

North River Commission

Representing the Towns of – Hanover, Hanson, Marshfield, Norwell, Pembroke & Scituate
PO Box 760, Hanover, MA 02339

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Minutes October 26, 2023 - Meeting #590

Present: Hanover, Daniel Jones (M), Hanover, Andrew Butler (A), Norwell, Tim Simpson (M), Pembroke, Bill Boulter (M), Scituate, Adria Gallagher (M), Scituate, Ken Conway (A), Scituate, John Lalone (A)
Not Attending: Hanson, Jennifer Heine (M), Hanson, Donna Frehill (A), Marshfield, Maryanne Leonard (M), Marshfield, Mike Dimeo (A), Norwell, Robert Molla (A), Pembroke, Gino Fellini (A)

7:00 - Call to Order

7:00 - Request for Determination - 36 River Road, Hanover - Leahy

Rob Carlezon, Grady Consulting L.L.C., representative of the property owner, presented a proposed project to construct a septic system to replace an existing failed system. He is also proposing to remove some trees and to construct a retaining wall. Mr. Carlezon reviewed a plan for the septic replacement. He described the location of the property and how the existing septic system has failed an inspection. He indicated the location of the river and its Natural Bank, the location of the 100 ft setback to the Natural Bank and the limit of the Corridor beyond the property. He described the existing septic system which consists of two cesspools which will be pumped and removed. He proposes a 1500-gallon septic tank, a distribution box and a Geomat leaching field. Mr. Carlezon described the steep slope of the property down to the river and to minimize the area of grading, the number of trees to be removal and the amount of fill required he proposes a retaining wall on the downslope side of the leaching field. There are three trees in the area of the system that would need to be removed, at least one of which is currently leaning over and threatening existing power lines. Generally, Mr. Carlezon expressed that the design attempts to keep the system as tight to the streetline as possible and minimize the disturbance downslope toward the river. Mr. Simpson asked what the red line on the plan represented. Mr. Carlezon explained that it denoted a silt sock, an erosion control measure. Mr. Jones asked if any consideration had been given to the northwest corner of the lot, nearer the corner of River Road and Columbia Road that would have kept the system outside the 100 ft. setback. Mr. Carlezon explained that the existing plumbing outlet was on the other side of the house and that reconfiguring the plumbing would have been very difficult. He further noted that the area Mr. Jones asked about was heavily wooded and would have required removing a lot more trees. Mr. Boulter asked what the height of the proposed wall would be. Mr. Carlezon described how the height varied across the length of the system, from mere inches where the wall would meet the existing topography to a maximum height of 6 ft. where the existing grading was at its lowest. He noted the maximum height is only in one corner of the wall and that it lessens across the length of the wall. Mr. Boulter asked if the system could be lowered to reduce the height of the wall. Mr. Carlezon explained that the system was as low as feasible and that the applicant proposes an alternative septic system that allows a lesser separation to groundwater than a typical system, thereby maximizing how low the leaching field could be proposed. Mr. Jones asked for clarification of what it means to propose an "alternative" system. He asked if yearly testing was required. Mr. Carlezon indicated that it does not require maintenance/testing and that the system has had State certification for roughly ten years. Mr. Boulter asked if any of the soil that is removed to construct the leaching field could be placed on the downslope side of the wall to reduce the visible mass of the wall. Mr. Carlezon, while acknowledging that possibility on a flatter site, does not recommend it here due to the steepness of the slope. Mr. Boulter asked if the proposed wall was to be constructed of concrete. Mr. Carlezon answered that they propose a segmented block wall. Mr. Boulter

