

Richmond Conservation Commission Minutes

Meeting of Tuesday, December 11, 2018 at 7:00 PM
Richmond Town Hall, 1529 State Road

[Notice: This meeting was recorded by the Richmond Con Com (1)]

1. Call to Order and Introductions

1A. The Chairperson, Ron Veillette, called the meeting to order at 7:00PM

1B (1). Commission Members present: Freya Segal Co-Chair, Ron Veillette Co-Chair, Adam Weinberg, Nick Martinelli, Shepley Evans (Agent), John Scorpa (associate), Dan Scorpa(associate)

1B (2). Commission members absent: Patrick Seckler, Robert Dahlen

1B (3). Applicants and Others present. Ken Kelly (Richmond Pond Association), Carl Foote, Claudia Ryan (recording secretary), Holly & Dick Stover, Mark Scoco from SK Design Group

2. **Review & Approval of the minutes** of November 20,2018 meeting: Motion to approve minutes made by Ron Veillette, seconded by Adam Weinberg, approved unanimously. Shep Evans said he would give Marie Ryan (Town Clerk) the signed approved minutes on Wednesday December 12, 2018.

3. Notices of Intent

3A. **Continuation of Notice of Intent Hearing (DEP File # 271-0202) SK Design Group on behalf of Richard Levy;** Property at 20 Swamp Road, Map 102 Lots 53 & 54. Details to be presented by SK Design Group on new path, dock construction, bridge construction and boardwalk.

3A1. Mark Scoco from SK Design spoke on behalf of Richard Levy. Shep Evans stated that the Chair had made a list from the previous meeting of what the Commission was looking for in the return of additional information concerning the proposed work and SK Design had also made a list (Ltr. dated December 7, 2018 from SK Design Group, Inc., Sarah M. Gapinski, Project manager to Shep Evans, Conservation Agent), of what they planned to discuss. The lists were mostly the same.

3B. Mr. Veillette went through the list of what the Commission had requested:

3B1. The ends of of the boardwalk and docks, where they meet the land, will they be put on pilings or foundation? Mr. Scoco stated that since they are just seasonal they will not be secured at the ends. They will just rest on the land and no land disturbance will occur.

3B2. Ron Veillette was concerned about the type of sand that will be used for the beach. He stated that some sand can contaminate the lake with sediment and phosphates and erode into the lake. Mr. Scoco stated that beach or mason's sand has been approved by the DEP on other projects that SK have worked on. He said that he would check on where the sand comes from and if it has any contaminants in it. Beach nourishment is commonly done (replacing of sand).

3B3. Mr. Veillette wanted to know where the excavated material will be placed. Mr. Scoco stated that it will be deposited outside the buffer zone and if it is unusable it will be disposed off the property.

3B4. Mr. Veillette asked about beach erosion. Mr. Scoco stated that the a wooden timbers barrier will be placed above the bank to protect the bank from erosion. As of now the proposed height is about 8 inches (two timbers high). Mr. Evans suggested that the timbers be of Locust wood since they hold up well and are non- toxic compared to pressure treated lumber. There was quite a bit of discussion from the Commission and Mr. & Mrs. Stover about the fact that an 8 inch high barrier is not sufficient to prevent erosion from waves created by winds, rain and motor boats.

3B5. Ron Veillette asked if the driveway leading down to the lake could be made narrower. Mr. Scoco stated that it was only 10 feet wide which is not as wide as most driveways and that

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the width is necessary for getting boat trailers down to the lake. Adam Weinberg stated that because of the sharp turns in the driveway it really can't be any narrower. Mr. Veillette pointed out that there is a public boat launch on the pond that can handle large boats.

3B6. Ron Veillette asked about the path that goes from the house to the docks. Adam Weinberg said that wood chips will be put down on the path and that over a couple of years the chips will breakdown and then the path will be seeded and then mowed, there will be no manicured lawn in that area just a mowed path. Dan Scorpa asked what the width of the path is, Mark Scoco stated it was 4-5 feet wide. It is a meandering path to slow down and divert water runoff.

3B7. Ron Veillette asked about the culvert removal from Tracey Brook. He wanted to know if removing the culvert would cause silt built up in the brook to wash out into the lake. Adam Weinberg stated that there was no silt built up around the culvert. Mr. Scoco said that it will be a clean removal and that pipes will be used to keep the foot-bridge in place and that it will just rest on the land just like the docks and boardwalk.

