

MINUTES OF THE MEETING HALIFAX CONSERVATION COMMISSION

October 13, 2020

A meeting of the Halifax Conservation Commission was held on Tuesday, October 13, 2020 in the Selectman's Meeting Room, First Floor, Chairperson Kathy Evans opened the meeting at 7:00 p.m.

In Attendance: Chairperson, Kathy Evans, Gerry Fitzgerald, Ed Lane

Absent: Chris Hadorn, John Peck and Assoc. Colleen Fiumara

Appointments/Hearings:

7:00 p.m. RDA: 20 Holmes St.

Present: Ghassan Tannous – owner property is 2.16 acres, spoke to a tree removal company, would like to take down a total of 12 trees which are either dead or could potentially fall on house. Not interested in taking out the stumps, just want those that are in danger of falling on house. Mr. Fitzgerald asked how close to the water (Monponsett Pond) are the trees. They indicated they are not, but to the side of house, side yards, all within 50 - 100' of the BVW.

Motion to approve the RDA for 20 Holmes St. with a Negative 3 with the condition that all stumps will remain.

Motion: Gerry Fitzgerald

Second: Ed Lane All in favor

Secretarial:

Motion to pay bills: Ad#11944 (Ocean Ave) Ad#11945 (Elm St.) Ad#11946 (Holmes St.) Tot: \$126.00

Motion: Ed Lane

Second: Gerry Fitzgerald All in favor

Motion to accept Meeting Minutes of September 22, 2020

Motion: Ed Lane

Second: Gerry Fitzgerald All in favor

Discussion: 515 Monponsett St. NOI scheduled for 10/27/20

Secretary was asked by the owner (via phone) to request permission from the Commission to strip & re shingle the roof before the Notice of Intent is heard on the 10/27/20 as the roof is leaking. The members discussed and all agreed to let the owner complete the roof.

Motion to allow / right to repair roof at 515 Monponsett St. before NOI on 10/27/2020

Motion: Gerry Fitzgerald

Second: Ed Lane All in favor

Discussion:

Notice from BOS for Public Hearing for National Grid/Verizon for pole install at 169 Walnut St. Commission members review plan and briefly discussed and determined they have no issues with the installation and will not require a filing.

7:10 p.m. RDA 326 Elm St. septic repair

Present: Scott Fanara – Grady Consulting representing owner.

Submitting an RDA for repair of septic system, wetlands to rear of property and across the street.

Existing system is within the 100' buffer, proposing to move the leaching field entirely outside (this) 100' buffer, and 100' buffer from across the street. Will be some work between the 50 & 100 just for piping and septic tank. Significantly increasing the setback of the leaching field to the wetland but still work inside the wetlands. Mr. Fitzgerald asked if the Board of Health has approved it. Mr. Fanara was not sure if they had or not at this time.

Motion to approve the RDA for septic repairs/replacement at 326 Elm St. subject to the Board of Health approval of system.

Motion: Gerry Fitzgerald

Second: Ed Lane

All in favor

Quickly discussed subscription for Mass Wildlife 7 issues for \$7.00. commission would like to. Will be on next meeting for approval.

7:20 p.m. - RDA – 35 Ocean Ave dock/deck (after the fact filing)

Present: John Estes – owner:

Members reviewed filing and pictures submitted by the applicant. Mr. Fitzgerald asked if it was the one that he looked at but cannot see it from the street. Mr. Estes stated that you can barely see it. It is sitting on top of the water and on the edge, on the edge. Mr. Estes is here to get permission to keep his "pier" according to him it is not detrimental to anything, just sitting on the bare sand.

(restarted official hearing) Trying to get permission to keep the pier, (stating it is the actual classification). "Dock is level to the ground, deck is something that is extension of actual physical property with no poles into the water or into the beach area at this point". It is actually considered a pier, it is not detrimental to the land, nor detrimental to either of the neighbors, doesn't impede any boats, water traffic, or fishery or wildlife in anyway. Literally sits on bare sand at this point. Property is tiny.

Mr. Fitzgerald (stated) personally understands what (he) is trying to do, but issue is town people trying to do that for years, not their, but town regulations. Many people asked and have been denied, and (you) just went and did it. Mr. Estes said he didn't know. Commission has consequences. Mr. Estes they continued and advised the commission that a neighbor down from him and (commission) recently approved, dock/deck platform similar to his, but lower, also stationed in the water and sticks out. When asked Rob for an allowance, they just told him it was a few feet further, it was allowed immediately. Chairperson explained that this type of activity would require a filing of a NOI (Notice of Intent) and a Chapter 91 with DEP for Waterways and Docks. Mr. Estes stated he actually talked to the person from DEP, thinks her name is Kathy. She supposedly informed him the Halifax Commission would have to allow/permission to be the way it is before they can do their part thru Chapter 91 and how it impacts the environment, or if it does. The lady seemed confident the way it was installed would more likely be acceptable than was a problematic issue because it wasn't dug into the ground and wasn't around an area of deep water or high concentration of anything.

