



Norton Conservation Commission

70 East Main Street
Norton, MA 02766

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NORTON TOWN CLERK

Monday, February 25, 2008
7:00 pm

Attendance

Bob Medeiros (Chairman), Earl Willcott (Vice-Chairman), Julian Kadish, Ron O'Reilly, Lisa Carrozza, Eileen King, and Jennifer Carlino, Conservation Agent. Kathleen Giblin was absent.

Minutes

The meeting started at 7:00 pm.

The members reviewed the Bills Payable Sheet (Misc.). Earl Willcott made a motion, seconded by Ron O'Reilly, to pay the bill. Approved.

The members reviewed a Notice of Intent – (#250-787) – **Scott Goddard – Parcel 37-01 (assessors map 31) John Scott Boulevard – (cont. from the October 22, 2007, November 19, 2007, December 17, 2007, January 14, 2008 & February 11, 2008 mtgs.)** - for proposed plans for construction of a house, limited project driveway crossing and a pedestrian elevated walkway within 100 feet of wetlands. Scott Goddard addressed the Commission. He stated there had been concerns with the filing fee for this project which have been resolved. He said he had responded to a comment letter from Jennifer Carlino dated November 27, 2007 with a letter/report dated February 1, 2008. Mr. Goddard stated that at the last meeting he was asked for further clarification of his letter/report dated February 1, 2008. He said he asked for a list of concerns and Jennifer Carlino sent a letter dated February 13, 2008 which he stated he replied to in a letter dated February 14, 2008. Mr. Goddard stated that there were new issues in Jennifer Carlino's letter that were not discussed at the previous Conservation meeting. He further stated that the main issue seems to be the status of the stream whether it is "perennial" or "intermittent". He said that once this issue is resolved, the other issues will fall into place. Mr. Goddard proceeded to read the regulations and restate his submitted information is correct and does comply with the regulations. He proceeded to state that the stream in question had run dry for several months during 2007 and he said he had pictures to show this. He stated that, because the USGS maps depicted the stream with a solid blue line, the regulations presumed the stream to be perennial. He said the only way to overcome this presumption in section 10.58 would be to document the stream dry in the field during a non-drought period under a condition that is not significantly affected by water withdrawal or man-made impoundments holding the water back and artificially drying the stream up. He stated neither of these conditions exist and therefore the stream should be deemed "intermittent". Mr. Goddard stated he has based his submitted information on these facts and said he will not change the information. He further stated because of the information he submitted, there are no bodies of land under water areas or any riverfront areas. Mr. Goddard asked the Commission if he had supplied enough information to allow them to make a decision on this project and also if they could name any

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performance standards the project does not meet. Jennifer Carlino told Mr. Goddard it appeared all the performance standards were not met yet. Bob Medeiros read a letter submitted by Highway Superintendent, Keith Silver. The letter stated that he had gone to the site, and, in his opinion, 2-4' box culverts would be a problem causing debris damming up where the two culverts meet. He stated he recommends installing an open bottom or box culvert 8' to 10' wide, to be placed at the site. Mr. Goddard stated the Army Corp. of Engineers (ACOE) had confirmed this design. Lisa Carrozza asked Mr. Goddard if the ACOE had reviewed a plan and he replied they had not. She stated that since the ACOE has not seen a plan, this design would not be acceptable by the ACOE. Jennifer Carlino submitted pictures of the site for the record illustrating man-made alterations and also added pictures from the previous two files for this site at the suggestion of an abutter, Robert Shaw. Jennifer Carlino gave copies of the packet to Scott Goddard. Mr. Shaw stated that he has lived in his house next to this property since 1986. He stated that the pictures Mr. Goddard had taken of the stream being dry were just an illusion because at that same time water was running on each side of the sand bar depicted in Mr. Goddard's pictures. Mr. Shaw asked if anyone knew who has been cutting the trees on the property, in particular, the island. Jennifer Carlino stated she would have to inspect the property before coming to any conclusions. Discussion ensued regarding the stream crossing standards. Mr. Goddard asked if there was any other information the Commission wanted but made it clear he wasn't prepared to submit anything further. He stated he submitted everything the Commission should need and, in his opinion, he submitted adequate documentation. Lisa Carrozza stated to Mr. Goddard that he has responded to all questions and requests for information and he made it clear he wouldn't be submitting anything else or things previously requested. The members stated they would make a decision based on that information. Lisa Carrozza made a motion, seconded by Earl Willcott, to close the public hearing. Approved. Julian Kadish made a motion, seconded by Lisa Carrozza, to deny the project. Approved.

