



Norton Conservation Commission
70 East Main Street
Norton MA 02766

Monday, January 11, 2010

NORTON TOWN CLERK

FEB 10 2010

RECEIVED

Attendance

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

Earl Willcott was absent.

Minutes

The meeting started at 7:00 pm.

The members reviewed the Bills Payable Sheet (Pare Corp.). David Henry made a motion, seconded by Julian Kadish, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Pare Corp.). Kathleen Giblin made a motion, seconded by David Henry, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (MACC). Julian Kadish made a motion, seconded by Chris Baker, to pay the bill. Approved.

Ron O'Reilly announced an **Open Space & Recreation Plan Update Meeting** for Thursday, January 21, 2010 at 7-9pm in the 2nd floor meeting room.

The members reviewed an Abbreviated Notice of Resource Area Delineation – **(#250-852) - Fairland Farm, LLC, Lot E, Parcel 195 (assessors map 12) Bay Road – (cont. from the November 23, 2009 & December 14, 2009 mtgs.)** - for verification of the wetland resources. David Henry made a motion, seconded by Julian Kadish, to close the public hearing. Approved. Lisa Carrozza made a motion, seconded by David Henry, to sign and issue the Order of Resource Area Delineation as drafted. Approved.

The members reviewed a Notice of Intent – **(#250-850) – Duane Knapp/Town of Norton Water Department – Parcel 1 (assessors map 31) 166 John Scott Boulevard – (cont. from the November 23, 2009 & December 14, 2009 mtgs.)** - for proposed plans to construct a building, leaching field and sewer connections within 100 feet of wetlands. Lisa Carrozza made a motion, seconded by Chris Baker, to close the public hearing. Approved. Lisa Carrozza made a motion, seconded by Kathleen Giblin, to sign and issue the Order of Conditions as drafted. Approved.

The members reviewed a Notice of Intent – (#250-853) – **Timothy & Mary Longo – Parcel 90 (assessors map 30) 71 Maple Street – (cont. from the December 14, 2009 mtg.)** - for proposed plans install a boulder wall, landscape and allow an existing shed to remain within 100 feet of wetlands. An abutter, Daniel Whynot, of 73 Maple Street stated he saw no need to remove trees on the property. Julian Kadish stated part of the project was the replacement of the trees that were removed. Mr. Whynot stated the replacement of the trees was not in the original areas that the trees were removed from. Julian Kadish stated that, in his opinion, the project would be an improvement to this property. Kathleen Giblin made a motion, seconded by Lisa Carrozza, to close the public hearing. Approved. Lisa Carrozza made a motion, seconded by David Henry, to sign and issue the Order of Conditions as drafted. Approved.

The members reviewed a request for approval of a Forest Cutting Plan in a conservation restriction area by the **Colonial Acres Condominium Trust**. Ron O'Reilly read the request-letter sent by Michael Thomas of Brooks Management Services, Inc. on behalf of the Colonial Acres Condominium Trust to the members. David Henry asked Mr. Thomas if he has met with the Forester and he replied he has met with the Forester, Mark Tremblay, many times. He stated this would be a 30-year plan. Lisa Carrozza asked Mr. Thomas if the area is being used by the residents at this time and he replied that it is not and that the area is a buffer around the condominiums which are located on ten acres of the fifty-acre parcel.

Jennifer Carlino stated that according to the Conservation Restriction, the commission has to approve the use of the property and under Mass Forestry regulations, the Conservation Commission receives a copy of the Forestry Cutting Plan to review and send comments to the State Forester within 10 days. She stated she did not have many comments and called the forester to find out where the vernal pool was located and to notify him that he would need approval by the Conservation Commission before cutting any trees. Lisa Carrozza asked if a Notice of Intent would have to be filed and Jennifer Carlino replied that no permits are needed because of the Forestry Cutting Plan. She stated the original plan for the construction of the condominiums was used for the Forestry Cutting Plan. Lisa Carrozza asked Jennifer Carlino if she was going to inspect the project occasionally and she replied she would be. Chris Baker asked what will happen to the "slash" and Jennifer Carlino replied that the larger pieces would be removed from the property and the smaller pieces would be left in piles for the wildlife.