3B8. Ron Veillette stated that he would like to see the removal of asphalt from the driveway in the buffer zone that that is above dock #3 since it is an impervious surface. Mr. Scoco said that he would mention it to the Levys but he believes that the owners want to keep the asphalt drive.

On the question of a Chapter 91 ruling on the number of docks and boardwalks allowed, Ron Veillette stated that the Commission rules on the installation design of the docks and boardwalks and has no authority to rule on the number of them.

Mr. Evans asked for a final list of what is requested from SK Design. Mr. Veillette gave a list of requirements for SK Design to follow-up on.

- a. Boardwalk design-3 inch pipes which will be taken out seasonally
- b. Docks and boardwalk ends land on top of the bank with no disturbance of the land
- c. Only use of organic fertilizers, no pesticides to be used on grassy areas or in the buffer zones.
- d. For the beach, the sand composition must be checked for phosphates and sediments. Also requested that the applicant be consulted on leaving the beach area vegetated as erosion would be minimized.
- e. Excavated material must be placed outside of the buffer zone
- f. Locust wood to be used for the beach retaining timbers
- g. 10 foot wide maximum gravel driveway.
- h. Path from dock#2 to the house to will be winding and be surfaced with wood chips, which will breakdown, and then be seeded.
- i. Original path has been seeded but seems to keep washing out. The applicant should put shrubs in for reduction of erosion.

There was a discussion about the height of the timbers that are going to be used as the water-bars, Holly Stover said that she felt the water will just wash up over the bank and water coming down the roadway will wash into the lake. She has concerns about beach nourishment, (re-sanding of the beach) because it just washes into the lake. She wants native gravel. Freya Segal asked Adam Weinberg how high will the timbers be. Adam Weinberg stated that the timbers they plan on installing will keep the sand from washing into the lake, but several people felt that the height of just 2 timbers (about 8-10inches) will not be enough to hold the sand in place and they will be placed 2-3feet back from the water. Ron Veillette stated that possibly grass and vegetation should be placed between the timbers and the upland area not sand. There was more discussion (Dick Stover) about the height of the retaining wall and the winds creating high waves and motor boats creating waves from their wake. Nick Martinelli asked if the chair could make a suggestion about the beach and the timbers but Shep Evans stated that it wasn't the responsibility of the Commission to come up with a specific design but is the engineers/designers job and they could come back to the

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Commission with their proposals for approval. (The Commission's responsibility is to require a design that mitigates/eliminate erosion risk and the introduction of sediment and nutrients into the pond.) There was a discussion about why people want a sand beach. The proposed beach area will be about 24 feet by 20 feet. Shep Evans said that it was not appropriate for the Commission to design the beach. Mark Scoco suggested the beach aspect be taken out of the NOI and that he discusses the beach issues with the owners, and that the beach issue can be brought back to the Commission at a later date. Shep Evans stated that the Commission can pull out the beach part of the permit and engage in the permitting of the beach at a later date. Ken Kelly said that most of the beach area the Levys have is a protected part of the lake. Mark Scoco wants it to be left in the NOI but that they will not do any work on the beach area and that before they start any work on it they will come back to the Commission with plans for approval by the Commission. Nothing will be done in the beach area until there is a mutually agreed solution to the beach/sand erosion issue(s).

Mr. Evans has asked SK Design to write a letter to the Commission stating all of the agreed to changes and requirements. This letter is needed before final approval of an Order can be granted and will be made part of the application. Mr Scoco indicated they would probably update the existing letter.

Ron Veillette made a motion for approval of the NOI but not until a letter with specific orders that were discussed is received by the Commission and that the beach not be included in the approval until mutually agreed upon conditions are met. The motion was seconded by Freya Segal. Adam Weinberg recused himself from the vote and it was passed unanimously by all other members (6).

4. Request for Determination of Applicability (RDA): None

5. Requests for Extensions of Orders of Conditions

5A. Extension Permit for Orders of Conditions (DEP File 271-0153)- John Balboni, property at Lenox Road, Map 411 Lot23. Signatures required on Extension Permit.

