



Norton Conservation Commission
70 East Main Street
Norton MA 02766

RECEIVED
JUN 29 2009
NORTON TOWN CLERK

Monday, May 18, 2009

7:00 pm

Attendance

Earl Willcott (Chairman), Julian Kadish (Vice-Chairman), Ron O'Reilly, Kathleen Giblin, Lisa Carrozza, David Henry, Chris Baker and Jennifer Carlino, Conservation Agent.

Minutes

The meeting started at 7:00 pm.

The members reviewed the draft minutes of the Special meeting of **April 7, 2009**. Lisa Carrozza stated she had attended the meeting and requested her name be added to the attendance list. Lisa Carrozza made a motion, seconded by David Henry, to accept the minutes as amended. Approved. Ron O'Reilly, Kathleen Giblin and Chris Baker abstained from voting.

The members reviewed the draft minutes of the **Executive Session** of the Special meeting of **April 7, 2009**. Lisa Carrozza stated she had attended the meeting and requested her name be added to the attendance list. Lisa Carrozza made a motion, seconded by David Henry, to accept the minutes as amended. Approved. Ron O'Reilly, Kathleen Giblin and Chris Baker abstained from voting.

The members reviewed the draft minutes of **April 13, 2009**. David Henry made a motion, seconded by Kathleen Giblin, to accept the minutes as written. Approved. Ron O'Reilly abstained from voting.

The members reviewed the draft minutes of **April 27, 2009**. Kathleen Giblin made a motion, seconded by David Henry, to accept the minutes as written. Approved. Earl Willcott and Ron O'Reilly abstained from voting.

The members reviewed the Bills Payable Sheet (Law Offices of Don Nagle). Lisa Carrozza made a motion, seconded by Julian Kadish, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Amory Engineering). Lisa Carrozza made a motion, seconded by Kathleen Giblin, to pay the bill. Approved.

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

The members reviewed the Bills Payable Sheet (Pare Eng.). Lisa Carrozza made a motion, seconded by Kathleen Giblin, to pay the bill. Approved.

Norton Conservation Commission
Monday, May 18, 2009
Minutes, Page 2.

The members reviewed a Notice of Intent – **(#250-843) – Dean Zwicker – Parcel 14 (assessors map 23) 9 Clapp Street** – for proposed plans to construct an accessory building within 100 feet of wetlands. Mark Whalen of Whalen Engineering described the project to the members. He stated the parcel consists of 6.5 acres of land and Mr. Zwicker would like to place the 36'x48' building to the right of an existing driveway and that there would be less than 1-foot change in the grade of the property. He stated the building would be set back approximately 42 feet and a small portion of the building would be within the 25-foot limit of work area.

Mr. Whalen stated he had responded to a letter from Jennifer Carlino correcting a few errors on the application. He stated he changed the house number from 8 to 9. He said the property is within the Three-Mile River ACEC. Mr. Whalen stated he would be submitting the corrected paper work shortly. He said the applicant would use whatever siltation control the commission suggested. Julian Kadish asked about the excavating and Mr. Whalen stated that a 4-foot foundation with a cement slab and no basement was proposed.

Mr. Whalen listed his responses to Jennifer Carlino's letter as follows and he stated he would make the corrections on the application and plans accordingly:

1. The filing fee was incorrectly listed as \$120.00 and should have been listed as \$110.00. Mr. Zwicker submitted a W-9 Form as requested.
2. The property is within Three-Mile River ACEC.
3. The postmarked white certified mail slips will be submitted as requested.
4. The erosion control detail will be changed reflecting silt fence only and no haybales.
5. He stated that Jennifer Carlino had asked that the building be moved slightly and that the applicant would rather leave it as proposed. Julian Kadish suggested the building be placed as proposed in order to shade the lawn area within the 25-foot limit of work.
6. The visual barrier which is the existing tree line will be placed on the plans.
7. The use of the building is to store an antique car collection only.

Earl Willcott read a letter of support of the project received from Janice & Kevin Heyden of 14 Clapp Street. Mr. Whalen stated he would get the revised plans and information to the Conservation office as soon as possible. Kathleen Giblin made a motion, seconded by Lisa Carrozza, to continue the public hearing until the next regular meeting of Monday, June 15, 2009 in order to received the revised information. Approved.

