



**Minutes** of a public meeting held on **June 01, 2016**, by the **Sandwich Conservation Commission** in the Town Office Building, Conference Room, 270 Quaker Meetinghouse Rd., E. Sandwich, MA.

**Members Present:** Karen Gagneax (KG), Neal Holmgren (NH), Erin Jacque (EJ), Matthew Waldrip (MW), Mike Zylich (MZ) and Christopher Sellstone (CS).

**Members Absent:** Christopher Kirrane (CK), Melissa Romano (MR).

**Staff Present:** David DeConto, Assistant Director, Department of Natural Resources, Heidi Hawkins, Administrative Assistant, Department of Natural Resources, Secretary to the Conservation Commission.

Chairman, Neal Holmgren appointed alternate members (EJ), (KG) and (MW) as voting members for the evening.

**1. NEW HEARINGS:**

- a. RDA File No. SCC2016D-04 Mass Coastal Railroad** has filed a Request for Determination of Applicability for vegetation management along their rail line in **Sandwich, MA**. Documents submitted with the application as follows: Application for a Request for Determination of Applicability.

No Representative was present. The discussion was tabled. No Representation showed up for the meeting. A **Motion** was made (EJ) to continue to the June 15<sup>th</sup> meeting, due to lack of an applicant-Seconded (MZ). The Motion was passed with a vote of 6-0-0.

- b. DEP File No. SE66-1726 Charles H. Stevens, Jr. c/o JC Engineering, Inc.** has filed a Notice of Intent for the proposed raze/rebuild of an existing cottage with appurtenances, a new septic system and a proposed screened porch at Assessor's Map 14- Partial Parcel 328 located at **10 Percival Lane, Sandwich, MA**. Documents submitted with the application as follows: Notice of Intent application and a proposed site plan. All documents received post submission: 06/01/16 the wetland delineation field data form.

Representative, Brad Bertolo was present. The Representative described the property and the project that is proposed. The septic is being proposed to be tied into the cottage in this filing and another cottage on the property. Chairman, Neal Holmgren asked why the hay bales were not being put closer to the 50' buffer zone. The Representative explained that due to the grade of the land, the hay bales would need to be back into the 50' buffer. Chairman, Neal Holmgren asked if any unpermitted work had been done on this property. The Representative was not aware of any, however, David DeConto explained that several years ago the heirs to the property were in court trying to figure out who owned which pieces of the property, at the same time they came before the Commission and said that unpermitted work had been done. The Board has elected to do a site visit to see what, if any, unpermitted work has been done and to review the project in the field with the Representative. There was some discussion regarding the new septic system that is going in and whether it will be tied into the other cottage on the property at the time of this work being completed. Public comment was asked for, none was made. A **Motion** was made (EJ) to continue to the June 15, 2016 meeting to allow for a site visit-Seconded (KG). The Motion was passed with a vote of 6-0-0.

**Commissioner, Christopher Sellstone arrived at 7:12 PM.**



## 2. CONTINUED HEARINGS:

- a. **RD File No. SCC2016D-02 The Town of Sandwich** has filed a Request for Determination of Applicability for the construction of a swale to handle Stormwater overflows at Assessor's Map 35 Parcel 007 located at **82 Old County Road, East Sandwich, MA**. Documents submitted with the application as follows: Application for Request for Determination of Applicability and site plans. All documents received post submission: 02/17/16 letter from The Nye Family of America Association, Inc., 02/17/16 picture of the new swale, 02/23/16 notice from Sam Jensen to continue the hearing to 03/02/16, 02/24/16 notice from Sam Jensen to continue the hearing to 03/16/16, 03/11/16 email sent to the Board to set up a site visit, 03/11/16 notice from Sam Jensen to continue the hearing to 04/06/16, 03/14/16 letter from Norman Hayes, 03/29/16 letter from John Cullity, 04/05/16 notice from Sam Jensen to continue the hearing to 04/20/16, 04/13/16 letter from Natural Heritage, 04/19/16 notice from Sam Jensen to continue the hearing to 05/18/16, 04/28/16 email from Division of Marine Fisheries, 05/18/16 from Sam Jensen a rough layout of improvements and a notice to continue the hearing to 06/01/16, 06/01/16 list of concerns from the Nye Family of America Association, Inc., 06/10/16 memorandum from Paul Tilton, 06/13/16 newspaper article, 06/15/16 notice from Sam Jensen to continue the hearing to 07/20/16.