The members reviewed an Abbreviated Notice of Resource Area Delineation – **(#250-793) – Fred Bottomley/Fairland Farm, LLC – Parcels 6, 8, 9, 40 & 901 (assessors map 6) Fairlee Lane – (cont. from the November 19, 2007, December 17, 2007, January 28, 2008 & February 11, 2008 mtgs.)** for verification of Wetland Resource areas. Scott Goddard of Carr Research Laboratory, Inc. updated the commission on the project. He stated he had not submitted any new information before the last hearing for review before the hearing, but has since has submitted revised plans along with a report dated February 14, 2008 which was in response to a letter from Jennifer Carlino dated January 22, 2008. Mr. Goddard stated the first issue of concern in these letters was the location of three wetland flags. He stated, in his opinion, the locations do not have to change and intended on keeping them as on his submitted plans. The second issue, Mr. Goddard stated was the labeling of the BLSF which he stated would be revised to read Shaded Zone X instead of Zone X. Mr. Goddard stated the third and fourth issues deal with the labeling of the stream which he stated will be a more lengthy discussion and will postpone this discussion until the end. He continued with issue five which he stated was the labeling of a stream to read "stream C" which he said has been done. He stated issue six was that an area labeled as "Isolated Land Subject to Flooding" has vernal pool characteristics and should read PVP (potential vernal pool). Mr. Goddard stated issue seven was to clarify calculations for an area

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labeled Isolated Vegetated Wetlands which he said Chris Yarworth of Yarworth Engineering Co., Inc. had done the calculations for and decided this area is not Isolated Land Subject to Flooding. He said issue eight was the possibility of nine areas on the site to be vernal pools. He stated Chris Yarworth had revised the plan to show these nine areas as PVP. Mr. Goddard stated issue nine was three separate violations on the property, A, B and C. He stated area A was a violation of a carpath crossing a stream which Pollilio Company has since installed an elevated carpath over a culvert and which Chris Yarworth has added to the plans. Mr. Goddard stated a request to avoid any violation action be delayed as a proposal to file a Notice of Intent was planned for July, 2008. He stated area B was soil piles located on the site and it was requested erosion control be in place. He said any runoff from these piles would go toward the bogs, not streams or wetlands, but never-the-less, erosion control will be in place on or before April 15, 2008. Mr. Goddard stated area C was the cutting and altering of the emergency bypass canal. He stated this was maintenance work and was off site from the area of this ANRAD filing. Jennifer Carlino stated the cutting was beyond normal maintenance.

Mr. Goddard continued discussion on issues three and four which refer to several streams on the site. He pointed out a small 1-2 ft stream which is he said is depicted as intermittent. He pointed out the largest stream on the site and noted it was delineated on the USGS maps as perennial. He noted two other smaller streams and stated that he had labeled portions of these streams as intermittent stating he had inspected these streams during non-drought periods. He stated that according to regulations, if there is to documentation of the stream being dry in the field during a non-drought period under a condition that is not significantly affected by water withdrawal or man-made impoundments holding the water back and artificially drying the stream up, it can be assessed as an intermittent stream. He did state that a tiny portion of the stream was in a "Zone II" Aquifer, but the nearest well was located 8,000 feet away. He stated because of this fact, there would be no significant draw down from the well.

Mr. Goddard continued to say and issue was the impact of the existing cart path crossing the stream and he stated this cart path is at grade and it expands the bank of the stream at one point and there is no obstruction to the stream's flow. He stated the cart path was dry, upstream of the path was dry and downstream of the path was dry.

Mr. Goddard stated he had monitored the streams on the site on a daily basis during pre-drought and drought periods and has calculated the mean annual high water marks accordingly. He stated that Jennifer Carlino had suggested modifications to several of the mean annual high water mark flags and he said these revisions were made. He continued to say a couple of the flags were not moved for various reasons, and if she would like to do a site walk to look at these, he would be willing to participate.

Mr. Goddard pointed out a portion of one stream of which Jennifer Carlino had suggested be labeled perennial. He stated he disagreed with her on this issue and did not intend on revising the plan. He stated his reasoning for this is that the stream is shown as a thin blue line on the USGS maps, and the size of the watershed, which he calculated, is 0.3 sq. miles. He stated that given these calculations,

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even if the stream flows 365 days a year, it can be deemed "intermittent" and he said that, in his opinion, DEP would agree.

Mr. Goddard noted a pond which he stated was manually regulated by a structure which would raise or lower the water level which is used to supply the cranberry bogs. He stated because of this fact, this would not be a riverine pond.

Mr. Goddard stated Jennifer Carlino requested modification to mahwm on the stream through the down gradient cranberry bogs. He said there was a river that flows out of a culvert and into a canal. He stated that during the spring floods the bogs and in drought periods runs as a river down the center of the bogs. He said there is wooded vegetation on each side of the river with clear bank on each side of the wooded vegetation which he has delineated as the edge of the river.

Jennifer Carlino submitted several photographs and maps of the site as follows;

1. Stream stats
2. a map of the Town's Water Resource Protection Map which shows the site in Zone II.
3. a map that was done for the EnviraThon Team of a Zone II in an interim well head protection area.
4. the MASS GIS map showing seven of Norton and Easton wells up stream that are located in the Mulberry Meadow Brook watershed that Easton uses for drinking water. She continued to say that Mulberry Meadow Brook is listed as a "stress basin".
5. a ground water resource map showing the site as being located within a well head protection area.
6. an Aquifer Protection map from SRPEDD showing the site as a moderate protection aquifer.
7. a map of Ground Water Recharge & Favorabilities from the Map Atlas Water and Land Resources of Southern New England.
8. a map of the Taunton River Basin which shows a vast majority of the land as stratified drift.
9. photos of Mean Annual High Water Marks numbers 11, 12 & 13 which show changes in topography and photos of the bogs at flag A10 which show water stains on trees.
10. topographic symbols for the USGS maps that shows the pond and lists it as "intermittent" which suggests that it has more "riverine" characteristics than stated in the application.
11. photos of the pond from August of 2007 and November of 2007 which shows "riverine" characteristics.

