the splash pads bigger. TB said the water won't have much chance to infiltrate before going down a steep. He suggested a shorter pipe that would terminate on an area not as steep as the hill. TS said they walked about putting in a pump to use water more effectively. TS and XA said underground is preferred for the cisterns.

**MOTION:**

**By Chair Macfarlane to close the public hearing for 11 Norfolk Lane and issue SWP 22-33 with the following conditions:**

- **Infiltration areas will be widened with outfalls and will pull back before going to a steep slope**
- **Cisterns must be shown to Conversation Agent Pechtl before starting work**

**SECOND:**

**By Member McIntyre**

**ROLL CALL VOTE: E. Eisenhauer – Aye; T. Bell – Aye; W. Ashton – Aye; C. Macfarlane – Aye**  
**MOTION PASSES: 5-0-0**

**SWP 22-31: 26 Lamberts Lane – Property Development (con't from 12/1/22)**

**In Attendance:** Alton Stone (AS)/Engineer; John Ormond (JO)/Applicant

**Documents Presented:** Site Plan, Catchment Plans

AS said the catchments are the same on prior and current plans. The lot is subdivided and sections are not lumped or modeled but come together at the design point. Portions of the altered area will be planted with grass and as an erosion control. Ten (10) trees will be removed, and anything excavated will remain. TB asked if we can continue with stormwater calculations and AS said not much has changed since the last hearing other than the site being loamed and seeded. TB said an area of the plan was once heavily wooded but will now be grass and this could be a deviation from what was previously discussed. The entire area was clearcut and not upgraded. CM said what we really want is for the site to be stabilized. AS said there are four (4) sub-catchments on the site showing pre-production and post-production changes to the work area that are equal to or less than what was existing before any disturbance. TB said this goes beyond what the hydrocad suggested and that breaking out additional sub-catchments becomes difficult. AS said it's not unusual to have more catchments in the area. JO said they have done what has been asked of them and they accomplished their goal of designing a new layout so it doesn't shed water. AS said to look at the work area and the water shed on the north of the property and see that the post-production is equal to the pre-production. CM asked CP about a stockpile area and CP said they need to remove one (1) tree. CM asked if sediment controls are in place and if there is an erosion barrier for other areas on site and AS said they have all been done. CP said an enforcement order required a stormwater permit with a condition that the site would be stabilized within 30 days. CM would like to see the stabilization done by April 2023 and doesn't want to see the permit approved and then drag on during the summer. AS said they would like to get the big work done during the winter and start the other work in June 2023 as it would be difficult to get contractors out in April to do the work. CP said they can use hydroseeding for stability during spring and have loam and seeds installed by June 1, 2023.

**MOTION:** **By Chair Macfarlane to close the public hearing and issue Stormwater permit 22-31 with the following conditions:**

- **Erosion controls be provided for catchment of the south area of the site during a period when the knob is being removed**
- **Work associated with site stability must be completed by June 1, 2023 with a vegetated cover**
- **Earth-moving and stone removal needs to be done so there is no additional erosion at the waterfront**
- **All native species must be used**
- **A written request may be provided and the Conservation Commission may agree if certain conditions warrant it**

**SECOND:** Vice Chair Bell

**ROLL CALL VOTE: E. Eisenhauer – Aye; T. Bell – Aye; W. Ashton – Aye; C. Macfarlane – Aye**  
**MOTION PASSES: 5-0-0**

**SHOW CAUSE: 692 Jerusalem Road – Retaining Wall**

Building Inspector John Hallin (JH) was informed of a retaining wall being built on property owned by Peter McClary (PM). The building permit was filed for an addition only behind the retaining wall, but the retaining wall was drawn closer to the home. JH put a "Stop Work" order on the site and informed PM that he would have to go before the Zoning Board of Appeals (ZBA) before starting the work. Originally

there was no SWP issued because the work being done was under 500 sq. ft. but questions on the updated retaining wall showed it has already been built and is now over 500 sq. ft. and requires a SWP. An engineer is needed to design this project so the pre-construction and post-construction numbers agree. PM asked if we could continue to 1/19/23 so he can have time to prepare. CP asked if PM is willing to upgrade should he have the "Stop Work" removed on the original project. CP said an administrative permit could be handled in house but she still needs to finish the "Stop Work" order.