The members reviewed a Request for a Determination of Applicability – **(DET. #940) – Fairland Farm, LLC – Parcels 6 & 9 (assessors map 6) Fairlee Lane** – proposed plans to construct a 24' wide gravel access road within 100 feet of wetlands. The applicant, Fred Bottomley, explained to the members that this Request for a Determination of Applicability was part of the expansion of the agricultural project submitted approximately one and a half months ago. He stated this project is Phase 1.

Norton Conservation Commission
Monday, May 18, 2009
Minutes, Page 3.

He said he would like to address a letter he received from Jennifer Carlino and give his response to the three comments as follows:

1. He stated the width of a majority of access roads is 30 feet, but he is proposing a 24-foot road in order to leave existing woods in place on the portion of the property where there is a 90 degree turn and would allow commercial vehicles to pass one another.
2. He stated that in regards to the grades of the proposed access road, the ground is flat and the road will be used for maintenance and harvesting after construction.
3. In regards to maintenance of the road, he stated that the road will be a dirt road and steel bars that will be towed by a tractor will help keep the road graded and level when necessary and this would be done at least three or four times a year. He stated that no other mechanical devices will be within the limit of work and therefore doesn't see the necessity for a visual barrier.

Earl Willcott asked Mr. Bottomley how he plans to handle silt runoff onto existing pavement and Mr. Bottomley replied the closest pavement is 900 feet to 1,000 feet away. Mr. Bottomley stated washed rip rap will be placed at the intersection of Fairlee Lane and the proposed access road which will be at least 40 feet to 50 feet in off the road. Lisa Carrozza stated she would like to see the standard 100-foot long area using 3" to 5" stone and Mr. Bottomley stated he had no problem with that. She stated she would like to see some erosion control at the shoulder of the road in certain areas during winter months and Mr. Bottomley agreed to this.

Martha Mitchell of 22 Fairlee Lane, an abutter, had concerns with the grade of the road with the grade at her property. Chris Yarworth explained to her how the grade would be pitched. Joe Sirtoli of 11 Fairlee Lane asked Mr. Bottomley if he planned to allow construction vehicles to navigate up and down Fairlee Lane and Mr. Bottomley stated he was. Mr. Sirtoli stated the road was only 12 feet wide and had concerns with this. Earl Willcott stated this was not a wetland issue and Mr. Bottomley declined to comment on this issue. Jennifer Carlino referred Mr. Sirtoli to the Building Inspector. Mr. Bottomley stated this was the only access possible to access the cranberry bogs at this time. Jennifer Carlino requested that the visual barrier be in place and put on the plans. She suggested that since several larger trees will be cut, to place several logs as barriers and Mr. Bottomley agreed to do this. Lisa Carrozza made a motion, seconded by Chris Baker, to close the public hearing. Approved. Julian Kadish made a motion, seconded by Kathleen Giblin, to issue a negative (#3) Determination of Applicability after a revised plan is received. Approved.

The members reviewed a Notice of Intent – **(#250-844) – Michael E. Clarke – Parcel 91 (assessors map 32) Eddy Street** – for proposed plans to construct a duplex and septic system with associated site grading within 100 feet of wetlands. Mr. Clarke was present and his engineer, James Miller of Miller Engineering described the project to the members. He stated the property is located on the corner of Eddy Street and Jackson Street and was purchased by Mr. Clarke from the Town of Norton at a tax sale a couple of years ago.

Mr. Miller stated the proposed project is for the construction of a duplex building on a single lot and that the dual septic system is out of the 50-foot buffer zone of the wetlands.

Norton Conservation Commission
Monday, May 18, 2009
Minutes, Page 4.

Mr. Miller stated he had been in contact with Jennifer Carlino previously regarding this project after which time she had sent him a comment-letter and he would like to read his response letter addressing her comments at this time as follows:

1. He stated that he has submitted a revised Sheet 4 of the NOI, put the date of the NHESP map and also enclosed a copy of the map. He said the site is outside of the habitat.
2. He stated he had revised Sheet 6 of the NOI identifying the Three-Mile River as an ACEC.
3. He submitted the white mailing slips as requested.
4. Erosion control has been modified to eliminate hay bales and added to the plans.
5. He stated he eliminated note #9 which states there are no wetlands within 100 feet.
6. He stated he submitted a reduced-size copy of the FEMA FIRM map and noted the information on the plan in the note section.
7. He stated there is not gas line on the street and all other utilities will be overhead.
8. He stated that he has added the proposed driveways to the plans.
9. He stated he has changed the wording on the plan and labeled the Commission's policy of the minimum 25-foot no disturbance area with the visual barrier. He stated he would note on the plans what will be used as a visual barrier.
10. He stated he has revised the plan to show the 92-foot contour adjacent to the wetlands in its entirety.
11. He stated he has added the decks to the submitted plans.