Jennifer Carlino stated that cutting that was done at the end of the outlet structure and listed as part of the agricultural exemption does not show any soil or erosion control and is not a standard agricultural practice.

12. the Enforcement Order for the removal of boards from the pond last year with affidavits from Fred Bottomley, Scott Goddard, Michael Wainio and Raymond Polillio remarking on the contribution of the stream to the cranberry bogs.
13. information on stream alteration referring to the cart path area Scott Goddard stated wasn't impacting the stream including pictures of the stream wet and dry
14. photos of the area at flag 286 showing stone walls going through the stream and wetlands

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15. photos of riffle and pond areas upstream where Mr. Goddard claims the stream is intermittent
16. photos in Easton just south of the Easton town line showing bank full field indicators along the stream

Scott Goddard asked for a copy of these documents and a copy of the letter read by Bob Medeiros received from Keith Silver of the Highway Department at the last Conservation meeting and Jennifer Carlino said he could come in and get the copies during regular business hours so she could make the copies.

Lisa Carrozza asked Mr. Goddard if it was his opinion that only one portion of one stream on his submitted plans was "perennial" and all portions of the stream leading into it are "intermittent" and all portions leading away from it are ponds, and he replied that this was a correct assumption. He did admit that there is stream activity in the pond and Lisa Carrozza stated that in this case, the pond has to be "riverine". Mr. Goddard stated he had no problem with this assumption as long as the streams remained as "intermittent". Lisa Carrozza asked Mr. Goddard if he had done stream stats on the perennial portion. Julian Kadish asked Mr. Goddard why he was so adamant to changing these streams to be labeled as intermittent and Mr. Goddard replied that he only wants to document what he thinks is true. Julian Kadish suggested to Mr. Goddard that his motive is probably to avoid having a 200-foot riverfront area. Mr. Goddard strongly replied that this was not his motive and he was only documenting what was actually present in the field. Julian Kadish that this commission has many, many years of experience and should be respected and allowed to have concerns and underlying concerns with the details of a project such as this. He continued to say that the board is allowed to have concerns of what is going to be done with this property and if, after all is said and done, and the applicant leaves town, the homeowners will hold the Commission responsible for any adverse impacts or conditions. Mr. Robert Shaw of John Scott Boulevard asked that since there are wells in Easton that are used for public water usage, wouldn't this draw water from this site during a drought period. Jennifer Carlino stated the river would be affected by drawn down during a drought period. Lisa Carrozza made a motion, seconded by Ron O'Reilly, to close the public hearing. Approved. Julian Kadish made a motion, seconded by Ron O'Reilly, to sign the Order of Resource Area Delineation (ORAD) and that the ORAD will reflect the perennial stream, pond with riverine characteristics and relocated wetland flags. Approved.

The members reviewed a request for a Certificate of Compliance for File **#250-698 – Keith Arnold/New England Truck Caps LLC – Parcel 50 (assessors map 22) 137 West Main Street**. Jennifer Carlino stated that the site is not fully stabilized yet. Lisa Carrozza made a motion, seconded by Ron O'Reilly, not to issue a Certificate of Compliance at this time.

The members reviewed a request for a Certificate of Compliance for File **#250-626 – Tony Sottile/Kensington Development Corp. – Parcel 22-01 (assessors map 22) 209 West Main Street**. Jennifer Carlino stated the project was completed according to the submitted plans. Lisa Carrozza made a motion, seconded by Ron O'Reilly, to issue the Certificate of Compliance. Approved.

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Jennifer Carlino stated that an existing railroad, during maintenance of the railroad tracks, is dumping old railroad ties all over town into wetlands. Lisa Carrozza made a motion, seconded by Earl Willcott, to have Jennifer Carlino issue an Enforcement Order to the CSX Railroad who is the current owner. Approved.

Jennifer Carlino presented the Commission with an Enforcement Order for the alteration of wetlands and riverfront area on North Washington Street owned by the Land Preservation Society. She stated the Society has been speaking with the person responsible for the violation who seems to ignore their requests to stay off of the property and they have been in contact with their attorney. They would like their attorney to present this person with a copy of the Enforcement Order. Lisa Carrozza made a motion, seconded by Julian Kadish, to sign and issue the Enforcement Order.

Discussion ensued regarding "performance bonds". Jennifer Carlino stated she had spoken with the Town Treasurer who informed her that this is the correct term to use and she usually accepts a check from the applicant to post the bond amount required by the Commission. It was agreed to leave the wording as it has been written.

Lisa Carrozza made a motion, seconded by Ron O'Reilly, to adjourn the meeting at 8:15 pm. Approved.

Respectfully Submitted,



Jennifer Carlino
Conservation Director

JC/pmb