

Norton Conservation Commission
70 East Main Street
Norton MA 02766

Monday, July 25, 2016

MINUTES

Attendance: Julian Kadish, Ron O'Reilly, Lisa Carrozza, Scott Ollerhead, Jan Franceschelli, Dan Pearson and Conservation Agent, Jennifer Carlino

The meeting was called to order at 7:00 pm by Ron O'Reilly.

7:01 pm Request for a Determination of Applicability – **(DET. #1042) – Dylan Ribeiro – Parcel 84-73 (Assessor's Map 32) 8 Garrett Drive** – for proposed plans to repair/replace a septic system within 100 feet of wetlands.

Document List

1. WPA Form 1 – Request for a Determination of Applicability
2. Color photos
3. Plan entitled "Upgrade of Subsurface Disposal System" at 8 Garrett Drive, Norton, MA", prepared by BDO Engineering, signed and stamped by David A. Oberlander and dated May 26, 2016.

Attending the public hearing was David Oberlander, BDO Engineering.

Mr. Oberlander noted the existing septic system, which needs replacing, is located within the 100-ft. buffer zone. He commented that the new system will have to be placed in proximity to gas, water, electric, telephone and cable lines spread out under the front yard. He said that the grade is higher in the front yard also. He noted only one corner of the work is within the buffer zone and in an existing grassed area.

Lisa Carrozza suggested using 8" wattles and requested the details be noted on the plans. She asked Mr. Oberlander from which side they would access the work area and he replied on the same side as the septic system.

Jennifer Carlino requested the compost, which has been dumped into the wetlands, at the rear of the property be removed. She asked Mr. Oberlander if the car located right next to the wetlands had been removed and he replied he did not know. She noted that she would be meeting with the contractor onsite and discussing it with him.

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 2.

Motion by Lisa Carrozza to close the public hearing, seconded by Julian Kadish. Approved. Motion by Julian Kadish to issue a negative (#3) Determination of Applicability as long as the work is done according to the approved plans, seconded by Lisa Carrozza. Approved.

7:05 pm **Notice of Intent (#250-986) – Craig Kilburn, Wheaton College – Parcel 14-03 (Assessor's Map 17) 42 Howard Street – (cont. from the July 11, 2016 mtg.)** - for proposed plans to decommission a sewer treatment plant, abandon sewer manholes and removal of invasive species within 100 feet of wetlands.

Document List

1. WPA Form 3 – Notice of Intent
2. Plan entitled "Site Plan" Wheaton College Treatment Plant, Norton, MA, prepared by Farland Corp., Scale 1"=40', signed and stamped by Christian Albert Farland and dated June 27, 2016.
3. Letter dated July 15, 2016 to the Conservation Commission from Stevie Carvalho, Farland Corp., Inc.

Attending the public hearing was Stevie Carvalho who noted he had submitted a response to comments and requests at the last meeting. He proceeded to go through his responses as follows:

- He commented that he inspected the two catch basins in question, describing the condition of each one. He noted that they both outlet to an area identified on the plans as "Isolated Wetland Area".
- He noted the only invasive species in the catch basins is Japanese Knotweed.

Lisa Carrozza requested that the flared ends of the pipe outlet be cleaned out. She asked if he listed in his letter an illicit discharge statement and Mr. Carvalho replied he did not but filed a revised Notice of Intent instead.

Jennifer Carlino asked Mr. Carvalho if any tests were done to prove there is no illicit discharge and he replied that there were not.

Mr. Carvalho commented that he believes that the project as initially proposed meets all the requirements for a re-development project as it not only produces no net increase in impervious area but also reduces the total amount of impervious area, therefore reducing the total amount of stormwater runoff and improving existing conditions.

Motion by Julian Kadish to close the public hearing, seconded by Ron O'Reilly. Approved.

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 3.

7:10 pm **Notice of Intent (#250-968) – William Brandon – Parcel 10 (Assessor's Map 28) – 131 Taunton Avenue – (cont. from the July 11, 2016 mtg.)** – for proposed plans for construction of an access driveway, utility installation and grading within 100 feet of wetlands and to fill and replicate 3,491 sq.ft. of wetlands.