Lisa Carrozza asked if the disturbed areas will be loamed and seeded and Mr. Miller replied they would be. David DeCosta of 65 Eddy Street, an abutter, had concerns with disturbing the wetlands. The members pointed out on the plans the distance between the project and the wetlands and the septic system and the wetlands. Joan DeCosta of 65 Eddy Street asked if one or two septic systems were proposed and if it or they would be closed systems. Earl Willcott replied that there would be two septic systems which were already approved by the Board of Health.

Jennifer Carlino stated that since this is a multi-family structure, storm water does apply. She stated that a DEP file number has not yet been received for this project, revised plans need to be submitted and that the site will have to be re-inspected, therefore, the hearing should be continued. David Henry made a motion, seconded by Chris Baker, to continue the public hearing until the next regular meeting of Monday, June 15, 2009. Approved.

The members reviewed a Request for a Determination of Applicability – (DET. #938) – **William R. Cuming, Tr., Norton Bird Garden Trust – Parcels 278-17, 278-18 & 298 (assessors map 9) Mansfield Avenue – (cont. from the March 9, 2009, April 13, 2009 & April 27, 2009 mtgs.)** - for proposed plans to fill three (3) wetland depressions within 100 feet of wetlands. Chris Baker recused himself from the public hearing. Jim Marsh of Shephard S. Johnson, Jr. & Associates, P.C. representative for the applicant and Karen Skinner-Catrone, Wetland Consultant were present at the public hearing. Mr. Marsh stated he had submitted revised plans for the project. He stated that, in his opinion, he did not think that the three man-made depressions on the site were under Conservation jurisdiction and the applicant would like to fill in these depressions.

Norton Conservation Commission
Monday, May 18, 2009
Minutes, Page 5.

Lisa Carrozza stated to Mr. Marsh that the three steps for determining Isolated Land Subject to Flooding (ILSF) have to be performed and the calculations have to be submitted.

Jennifer Carlino stated that one of the three depressions is a vernal pool which she was in the process of certifying. She said that during her field observation she had found 5 spotted salamanders which is the minimum required by NHESP. She stated that on May 11th wood frog tadpoles were found and 2 obligate species (only 1 is needed to certify a vernal pool). Jennifer Carlino stated that having found all these species, the presumption has been overcome that this is not a vernal pool because it is not shown on the NHESP map. Mr. Marsh stated that the Conservation Agent from Mansfield, Michelle Grenier, had inspected the depression that was being certified as a vernal pool and that she had not found any of the vernal pool species listed by Jennifer Carlino. He stated that other professionals had inspected the potential vernal pool and had not found any species. He said this information was forwarded to NHESP. Jennifer Carlino submitted pictures of the species she had found in the pool and stated that one of the professionals was incorrect in labeling one of the species found.

Mr. Miller requested the Commission make a Determination for two of the three depressions. It was the consensus of the board to wait until the calculations for ILSF are submitted so they could vote on all items requested in the Request for a Determination of Applicability.

Jennifer Carlino stated that the calculations from the three steps in determining the ISLF still have to be submitted and the public hearing will have to be continued. Kathleen Giblin made a motion, seconded by Julian Kadish, to continue the public hearing until the next regular meeting of Monday, June 15, 2009. Lisa Carrozza and Ron O'Reilly abstained from voting.

The members reviewed a **Notice of Intent – (#250-841) – Joseph Nocera, Bay Road Norton Realty LLC, c/o Chateau Waltham – Parcel 52 (assessors map 19) 54 Bay Road – (cont. from the April 27, 2009 mtg.)** - for proposed plans to raze a house and garage and construct a parking lot with associated grading and drainage within the 100-year floodplain and 100 feet of Lake Winnecunnet. Earl Willcott read a letter received from the applicant's engineer, Scott Rolfe, stating he would like to continue this public hearing until the next regular meeting of Monday, June 15, 2009 because the project will be reviewed by the Planning Board and the site plans may have to be revised. Julian Kadish made a motion, seconded by David Henry, to continue the public hearing until the next regular meeting of Monday, June 15, 2009. Approved.