An abutter, Ray Lacaillade of 85 Dean Street, stated that at the time a variance was granted to the developer of the property by the Zoning Board of Appeals (sic, Planning Board), it was a condition that he establish a buffer around the development. He stated that because of the buffer around the condominiums, he cannot see the condos and would like to keep it this way. He had concerns with cutting up to the stone wall behind his house. Julian Kadish asked how many trees would be cut and Mr. Thomas stated that it was selective cutting, and not clear cutting. Julian Kadish asked if the buffer between the condominiums and Mr. Lacaillade's property would be greatly altered and Mr. Thomas stated that he did not think so by looking at the marked trees to be cut. Chris Baker stated that once some of the trees are cut and sunlight gets into the area, the buffer may actually get thicker. Jennifer Carlino stated that, by looking at the cutting plan, the trees will not be cut right up to the stone wall. Lisa Carrozza asked if the forester would be stumping or just cutting and Jennifer Carlino replied just cutting.

Norton Conservation Commission
Monday, January 11, 2010
Minutes, page 3.

Mr. Thomas stated that his main goal and the residents' main goal is for the health, and long-term health of the forest.

Another abutter, Salley Riconscente of 83 Dean Street stated that because of the variance granted to the developer by the Zoning Board of Appeals (sic, Planning Board), a larger buffer area was to remain around the condominium units than exists today. She stated that the residents had many meetings with the Planning Board before construction of the units and were promised that the buffer area would be larger and kept untouched forever. She said that one foundation was poured on a weekend much closer to the existing houses on Dean Street than was approved at the Planning Board meetings and was allowed to remain. Mr. Thomas replied to Ms. Riconscente's concerns by reading a paragraph from the Stewardship Plan stating that the forest and the environment would benefit greatly by removing certain older mature trees allowing new younger growth to thrive much better. Ms. Riconscente suggested to Mr. Thomas that a profit will be made by the cutting of the trees.

Julian Kadish stated that, in his opinion, everyone would benefit from implementing the forestry cutting plan than just leaving the forest alone. He stated there are many trees that could be removed. He suggested that the removal of the trees may even go un-noticed, but the regrowth will be a great benefit and will not interrupt the existing visual barrier. Kathleen Giblin asked what the time frame for the cutting is and Mr. Thomas replied the contract with the forester is 6 months for completion. Julian Kadish suggested to Mr. Thomas that there be some replanting to be paid for by the profit made from the cutting of the trees. Lisa Carrozza stated there is no reason to cut right up to the stone wall at the rear of the houses on Dean Street and she would like to see a more detailed plan showing the property boundaries and distance of the trees to be cut from the boundaries. Mr. Thomas stated he would present these concerns to the Forester, Mark Tremblay. Chris Baker stated he would like to inspect the site with Jennifer Carlino before making a decision. Ron O'Reilly stated discussion would resume at the next regular meeting of Monday, January 25, 2010 after an inspection of the property has been done.

Jennifer Carlino stated she has received the Response Action Outcome Statements for two areas that contained oil spills, **151 & 157 Pine Street and 3 Fernandes Circle**. She stated both sites had LSPs present who submitted reports to DEP stating there were no environmental problems.

Discussion ensued regarding the **proposed bylaw**.

Under Section 1: General Provisions, F. Interests and Values, Julian Kadish read his proposed version as follows: "Clean and properly functioning sustainable resource areas in an environment are key elements of quality of life and security of property values in a community. A substantial component of these environmental values are embodied in wetlands adjacent to our living spaces in the Town of Norton. Protection of these wetland resource areas from damage and degradation provides value that extends to all properties in a community. Illustrations some specific values are listed below." Jennifer Carlino stated the following listed items in F. 1. are presently protected by the Wetlands Protection Act (WPA) and F. 2. have added areas specific to Norton (local issues). She suggested adding a phrase to F. 2. after the words "interests and values" as follows: "of a wetland resource area are necessary for water quality".

Norton Conservation Commission
Monday, January 11, 2010
Minutes, page 4.