Document List

1. WPA Form 3 – Notice of Intent
2. Plan entitled “Proposed Driveway & Wetlands Crossing Plan” for William Brandon, 131 Taunton Avenue, Norton, MA prepared by P.M.P. Associates, LLC, Scale 1”=30’, signed and stamped by Michael E. Perrault and dated September 21, 2015 (Sheets 1 & 2).
3. Color photos of the site.
4. Letter (Cease & Desist) dated November 30, 2015 from Jennifer Carlino to William Brandon.
5. Letter dated December 1, 2015 from Jennifer Carlino to Patrick Carrara, PMP Associates LLC.
6. Email dated December 8, 2015 from Patrick Carrara, PMP Associates LLC to Jennifer Carlino.
7. Letter dated January 7, 2016 from Michael Perrault, P.M.P. Associates, LLC to Norton Conservation Commission.
8. Rainfall, Runoff Analysis and Culvert Design dated January 5, 2016, revised March 3, 2016.
9. Plan entitled “Exhibit 2 – Detail of Swale Crossing” for William Brandon prepared by P.M.P. Associates, LLC and dated May 10, 2016.
10. Letter dated April 26, 2016 from Brooke Monroe, Pinebrook Consulting to PMP Associates LLC
11. Letter dated July 5, 2016 to Norton Conservation Commission from Patrick H. Carrara III, P.M.P. Associates, LLC.
11. Letter dated July 15, 2016 to Norton Conservation Commission from Patrick H. Carrara III, P.M.P. Associates, LLC.
12. Revised page 3. of the Notice of Intent.
13. Plan entitled “Proposed Driveway & Wetlands Crossing Plan” for William Brandon, 131 Taunton Avenue, Norton, MA prepared by P.M.P. Associates, LLC, Scale 1”=30’, signed and stamped by Michael E. Perrault and dated September 21, 2015 (Sheets 1 & 2) with latest revisions on **July 20, 2016**.
14. Comment email sent to Patrick H. Carrara, P.M.P. from Jennifer Carlino dated July 18, 2016.

Attending the public hearing were William Brandon and Patrick Carrara, PMP Associates LLC.

Mr. Carrara commented:

- That at the previous meeting, Jennifer Carlino had requested changes to the post and rail fence. The fence now runs from beyond the 25-ft. buffer (station 1+75) continuously along both sides of the driveway to the 100-ft. buffer (station 6+75).
- That he reduced the crossing through the wetlands.
- That he reduced the pavement width to 12 feet.

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 4.

- Instead of side slopes on the crossing, a single row of concrete blocks will be placed on both sides of the crossing
- The wetlands crossing had been reduced from 3,625 s.f. to 2,995 s.f.
- That he adjusted the profile to show the new low point elevation at station 3+81.8.

Mr. Carrara responded to Jennifer Carlino's comment email dated July 18, 2016 as follows:

- He corrected the plans by removing a stray fence line.
- He changed all the words "erosion" to "sediment."
- He added a note to the cover sheet regarding silt sacks and catch basins on Taunton Avenue.

Mr. Carrara noted that Jennifer Carlino had asked if footings were necessary under the block walls and he replied that they would be using gravity blocks. Julian Kadish had concerns with water and pressure getting behind the blocks. Mr. Carrara replied that the area surrounding the blocks will be well drained.

Mr. Carrara noted that the Commission will be notified before sedimentation control is removed.

Scott Ollerhead asked if anyone would like to speak either in favor of or against the project and there was no response.

Motion by Lisa Carrozza to close the public hearing, seconded by Julian Kadish. Approved.

Motion by Lisa Carrozza to sign and issue the Order of Conditions, as amended, seconded by Julian Kadish. Approved.

7:15 pm Amended Order of Conditions - **(#250-960) – Condyne Capital Partners – Parcel 116 (Assessor's Map 24) 60 Commerce Way – (cont. from the July 11, 2016 mtg.)** - to amend/modify the building size, stormwater management and drainage changes, installation of fuel island and a new water line.

Jennifer Carlino noted an email had been received requesting a continuance to the next regular meeting of Monday, August 8, 2016.

Motion by Julian Kadish to continue the public hearing to Monday, August 8, 2016. Approved. Lisa Carrozza recused herself from voting.

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 5.

7:20 pm Discussion - #250-38 – 162 West Main Street – Attorney Henry Sousa

In attendance were Attorney Henry Sousa, Robert Medeiros, Robert & Annabella Pesa and Matt Crowe, Chartley Landscape Management.

Atty. Henry Sousa addressed the board and apologized to the Commission for his delayed response to the Conservation Commission because of a staff situation at his office.