asked if there was anything on the inside of the wall to prevent leakage through the wall. Mr. Carlezon indicated on the plan and described a 40-millimeter impervious poly barrier designed to prevent effluent breakout through the wall. Mr. Butler asked if there was a possibility of covering the exposed portion of the wall with landscaping. Mr. Carlezon proposes to reseed the described area to stabilize the slope but not additional bushes or plantings are proposed. Mr. Conway and Mr. Butler state that the view aesthetic would be enhanced by some plantings. Mr. Butler would recommend some plantings and Mr. Boulter agrees. Mr. Carlezon will take it under advisement. Mr. Simpson asked if one needed to keep trees away from the wall. Mr. Carlezon indicated that the answer is size-dependent and does not think anything substantial should be planted close to the wall. Mr. Conway asked for clarification of the maintenance required of the system. Mr. Carlezon explained that there is no maintenance required of the leaching field but that regular pumping of the septic tank is recommended. Mr. Conway suggests that the Commission make it a requirement that the septic tank be pumped every $1\frac{1}{2}$ to 2 years. Mr. Carlezon believes that the state requirements are met. Mr. Conway believes that Conservation Commissions impose this requirement regularly. Ms. Gallagher believes that this might be outside the North River Commission's realm. Mr. Conway thinks it isn't outside the Commission's realm to suggest it if the applicant agrees to it. Mr. Carlezon thinks it is more of a Board of Health prerogative. Mr. Conway agrees but suggests that he is merely asking if the applicant would agree to a pumping schedule. Mr. Carlezon does not think he should be agreeing to a duty upon the applicant that is not required. Mr. Jones asked if both cesspools would be pumped and removed. Mr. Carlezon clarified, indicating that the existing cesspool where the proposed system will be located will be removed but that the other cesspool, outside the proposed excavation area will be pumped and filled. Mr. Jones thinks that since the proposal is the replacement of an existing septic system it is an Allowed Use. Mr. Boulter asked for comments on whether the Commission could place stipulations or recommendations on a Determination. Mr. Simpson and Mr. Boulter would like there to be some plantings on the downslope side of the retaining wall. Mr. Boulter would like to recommend both a septic tank pumping schedule and some plantings. Mr. Butler does not believe that the North River Commission's remit includes the matter of septic tank pumping. Mr. Jones is fine with suggesting, but not requiring, plantings and pumping. Members generally acknowledge that the proposed system is an improvement of an existing, failed system but several members expressed reservations about the retaining wall and its visual impact. Mr. Boulter acknowledged that, based on existing conditions, the wall was unlikely to be seen from the river. GW asked to the Commission to consider whether the proposed wall was a component of the septic system, pointing out that proposing a wall as an integral component of a septic system that replaces an existing failed system was different than proposing a new wall to create a sitting area or to change the topography of the yard. An audience member, Mr. Stephen Lynch, 156 Brigantine Circle, Norwell asked the Commission to clarify the difference between a recommendation and a requirement or condition He referenced a portion of Section 2 of the Protective Order which specifies that, "The Order...does not supersede any more restrictive statutes or regulations which are applicable to the property." He referred the Commission to earlier comments made about what Conservation Commissions and Boards of Health required and overlapping jurisdiction. GW stated that he believes the Commission is charged with making a determination if the proposal is an Allowed Use, a Prohibited Use or a use that requires a Special Permit. He believes the Board of Health is the authority charged with reviewing design elements of septic systems. Mr. Jones agreed, saying that the Commission has historically and consistently applied the notion that Title V addresses septic system design. Mr. Boulter agrees that a wall may be necessary but feels the Commission can comment on particulars related to visual impact. Mr. Conway agrees and distinguishes between the engineering aspects of the design and the resultant view related issue. He believes that the Commission can review visual impact issues without "redoing the engineering." Mr. Lalone thinks the design of the system is at the mercy of the topography and that, in this instance, a component wall is a required design element that will protect the river. He also distinguishes between reviewing design elements versus visual impact. He believes a plantings recommendation is appropriate but not a pumping recommendation. Mr. Simpson would like a planting recommendation if the Commission feels that it is appropriate. A motion was made and seconded to

determine that the proposed septic system replacement as shown on the submitted plan was an Allowed Use. The motion was passed unanimously.

Plans/Documents referenced: "Septic Repair Plan, Assessors Lot 66-43, #36 River Road, Hanover, Massachusetts, Scale: 1"=20', Dated: October 19, 2023, Grady Consulting, L.L.C., Robert Carlezon, P.E."

