



Norton Conservation Commission
70 East Main Street
Norton MA 02766

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NORTON TOWN CLERK
2010 OCT -5 P 1:20

Monday, August 30, 2010

Attendance

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

Julian Kadish was absent.

Minutes

The meeting started at 7:00 pm.

The members reviewed the Bills Payable Sheet (Nextel). Earl Willcott made a motion, seconded by Kathleen Giblin, to pay the bill. Approved.

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

The members reviewed a Request for a Determination of Applicability – **(DET. #957) David Denham – Parcel 323 (assessors map 4) 5 Goodwin Drive** – for proposed plans to drill an irrigation well within 100 feet of wetlands.

Document List:

1. Request for a Determination of Applicability.
- 2.

Title	Proposed Well, 5 Goodwin Drive, Norton, MA	Date	August 2, 2010
Title	Prepared by Hutchins-Trowbridge Associates, Inc. and signed and	Date	
Title	stamped by Michael A. Trowbridge.	Date	

David Denham described the project to the members. He stated the site for the irrigation well as drawn by his engineer is directly behind one corner of his house. He said he would like to move the well further south so that he will not have to remove any trees to allow truck access to the area. He stated that if the well is dug as shown on the plan, approximately 10 trees will have to be removed.

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Chris Baker asked what type of well was proposed and Mr. Denham stated it is an Artesian well strictly for irrigation purposes. Chris Baker made a motion, seconded by Lisa Carrozza, to close the public hearing. Approved. Lisa Carrozza made a motion, seconded by Kathleen Goblin, to issue a negative (#3) Determination of applicability. Approved.

The members reviewed a Notice of Intent – (#250-) – **Jan Lemaire – Parcels 48 & 49 (assessors map 12) - 85 Bay Road** – for proposed plans to dredge a pond.

Document List:

1. Notice of Intent with hand drawn picture of the property and pond.
2. Several pictures of the pond.
3. Document entitled “Reasons for Dredging Pond at 85-91 Bay Road”.

Jan Lemaire stated that he uses this pond to water his two small vegetable gardens. He said that there is an outfall from the drainage system at the corner of Plain Street and Bay Road with three catch basins that run into a manhole then into a pipe to the pond which was built in 1943 by the county. Mr. Lemaire stated that because of the sedimentation from the road and leaves from the trees, the bottom of the pond consists of a thick layer of muck. He said that normally in the spring there is two feet of water in the pond, but sometimes the pond dries up. He stated that the spring that feeds the pond is clogged up. Mr. Lemaire stated it would be beneficial to the water quality to have more water in the pond. He said that more water in the pond would dilute any runoff water from the street more efficiently. Mr. Lemaire said there used to be fish in the pond, but not now. Ms. Kristine Hancock stated there used to be frogs in the pond, but not now. She stated there are ducks, geese, turkeys and deer in the yard that do not go near the pond anymore.

Jennifer Carlino stated the members would have to decide whether the project is a limited project or not and the members agreed that this is a limited project. She stated they would have to determine the resource areas and the impact of the dredging to each one. Lisa Carrozza asked Mr. Lemaire if he intended to dredge the entire pond and he stated he would be dredging the entire pond. She asked if there was an area of the pond with less vegetation on the bank and Jennifer Carlino stated access to the pond would be from the back side of the pond which is the area where the bank is more stabilized than on other areas of the pond. Jennifer Carlino stated that Mr. Lemaire proposes to dewater the sediment in the field area.

Lisa Carrozza asked Mr. Lemaire what he intends to do with the material removed from the pond and he said he plans to let it dry out in the neighboring field and then have it trucked away. Jennifer Carlino stated there are no wetlands where the material is to be placed to dry. Jennifer Carlino stated that turbidity will have to be taken into consideration because of the fact that the pond outlets a stream that goes around the back of the field. She said that Mr. Lemaire will have to make sure that sediment does not flow into the stream. She said this would be one of the conditions to the Order.

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Jennifer Carlino suggested adding a condition referring to any alterations to the bank. She suggested adding another condition to possibly having to use mats on the bank, but may do a field inspection first to see whether or not they would be needed. She stated that since this is a limited project, a wildlife habitat evaluation could be waived. She said she will condition the timing of the project and also any movement of wildlife discovered during the dredging.