Commissioner, Karen Gagneax recused herself and left the room. Present were Director of Public Works/Town Engineer, Paul Tilton (PT) and Assistant Town Engineer, Sam Jensen (SJ). PT gave a recap of the site visit that the Commissioners went on. The Commissioners asked for additional treatment options, the Representatives submitted additional plans. PT gave a recap of this project and why they chose to take this route. A resident made a comment that it was difficult to hear the commentary, Chairman, Neal Holmgren invited them to pull their chairs up closer to be able to hear better. Sam Jensen explained the concept of a vegetated infiltration swale and how it could help capture the runoff, filter the water and it would then run right into the pools behind the swale. Commissioner Erin Jacque asked where this would be constructed, Sam replied about 300 feet to the West about midway down the slope on the same side of the street. Commissioner, Michael Zylich made a statement about how this would be good for water quality. Commissioner, Matthew Waldrip asked if the DPW was meeting the DEP standards for sedimentation, Sam answered yes they were. Commissioner, Chris Sellstone asked about how much space this infiltration system would take up, Sam said it would be very minimal, they do not want to disturb the trees if it is not necessary, CS also asked how long the water would stand in the swale after a storm event, SJ replied that it would be to Mass DEP standards of not more than 72 hours. SJ said he would provide calculations to this effect for the Board to review. Commissioner, Erin Jacque brought up the fact that the swale was constructed in a Zone 2, protected waterways, area and no filing was done with Natural Heritage, she has a problem with the swale being directly adjacent to Nye Pond and the fact that the water running into the pond is not pretreated. The Board responded that there was nothing stopping the water in the past from running wherever it wanted too, now the swale will help with some of the runoff. EJ is concerned that if there is a car accident directly adjacent to the pond that there is no catch basin, or other structure to stop the oil from running directly into the pond. SJ responded that this was the reason they installed the swale, to target first flush, petroleum compounds, metals and other things associated with runoff. The idea is that the swale will capture that first flush and the bad soil can then be excavated out and not go directly into the resource area. SJ went on to explain that the new infiltration system will have aspects to it that meet the Stormwater Management regulations on filtering out the dangerous materials that are involved

with runoff. EJ asked how often the excavating would occur, SJ replied on an annual basis. DD responded to the question asked if we have a letter from Natural Heritage yet, at this time we do not, they have been sent the information and we are awaiting a response. Public comment was asked for. Resident, Lynn Cullity (LC), asked what a BMP was, SJ responded that it stood for Best Management Practices according to the Massachusetts DEP. LC also asked if a catch basin was considered for this project and why it was not chosen. SJ explained that once a catch basin has water in it, it must be disposed of in some manner, this would require much more construction, be more costly and less effective in a hydraulic system. Commissioner, Chris Sellstone asked is once this system had been established and operating for some time, would it then become a jurisdictional wetland. SJ was not sure of the answer. DD replied that it was a drainage structure, and would not meet the requirements of a regulatory wetland with Mass DEP or the Town Wetland Bylaw. EJ brought up the fact that the permit that Con Com will be issuing is a Determination, not an Order of Conditions. How is the Commission to enforce the maintaining of the swale?? DD responded that the Commission could have a Memorandum of Understanding between DNR and the DPW. Chairman, Neal Holmgren asked again if there was anyone else who wanted to make public comment. John Cullity (JC), Executive Director of the Nye Family Association gave a history of the Nye Family Museum and Grange Hall. JC says there were no serious drainage issues at this location and he was shocked and disappointed that the swale was done without any notice to abutters. JC says that the Nye Family wants to restore the herring run within the pond and that it is not possible with the swale there. JC passed out a list of concerns that the Nye Family has, he is asking how the Commission can approve of an illegally constructed swale and allow an additional one that is a fix to the first one, does the project meet the Chapter 87 shade tree act performance standards, has the scenic road act been considered. The Nye Family would like to reconstruct the herring run, in order to do that the first swale would need to be removed, the Nye Family would like the area restored to its original condition. Paul Tilton responded to the complaints. JC responded to PT response. Once again, the Chairman asked for further public comment. Jack Vaccaro (JV) voiced his concerns that this project came to the Board under a Request for Determination of Applicability as opposed to a Notice of Intent. LC responded that she saw this winter that the rain that fell turned into a very scary ice slick. Patrick Decano stated that he lives in the area and never witnessed a problem at this location and he does not understand why the original swale is not just removed. Judy Hendy, President of the Nye Family Association, expressed her concern that now during rain storms the water immediately floods Nye Pond, where as it did not in the past. Chairman, Neal Holmgren stated that he has driven the road for many years and has personally witnessed flooding and has also witnessed the swale working as it should. The Board discussed how to proceed; they decided that it would be prudent to wait for a letter from Natural Heritage. The Board further discussed regulatory issues and functional issues of the swale. PT responded to some of the issues raised, PT says that the DPW will work with the Nye Family as far as the fish ladder is concerned. MZ asked what would be lost if the swale was removed. SJ responded that we would lose the sediment settling capacity; it would lose the ability to take hydrofluorocarbons and micro bacteria out of the system. The Board discussed the project again at length with the Representatives. A **Motion** was made (CS) to continue to the June 15<sup>th</sup> meeting, as we are awaiting a letter from Natural Heritage-Seconded (MZ). The Motion was passed with a vote of 6-0-0.

