



Norton Conservation Commission

70 East Main Street

Norton MA 02766

508-285-0275

508-285-0277 fax

conservation@nortonmaus.com

NORTON TOWN CLERK

AUG 11 2009

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Monday, July 13, 2009

7:00 pm

Attendance

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

Minutes

The meeting started at 7:00 pm.

Discussion ensued regarding the **re-organization** of the Conservation Commission. Earl Willcott made a motion, seconded by Kathleen Giblin, to nominate Ron O'Reilly for Chairman. Approved. Lisa Carrozza made a motion, seconded by Kathleen Giblin, to nominate David Henry for Vice-Chairman. Approved.

The members reviewed the draft minutes of **June 15, 2009**. Earl Willcott made a motion, seconded by Julian Kadish, to accept the minutes as written. Approved.

The members reviewed the Bills Payable Sheet (Jane Sears Pierce). Earl Willcott made a motion, seconded by Julian Kadish, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (misc.) Julian Kadish made a motion, seconded by Earl Willcott, to pay the bills. Approved.

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

The members reviewed a Notice of Intent – **(#250-844) – Michael E. Clarke – Parcel 91 (assessors map 32) Eddy Street – (cont. from the May 18, 2009, June 15, 2009 & June 29, 2009 mtgs.)** - for proposed plans to construct a duplex and septic system with associated site grading within 100 feet of wetlands. Jim Miller of Miller Engineering and the applicant, Michael E. Clarke, were present at the public hearing. Mr. Miller stated there have been many revisions to the plans since the application was first filed in May. He stated the members were looking at the latest revisions to the wetland line and wetland flags. He said he added the post and rail fence as the visual barrier at the limit of work.

Mr. Miller stated he has added a storm water management system to the plans. He said two infiltration swales are placed on the outside edges of both driveways and the details are shown on the plans. He stated a flow de-fuser has been placed at the front of the building to catch runoff water from the roof.

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Julian Kadish noted that looking at the plans he noticed a goat pen with the proposed fence running through it. He suggested that no wetland permits had been given for the activity on the goat pen and Jennifer Carlino stated this is the existing conditions and no permits were ever given for this area. She stated the applicant and the neighbor will have to work together and decide what to do about removing the goat pen. Julian Kadish made a motion, seconded by Lisa Carrozza, to close the public hearing. Approved. Lisa Carrozza made a motion, seconded by Earl Willcott, to sign and issue the Order of Conditions as written. 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, May 18, 2009 June 15, 2009, & June 29, 2009 mtgs.)** - for proposed plans to fill three (3) wetland depressions within 100 feet of wetlands. Chris Baker recused himself from the public hearing. James Marsh of Shephard S. Johnson, Jr. & Associates, P.C., representative for the applicant was present along with his engineer, John Bertorelli. Mr. Marsh stated he has filed a revised application removing one of the basins from the project along with the corrected calculations.

Lisa Carrozza asked which plans were to be referenced in the Determination and Jennifer Carlino stated there are three sets of plans that will have to be referenced because each set of plans has different information on them, the latest omitting the one basin located at the rear of the property. Lisa Carrozza stated her original issue with the topography was showing the break at the basins to determine the outer boundaries. She stated the Commission was looking for the point that overtops and then levels off at the basin. Mr. Bertorelli stated he used the original topography plan which has not changed in his opinion. Julian Kadish asked Jennifer Carlino if she had any reason to believe the calculations for the volume of water held in the two front basins were incorrect after her inspections of the property and she stated the basin of concern is the one at the rear of the property. It has been removed from the application. Lisa Carrozza made a motion, seconded by Julian Kadish, to close the public hearing. Approved. Julian Kadish made a motion, seconded by Kathleen Giblin, to issue a negative Determination (#3) as long as the work is done according to the approved plans. Approved. Ron O'Reilly abstained from voting.