5A1. Shep Evans explained to the Commission that the extension they signed previously was in error. That there is specific Extension Permit paperwork that needs to be signed. The subject permit Extension states that it is the last extension that will be given. It is a three-year extension. The applicant will have to start the permitting process from the beginning once this Extension Permit expires, if any more work is necessary.

6. Enforcement Orders (EO)

6A. An Enforcement Order of 11-02-2018 John Scorpa , property at 300 Shore Drive, Map 101 Lot 146. Review of Mr. Scorpa's response to the Enforcement Order and discussion of various options going forward.

The ConCom felt at the last meeting that the storm water drainage system that the Scorpas have in place may not be sufficient for the new proposed addition. Ron Veillette asked Mr. Scorpa if their drainage system was approved by the Conservation Commission at the time of its installation. Mr. Scorpa said it was and was in coordination with the installation of the new sewer system because the drainage system was necessary due to the fracturing of the ledge in the roadway in order to allow for the sewer line installation. The fracturing caused the water table level to change and it started coming into their basement. The Chair felt that the calculations that Mr. Scorpa gave about water runoff was not calculated properly. The Chair feels that the Scorpas have taken away 666 sq. ft. of buffer zone with the addition of the roofs. Mr. Scorpa feels that they have not taken away any buffer zone. There was a discussion of using downspouts and gutters for removing the water drainage. The Chair feels that the drainage system will not do a good enough job of removing the pollutants/nutrients from the runoff without it going thru vegetation of a buffer zone. The runoff from the drainage system runs directly into the pond.

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The Chair read two options that the Commission has have put together for the Mr. Scorpa to do in order to be acceptable to the ConCom.

6A1. Option 1: Require removal of room roof & walls and require meeting original RDA permit for a deck. Restore buffer zone disturbances.

6A2. Option2: Leave/finish the room but require either an NOI or an enforcement Order with conditions approved by ConCom requiring that Mr. Scorpa:

- a. Design and install an engineered filtered drainage system. Proposed(non-engineered) drainage scheme provided at the 11/20/2018 ConCom meeting only addresses collection of water off new roof & walkway and some of lot and directs all water to a 'heavy" sediment trap and then sends it directly into the pond.
 - Existing foundation & water table volume have not been addressed in the submitted the design submitted by Mr. Scorpa on 11/20/18
 - Outlet/overflow of sediment trap piped directly into the pond; This is not Best Management Practices(BMP) per DCR standards. Outlet should be run-through a vegetated filter strip on its way to the pond.
 - Sediment Basin will only catch heavy matter, requires continual cleaning and will require continual maintenance over time.
 - Basin will not filter dissolved chemicals/pollutants
 - Water volume from roof only adds to existing foundation drainage. The proposed drainage design should handle all runoff drainage
- b. Remove the Gazebo from buffer zone and restore ground with appropriate buffer zone vegetation.
- c. Replace all lawn grass up to at least the house/cottage (43 feet + or -) with maximum filtering/absorption/velocity reducing low shrub vegetation/ground cover at a minimum up to house/cottage front with only a pervious surface winding path to dock and parking spaces. (DCR BMP)
- d. Improve parking area/driveway so that water is diverted through u-shaped gravel or vegetated ditches. Direct runoff towards wood areas. (BMP)
- e. Only use of organic fertilizers on all vegetation in the future. (BMP)
- f. No use of pesticides on vegetation or ground cover or pervious surfaces. (BMP)
- g. No use of salt or de-icing chemicals on driveways, parking areas or walk ways. (BMP)

6A3. A Certificate of Compliance at completion will be required and will be recorded.

6A4. The Chair made a comment that the Town has received several complaints from neighbors about the addition. Shep Evans checked the files & said that there was no paperwork about the Scorpas drainage system in the ConCom's files, and that the paperwork is most likely in with the sewer paperwork file since it was all done at the same time and was part of the sewer installation work. Mr. Scorpa stated that the sewer work causing the water table to rise had cost him \$40,000 in having to put in the drainage system. The Scorpas stated that the drainage system that is in operation now is sufficient for the new added amount of runoff and that it filters the runoff sufficiently. Ken Kelly asked if the Scorpa's had gotten permits to change from a deck to a full room addition since the work is done in the buffer zone. The Scorpas stated that they had gotten permission from the building inspector to add walls and a roof and were never informed that they would have to go back to the ConCom. Nick Martinelli asked about how much more water runoff is there from a roof instead of just a deck. The issue is that with a deck that has spaces between the boards the water drains down thru the decking and would get filtered by the ground and is not a concentrated runoff that drains directly into the pond. Adam Weinberg suggested that the first step is for the Scorpas to hire an engineer, which is the first item on option 2 of the Commission's requirements, and to have the engineer determine if the present drainage system is adequate or what work might be necessary to bring the system up to the requested requirements of the Commission and DCR's BMP. Shep Evans feels that