Jennifer Carlino stated that no bordering vegetated wetlands will be altered, except for the area for access and near the headwall. She stated to Mr. Lemaire that his application will have to be revised for the alteration amounts, a copy of which must be sent to DEP. She told the members they will have to make a decision to request monitoring or not and to require an As-Built plan in place of the hand-drawn plan submitted. She said a DEP File number has not been received as yet and the public hearing will have to be continued. Lisa Carrozza didn't think it would be necessary for an As-Built plan as there is nothing to compare it with at this time.

Jennifer Carlino stated that Mr. Lemaire is planning to dredge down 3 feet in the open area of the pond and taper off toward the outer edges. Earl Willcott asked what Mr. Lemaire was going to use to dredge the pond and he replied he would have it excavated. Lisa Carrozza suggested inspecting (monitoring) the site to ensure that the access area is not any larger than approved and to make sure the sequence is in order and that the Order of Conditions is followed correctly. David Henry asked that Mr. Lemaire submit a construction sequence. Lisa Carrozza suggested adding a condition to have the selected contractor appear before the board with a detailed-sequence plan for the dredging.

Josephine Becker of 91 Bay Road was in support of the dredging of the pond and stated she has lived at this address for 45 years and has never seen the pond as dry as it is right now. Anthony Rezendes of 4 Lincoln Street was in support of the dredging of the pond. Lisa Carrozza made a motion, seconded by Kathleen GIBLIN, to continue the public hearing until the next regular meeting of Monday, August 30, 2010 to receive a DEP File number for the project. Approved.

The members reviewed a Notice of Intent – (**#250-**) – **Paul Martin – Parcels 21-26 & 31-32 (assessors map 25) 15 Samoset Road (0 Hope Street)** – for cutting trees and brush within 100 feet of wetlands. Earl Chartier of RIM Engineering Co., Inc., engineer for the applicant described the project to the members.

Document List:

1. Notice of Intent.
2. Plan entitled Existing Clearing at House No. 15 Samoset Road in Norton, MA dated August 4, 2010, dated August 4, 2010, Scale is 1"= 30', prepared by RIM Engineering Co., Inc. and signed and stamped by Craig E. Cygawnoski.

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Present at the public hearing were Paul Martin and Earl Chartier of RIM Engineering Co., Inc. who described the project to the members. He said this application is for clearing that has already been completed within a Canoe River Aquifer without a valid wetland permit. He pointed out that the grades shown on the submitted plans are the grades as they exist at the present time. He noted that 38 ½ feet from the clearing is an Isolated Wetland of 2600 sq. ft. Jennifer Carlino stated the violation is because the clearing was done within the 100-year flood plain. She said this application is only for the clearing that has been done and not for any further clearing. Jennifer Carlino advised Mr. Martin that any further clearing or work will require a new wetland permit.

David Henry asked Mr. Martin what his immediate intentions are and he replied that he intends to remove the tree stumps. David Henry advised Mr. Martin that in order to remove the stumps he would need to file for another wetland permit. Earl Chartier stated he would meet with Mr. Martin and decide what Mr. Martin wants to do, either revise this application for the stumping or file another application later. Mr. Martin stated he would like to cut a few more trees. David Henry advised Mr. Martin to revise this application to reflect the proposal to cut a few more trees. Jennifer Carlino stated a DEP File number has not yet been received for the project. Lisa Carrozza made a motion, seconded by Earl Willcott, to continue the public hearing until the next regular meeting of Monday, September 13, 2010.

The members reviewed a Notice of Intent – **(#250-863) – Alice Baker – Parcel 4 (assessors map 12) 102 Leonard Street** – for proposed plans to cut trees within 100 feet of wetlands and within a flood plain.

Document List:

1. Notice of Intent
2. Plan entitled “Plan of Proposed Tree Clearing at No. 102 Leonard Street in Norton, MA, dated June 29, 2010, Revised on August 3, 2010, Scale is 1”=40’, prepared by RIM Engineering Co., Inc. and signed and stamped by Craig E. Cygawnoski.
3. ATTACHMENT B, Existing Conditions Graphic-8/20/2010 containing photographs.

Chris Baker recused himself from the public hearing. Present at the public hearing were the applicant and Earl Chartier of RIM Engineering Co., Inc. who described the project to the members. He stated that the applicant proposes to cut trees and clear brush for a better sight view down the existing gravel driveway and to prevent limbs from falling onto power lines. Mr. Chartier stated the work is not within the 100-ft. buffer zone but is within the 100-year flood plain at elevation 74.2 and within the Canoe River Aquifer as an ACEC.

