

Minutes of the Meeting for the Halifax Conservation Commission April 11, 2023

These minutes are an abstract of the Conservation Commission meeting held Tuesday, April 11, 2023, which are on file with the Conservation Department and posted on the Town of Halifax website and Area58 Halifax's YouTube page. <https://www.youtube.com/watch?v=AHkOrBJ53qA&t=3528s>

Present at the Meeting: Kathy Evans, Chair, Edward Lane, Co-Chair, and Steve Goodman, Member.
Absent: Kimberley King, Secretary.

Vice Chair Evans calls the Halifax Conservation Commission meeting into session and states members present.

The Conservation Commission meeting opened at 7:00pm

Hearings(s):

- **7:00 PM – NOI: *Hearing Continued:*** 0 & 314 Plymouth Street: (Rebecca Baptista of Silva Engineering Associates (SEA), Frederick McCarthy, Vertical Fields Capital, Representative for R&J Realty, owners were present at the meeting)
 - Construction of a commercial building for self-storage w/parking and associated grading.
 - 0 & 314 Plymouth Street: All revisions required for septic system installation have been submitted to the Board of Health and the plan is on the 04/05/23 agenda for approval.
 - Fire Department Comments (Chief): According to the plan for 0 & 314 Plymouth St., he has a few things that he would like to have addressed.
 - Building H must be sprinkled.
 - The hydrant locations must be approved by the Chief before construction begins.
 - For the site layout, the Chief would like SEA to ensure that their tower truck and all apparatus can maneuver around the property.
 - Revisions submitted 03/06/23:
 - Revisions submitted 03/29/23:
 - Mr. McCarthy summarized for the Board the previous meeting held 02/14/23 and their request for some revisions to the Stormwater Management Plan and also their request to continue this hearing until after their review of site plan with the Planning Board. Mr. McCarthy stated that the 0 & 314 Plymouth Street site plan went before the Planning Board on 04/06/23 and the Board agreed to approve the site plan at a future meeting with conditions, the largest of which was 1, receiving a "Use Permit" from the Zoning Board of Appeals (ZBA) and 2, receiving Conservation Commissions approval and 3, having their easements in place. Mr. McCarthy stated ZBA approved the "Use Permit" on 04/10/23, they are working with the Ms. Alger's easement attorney in terms of getting the easement in place and they are here tonight to get final approval from the

Conservation Commission so they can get approval from the Planning Board.

- Ms. Baptista informed/updated the Board on the concerns Mr. Brennan of PGB Engineering had of the wetlands, swales, delineation line(s), volume flow reduction and drainage. SEA has made changes and presented them to the Board. Ms. Baptista updated the Board that the Board of Health has also approved the septic plans. The Board and Ms. Baptista discussed the NOI and plan with the most recently approved delineation line which was given a 1-year extension.

A motion was made to approve 0 & 314 Plymouth Street with the condition of twice a year maintenance of the drainage and inspections of the Highway Department to determine if more maintenance is needed.

Motion: Edward Lane, Co-Chair

Second: Steve Goodmen, Member

ALL in favor 3-0

- **7:15 PM – RDA: *Hearing: 51 Paradise Lane*, Dave Hatch, Owner**
 - To remove and replace 3 trees.
 - Homeowners' representative and the Board discussed the removal and replacement of 3 trees on the property.

A motion was made to approve 51 Paradise Lane with the condition 3 trees are replaced with 3 other trees native to that area with have root structure, and once trees are replaced, contact the Conservation Commission to set up a site-visit to see the replanted trees.

Motion: Edward Lane, Co-Chair

Second: Steve Goodmen, Member

ALL in favor 3-0

- **7:30 PM – RDA: *Hearing: 29 Lake Street*: Kerri & Aaron Sellers, Owner**
 - To repair/replace fencing between 29 Lake Street & 33 Lake Street.
 - The Board and homeowners discussed repairing and replacing a fence between 29 Lake Street & 33 Lake Street.

A motion was made to approve 29 Lake Street to repair and replace a fence between 29 Lake Street & 33 Lake Street.

Motion: Edward Lane, Co-Chair

Second: Steve Goodmen, Member

ALL in favor 3-0

- **7:45 PM – NOI: *Hearing Continued: 359 Plymouth Street*: (Paul Bakis, Grady Consulting)**
 - Peer Review:

A motion was made to continue the 359 Plymouth Street hearing to the 04/25/23 meeting.