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having the engineering requirement as the first part of the second option is the place to start because most of the work needed would be determined by an engineering study. Shep Evans stated that the ConCom needs to have a licensed professional come before the Commission with the answers about the drainage issues, having the homeowner tell the Commission it is a good enough system is not the same as getting a professional opinion on the ability of the system to clean the runoff of contaminants.

Ron Veillette made a motion to continue the Enforcement Order so that Mr. Scorpa could have time to decide what he wants to do. Shep Evans seconded the motion. Nick Martinelli voted no. He said he had not been at the last meeting and did not know enough about the situation. John and Dan Scorpa recused themselves, all other (4) members voted in favor.

7. Recommendations to permit granting authorities on Special Permits, Variances & Appeals

Ron Veillette informed the Commission that a vote is needed tonight on the permits because they are going before the Select-board before the next ConCom meeting.

7A. George F. Rufo III: to construct a barn taller and with more square feet than the town limits, property of Vincent Stannard at 1455 State Road, Map 405 Lot 000.0 Block 0108.

7A1. The Chairs created a letter to be submitted to the Select-Board with the following comments.

- a. **The ConCom cannot determine** if the proposed barn is in a jurisdictional area since the plot plan has not been laid out on a topographical map and there is a swamp, Natural Heritage Areas and streams on the property.
- b. The proposed barn is **not** in any Scenic Mountains area within the jurisdiction of the Conservation Commission.
- c. If the plot plan is not updated/detailed in the SPS to allow the exact location to be determined, then the ConCom review of the final barn location will be required and possibly a Request for Determination of Applicability will have to be submitted to the ConCom.

7A2. Freya Segal made a motion to send the letter to the Select-board, Ron Veillette seconded it and the vote was unanimous.

7B. Marc Adams, Heather C. Adams living Trust, to construct a small guest house and barn at 587 Canaan Road, Map 406 Lot8.

7B1. The Chairs created a letter to be submitted to the Select-Board with the following comments.

- a. The proposed barn **does not appear** to be in any resource area, buffer zone or Scenic Mountains area within the jurisdiction of the ConCom.
- b. It does appear that there are no areas of Estimated Habitat of Rare Wildlife or no areas of Priority Habitat of Rare Species protected under the Massachusetts Endangered Species Program(NHESP) that would require a project review at this time.

7B2. Freya Segal made a motion to send the letter, Ron Veillette seconded it, passed unanimously.

8. The Richmond Conservation Fund- Results of BOS meeting to approve Berkshire Farm Property expenditure.

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8A. Mr. Veillette informed the ConCom that the BOS had approved the expenditure. The expenditure had been previously approved by the ConCom at the 11/20/18 meeting. The land Trust and BNRC will now raise their portion of the funds to complete the deal.

9. **Ethics & Open Meeting Law Certifications-** Shep Evans and Mr. Veillette stated that all members needed to make sure that their ethics and Open Meeting law training is up to date.

10. **Open Space and Recreation Plan-** Discussion, Action Items, Conservation related matters
There was a short discussion by Mr. Veillette with Ken Kelly on having better education on buffer zones on Richmond Pond

11. **Periodic review of Local Wetland Bylaw and Local Regulations under Scenic Mountain Act**
11A. None

12. **Richmond Pond Association-**items of interest, meeting and attendance
12A. Water level measurements are being taken but not water temperature measurements in response to question by Mr. Veillette.

13. **Periodic review of filings instructions-**web site posting and general circulation & handouts: No discussion

14. **Open Orders, Conditions & Certificates of Compliance**
14A. No discussion

15. **Recent inquiries to Con Com** about future/ potential new applications
15A. Possible outbuilding RDA next month per Mr. Evans.
15B. Mr. Veillette noted that BNRC in their newsletter that a bridge over the creek coming from the Stevens Glen (waterfall) overlook needs repair.