Mr. Chartier pointed out the location of the trees that were proposed to be cut and noted they were labeled with the size and type of tree. Lisa Carrozza stated she could not tell the property line from the driveway line on the plans because they were the same. Mr. Chartier drew the lines of the driveway on the plans to clarify this.

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Lisa Carrozza asked if the power company cuts limbs to clear the lines and Ms. Baker replied that they do. She stated after they had cut and cleared last spring a couple of trees had fallen across the driveway. Lisa Carrozza asked if the stumps of any cut trees were going to be removed and Mr. Chartier stated they would be removed and the holes would be filled and graded with the existing elevation.

David Henry read an email dated August 25, 2010 sent to Jennifer Carlino, James Purcell, Town Manager, Timothy Giblin, Bd. Of Selectmen and Charles Gabriel, Town Plann by Frank Reynolds of 96 Leonard Street as follows:

Good Afternoon All,

Please accept this email transmission as notice that on August 30, 2010 the Conservation Commission will hear a motion relative to an application from Mrs. Alice Baker in regards to a property perpendicular to and providing access to Leonard Street. You may already be aware that this area had been the primary focus for a recently adjudged legal effort.

The primary reason for this notice is to alert you to our concern regarding the status of the applicant's son, Christopher Baker, as a current member of the Conservation Commission. For obvious reasons, I feel it would be improper for this matter to be heard by Mr. Baker.

I encourage Town Manager, Planner and Selectperson representation at this hearing in hopes of avoiding any appearance of impropriety or bias and to minimize the town's exposure in this matter.

I am also hopeful for the Towns encouragement that Mr. Baker recuse himself from this case prior to the hearing.

I would be happy to discuss this matter directly if you should have any need for further clarification. Please feel free to contact at any time.

Thank you for your continued service to the town.

David Henry proceeded to read an email dated August 28, 2010 sent to Jennifer Carlino by Paul & Laura Guiney of 98 Leonard Street as follows:

Dear Conservation Commission,

We would like it noted for the record that we oppose the approval of Mrs. Bakers application. It is our opinion that removing the boulder obstructions within the area would provide more than ample passageway.

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The issue of the boulders is also of great concern to us regarding safety. Currently the boulders are hidden by an over growth of weeds.

If emergency vehicles, or any vehicle for that matter, were not aware of this obstruction it could lead to an accident. Being the parents of three small children, we feel the presence of these boulders is reckless.

We also feel that further removal of the landscape may adversely impact the ability to control erosion from entering the bordering wetlands, which was evidenced after the flooding rains last Spring.

Thank you for your attention to this matter.

Paul & Laura Guiney
98 Leonard Street

David Henry noted for the record a copy of a Judgment between Francis W. Reynolds, Kerry A. Reynolds, Paul J. Guiney and Laura D. Guiney, Plaintiffs and Alice E. Baker, Defendant dated December 29, 2008 has been received.

Jennifer Carlino stated that Leonard Street is a "Scenic Way" and if the trees proposed to be cut are within a public right of way, the proposal would have to go before the Tree Warden and the Planning Board for approval under the "Scenic Road Act". She said Conservation had nothing to do with the Zoning either and said the removal of the trees before the Conservation Commission is only to see how the project will impact the flood plain.

Frank Deluna, Counsel for Frank Reynolds of 96 Leonard Street, distributed a handout prepared by Mr. Reynolds showing the layout of the three properties involved with this project as well as the driveway, photos of the existing driveway and a copy of the Land Court Decision between Alice Baker, Francis & Kerry Reynolds and Paul & Laura Guiney.

Mr. Deluna stated that other permits from other boards will have to be obtained before the wetland permit. He stated that the original Land Court case had nothing to do with floodplain, but the decision does prohibit the driveway area from being cleared. He suggested the applicant was making the driveway larger. Earl Chartier stated no other permits will be necessary for the removal of the trees. Jennifer Carlino requested that a more specific detail be submitted as to what trees will be cut down, what trees will be trimmed and a written description of why these trees will be cut down for the file.

Alice Baker stated she wanted to trim branches for safety reasons near the power lines and wanted to cut trees down to get a view of the driveway towards the street as well as prevent them from falling down in stormy weather.

Lisa Carrozza asked Mr. Deluna to point out on the submitted plans where he thought a driveway was proposed and he could only point out the existing driveway. Lisa Carrozza stated the board would only be approving tree removal and not a driveway since it isn't in the proposal before them.

