

# Conservation Commission Meeting Minutes

## Remote Zoom Meeting

July 15, 2021

Opened 7:15 PM

Members Present: Matt Puntin, Reba Schecter, Josh Briggs, Mark Caldwell, Linda Tvrdy, Laura Lee Bertram

Others Present: Mark Stinson (DEP), Mike Kulig (Berkshire Engineering), Diane and Steven Kesselman,

Matt opened the meeting at 7:05pm

1. Ongoing issue with 7 Cooper Creek Road doing work within the buffer zone without a permit.
  - a. Matt and Reba recused themselves due to being abutters. Matt turned the meeting over to Joshua.
  - b. Joshua asked the Kesselman's what changes took place with the patio that sits at the water's edge. The Kesselman's replied that it was an existing gravel stone patio that they enlarged and changed to Goshen stone. Joshua asked if there was an excavator used and if their lawn was torn up as a result. The Kesselman's replied yes, it was. But that the work was complete now. Joshua asked the Kesselman's why work was completed within the 100' buffer zone with no NOI filed with the Conservation Commission & DEP? The Kesselman's replied that they filed an NOI with the Town already. Joshua replied that that filing was from 2004 and that it covered specific items. The NOI from 2004 does not cover the work they are doing today. A NOI is good for 3 years if no extension is applied for. Joshua also pointed out that a NOI requires the applicant to file a Certificate of Compliance with the Town's Conservation Commission when the project is complete. The Kesselman's never filed their COC from their 2003 or 2004 NOI's. Mr. Kesselman mentioned that he believed they did file a COC and that it was lost in the Town's paperwork. Joshua pointed out that NOI documents are filed at the Registry of Deeds office.
  - c. Joshua asked about what changes have occurred with the sea wall on the Kesselman's property. The Kesselman's replied that they just moved some rocks around, no changes in the vegetation. The only thing removed was weeds and they will grow back. They said they removed weeds and put down stone where the weeds had been. Joshua asked if they consulted an Engineer. The Kesselman's replied NO.
  - d. Joshua told the Kesselman's that there was no application on file for a dock permit, yet the Kesselman's had a dock. The Kesselman's replied that they are in the process of filling out the permit. A conversation pursued about dock permitting. Mark Stinson informed the Kesselman's that before a dock license can be granted from the State, they would need approval from the Town's Conservation Commission.
  - e. Linda asked what type of weed growth was removed. The Kesselman's replied that it was nothing that would excite anyone. Just invasive junk weeds, nothing elegant or necessary. Mr. Kesselman mentioned that Windy Hill Farm had been there in the past

and told the Kesselman's something similar. Linda asked if Windy Hill Farm had identified what plants were growing there. The Kesselman's didn't recall the plant name(s).

- f. Linda asked what the Kesselman's have changed or replaced exactly with the sea wall since 1998 when they purchased the property. The Kesselman's said there were rocks laying there in a more natural state before, they moved the rocks to improve the area and create the wall.
- g. Linda mentioned that in viewing photos from 98 to current time you can see significant changes in the beach area and sea wall. Linda asked what changes the Kesselman's have made to the beach area since 98. The Kesselman's replied that they made it prettier. Linda asked how, they answered by bringing in sand. Mr. Kesselman added that it was no big deal, as the grass would be growing up through the sand in about two years.
- h. Linda noted that the stone patio at the water's edge was not original to the property when the Kesselman's purchased it in 98. She asked what was on that site prior to the gravel stone patio being installed. The Kesselman's replied grass. Linda asked if removing the grass at the water's edge and replacing it with gravel stone was part of their original plan in their NOI. The Kesselman's replied no. They said that it was not a permanent structure so they didn't think it was required. Linda explained that any work within the 100' buffer zone requires an RDA or NOI, depending on the work. She also noted that they went through the NOI process twice for this property previously in 2003 and in 2004. In addition, you completed the applications and filed them yourselves in both 2003 and 2004, making it clear that you understood the State Wetland Protection Act. Linda questioned what made them think they could now do work within the buffer zone without permission. Linda asked which one of the Kesselman's was an attorney. They replied that they were both attorneys. Linda further explained that there are two state laws, the first is Ch. 131 §40, second one is Ch. 91. Both state you need RDA or NOI approval for any work done within the 100' buffer zone.
- i. Chapter 91 regulates activity. The Commission needs to look into if the weed to stone change is below the high water mark.
- j. Linda told the Kesselman's that the 2003 and 2004 NOI's Order of Conditions (OOC) stated what was permitted to be completed for work. The OOC stated "NO WORK BEYOND HOUSE" The Kesselman's now need to complete a NOI application for everything they have done since 1998 without permission, such as the Goshen stone patio, the sea wall bank, the beach, removing weeds and replacing with stone, plus anything else. The Kesselman's will file their NOI with the Commission and DEP as soon as they are able.
- k. Joshua asked if any abutters had any questions or comments. No one did.
- l. Joshua made a motion to issue an Enforcement Order for 7 Cooper Creek Road, PO Box 1052, Lee MA 01238 to file a NOI for all items completed without permission since purchasing the property in 1998. Linda seconded. Passed unanimously.

2. Project – 103 Goose Pond Road, Mougins.

- a. Matt recused himself due having a conflict of interest as the company he works for has done services for the Mougins. Matt turned the meeting over to Joshua
  - b. Mike Kulig from Berkshire Engineering gave an overview of the plan. The septic tank is on the 100' buffer line. Most all of the work will be outside the buffer zone.
  - c. Mark Stinson questioned the StreamStats. He noted that what was submitted shows .47, but when he ran them himself he came up with .52, changing it from an intermittent to a perennial stream, thus changing the buffer zone from 100' to 200'. Mike Kulig will look into this further and report back to the Commission at our next meeting.
  - d. Joshua made a motion that we continue to our next meeting requesting more information on how Berkshire Engineering determined the StreamStats. Linda seconded. Passed unanimously.
3. The Commissions next meeting will be on August 12, 2021.
4. No new business

Meeting adjourned at 8:15. All members in favor.

APPROVED

Approved via Email 8/20/21 - 12:30pm

Joshua Briggs

Date