

Plainfield Conservation Commission
Minutes of Meeting Held July 29, 2020

Pursuant to Governor Baker's order in response to the Covid-19 pandemic, suspending certain provisions of the Open Meeting Law and imposing limitations on the number of people that may gather in one place, this meeting was held by remote participation with steps taken to enable public access to the proceedings. This Google meet was initiated by Jack Nelson.

Members present: Erik Burcroff, Jack Nelson, Alice Schertle, Judith Williams (chair)

Also present: Joe Rogers, GZO Environmental, consultant for Kyle Dempsey
Kyle Dempsey, owner, River Road map & lot 27-25

Call to Order, Judy Williams, 6:30 p.m. Permission to record was granted by all present.

Minutes of 6/24/20 were amended to clarify the first condition for the Eversource NOI approval and the first condition for the Negative Determination for 18 Bow St. Acceptance of minutes as amended was unanimous.

Enforcement Order, Kyle Dempsey, River Road

On 7/23/20 Judy Williams delivered to Kyle Dempsey an Enforcement Order requiring that Mr. Dempsey cease and desist from all work or disturbance affecting jurisdictional areas on his property on River Road, map and lot 27-25. Extensive clearing work has taken place on the property, impacting river front and buffer zone. The work was done without Conservation Commission notification or permitting, in violation of the Wetlands Protection Act. Judy read parts of the Enforcement Order, which requires Mr. Dempsey to obtain the services of an environmental consultant, and to attend this meeting. Joe Rogers was present as consultant for Mr. Dempsey.

There was a discussion of the Enforcement Order requirements that the consultant provide a delineation of resource areas and buffer zone for ConCom review by 8/15/20, and a plan for mitigation and replacement on or before the next ConCom meeting on 8/25/20.

Following discussion of the Enforcement Order, Kyle Dempsey made a gracious statement acknowledging his responsibility and expressing sincere regret at having adversely impacted an environmentally sensitive area. Erik responded, welcoming Kyle to Plainfield, and called it a learning experience for us as well, reminding us that we need to increase our efforts to keep people informed about procedures established to protect our wetlands.

Jack moved and Erik seconded that we ratify the Enforcement Order to Kyle Dempsey regarding his property on River Road. The vote was unanimous in favor.

A detailed chronology of the sequence of events leading up to the issuance of the Enforcement Order will be provided by Judy Williams and attached to these minutes.

Kyle Dempsey and Joe Rogers left the meeting at 6:42 p.m.

Site Visits

On 7/20/20 Erik and Judy made a site visit to Ute Stebich's property at 16 Summit Street. Work being considered involves expanding an existing pond dug several years ago. There are no wetlands in the area except those created by the pond and those existing wetlands would not be disturbed by the expansion. Additional wetlands created by the expansion would be an environmental asset. Erik asked John Burns to visit the site and offer some suggestions for expansion of the pond. Judy feels it would be helpful for Ute to file a Request for Determination of Applicability (RDA).

On 7/21/20 Erik and Judy met with Ken Vosburgh on his property at 90 River Road. An old camp building of about 1,000 sq. ft. is situated 8 feet from Mill Brook. The building is extremely unstable, with part of it caving in. Ken has a demolition application from the building inspector. Judy and Erik said the building would have to be carefully removed to protect the brook. Any new construction should take place further from the brook than the existing footprint and such construction should be the subject of an RDA.

Erik said contemplated projects at 90 River Road include work on a driveway about 50 feet from the brook and on a culvert. Erik will contact Ken and Erika Vosburgh to explain concerns of the ConCom in regard to work on the driveway and culvert. He will also ask that when the building is demolished all spoils be piled well away from the brook.

Other Business

A Massachusetts Endangered Species Act (MESA) review found that there are a number of listed animal and plant species protected by the Act in the Eversource work area for Line 312, but if the work is performed as conditioned it will not constitute a Take. Therefore the project may go forward.

Jack has drafted an article for the Plainfield Post explaining the importance of our wetlands and how the WPA helps to protect them. The Post article encourages people to come to the Conservation Commission for help with projects that may involve wetland issues.

Erik moved, Jack seconded that the meeting be adjourned at 7:08 p.m. Unanimous.

Respectfully submitted,

Alice Schertle

Following is a chronology of the sequence of events leading up to the issuance of an Enforcement Order to Kyle Dempsey for River Road, map and lot 27-25

A chronology of the events leading up to the issuance of an Enforcement Order to Kyle Dempsey for River Road, map and lot 27-25.

Submitted by Judith Williams, chair, Conservation Commission

Wed., July 22, 2020 I received a call from Gina Papineau, Plainfield Assessor. She had been to the property and was shocked at the size of the road and the number of trees that had been removed. She felt that there were significant wetland violations

I called Mark Stinson, DEP circuit rider, and told him about the situation. He offered to go look at it immediately. I said that I would go with him but he explained that he was not allowed to go with members of a Con Com on a site visit without 48 hours notice to his supervisor.

Two hours later Mark stopped by my home and said that I should prepare an enforcement order as there were serious wetland violations and that I should serve it ASAP.

Thurs. July 23, 2020 I spent the morning working on the Enforcement Order. When finished, I contacted Jack, John, and Eric to accompany me in serving the Enforcement Order, none of them were available. I then called the Plainfield police department and talked to Matt who said that he would be glad to accompany me for my protection.

At noon time Matt in a police car, and myself in my pickup truck, arrived at the River Road site. Kyle Dempsey, the owner of the property, immediately approached us and I explained that I was from the PCC and that I was serving him an enforcement order for violations of the Wetland Protection Act and that he must cease and desist all activity on the property. He seemed shocked and indicated that he did not know that he was in violation of the Wetlands Protection Act. I informed him that he needed to contact a wetland consultant to prepare a restoration plan for the damage to the jurisdictional areas and to attend our meeting on 7/29/2020 with the name of the consultant.

When I returned home I was contacted by Jack and John who both desired to see the property. I, also, received a call from the owner of Roberts Lumber Company asking if one of his drivers could remove the logs that were already cut. I told him, no, unless they were not in a jurisdictional area and that I could get back to him. At 2:00 that same afternoon Jack, John, and myself arrived at the River Road site. Kyle, a friend of his, and a man from Roberts Lumber Company were there. We told them we were there to take measurements and they were passive while we measured. Kyle indicated to me that he felt terrible and should have known better. There were some logs near the road that could be removed as they were out of the jurisdictional area. Later I contacted the owner of Roberts and let him know.

Tuesday, July 28, 2020 Kyle contacted me and said that he was unable to find an environmental consultant. I told him that I would email him the names of some consultants which I did that evening.

Later that evening Kyle thanked me for the names and said that he would begin calling them the next morning.

Wed. July 29, 2020 At 6:30 P.M. the Plainfield Con Com began a virtual meeting which was attended by Kyle Dempsey, land owner, and Joe Rogers, his environmental consultant. I explained to Joe that the Plainfield Con Com requested a plan that indicated the boundaries of the protected resource areas as they existed prior to the disturbance. The plans should be submitted to the PCC for review and approval and or modification on or before Aug. 15, 2020. A draft written document prepared by the consultant titled Bordering Vegetated Wetland Replacement Area Plan for Assessor's Map 27-25 River Road should be submitted on or before Aug. 25, 2020.