7:15 - Request for Determination - 1309 Union Street, Marshfield - Messersmith

Lisa Messersmith, the property owner, appeared to discuss proposed vegetative cutting on their property. She has been instructed by a Land Court judge to do some cutting to resolve an easement dispute. Some of the proposed cutting is in the 300 ft. North River Corridor. She explained that there is a 24' wide access easement across her property where she has been ordered to remove some white pines, some smaller deciduous trees, and some bushes. She reviewed the submitted plan, indicating the location of the river, the extent of the North River Corridor and the location of the proposed area of cutting. Mr. Butler asked for some clarification of the area of cutting and the trees to be cut. Ms. Messersmith indicated on the plans where the individual trees marked for removal are located. Ms. Messersmith reviewed some of the history of the site. She explained that her family sold off lots from their existing farmland, three of which had no frontage along the river. An easement to access the river across the Messersmith land was granted to those three properties. In the mid 1980's the Messersmiths planted some white pines in the easement where cleared farmland had previously existed while maintaining an existing path through the woods. A dispute arose over the width of the path in the easement and the extent to which access was allowed, generally whether the easement consisted of the entire 125 ft width of a portion of the Messersmith lot or a limited width access. A suit was brought in Land Court where the judge determined that the access easement consisted of a 24-foot-wide corridor. To maintain this corridor the Messersmiths were ordered to do some selective cutting of vegetation and removal of brush and briars to widen the existing path. No trees will be removed any closer to the river than, roughly, 240 ft and disturbed areas will be seeded with rye grass. Mr. Simpson asked if a number could be put on the number of trees to be removed. The plan marks the trees that were located by survey and shows six white pines in the Corridor. Ms. Messersmith notes the number is higher as only specimen white pines were located by survey and there are smaller saplings that will also be included. Mr. Conway asked whether the Messersmiths will be obligated to maintain the easement going forward. They will not and Mr. Conway noted that the affected area will regrow over time. A motion was made and seconded that the project as presented is an Allowed Use. The motion carried unanimously.

Plans/Documents referenced: "Site Plan Showing Proposed Easement Line, Lot 6 - Rocky Reach, 1309 Union Street, Marshfield, MA, Parcel B18-01-03, Scale: 1"=30', Dated: October 17, 2023, Prepared by: Stenbeck & Taylor, Inc., Edward Servant, P.L.S."

7:30 - Request for Determination - off London Hill Lane, Norwell - Wood

The applicant, Donna Wood, proposes to install a post and rail fence along her property line. The site is located in the Corridor and she is seeking clarification on how close to the river she can construct the fence. She has received approval from the Conservation Commission and was informed that she should contact the North River Commission as well. GW, Mr. Simpson, and Mr. Boulter have visited the site. Mr. Simpson reviewed his site visit and communication with Ms. Wood that the fence could be constructed no closer than 100 ft. to the Natural Bank of the river. He noted the fence would be perpendicular to the river and the visual impact is minimal. GW displayed some photos of the site and described the property layout and where the fence is proposed. He described how he and Mr. Simpson measured 100 ft. from back of the salt marsh/natural bank so that they and the applicant could see where the end of the fence would land. That point would leave open a section of the property line from the end of the fence to where existing bushes and vegetation were located. Ms. Wood indicated that she would fill the gap by planting more vegetation. Ms. Gallagher asked if there was a plan to review. There is not a current plan. Ms. Wood has had the property surveyed and the property line staked. Ms. Gallagher would like to see the project

documented. Ms. Gallagher asked if there could be something put on paper that the Commission would be able to rely on. Mr. Butler noted that it is important for there to be a plan to show the Natural Bank, the 100 ft. setback, and the location of the proposed fence. Mr. Jones agrees. Mr. Conway noted that since survey had been completed of the property it would not be that much more expensive to add the Natural Bank line, the setback, and the fence location. Mr. Simpson noted that a botanist's services would be required. GW noted that there have been Requests for Determination that had been deemed allowed uses without reliance on a plan. Mr. Butler believes that it would be to the applicant's benefit to have an approved plan if a dispute ever arose. Mr. Jones thinks that the direction of a qualified wetland consultant might suffice without a fully engineered plan if the location of the Natural Bank was evident and a 100 ft. setback could be measured in the field. He added that a drawing that reflected that would be helpful. Mr. Lalone thinks that a plan would protect the Commission. Mr. Simpson noted that Ms. Wood had prior submissions of plans to the Commission, for phragmite control and construction of a dock. He questioned whether the delineation of the Natural Bank and 100 ft. setback from those plans could still be valid and determinative in the present application. Mr. Conway believes as little additional expense as possible should be required of applicants and that is incumbent upon the applicant, once they have become acquainted with the Commission's regulations, to adhere to them. The Commission had an extended discussion of the nature of the Request for Determination application. Mr. Boulter centered the discussion and asked if there was a motion regarding the current hearing. Mr. Jones thinks the Commission can determine that the project is an Allowed Use but it is important that the applicant is sure that they are meeting the setback requirement. He feels there should be a plan that shows where the end of the fence is proposed. GW asked if the Commission would make a Determination of an Allowed Use contingent upon receipt of a plan showing the Natural Bank, 100 ft. setback and proposed fence location. The Commission was amenable. A motion was made and seconded to make a Determination of Allowed Use for the proposed fence contingent upon receipt of plan that contained the required elements. The motion carried unanimously. Plans/Documents referenced: Google Maps, MassGIS and drone photography.