The members reviewed an Amendment to Order of Conditions for File #250-819 – **parcel 6 (assessors map 32) 38 John Scott Boulevard – (cont. from the June 15, 2009 mtg.)** - for proposed plans to alter approved grading and house location. Chris Yarworth of Yarworth Engineering, Inc. updated the members on the project stating he submitted revised plans on which he modified the silt fence line and corrected the file number in his notes. Jennifer Carlino asked Mr. Yarworth to speak to Mr. and Mrs. Tula regarding their home address. She stated two certified letters were returned unclaimed from the post office and Mr. and Mrs. Tula will be responsible to re-imburse the Town for the postage spent on the two letters. Kathleen Giblin made a motion, seconded by Chris Baker, to close the public hearing. Approved. Lisa Carrozza made a motion, seconded by Julian Kadish, to sign and issue the Amended Order of Conditions as written. Approved.

The members reviewed a Notice of Intent – (#250-846) – Ann O'Donnell, New Wading River Country Club, c/o Massachusetts Golf Association, Inc. – Parcel 139 (assessors map 26) 300 West Main Street – (cont. from the June 15, 2009 & June 29, 2009 mtgs.) - for proposed plans to demolish an existing and construct a new clubhouse, utilities, water line and associated grading within 100 feet of wetlands and 200 feet of Wading River and Chartley Brook. Chris Baker recused himself from the public hearing. The applicant's engineer and representative, Chris Yarworth of Yarworth Engineering Company, Inc. updated the members on the project as follows:

- He stated that 50 feet of existing driveway will be ripped up and used as a separate driveway for construction entrance.
- He said he added a detail of the concrete washout pit.
- He stated he would get a copy of the drilling plan after the drilling company inspects the property and designs the plan.
- He stated he changed four trees for the landscape plan and did not realize the commission would like a "Legend" of plants to be used noted on the submitted plans. He said he would revise the plans to show this.
- He stated he would add silt fence along the driveway in the area on one side of the stream as pointed out by Jennifer Carlino on the plans.
- He stated he has not submitted a "Construction Sequence" yet because the job has not yet been put out for bids. Lisa Carrozza stated silt fence should be in place before work begins.
- He asked what Jennifer Carlino meant regarding the "retaining wall" and she replied that she would like the details of the retaining wall noted on the revised plans. Mr. Yarworth stated the retaining wall is not a free standing wall but part of the building. Lisa Carrozza stated the details of the retaining wall should be noted on the plans for construction purposes even though they will be part of the architectural plans. This is a requirement for all projects.
- He said the rock curbs (curb stops) will be placed between the new handicapped parking area and the sidewalk.
- He stated the existing water service pipe will be cut and capped. Jennifer Carlino asked him to add a note to the plans.

Julian Kadish made a motion, seconded by Earl Willcott, to close the public hearing and not issue the Order of Conditions until revised plans are submitted. Approved. David Henry voted not to close the public hearing.

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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, May 18, 2009, June 15, 2009 & June 29, 2009 mtgs.) - 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. Scott Rolfe of GPR Southeast, LLC, representative for the applicant and attorney for the applicant, Ed Valanzola were present at the public hearing. Mr. Rolfe updated the commission on the project. Mr. Valanzola stated the Planning Board had voted to grant two special permits and to approve the site plan at their last meeting. Mr. Rolfe stated he had met with Jennifer Carlino on July 6th and at that time she gave Mr. Rolfe a list of items to be addressed on the plans. He stated he emailed her today to let her know the plans were revised and then emailed the revised plans to her today. He replied to her comments as follows:

- Mr. Rolfe said he revised the “Narrative to Accompanying the Notice” of Intent to address the wildlife standards.
- He said he revised the Notice of Intent by unchecking the box under the Storm Water Checklist labeled “disturbance in the resource area”.
- He said he has evidence to prove that the existing parking lot is maintained and swept by a landscaping company four times a year therefore, has included the sweeping in the TSS calculations.
- He stated that in reference to a gap in the silt fence, a compost-filled silt sock will join the silt fence. He said that at another area where the silt fence meets the compost-filled silt sock there is a gap for people to pass through and the compost-filled silt sock prevents water from passing through the gap.
- He said notes have been added to the plans to where all silt fences are located.
- He said the diameter of the silt sock tubes have been noted on the plans.
- He said that on two pages of the submitted plans, it shows the location of the bottom pipes of the tree box filters which will be approximately 2.1 feet above the ground water.