b. **DEP File No. SE66-1723 Simon Fang c/o BSC Group** has filed a Notice of Intent for the proposed reconstruction/redesign of the front door and stairway, removal and replacement of existing retaining wall and the extension of an existing deck at Assessor's Map 64- Parcel 28 located at **8 Captain Hook Road, East Sandwich, MA**. Documents submitted with the application as follows: Notice of Intent application and site plans. All documents received post submission: 03/24/16 letter from ECR, 04/27/16 new site plan, 05/03/16 interior pictures, 05/04/16 email requesting to continue to the 05/18/16 hearing, 05/11/16 new site plans, 06/01/16 letter from the Building Inspector. Present was Representative, Kiernen Healey (KH). KH outlined the new plans submitted on 05/11/16 and the letter from the Building Inspector was read into record. The Board asked several questions of KH, which were all answered. Some discussion about the letter from the Building Inspector followed. The Board asked if there was a letter from Natural Heritage, this work did not fall in Natural Heritage's jurisdiction. Public comment was asked for, none was made. A **Motion** was made (CS) to close the hearing and take it under advisement-Seconded (EJ). The Motion was passed with a vote of 6-0-0. After further discussion, a **Motion** was made to approve with standard and special conditions-Seconded (EJ). The Motion was passed with a vote of 5-0-1. Commissioner, Matthew Waldrip abstained from the vote.

▪ **Certificate of Compliance (COC):**

- A **Motion** was made (EJ) to approve the Certificate of Compliance for SE66-1289 Am 1, 26 Salt Marsh Road-Seconded (CS). The Motion was passed with a vote of 6-0-0.
- A **Motion** was made (CS) to approve the Certificate of Compliance for SE66-1517 Am 1, 15 Canary Street-Seconded (EJ). The Motion was passed with a vote of 6-0-0.
- A **Motion** was made (CS) to approve the Certificate of Compliance for SE66-1605, 59 North Shore Boulevard-Seconded (MW). The Motion was passed with a vote of 6-0-0.
- The Certificate of Compliance for SE66-1672, 7 Sunrise Lane was not issued due to lack of vegetation on the marsh side of the seawall.

▪ **Extensions:**

- A **Motion** was made (CS) to approve the three year extension for SE66-1472 Am 1, 17 Atwood Stroll-Seconded (EJ). The Motion was passed with a vote of 6-0-0.
- A **Motion** was made (CS) to approve the three year extension for SE66-1615, 26 Salt Marsh Road-Seconded (EJ). The Motion was passed with a vote of 6-0-0.

▪ **Minutes:**

- A **Motion** was made (CS) to approve the Minutes for the May 18, 2016 Con Com Hearing, Seconded (KG). The Motion was passed with a vote of 6-0-0.

▪ **Adjournment:**

- A **Motion** was made (EJ) to adjourn at 8:45 PM – Seconded (MW). The Motion passed with a vote of 6-0-0.

Respectfully Submitted,  
Heidi Hawkins

Date Approved 7/20/16  
Chairman [Signature]

<p>Date &amp; Time Received by Town Clerks</p> <p>TOWN CLERK TOWN OF SANDWICH</p> <p>JUL 21 2016</p> <p>10 H 02 M A Mef</p> <p>RECEIVED &amp; RECORDED</p>
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