Motion: Steve Goodmen, Member

Second: Edward Lane, Co-Chair

ALL in favor 3-0

- **8:00 PM – NOI: *New Hearing: 314 Plymouth Street*: (Present via Zoom was Steve Dahms, Casco, Robert Trask, Developer and Aubrey Armstrong, Casco Civil Group)**
 - To construct an Urgent Care, Starbucks and Auto Zone with parking, utilities, and associated grading. Chair Evans opened the hearing for 314 Plymouth Street.
 - The Board and those present on zoom discussed the need for the lot(s) to be re-delineated as the other one is too old as wetland delineations are only good and

accurate for 3-years and the previous one was done in 2018, grandfathering of the wetland's delineation as it's the same property and owner, and the 1-year extension that was believed to be connected to the permits.

- Member Goodman stated he understands the prospective that it was 1 property and 1 owner, but there were 2 different projects, 2 different permits, 2 different applications and 2 different Notice of Intent. This being a new Notice of Intent, he does not believe it falls under the old grandfathered-in rules that apply to the new Notice of Intent and the permits that go with it.

A motion was made to continue the 314 Plymouth Street hearing to the 04/25/23 meeting at 8:15pm.

Motion: Steve Goodmen, Member

Second: Edward Lane, Co-Chair

ALL in favor 3-0

- **8:15 PM – NOI: Continued: 0 & 592 Plymouth Street:** (Present were Jim Pavlik, Outback Engineering and Emile Tayeh)
 - Jim Pavlik, Outback Engineering submitted a revised grading plan to the Planning Board on January 26, based on the Commission's request to keep work out of the 50' buffer based on the change in the wetland line (*except they are proposing to loam and seed the existing gravel parking area that is currently within the 50' buffer, to stabilize soils*).
 - The attached grading plan revised 01/25/23 shows changes to the parking layout, and infiltration basin 1 was changed to underground chambers.
 - Outback is hoping to get the Planning Board's peer review comments on 03/06 for the full set of site plans dated June 2, 2022, and the 01/25/23 revised grading plan attached (traffic study also), and then they'll be able to submit final plans for both Board's based on the comments after that.
 - Mr. Pavlik and Mr. Tayeh presented the parking design changes requested by the Planning Board, and the Peer Review Engineer's comments & critiques to Board and the public. They are outside the 50' buffer all together now. However, the existing gravel parking lot within the 50' buffer zone will be loam and seeded and remain natural.
 - The Board suggested potting posts up every 50' along the 50' buffer and wooded area.
 - The public, Mr. Tayeh and the Board discussed the traffic study; Mr. Tayeh directed them to the Planning Board meeting with that presentation, the parking lot, trees, number of floors and units, the location of the project and entrance area. The Board brought the meeting back to Conservation matters.

A motion was made to 0 & 592 Plymouth Street with the condition "No Touch" sign posts/markers will be placed every 50' along the trail/edge of the 50' wetland buffer zone..

Motion: Edward Lane, Co-Chair

Second: Steve Goodmen, Member

ALL in favor 3-0

Discussions and Actions to be Taken:

- Recognize the Resignation of Colleen Fiumara
 - Formally Recognize the Resignation of Colleen Fiumara.

A motion was made to formally accept the Resignation of Colleen Fiumara.