Discussion ensued regarding a drainage problem on Route 123, Highway Department, and project File #250-832-St. Mary's Church. Bob Salvo, contractor for the project, addressed the Commission. He stated at the beginning of the project, it was not known how many catch basins were on the site without an easement and now it is known there are three existing catch basins. He stated that Mass Highway is proposing 7 new basins in Route 123 that will discharge on this site for a total of 10. He said he was informed by three different engineers that the 14-inch pipe owned by Mass Highway that runs into a catch basin then into a drainage ditch will not handle ten catch basins. Mr. Salvo stated he was informed by one engineer that some of the leaching basins would take care of some of the water. He said he was not consulted on any decisions being made at this time. He stated it was requested of Mass Highway to change the catch basin into a 4-foot sump catch basin but has not heard back from Mass Highway to date. He said that he is going to go ahead and change the existing catch basin.

Norton Conservation Commission

Monday, May 18, 2009

Minutes, Page 6.

Jennifer Carlino stated that Walter Amory, engineer, had stated there was no problem with the catch basin but only with the existing pipe. She stated that Mass Highway has a permit for the work being conducted on Route 123 at the present time and she had requested that they attend tonight's hearing, but they have not. She stated she spoke with Tom McGuire of Mass Highway today who stated everything had been fixed. She said she requested they be at tonight's meeting anyhow. She stated she received a fax from Tom McGuire stating Mr. Salvo could remove the pipe on his own or Mass Highway will install new catch basins in the road (Route 123). Jennifer Carlino stated she replied to Tom McGuire and informed him if there are any changes, he will have to amend his permit. She said Tom McGuire stated he had a meeting in another town tonight and could not attend this meeting.

Bob Salvo stated that the existing 14" pipe cannot handle all the catch basins and should be replaced with an 18" pipe. He stated he had already constructed the manhole to handle an 18" pipe. Mr. Salvo stated Mass Highway agreed to replace the pipe but would charge St. Mary's Church \$17,000. He stated the pipe is owned by Mass Highway and they never obtained an easement to install the pipe.

Lisa Carrozza suggested Mr. Salvo contact Mass Highway Commissioner Louisa Paiewonsky with his concerns for quicker results.

The members reviewed a request for a Certificate of Compliance for File **#250-416 - Old Colony Realty I, Inc. (Dunkin Donuts) c/o Ed Andrade - 420 Old Colony Road Lot 1, Parcel 65 (Map 20A) (Formerly map 20)**. Jennifer Carlino stated that the As-Built plan shows a couple of extra roof drains going directly into the wetlands and should be removed. She stated she would like proof that they are actually maintaining the drainage system and catch basin. Kathleen Giblin made a motion, seconded by Ron O'Reilly, to send a letter to the applicant requesting this information to be signed by the Chairman, Earl Willcott. Approved.

The members reviewed a request for a Certificate of Compliance for File **#250-813 -Sinclair Manufacturing Company - 12 So. Worcester St. - Parcels 124-01, 126 127 & 127-01 (map 26)**. Jennifer Carlino stated the project was for minor clearing to install a transformer. She stated all work was completed according to the Order of Conditions. Lisa Carrozza made a motion, seconded by Chris Baker, to issue the Certificate of Compliance. Approved.

The members reviewed a request for a Certificate of Compliance for File **#250-331 - Biltmore Realty Trust - 81 East Hodges Street c/o Christopher E. Demars, Esq. - Parcel 112 (formerly 10-01) (map 36)**. Jennifer Carlino explained that this house was never part of this project. Julian Kadish made a motion, seconded by Kathleen Giblin, to issue the Certificate of Compliance. Approved.

The members reviewed the draft Order of Conditions for Notice of Intent – **(#250-839) – Ronald Turowetz/Easecat Limited Partnership – Parcel 297 (assessors map 21) 8 Allen Drive** – for proposed plans to construct a house with associated grading, utilities and driveway within 100 feet of wetlands. Julian Kadish made a motion, seconded by Kathleen Giblin, to sign and issue the Order of Conditions as written. Approved. Ron O'Reilly abstained from voting.