**SHOW CAUSE CONTINUED TO 1/19/23**

**SHOW CAUSE: 76 Lamberts Lane (NOI 20-26, SWP 20-19) Sports Court (con't from 12/15/22)**

Dr. Marchetti reached out to his engineer to get an As Built done as soon as possible. Attorney Weisheit (AW) said if there is no time frame for the As Built as a condition, they may not have the authority to ask for one now. Lighting is more an issue for the ZBA. CM said a pool project was added with approval. There are modifications from the plan as originally seen and as the project goes on, problems seem to multiply. CP said the permit was issued 11/23/20 and would expire in three (3) years but this permit had an end date of 1/1/22. AW said through enforcement the commission could add more conditions and make the applicant more responsible. The Order of Conditions would expire on 11/23/23. Abutter Ted Carr (TC) looked at records for this site and says it seems like they are not going what they said they would do. CP asked what can we do at this point and AW said to do whatever administratively works best. CM said Interim Agent Ivas made comments to the owner that he could submit an As Built but at this time, things have spiraled out of control and he is not even sure if the wetlands delineation is correct. AW said CP is required to do a final inspection with special conditions and that the owner would require a hearing if there is no compliance. CM said he would go with a final inspection but the number of deviations are so numerous, there are too many speculations and inaccuracies and the original plan for the sports court moved 20-ft. into the 50-ft. buffer zone and we weren't informed until the meeting. He wants to verify what is built and compare it to what was originally presented to the commission. CM asked CP to see if the applicant can attend a meeting so we can start to resolve the issues.

**SHOW CAUSE CONTINUED TO 1/19/23**

**SWP 22-34: 94 Black Horse Lane – Raze Garage. Add Three New Homes with Driveways**

**In attendance:** Carmen Hudson (CH)/Merrill Engineering; Nino DiNunno (ND)/Builder; Matthew Watsky (MW)/Environmental Attorney; Alex Weisheit (AW)/KP Law – Town Counsel

**Documents presented:** Site Plans, Stormwater Plan

The project is being reviewed by Zoning, Planning and other departments but AW said the Conservation Commission is only responsible for wetlands and stormwater. MW said the project will use three (3) proposed lots and have the lowest possible impact designed. The building permits for Lots D & E have been submitted but not yet issued. TB asked why there are more than three (3) lots but only one (1) stormwater permit. CH said it is not a subdivision and only needs one (1) stormwater permit. MW said they are not seeking permits for individual lots but are taking property under single ownership and leaving it at that. AW said the property does not fit in the subdivision category and there is more than one (1) dwelling being discussed. CM said the reason there is not an NOI is because the owners have determined they are outside any buffer or resource area. TB said the delineation of the riverfront used "approximate" as a description so it is not a delineation. CH said it shows an approximate mean high water line, the proposed worked is at least 300-ft. from the line and they would have to be off by 100-ft. to affect the mean high water line. They will revise plans to base the mean high water line on the ocean but TB said it should be based on Cohasset Cove. CH said the purpose is to keep everything outside the full resource areas and the buffer zone and MW said we should focus on stormwater management. CH said there is a developed lot served by a paved driveway that covers 80, 90 and 94 Black Horse Lane up to Lot D with 94 Black Horse Lane and Lot D as one. About 4,500 sq. ft. of existing paved area will become porous and the rate of runoff is reduced. CM asked how the overall property gets considered for a single

permit while the owner of 94 Black Horse Lane has his own lot with a house and garage. CH said this is one lot, there could be another adjacent lot but they are determined by the property boundaries. CM asked about future owners paving what are now porous areas and MW said if the property has a condition regarding paving it would be recorded with all the properties. CM said CH used "driveway" but it's a right-of-way that provides frontage. CH said they use the driveway but don't own it and she did use the entire driveway in sub-catchment work. CM asked if any more trees are planning and CH said she did a revise but didn't submit it because it was too late for this meeting but it does show additional trees. CM asked if the existing garage on Lot D is being replaced with a permeable paved driveway and CH said it was. MW said a SWP requires at least an administrative review and any additional work would require a permit. AW agreed with that, saying we're looking at a whole project with combined lots but additional work beyond the plans would require its own SWP. TB asked about the sub-catchments. CH said there is Land Subject to Coastal Storm Flowage (LSCSF) which she could separate into 2-3 sub-catchments. TB is concerned with the proposed houses and asked if there is more than one (1) sub-catchment but CH said all runoff goes to the floodplain, saltmarsh and the Gulf River. TB is concerned with how it was molded and how the sub-catchments were subdivided. CH will break it down. Discussion followed regarding a walk-through maintenance plan for stormwater management purposes. WA suggested having a legal instrument that establishes terms of legal responsibility. MK said it will be addressed. CM said the wetlands delineation needs to be revised.