Motion: Steve Goodmen, Member

Second: Edward Lane, Co-Chair

ALL in favor 3-0

- Levy Break at Robbins Pond:
 - E. Bridgewater Conservation Agent Alex Welch stated that the owner of the location of the breach (Stanley Kravitz) has been touching base with the E. Bridgewater Commission every few weeks and plans on submitting a notice of intent in the coming month(s) to show permanent conditions (and any additional work needed). He is working with, he believes, two different engineers on the matter. The Agents understanding is that he is under a tight deadline from the Office of Dam Safety to come into compliance with their requirements.
 - Admin. sent an email letting Halifax, E. Bridgewater & DEP know that the Chair would reach-out to the Halifax Highway asking for any updates the Commission should be aware of.
 - Response from E. Bridgewater Conservation Agent Alex Welch.
 - Board discussed •Levy Break at Robbins Pond. The Chair will reach-out to Highway and go for a site-visit of culverts.
- 250 Lingan Street: Morse Bros.
 - **1st Complaint** by Jeremy Gillespie:
 - 1. Mining in an aquifer protection overlay district.
 - 2. Removing earth without a permit, approved site plan, boundary markers, monitoring wells, erosion controls, engineering review etc.
 - 3. Dumping of unknown fill materials that likely contain pollutants, possibly including manure, within our aquifer protection zoning overlay district
 - 4. Excavation below the 7ft high groundwater elevation (Halifax By-law); excavation below the 4ft high groundwater elevation (MassDEP DIV II WPA Regulation requirement)
 - 5. Earth removal within the DIV II WPA and Class A Public Water Supply Zoning Districts and its tributaries in excess of 50 CYU (Not permitted)
 - 6. Dumping of unknown material within the 100 ft & 50 ft buffer to an Atlantic White Cedar Swamp (wetlands)
 - 7. Dumping of waste including tires, tree stumps, animal waste, trash, & old piping within the aquifer protection zoning overlay district.
 - **2nd Complaint** by Adam Sloat:
 - Mr. Sloat stated he wrote a letter he had intended to send to Ms. Troup and Ms. Vogt, but the current information detailed by Mr. Gillespie has created enough concern for him to feel the letter needs to be sent now.
 - The letter references Violations:
 - § 167-17 F (2)14, Retaining less than 40% of the lot area in its natural vegetated state. Not permitted, no special permit possible.
 - § 167-17 F (2)22 Storage of animal manure. Requires special permit.
 - § 167-17 F (2)28 Removal of earth, loam, sand, and gravel. Not permitted, no special permit possible.
 - Mr. Sloat asks that you please consider this a formal complaint and a request for enforcement per § 167-18. As noted in Article VI, the Building Inspector, or person appointed by the BOS, is tasked with the enforcement. My letter only touches on activities he was aware of as of last week and does not touch on what are likely additional violations per Mr. Gillespie's email. Given the nature of the complaints by Mr. Gillespie, he feels it is necessary to also request an immediate stop of all mining activities in the interest of water protection and preservation of potential evidence. As of today, there has already been additional material removed after the

complaint by Mr. Gillespie, of which any portion may or may not contain evidence of the activities detailed.

- Chair Evan's informed the Board and members of the Public that the Administrative Assistant spoke with Brendan Moquin of Morse Brothers, and he stated that this has all been covered with the Halifax Select Board, a site-visit was done with Select Board Chair, John Bruno and everything has gone through the Select Board's Town Administrator, Cody Haddad.
- Member Goodman discussed that it is his understanding that the site-visit in question was prior to these complaints.
- The Board discussed requesting to do another site-visit, sending an enforcement letter to take-action, jurisdiction, agricultural use, what is visual on at the property from neighboring land, permits & permitting, storing materials, and referring to Town Counsel for guidance.
- The Board opened the discussion to the public. The public and Board discussed Boards authority, Morse Brothers situation in Hanson, the complaints being discussed and the prior walk-through and what is happening now, stock-piling sand, DEP's involvement, contamination of the water supply, permission from Select Board to contact Town Counsel, earth removal, agricultural use, Earth Removal by-law under Conservation, contamination of well(s)/water, enforcement order, executive discussions/legal with Morse Brothers, zone II and wetland protection act and DEP number for work being done. Chair Evans will contact DEP to determine if there is a DEP number on file.
- The

A motion was made that after inspection of the DEP number, if a DEP number is not on file for the property at 250 Lingan Street Conservation will move forward with an enforcement order to enforce all the town by-laws that apply to that property.

Motion: Steve Goodmen, Member

Second: No Second

- The Board discussed if a motion could be made under discussion/actions to be taken, wanting more legal guidance and another site visit.

A motion was made to contact the Controller on record for Morse Brothers, the Controller on record with the State to do a walk-through as it is not Mr. Moquin.