Atty. Henry Sousa made the following comments:

- At the previous meeting it was decided he would put together a plan to meet the Conservation Commission's concerns and requirements with the violation on this property and return to submit the compromise to the board.
- Plans to completely clean up of the property, scour the front and back east to west and remove all trash, refuse and debris and to solicit Matt Crowe, Chartley Landscape Management, to remove all invasive species that have since grown on the property.
- Matt Crowe has put together a plan to re-plant approximately 120 wetland species. This amount can be revised to the board's specifications.
- At a previous meeting, a dry well and siltation fence was proposed but new submitted plan shows more of a leaching trench rather than a dry well and the siltation fence can be added.
- He is guessing that the Town's legal fees to date may be at least \$3,000 to \$5,000 and the Pesas are willing to reimburse the Town the legal fees.
- He asked the Conservation Commission to meet the Pesa's part way with the issue of the amount of wetlands filling that has taken place over the past years following the initial wetlands filling.
- He says he has asked all neighbors, Robert Medeiros, who is very knowledgeable about this property and the tenant if any wetlands filling has taken place since the initial wetlands filling and they all agree there has been no further wetlands filling.

Julian Kadish asked Mr. Sousa what date he was referring to when he stated "initial" filling and Mr. Sousa replied "1980s").

Atty. Sousa said that the Pesas have restored and replanted the slope at the rear of the property and are willing to restore the wetlands, after which they would like to compromise with the Commission to allow the property to remain as is and to dismiss all legal action.

Julian Kadish stated that he was on the Conservation Commission at the same time that Mr. John Texeira, previous owner of the property at 162 West Main Street, decided to fill in the wetlands on the property and caused a conflict with the Conservation Commission. Julian Kadish noted that Mr. Texeira

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 6.

did have a permit to fill a portion of the property but filled in a substantially greater amount. He noted that Mr. Texeira had actually placed a "fill wanted" sign on the property and allowed many materials to be used for filling of the property causing a very poor landscape with debris with plants growing out of it.

Atty. Sousa replied that he is only stating the facts that he has been able to obtain since he was contacted by the Pesas. He said he had spoken with the former Conservation Director Kathy Romero and was told that she had requested the property be stabilized. Mr. Sousa stated that this is what the Pesas are trying to do at present.

Atty. Sousa commented that many years have passed since Mr. Texeira passed away leaving the property to his wife. He stated that Massachusetts has a Statute of Limitations which prevents any action from being taken if the amount of time is over three years since the property changed ownership from Mr. Texeira to Mrs. Texeira.

Julian Kadish stated that there was communication between Mrs. Texeira and the former Conservation agents, Mr. Opatka regarding the excess filling, and Kathy Romero since John Texeira's passing. Julian Kadish commented that the landscape at 162 West Main Street is unsafe as is. He said that just because the former owners ignored all demands of the former Conservation agents, the issue cannot be ignored by covering the property over with topsoil.

Atty. Sousa replied that the main issue at hand is if, and how much, fill should be removed from the property. He asked if anyone was observing any refuse on the property at this time and Lisa Carrozza replied she has observed blacktop curbing, rubble, rebar, concrete block, etc much of which is covered by plant growth.

The Pesas commented that the materials noted are actually stabilizing the slope. Julian Kadish replied this is not a satisfactory way to stabilize the slope.

Atty. Henry Sousa suggested removing any visible debris and covering over all the rest with top soil. Julian Kadish replied this would satisfy his concerns.

Jennifer Carlino commented that she included a copy of the Enforcement Order with the agenda for the members to review which included the many items that have to be submitted to the Commission and the timeframess they have to be submitted.

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 7.

Lisa Carrozza commented that the Enforcement Order includes the removal of fill but the plan submitted by the Pesas does not include any removal of fill. She noted that the proposal by the Pesas does not meet the demands of the Enforcement Order. Atty. Henry Sousa commented that the plan does include most of the other demands.

Atty. Henry Sousa asked if the Enforcement Order demands the reimbursement of any legal fees to the Town and Jennifer Carlino replied an Enforcement Order typically does not include that but sometimes a court order may.

Atty. Henry Sousa requested being informed on any future meetings regarding this Enforcement Order.

Jennifer Carlino noted that the proposal to remove all visible debris and refuse from the property is not listed in the submitted proposal and asked Atty. Sousa if she could have that in writing. Atty. Sousa replied he would submit that in writing.