Earl Willcott asked if the silt socks are attached to the pavement and Mr. Rolfe stated that they are not attached to the pavement and once the socks get wet they are too heavy to move. Lisa Carrozza noted that on the submitted plans, the silt socks were shown held in place with rebar and suggested changing the notes to remove the rebar. Mr. Rolfe stated he would like to check with the manufacturer to see if the rebar has to be used to hold the socks in place before removing it. Lisa Carrozza suggested adding a condition requiring the removal of sediment when it reaches a height of half the height of the silt sock, which, in this case, will be 4”.

Mr. Rolfe stated that the Planning Board has requested running the 6” white vinyl stockade fence all the way down to the water’s edge. He said the fence will run along the entire northerly portion of the property starting at the street.

Jennifer Carlino stated that normally the applicant writes a narrative describing how all the Performance Standards are met for whatever resource area they are in. She stated the one missing for this project was the Wildlife Habitat component of the floodplain resource area. Jennifer Carlino asked who wrote the added section of the Narrative for the Wildlife Standards and Mr. Rolfe replied that it

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was a Project Engineer, Matt Thrombasie. She stated that normally she would require a Wildlife Biologist of at least five years experience write this, but in this case, where the house is existing with an existing lawn, she stated the commission will accept the narrative as written by the engineer. She told Mr. Rolfe to keep in mind that in the future, the Wildlife portion of a narrative will have to be written by a Wildlife Biologist with at least five years experience.

Jennifer Carlino stated to Mr. Rolfe the project is in the "10-yr. floodplain" as well as the 100-yr. floodplain. She said the 10-yr. floodplain is significant to the wildlife habitat which would require completing Appendix B of the Wildlife Evaluation Guidance Document from DEP.

David Henry made a motion, seconded by Chris Baker, to close the public hearing. Approved.

Jo Ann Emerald and Michael Emerald of 39 King Phillip Road addressed the Commission to request an extension of her Determination of Applicability. She stated she had made several improvements to the property and received a Determination of Applicability for the construction of an addition but the Determination was going to expire on July 20, 2009. She stated she had not started work on the house yet because the Determination required the addition be built 3 feet higher than the original footprint. She said this requires an architectural plan. She said this would require more financing which was not possible because of the housing market at that time.

Jennifer Carlino stated there is no provision in the law allowing an extension to Determinations. She suggested to Ms. Emerald that she fill out a new Request for a Determination of Applicability form transferring the information from the existing permit and refile. Jennifer Carlino did state that a Notice of Intent should have been filed originally as this property is within the floodplain and that if that had happened the Commission would have been able to extend it.

Ms. Emerald stated she would file a new application closer to the time she expects to begin the project. She stated she would have new plans drawn by an architect. Jennifer Carlino mentioned that is required by the Building Code as well as the Wetland Protection Act.

The members reviewed a request for a Certificate of Compliance for File **#250-695 - Massachusetts Highway Department - Parcel 17 (map 11) 240 East Main Street**. Jennifer Carlino stated the area is not stabilized and suggested sending a letter requesting the applicant re-seed the area and mow it twice before requesting a Certificate of Compliance. Lisa Carrozza made a motion, seconded by Earl Willcott, to deny the request for a Certificate of Compliance and to send a letter to the applicant requesting them to re-seed the area and, after the area is fully stabilized, request a Certificate of Compliance. Approved.

The members reviewed a Notice of Intent – **(#250-847) – David LeMieux, Sinclair Manufacturing Company – Parcels 124-01, 126, 127, 127-01 & 128 (assessors map 26) 12 South Worcester Street** – for proposed plans to construct a "Hydrogen Bulk Storage System" within 100 feet of Stoney Brook. Kathleen Giblin made a motion, seconded by Chris Baker, to sign and issue the Order of Conditions as written. Approved. Julian Kadish, Lisa Carrozza and David Henry abstained from voting.

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Jennifer Carlino noted that the new floodplain maps were available at the town hall.