Motion: Steve Goodmen, Member

Second: Edward Lane, Co-Chair

ALL in favor 3-0

- Chair Evans will check on the DEP number and contact Hanson on what was done there.
- The public discussed with the Board the fact that this has been a discussion item for months and the difficulty in voting on something that does not have a permit.
- Cedar Street:
 - The Board discussed that Administrative Assistant is reaching-out to Middleboro Conservation for more information.
- Carver Street Flooding: Update:

- The Board discussed the Hanson Highway Department auguring out of the line and returning at a future time to do the other side of the drain/pipe.
- 18 Cherry Street: Update:
 - The Board discussed that they are waiting for NOI submission from the owner.
 - Co-Chair Lane updated the Board that he did a visit at 18 Cherry Street with the owner and approved woodchips the owner wanted to place on the property and that the placement of the woodchips was far enough away from any wetlands.
- 32 White Island Road: Update: Letter was sent to homeowner requesting his present at the Conservation 04/25/23 meeting.
 - Board discussed that 32 White Island Road is scheduled to come into the 04/25/23 meeting to discuss paperwork for an “after-the-fact” NOI/RDA.
- 80 South Street:
 - The Board discussed that the Health Agent did final inspection and site visit at • 80 South Street for Conservation with the approval of Chair, Kathy Evans. Health Agent took pictures at site-visit.
- 132 Fuller Street: Complaint: Call stated he was worried about a small farmette style house on Fuller Street as tons of fill was being dumped and he thought maybe the wetlands and river might be in part of where the fill was being used.
 - The Board discussed setting-up a site-visit at 130/132/134 Fuller Street.
- 0 Walnut Street: Complaint: Caller asked if there was any information about an NOI or RDA at this location and stated that someone appears to be flagging what looks like the 50’ buffer for the wetlands and possible tree removal.
 - Was not discussed.
- Meeting Day and Start Time:
 - The Board discussed changing the meeting day to Wednesday’s and possibly the start time of the Conservation Commission meeting.
- 20 Holmes Street: Follow-up
 - The Board discussed that the Administrative Assistant is working on getting the correct owner information to send a cease-and-desist letter.
- 1 Pine Street & 0 Snow Street: Follow-up.
 - The Board discussed that the Administrative Assistant is working on getting the correct owner information to send a letter requesting a site-visit and coming into a meeting.
- 63 Carver Street: Follow-up.
 - Co-Chair Lane and Member Goodman did a site-visit with the owner at the property and approved owner to move forward with the project.

Bills to be Approved and Signed:

- **Revolving Account# 25-173:**
 - Express Newspaper
 - 111 River Street – Invoice# A11863CL – Notice of Public Hearing Legal Ad# 14117 to run 03/17/23 - \$45.00.

- 0 Highland Circle & 69 Summit Street – Invoice# A11863CL – Notice of Public Hearing Legal Ad# 14125 to run 03/17/23 - \$45.00.
- 29 Lake Street – Invoice# A11887CL – Notice of Public Hearing Legal Ad# 14160 to run 03/31/23 - \$45.00.
- 51 Paradise Lane – Invoice# A11887CL – Notice of Public Hearing Legal Ad# 14207 to run 03/31/23 - \$45.00.
- 314 Plymouth Street – Invoice# A11887CL – Notice of Public Hearing Legal Ad# 14208 to run 03/31/23 - \$45.00.

A motion was made to pay Express Newspaper, Revolving Account# 25-173:

Motion: Edward Lane, Co-Chair

Second: Steve Goodmen, Member

ALL in favor

Signatures:

- None Tonight

Interoffice Memos or Other Correspondence

- None Tonight

Meeting Minutes to be Approved and Signed: Kimberley King was not present and did not submit the meeting minutes for approval.

- December 2022, Meeting Minutes (KK)
- January 2023, Meeting Minutes (KK)
- February 2023, Meeting Minutes (KK)

At 8:34p.m. a Motion was made to Adjourn.

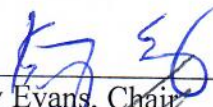
Motion: Edward Lane, Co-Chair

Second: Steve Goodmen, Member

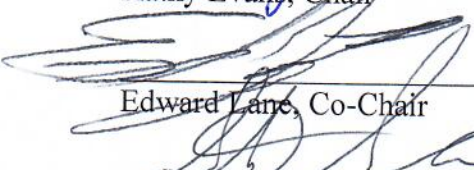
ALL IN FAVOR

Respectfully typed and submitted by:
Peggy Selter
Conservation Commission

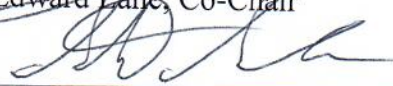
Approved Date: May 23, 2023



Kathy Evans, Chair



Edward Lane, Co-Chair



Steve Goodman, Member

Next Meeting: April 25, 2023.