Mr. Fitzgerald noted that other people had to have divers looking for endangered species, we haven't had to do that for a long time. He also stated he's been on the board almost 15 yrs. and no one has come in to put in a dock recently. Mr. Lane also noted that they may have been floating. Halifax really just doesn't want it.

Secretary explained the process that the Commission would have to approve it with an Order of Conditions from a Notice of Intent. That would require an engineered plan, need to know where the property ends and where the water begins. Mr. Estes noted the reason to build it because the embankment and the water gets up to a certain level and causes a washout behind my support wall. Built it to also give an extra support to that support wall. Mr. Fitzgerald again stated that it needs a filing, some people build walls and didn't last and had excavators out in the water, and you can't do that. All members agreed that there are certain ways to do it. We want to make it better. Can't be all the same but we give them the opportunity to what they want to do. The commission wants to work with the residents, but on the water, the Town doesn't want out of control. Docks are also overseen by the Police Chief and will have to approve at some point. Suggested if he has a retaining wall problem, come up with a solution, plan to permanently fix, and anything else he may want to do, within reason with a NOI. But a platform out over the water is another thing. Didn't realize.

It was stated that he already has a "dock" at water level and that this is a deck sitting on the retaining wall. Mr. Estes calls it a pier. Not sure if it is considered a "pier". Chapter 91 Waterways & Docks, the way this is sitting on edge of property going out, not technically used for mooring a boat, or to gain access to the water for swimming or fishing, Being used as a deck, which is basically called an extension of private use, which is not allowed. Mr. Estes agreed with what (they) are saying, but a deck is truly on your land. This isn't on my land anymore. Key statement is that it is not on his property anymore on edge of property going out, does not own the waterway.

Mr. Estes argues that it is secured to the land going out, it's considered a pier.

Mr. Fitzgerald interjected that the Town voted in, a 50' no touch of any wetland, can't do anything without the Town being notified. Residents on the lake don't have any right to do anything 50' to that water without permission. (houses built 50- 60's before Zoning & DEP regs) The commission is there to make sure land doesn't wash into lake, etc. Stay within the guidance of the law.

Mr. Estes stated he just wanted a place to "hang out". Also has an issue with trash that washes up onto the shore.

File a notice of intent, notice to abutters, engineered plan on retaining wall if chooses to repair, engineered plan of deck. It was asked if he considered a floating platform. Mr. Estes says considered it, but more useful the way it is now. Still need authorization.

Secretary explained process, Surveyor, engineered plan, file NOI, DEP. Come in for a formal hearing

Mr. Estes stated with the retaining wall, not really structural, the water washes in badly, dirt washes up, usually fill in and pack back down. Because of wash out, moving dirt back onto the land. He also asked on a time frame when he would need to get this done.

Commission stated sooner than later, if nothing done by spring, letter will be sent to remove it. It was also noted by the secretary that there are Zoning issues surrounding the structure. Engineered plan will show property and highwater mark. Needs to be completed the right way.

If removed it, (defeats the purpose of what he's trying to do) and make a floating dock who contacts.

Police chief, (Harbor Master) they are season permits, still needs a notice of intent, order of conditions, and chapter 91 through DEP. Secretary gave Mr. Estes information of Cpt. 91.

Need Order of Conditions thru a NOI to go to DEP for Chapter 91 approval.

Mr. Estes was not sure if it was worth the money, effort etc., if the Town doesn't really allow them.

Mr. Fitzgerald stated it will all depend on the lot lines, where it sits. If was attached to house and not over the water.

Mr. Estes asked about the other procedures regarding the DEP Cpt. 91, the Halifax Zoning Board of Appeals, secretary advised that he would probably have to as the structure is not technically on his property, it is resting on the retaining wall and buckets in the water for the posts. Need engineered plans for the retaining wall, high water mark for actual property lines. Mr. Estes asked how the highwater mark is determined. The commission cannot determine that, there is 200 years of HWM. (probably the highest recorded mark). Secretary also advised that the engineers are very familiar with the process of

the NOI's and they can walk him thru the process or do for him. Even if CC approves, still no guarantee of chapter 91 approval. Advised to file a notice of intent with formal plans.

Motion to deny or a positive determination of the RDA for 35 Ocean Ave as determined by the commission, the scope of the project will require a Notice of Intent to be filed.

Motion: Gerry Fitzgerald

Second: Ed Lane

All in favor

Motion to adjourn

Motion: Gerry Fitzgerald

Second: Ed Lane

All in favor

Documents/Mail

Agenda, general notes of meeting; mail; email and documents to include:

Email : C. Seelig; Email – Stearns Beals & Thomas – 0 River St.; MassDOT; Road opening.

MACC, violation letter – 21 Jordan Rd.; Planning Board – Form A; Abutters list request; talent form,

Ply. County Mosquito control; ZBA PH notice; Mass wildlife; PB decision #923

Respectfully submitted,

Date Approved: _____

12/18/20

Signatures: _____