Jennifer Carlino noted that she met with Pare Engineering, Inc. regarding their unpaid invoices for their work on the Reservoir Dam. She stated they would be submitting the 90% designs and draft contract bid documents soon. She said Pare Engineering, Inc. is expecting to receive the balance of \$2,500, but she thinks they will only be entitled to a portion of this amount after submitting their final documents to ensure completion of the bid assistance portion of the contract.

Jennifer Carlino noted that the Office of Dam Safety is expecting the follow-up inspection of the Reservoir dam and she said they would be receiving that soon since it is in the budget already.

Jennifer Carlino noted that the Chartley Pond dam Phase I evaluation is required every two years and after the inspection of the Reservoir dam is completed, a follow-up evaluation will be required every two years. She said Ron O'Reilly will make available the Chartley Pond dam reports as needed.

Discussion ensued regarding the proposed **bylaw**.

Jennifer Carlino asked the members to refer to the **interests and jurisdiction sections** that were included with the agenda. She stated this should be the final version. She said the two sections were divided into areas already protected and areas to be protected by the bylaw. She stated she used Falmouth's template for the wording since the members had favored that town's bylaw.

Lisa Carrozza made a motion, seconded by Kathleen Giblin, to accept the revisions to the **interests** section as stated. Approved.

Jennifer Carlino stated that, at present, projects claim to be within "100 feet of a bordering vegetated wetland" or within "100 feet of a pond, lake, reservoir, etc." She asked the members if they want to re-word the bylaw to state only "within 100 feet of a bordering vegetated wetland". Lisa Carrozza suggested using the wording "within 100 feet of a bordering vegetated wetland" for all projects because the bordering vegetated wetland usually does not change where the edge of a pond, lake or reservoir does change. Jennifer Carlino stated that there will be two separate sections; 1. within 100 feet of bordering vegetated wetlands and 2. within 200 feet of a river. Lisa Carrozza suggested #1. to state "within 100 feet of any of the above listed resource areas".

Lisa Carrozza made a motion, seconded by David Henry, to accept the revisions to the **jurisdiction** section as stated. Approved.

Jennifer Carlino said she changed the word "aesthetics" to "Community Character"

Lisa Carrozza asked Jennifer Carlino what will be done in a case where a vernal pool has been certified by her but not included on NHESP's map. She said she marks them on the Priority Habitat map as they are certified. Jennifer Carlino stated each vernal pool will be inspected project by project which is presently the way a project is handled. She stated that at the public hearing if a pool is determined to be a possible vernal pool, it will be stated as such but she will not certify it herself. She said if an

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engineer or consultant has a question on a possible vernal pool, they will be able to call her and ask her if she has any documentation on the pool.

Jennifer Carlino asked the members which of the two choices, A or B, for the buffer zone performance standards would be easier to read; **A.**- 1. performance standards for new work; and 2. Performance standards for existing buildings and re-development, or **B.** Buffer Zone Performance Standards for all projects with one section that lists buffer widths for new and redevelopment projects.

Jennifer Carlino stated that Horsely & Whitten recommended using the format of the Attleboro bylaw.

Julain Kadish had concerns with "no-disturbance" zones. He stated these areas might be construed as "land takings" and will open up many legal issues and appeals and may be unfair to the applicant. Jennifer Carlino stated that each project will be taken individually without any precedent being set. Kathleen Giblin stated, in her opinion, she would like to see the Commission use discretion for residents on existing properties.

Discussion ensued on what the definition of "re-development" should be and Jennifer Carlino suggested to the members that each member decide on their definition of "re-development" before the next meeting on the proposed bylaw so we can all discuss it.

Lisa Carrozza suggested holding a special meeting next Monday, July 20, 2009 at 6:30 pm to review the proposed bylaw. All the members agreed. David Henry requested that copies of the "no-disturbance" sections from of at least three other town bylaws be given for review. Jennifer Carlino stated she would get those to the members.

Ron O'Reilly asked any of the members who have not completed Jennifer Carlino's evaluation to please bring it to the next meeting.

David Henry made a motion, seconded by Kathleen Giblin, to adjourn the meeting at 9:20 pm. Approved.

Respectfully Submitted,



Jennifer Carlino
Conservation Director
JC/pmb