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Mr. Deluna stated that a clear view to the existing driveway can be accomplished by removing the boulders that were put there by Ms. Baker. He said that the flood storage capacity would be increased as well if the boulders were removed. He said that the power company does maintain the power lines.

Lisa Carrozza asked what the ground cover was like between where stumps were proposed to be moved and the 100-ft. buffer zone. She suggested that erosion control will not be necessary for this project as the work is proposed approximately 170 feet from the buffer zone of a wetland.

Frank Reynolds stated that at present there are three driveways side by side. He said there is a huge area of un-filtered property with a 10-ft. landscaped buffer between the driveways. It was his opinion that there is no need for this project when the boulders can be removed. Ms. Baker stated that she would like to clean up her side of the driveway as her neighbors have done.

David Henry asked the members if they wanted revised plans and Lisa Carrozza asked Mr. Chartier to add a note what the permanent stabilization for ground cover was going to be.

Lisa Carrozza made a motion, seconded by Kathleen Giblin, to continue the public hearing until the next regular meeting of Monday, September 13, 2010 in order to revise the plans and to receive a DEP File number.

The members reviewed a request for a Certificate of Compliance for **File #250-832 –Thomas Palanza – Parcel 2 (map 22) 1 Power Street (St. Mary's Parish Center)**. Jennifer Carlino stated that the back side of the basin and 2nd forebay is one foot lower than proposed and the basin bottom is one foot higher than proposed. Lisa Carrozza made a motion, seconded by Kathleen Giblin, to continue the request for a Certificate of Compliance until the next regular meeting of Monday, September 13, 2010 in order to receive revised plans. Approved.

The members reviewed a request for a Certificate of Compliance for **File #250-826 – Ronald Turowetz, Easecat Limited Partnership – lot 42, parcel 296 (map 21) 11 Allen Drive**. Jennifer Carlino noted that there were a few discrepancies between the submitted As-Built plan and what actually has been done on the property. Lisa Carrozza made a motion, seconded by Kathleen Giblin, to continue the issuance of the Certificate until the next regular meeting of Monday, September 13, 2010 in order to receive revised plans. Approved.

The members reviewed a request for a Certificate of Compliance for **File #250-705 – Robert and Julia Camp – parcel 174 (map 35) 102 Dean Street**. Jennifer Carlino stated the applicant wanted to speak to the Commission because she had several questions regarding her project but she did not show up at the meeting. Lisa Carrozza made a motion, seconded by Earl Willcott, to continue the issuance of the Certificate until the next regular meeting of Monday, September 13, 2010. Approved.

The members reviewed a request for a duplicate Order of Conditions for **File #250-859**. Lisa Carrozza made a motion, seconded by Kathleen Giblin, to issue the duplicate Order of Conditions. Chris Baker abstained from voting. Approved.

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The members reviewed the **Lease of Conservation Land – Rose Farm, North Worcester Street** by Jeffrey Gildersleeve. Chris Baker made a motion, seconded by Kathleen Giblin, to have the chairman, David Henry, sign the Lease. Approved.

The members reviewed a Cease and Desist letter for a violation at Old Dean Street of cutting and clearing of buffer, wetland and stream without a wetland permit by Al Cronin. Earl Willcott made a motion, seconded by Lisa Carrozza, to have the chairman, David Henry, sign the letter. Approved.

Discussion ensued regarding the Permit Extension Act, Section 173. Jennifer Carlino stated she had sent a letter to Town Counsel asking for information pertaining to whether or not an Extension Permit is valid even when it has not been recorded at the Registry of Deeds. She said that Town Counsel stated that the Extension Permit is valid even though it has not been recorded.

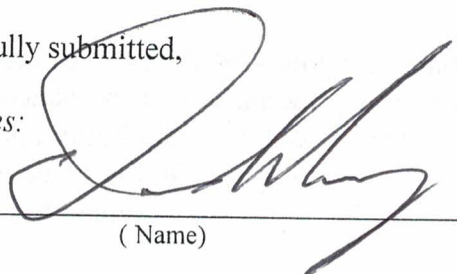
Kathleen Giblin made a motion, seconded by Lisa Carrozza, to adjourn the meeting at 9:24 pm. Approved.

Minutes Approved by Committee on:

9/27/10
(Date)

Respectfully submitted,

Signatures:


(Name)

Chairman,

Conservation Commission
(committee)