16. **Citizen speak time**
16A. None

17. **Other items** not reasonably anticipated prior to Agenda posting: None

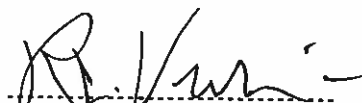
18. **Adjournment:** Freya Segal made the motion to adjourn at 8:55, Ron Veillette seconded, unanimous approval

DATA SUBMITTED:

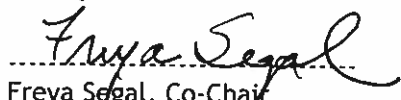
Agenda item 3A (Levy): Ltr. dated December 7, 2018, # Group\2016\180113, from SK Design Group, Inc., Sarah M. Gapinski, Project manager to Shep Evans, Conservation Agent,

Next Meeting: Tuesday, 1/08/2019 New Submittals requested by, 12/19/2018

The recording ended 1hour and 39 minutes into the meeting



Ron Veillette, Co-Chair



Freya Segal, Co-Chair



December 7, 2018

Mr. Shepley Evans, Conservation Agent
 Richmond Conservation Commission
 Town Hall – 1529 State Road
 Richmond, Massachusetts 01254

RE: Additional Information
 Richard Levy
 20 Swamp Road
 Richmond, Massachusetts
 MADEP File # 271-02023
 NHESP File # 16-35974

Dear Mr. Evans;

SK Design Group, Inc. on behalf of our client Mr. Richard Levy, presented the Notice of Intent Application before the Conservation Commission at the regularly scheduled public hearing on November 20, 2018. As a result of that meeting, the Commission requested additional information, which is addressed below. Also, the file number Comments from DEP have also been addressed.

Conservation Commission Comments

[1] *What materials will the docks and boardwalk be constructed of*

The docks and boardwalk will be constructed of a wood frame construction and a PVC decking, secured into the lake bottom with schedule 40 galvanized pipes.

No land disturbance 3''

[2] *What are the dimensions of the footbridge*

The footbridge will be 4' wide by 20' long. It will be a single span across Tracy Brook and will be constructed of a wood frame, schedule 40 galvanized pipe with a PVC decking.

[3] *What materials will the paths be constructed of*

The new path will be constructed of 2-4" of wood chips. It is expected that within a year or two the woodchips will degrade, and the path will be able to be planted and mowed. The existing path to the lake in this area will be abandoned.

[4] *What type of sand will be used in the beach*

We expect to use either beach sand or masons sand in the beach area.

DEP File Number Comments

[1] *Before the commission approves all the docks and the proposed locations, it might behoove the applicant to confirm with Waterways program staff that all three will be permissible.*

Additional Information
Richard Levy
20 Swamp Road
Richmond, Massachusetts
MADEP File # 271-02023
NHESP File # 16-35974

SK Design Group has spoken to DEP Waterways program about the proposed dock layout at the property. An initial review was positive about approval once a license application is submitted.

[2] Any boundaries approved under any previous, still valid OOC, must be used for this NOI.

The boundaries of resource areas approved under a previous OOC are consistent with the resource areas shown on these plans.

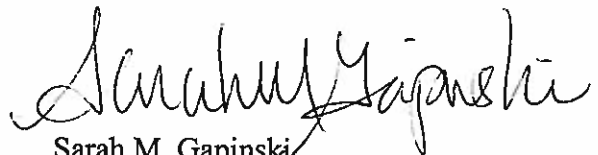
[3] The boardwalk, existing and proposed, to the small island, must also be permitted under the Public Waterfront Act, Chapter 91. Many activities on, over, or under a Great Pond, on the water side of the high water mark, need permitting.

A Chapter 91 License application will be filed for upon receipt of the Order of Conditions.

If you should have any questions or concerns, or require additional information, please do not hesitate to contact the office.

Sincerely,

SK DESIGN GROUP, INC.



Sarah M. Gapinski
Project Manager

Enclosures
Cc: MADEP – Western Region
NHESP
Richard Levy
File

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1-9-2019

July George Rubin



Northern property line

North side of barn is 370' south of north property line

36' x 56' Barn

130 ft to Barn from house

63 ft from curtain Drain (see photo)

116 ft from upper Veitch

230 ft from nearest brook