Norton Conservation Commission
Monday, May 18, 2009
Minutes, Page 7.

The members reviewed the draft Order of Conditions for Notice of Intent – **(#250-842) – Michael Tracy, The Judge Rotenberg Center – Parcel 164 (assessors map 21) 31 Shelly Road** – for proposed plans to stabilize and resurface two portions of a gravel parking area within 100 feet of wetlands. Lisa Carrozza made a motion, seconded by Julian Kadish, to sign and issue the Order of Conditions as written. Approved. Earl Willcott and Ron O'Reilly abstained from voting.

Jennifer Carlino noted a final settlement agreement had been reached for the appeal by Scott Goddard – John Scott Boulevard – **File #250-787** between the Commission and DEP. She stated the deadline was Friday and the final revised plans were submitted by Scott Goddard at 4:00 pm on Thursday. She said she reviewed the plans to make sure all the revisions agreed on at the special meeting and all the revisions in Scott Goddard's letter of April 1st were included. Jennifer Carlino noted that she had made a list of items that the commission needs to watch out for in any future application since it was clear that DEP was selectively enforcing their regulations. She stated she would give all the members a list for their information for future filings.

Jennifer Carlino noted that the Police Department has submitted revised plans to reflect some upland restoration at the edge of the wetlands that was not included with the previous restoration plans. Earl Willcott suggested that the applicant places 4" to 6" of organic loam and matter in these areas, they will restore themselves.

Jennifer Carlino stated that there was a minor modification to **DET. #893 – 7 Fairlee Lane** which the applicant has proposed to make the house smaller. Julian Kadish made a motion, seconded by Kathleen Giblin, to allow the minor modification without a new application. Approved.

Jennifer Carlino noted there will be a "trashless" picnic at Johnson Acres on Saturday, June 6th in celebration of her 10th year of employment with the town.

Jennifer Carlino noted she will be on vacation all next week.

Jennifer Carlino noted that the National Weather Service had emailed her for any information anyone might have on flooding of the Canoe River (ie. which areas flood before other areas.) No one had anything to add.

Discussion ensued regarding the proposed bylaw. Jennifer Carlino noted that three people from Horsely and Whitten are working with her on the bylaw. The main goals were reviewed at the last meeting. She stated they are looking for ways to protect areas that are not presently protected by the Wetland Protection Act (ie. Isolated Land Subject to Flooding, Isolated Vegetated Wetlands, vernal pools, headwater wetlands). She stated achieving the ground water goal should cover most of those areas. Lisa Carrozza asked if the cold water fisheries was already covered under DEP and Jennifer Carlino stated Norton has only seasonal cold water fisheries that are not covered.

Norton Conservation Commission

Monday, May 18, 2009

Minutes, Page 8.

Jennifer Carlino stated she would like to keep the streams and rivers at the present temperatures and not allow them to get any warmer by maintaining a good buffer zone to the wetlands. She stated she would like to revise any confusing sections of the existing Wetlands regulations to make them easier to understand.

She suggested separating into sections certain types of **specialized** wetlands to better understand how to protect them (like in the ACEC, etc.).

Jennifer Carlino said standards would have to be set eventually for one of the newest areas which is Forestry. She stated she would put together the information which explains the reasoning behind the 25-foot limit of work and give to the members and let them decide if 25 feet is too much or too little. She said she has a list of comments of the setbacks from various towns. Lisa Carrozza stated one of the difficulties will be to define "re-development".

Jennifer Carlino stated Horsely and Whitten will prepare a draft memo for the commission's review on May 29th. She said they are proposing to have a conference call in the office on Thursday, June 11th at 10:30 am for anyone interested in discussing the draft memo.

Lisa Carrozza stated that the Commission should be very careful and give great consideration in using the word "variance". She stated this could cause a great deal of paperwork to be created and cause every applicant to apply for a variance from the bylaw.

Chris Baker noted that several areas in town that were under construction under the Water Department's authority are still not stabilized. Jennifer Carlino suggested placing straw mulch on top of any seeded areas for stabilization. Jennifer Carlino stated she will draft a letter to Duane Knapp to be signed by Earl Willcott to have this done.

Kathleen made a motion, seconded by Lisa Carrozza, to adjourn the meeting at 9:05 pm. Approved.

Respectfully Submitted,



Jennifer Carlino
Conservation Director
JC/pmb