Jennifer Carlino stated Section 1. G. lists, the same as F., 1. listing the presently protected resource areas under the Wetlands Protection Act, and 2. additional areas not mentioned in the WPA and more specific to Norton (local). Lisa Carrozza suggested removing **a. freshwater wetlands and d. land subject to flooding (ILSF)** which is already mentioned in the WPA. Jennifer Carlino suggested removing "**a. freshwater wetlands**" but leaving **d. land subject to flooding (ILSF)** because it is described differently in the WPA and this is partially the reason for the bylaw.

Lisa Carrozza stated that in Section 1., G., 2., h., omit "and lands adjoining vernal pools" and Jennifer Carlino agreed because the definition of a vernal pool includes "distance up to 100 feet".

Julian Kadish suggested using the term "subject to review" rather than "is protected under" to avoid public fear. Jennifer Carlino stated this would have to be reviewed by Horsley Whitten Group for legality.

Jennifer Carlino stated that Section 1., **H., Exemptions** was mostly new. She suggested omitting **H., 2., c.** which is a repetition of **b.**

Lisa Carrozza stated that, in her opinion, the word "substantially" is too vague of a word. Jennifer Carlino stated the word is used in the WPA and has to remain in the proposed bylaw. She stated that the words "emergency projects" in Section 1., **H. Exemptions 5.** are included in the WPA and has to remain in the proposed bylaw. She stated that even though already stated in the WPA, agriculture and exemptions have to remain in the proposed bylaw. Lisa Carrozza suggested listing in one sentence the exemptions already listed under the WPA instead of listing them separately. Much discussion ensued regarding **above-ground** and **in-ground pools** in Section 1.**H. Exemptions, 6.** A resident suggested that **above-ground** pools seem to present more of a hazard than presumed because of their failure rate and the possibility of seeping into the wetlands. Julian Kadish stated the chemicals used in the above-ground pools are easily broken down and not as hazardous as people think they are. It was decided to use the word "**pools**" and not differentiate.

A resident asked if the "Exemptions" were added as a result of Town Meeting and Ron O'Reilly stated that one of the main objections at Town Meeting was that there were no specific rules and regulations for the proposed bylaw and these are the **draft** rules and regulations.

A resident had questions concerning the use of fertilizers, pesticides and herbicides and Jennifer Carlino stated that pesticides and herbicides are regulated by the Food and Agriculture Dept. She stated that homeowners should read the instructions on the use of these products before using. She said if fertilizers are to be used, they should be **non-phosphorus** because it is the phosphorus that gives the invasive plants the greatest boost of energy to grow. She stated she has drafted language referring to this. The resident asked how many page did the rules and regulations consist of and Jennifer Carlino replied, so far, approximately 32 pages so that it is easy to read and lines up on the page nicely.

Jennifer Carlino stated that so far it is not noted in the rules and regulations what activities will require a wetlands permit and this information has to be added.

Norton Conservation Commission
Monday, January 11, 2010
Minutes, page 5.

Jennifer Carlino stated that "Burden of Proof" has not been included and asked if it should be included in Section 1 or included under a "Design Criteria" section. She said that if it is the same standard as the WPA, it will not have to be added.

Julian Kadish stated that the definition for "existing" has not yet been established and asked if the members should think about this for the next bylaw meeting. Jennifer Carlino said this would be a good idea and to remember that the definition will refer to what is existing on or before the date that the bylaw is adopted.

Jennifer Carlino stated that the definitions for **Isolated Vegetated Wetland** and **Isolated Land Subject to Flooding** have to be defined more clearly. She stated after checking all certified vernal pool documents, the smallest is 400 Sq. Ft. and this could be the minimum size for the size criteria.

Julian Kadish suggested doubling up on the Sections for review at each public meeting in order to be ready for May Town Meeting.

Ron O'Reilly announced that MACC was holding an Annual Environmental Conference and workshops on Saturday, February 27, 2010 at the College of the Holy Cross in Worcester, MA and asked if anyone would like to attend along with Jennifer Carlino. Ron O'Reilly and Kathleen Giblin stated they would like to attend. Julian Kadish made a motion, seconded by Chris Baker to sign the Bills Payable for three people to attend the Conference. Approved.

David Henry made a motion, seconded by Kathleen Giblin, to adjourn the meeting at 8:55 pm. Approved.

Respectfully Submitted,



Jennifer Carlino
Conservation Director
JC/pmb