Lisa Carrozza stated to Atty. Sousa that any visible debris or refuse should be cleaned up and disposed of with or without an Enforcement Order and Atty. Sousa agreed.

Jennifer Carlino wanted to make it clear that Atty. Sousa had reviewed his and the Pesa's files but has not reviewed public record files in the Conservation Department and he agreed.

Lisa Carrozza asked Atty. Sousa what part of the Enforcement Order do Mr. & Mrs. Pesa intend on addressing because at this time it does not appear that they are planning to address any of the issues listed on the Enforcement Order.

Atty. Sousa commented that he would address each issue on the Enforcement Order in writing or he could go through them this evening.

Scott Ollerhead commented that the Commission cannot determine the impact to the wetlands until all debris is removed.

Jan Franceschelli commented that Mr. & Mrs. Pesa originally stated they were willing to work with the Commission on restoring the wetlands on the property and then changed their minds.

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 8.

Atty. Sousa again brought up the issue that Mrs. Texeira nor the Pesa's would be responsible for any violations on the property as enough time lapsed after Mr. Texeira's death before any contact was made from the Conservation Commission. Julian Kadish commented that from what he is hearing tonight, it appears that the Pesa's are not willing to do anything at this time. Atty. Sousa argued this is not their intention. Julian Kadish noted that the Commission is willing to work with Mr. & Mrs. Pesa on resolving this violation.

Lisa Carrozza replied that the Commission would like to get an opinion from Town Counsel before making any decisions.

Atty. Sousa commented that if this matter goes to court, it is quite possible the court decide in their favor and they would not have to do anything. He said that the Pesa's would rather settle this issue out of court.

Julian Kadish noted that he would like to move forward on this violation and would like something in writing as to what the Pesa's intend on doing on the property.

Jennifer Carlino noted that, even though this can be a safety issue, the Commission's duty is to enforce the Wetlands Protection Act and the wetland issues are their first priority.

Dan Pearson read aloud the first item stated in the Enforcement Order which is the removal of 11,000 sq.ft. of debris from the wetlands.

Lisa Carrozza commented that heavy equipment will be needed to clean up the side of the slope.

At 8:02 pm Scott Ollerhead commented that the Commission will now enter into **Executive Session** to discuss strategy with respect to the 162 West Main Street litigation related to the Enforcement Order issued by the Commission DEP. File #250-38 pursuant to General Laws, Chapter 38, Section 21, A3 because discussing the matter in Open Session will have a detrimental affect on the Town's litigating position.

Scott Ollerhead commented that at the conclusion of the Executive Session the Commission will reconvene in public to address all other regularly scheduled business.

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 9.

All in favor of entering into Executive Session as follows:

Julian Kadish – yes	Ron O'Reilly - yes
Lisa Carrozza – yes	Dan Pearson - yes
Jan Franceschelli – yes	Scott Ollerhead – yes

Approved. (6-0)

The Open Session of the meeting resumed at 8:34 pm.

REQUEST FOR PARTIAL/FULL CERTIFICATE OF COMPLIANCE

#250-944	Weder Pereira	Parcels 220 & 222 (Map 9)
(full)		60R Reservoir Street

--- construct a single family dwelling, driveway, & septic system with related utilities and grading and upgrade an existing stream crossing with new headwalls and new pipe within 100 feet of Norton Reservoir.

Jennifer Carlino noted there has been a lack of a quorum to discuss this project the last couple of meetings. She commented there has been new bank alteration, the No Disturbance Zone is not correct, finish grades on the cross culvert are missing from the As-built plan and the As-Built plan does not show the infiltration trenches at the house.

Motion by Lisa Carrozza to deny the issuance of a Certificate of Compliance, seconded by Dan Pearson. Approved. Julian Kadish abstained from voting.

#250-895 (Amended)	Ralph Fairbanks	Parcel 47 (Map 14)
(full)		167 North Worcester St.

---addition

Jennifer Carlino commented the project has been completed according to the approved plans. Motion by Ron O'Reilly, to issue the Certificate of Compliance, seconded by Julian Kadish. Approved.

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 10.

#250-970
(full)

Kurt Radke
c/o Prime Engineering, Inc.

Parcel 21 (Map 31)
15 Dean Street

---raze/construct a dwelling/septic system/driveway, grading

REQUEST FOR PARTIAL/FULL CERTIFICATE OF COMPLIANCE (cont.)