**HEARING CONTINUED TO 1/19/23**

### **Certificates of Compliance:**

#### **589-595 Jerusalem Road (NOI 21-18)**

Cameron Larson (CL) of ECR discussed ecological restoration that was approved in April 2021 to restore a severely damaged coastal bank. They removed non-native plantings, established stability and monitored the site. CP said 30 seaside goldenrod plantings were on the plan but only 10 were on the site. CL said it was done to avoid overcrowding planting areas.

**MOTION:** By Chair Macfarlane to issue a Certificate of Compliance on NOI 21-18 for 589-595 Jerusalem Road.  
**SECOND:** Member Eisenhauer  
**ROLL CALL VOTE:** E. Eisenhauer – Aye; T. Bell – Aye; W. Ashton – Aye; C. Macfarlane – Aye  
**MOTION PASSES:** 5-0-0

#### **34 Bancroft Road (SWP 21-27)**

A walkout basement replaced a bulkhead. The patio was reduced in size and an additional subsurface Infiltration system was installed. Proposed grading in the rear yard was not done and the existing grade was kept. Splash pads were not located on site but the builder said they were installed and are most likely buried and will have to be produced. A crushed stone trench was added that needs to be regraded. CM said it seems like a lot of changes on the site and mentioned a proposed pervious gravel driveway. There is another driveway to the basement with an impervious asphalt cover that was supposed to be pervious. The commission recommended the engineer for the project redo their calculations and present them at a future meeting.

**MOTION:** By Chair Macfarlane to deny the Certificate of Compliance for SWP 21-27 for 34 Bancroft Road.  
**SECOND:** Member Ashton  
**ROLL CALL VOTE:** E. Eisenhauer – Aye; T. Bell – Aye; W. Ashton – Aye; C. Macfarlane – Aye  
**MOTION PASSES:** 5-0-0 Denied

**135 Nichols Road (NOI 19-17, SWP 19-21)**

There is a small gravel patch with planting beds on crushed stone installed next to bluestone patio within the 50-ft. buffer zone. A proposed shed to be removed is outside the 100-ft. buffer zone. The deck stairs are angled to an approved location 4-ft. within the buffer zone. A stone retaining wall outside the buffer zone has been removed.

**MOTION:** By Chair Macfarlane to issue a Certificate of Compliance for NOI 19-17 and SWP 19-21 at 135 Nichols Road with the condition that no pesticides or herbicides be used.  
**SECOND:** Member Eisenhauer  
**ROLL CALL VOTE:** E. Eisenhauer – Aye; T. Bell – Aye; W. Ashton – Aye; C. Macfarlane – Aye  
**MOTION PASSES:** 5-0-0

**392 South Main Street**

An RDA for a deck and horse paddock was submitted and withdrawn because the riverfront delineation was not accurate. The deck is not being built as this time and will be resubmitted. A staircase egress structure is required. CM said it is a deck and not a staircase and we should require a new delineation. CM is going to do a site visit.

**Agent Updates:**

**87-124 Elm Street**

A resident reported finding yellow water. Another resident had photos and evidence but wouldn't share what they found. The Conservation Agent did a site visit and didn't see anything there. The builders are not allowed to put a Porta Potty near James Brook. 87 Elm Street is not really being worked on because they are waiting for the tidal gates to be approved and most of the work now is at 124 Elm Street.

**48 Hour Notice:**

Agent Pechtl told the commission that any changes to the bylaws for the May Town Meeting have to be sent to the Town Manager's office by 1/20/23.

**With no further business to discuss, the meeting was adjourned.**

**MOTION:** By Chair Macfarlane to close the Conservation meeting of 1/5/23.  
**SECOND:** Member Eisenhauer  
**ROLL CALL VOTE:** E. Eisenhauer – Aye; T. Bell – Aye; W. Ashton – Aye; C. Macfarlane – Aye  
**MOTION PASSES:** 5-0-0

**Meeting adjourned at 10:45 pm**