7:45 - New Business

1. Minutes approved for September 28, 2023 meeting.
2. Administrators Report - Administrator Gary Wolcott (GW) reported on...
 - 38 Old Shipyard Lane, Hanover - A revised plan was received and the Determination of Allowed Use was forwarded to the applicant/homeowner.
 - Report received from a river user about a catwalk/pier located in the area of the Herring Brook, Indian Head River, and North River confluence. Review indicated that the construction of a pier was part of an Allowed Use project on Misty Meadow Road, Pembroke. GW communicated with the reporter and reviewed the Protective Order's Allowed Uses, what was allowed and required and forwarded information about the project of interest.
 - Scanning Project - The scanning of the NRC physical files is complete, the physical files returned and USB Drive containing the digital files delivered. The Commission discussed the size of the delivered information, what kind of storage and backup would best serve the Commission and what additional computer software might be necessary to maximize efficient use of the digital files.
 - Salt Meadow Lane, Scituate - Communicated with owner of land at 16 and 24 Salt Meadow Lane, Scituate about a barn/garage project that had been before the Town of Scituate for permitting during the month of October. Homeowner was reminded of prior discussions the Commission had with him about the need for North River Commission permitting for this

project also. His engineer followed up with the NRC administrator and plans to submit a filing with the Commission for the November meeting.

- Stetson Meadows - A duck blind has been built at the river's edge along Stetson Meadows, Norwell on town owned land. Mr. Boulter has viewed the site on one of his river tours and has provided photos of the structure which were reviewed by the Commission. Mr. Boulter has forwarded the information to Town of Norwell. They have attached a note to the structure ordering its removal and will follow up.
 - Continued communications with property owners who were sent letters regarding float sizes larger than was permitted. Property owners who responded have requested that the Commission meets with all parties at the same meeting. There was a scheduling conflict and attendance by all at the October meeting was not possible. Efforts will be made to schedule at a later meeting.
 - Communications with current hearing attendees about their projects and appearing at this meeting.
 - The Commission received an invitation to the NSRWA's annual meeting. The invitation was reviewed and instructions for RSVP conveyed.
 - Real Estate transactions in the Corridor - 172 Carolyn Circle, Marshfield, Welcome Letter sent to new property owner.
 - Site Visits - off London Hill Lane, Norwell - (1) GW and Mr. Simpson met with the property owner to review the site for a prospective fence location, and (2) GW and Mr. Boulter met onsite to review the project and to conduct drone operations. - 36 River Road, Hanover - GW and Mr. Boulter visited the site separately to view conditions for a proposed septic system replacement project.
 - Municipal Hearings - Hanover, Conservation Commission, 191 Water Street, NEP borings for new transmission line, Marshfield, Conservation Commission, 1309 Union Street, easement maintenance vegetative cutting, 25 Damon's Point Circle, raze and rebuild existing dwelling, ZBA, 25 Damon's Point Circle, raze and rebuild 44 ft x 30 ft 2 ½ story structure, Norwell, Planning Board, Blackthorne Lane Community dock, sign off requested, Scituate, 67 Collier Road, Conservation Commission, ongoing, no report from town's review engineer yet.
3. Budget Funding Discussion - Mr. Boulter expressed his desire to increase and expedite the Commission's attempts to secure long term regular funding for the Commission instead of seeking a yearly earmark in the State Budget. He recently led a tour up the river that included some of the local legislators and was encouraged by their reactions to the river. Samantha Woods, director of NSRWA, was along as well and she and Mr. Boulter reviewed the Commission's history and current standing with the legislators. He will continue his efforts of advocacy with NSRWA and urged the Commission to action before it is too late.

Meeting adjourned 8:50 pm

Gary Wolcott, Administrator