Jennifer Carlino commented the driveway has not been graded or paved. She said the area has been loamed but not seeded and the visual barrier is up but there are no signs posted. She noted a new retaining wall has been constructed. She said she does not know if the trash has been removed.

Motion by Lisa Carrozza to issue a partial Certificate of Compliance after a \$5,000 bond has been posted with the Town Treasurer to ensure final vegetation of exposed soils, seconded by Julian Kadish. Approved.

#250-949
(partial)

Mark Perry

Parcel 30 (Map 18)
21 So. Washington St.

---raze a house/shed/construct house/septic/utilities/driveway/grading

Jennifer Carlino commented the area has not been loamed or seeded. She said visual barriers have been installed with the conservation signs. She noted a new retaining wall has been constructed and was not proposed but is close to the house away from the wetlands.

Motion by Julian Kadish to issue a partial Certificate of Compliance after a \$5,000 bond has been posted with the Town Treasurer to ensure final stabilization of exposed soils, seconded by Lisa Carrozza. Approved.

EXTENSION REQUEST

#250-612
(Red Mill Village)

Lloyd Geisinger
Thorndike Dev. Corp.

Parcel 5 (Map 19), Parcel 11 (Map 34)
White & Newland Streets

Jennifer Carlino noted there is one lot left to build. She commented that there are a few things left to be done, such as: final pavement, final stabilization of a lot near Newland Street and revisions to the Operations & Maintenance Plan and As- built plan.

Motion by Lisa Carrozza to issue a one-year Extension, seconded by Julian Kadish. Approved.

REQUEST TO MODIFY PLANS

#250-947 – Norton Landfill Solar, Hill Street - Jennifer Carlino commented that the Fire Department requested that they widen the road as discussed at the last meeting. The information regarding the swales has been submitted.

Motion by Julian Kadish to accept the modified plans as submitted, seconded by Ron O'Reilly. Approved. Lisa Carrozza abstained from voting

SIGN/ACCEPT ORDER OF CONDITIONS/ORDER OF RESOURCE AREA DELINEATION

#250-968 – William Brandon – Parcel 10 (Assessor's Map 28) – 131 Taunton Avenue – for proposed plans for construction of an access driveway, utility installation and grading within 100 feet of wetlands and to fill and replicate 3,491 sq.ft. of wetlands.

The members reviewed the draft Conditions for file **#250-968**. Comments and edits were made by the members. Motion by Lisa Carrozza to issue and sign the Order of Conditions, as discussed, seconded by Julian Kadish. Approved.

#250-984- David LeMieux, Sinclair Manufacturing Company – Parcels 124-01, 126, 127, 127-01 & 128 (Assessor's Map 26) 12 South Worcester Street – for proposed plans to dredge approximately 30 cubic feet of sediment from Chartley Brook.

The members reviewed the draft Conditions for file **#250-984**. Comments and edits were made by the members. Motion by Lisa Carrozza to issue and sign the Order of Conditions as discussed, seconded by Julian Kadish. Approved.

OLD BUSINESS

Violations:

90A Freeman violation – Jennifer Carlino commented that most of the restoration work has been completed and plans showing the wetlands were submitted to the Building Department. The board agreed that the tires should be removed and the final stabilization of exposed soils should be done.

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 12.

241 Dean Street – Jennifer Carlino had noted she is still working with the owner and advising him to finish before the end of the summer.

#250-38 – 162 West Main Street (Discussed earlier)

Right of First Refusals – 19 Leonard Street (Lot 11-66) AND 235 East Main Street (Lot 11-32), 0 Leonard Street (Lot 11-22), 0 Leonard Street (Lot 11-25) & 0 Leonard Street (Lot 11-25-01).

The members reviewed the draft letter. Motion by Ron O'Reilly to issue the letter for the Right of First Refusal, seconded by Julian Kadish. Approved. Lisa Carrozza abstained from voting.

#250-985 – 2 Foster Drive

Chartley Pond Dam update – Jennifer Carlino commented that Sinclair Manufacturing had submitted a letter regarding the ownership. She noted the Town Manager went to the Finance Committee to obtain funding for the sinkhole repairs which was approved and the work will probably begin this fall.

NEW BUSINESS

Shpack – **Notice of Activity and Use Limitation (NAUL)** Jennifer Carlino commented that her comments made to the letter from Michael P. Last, Rackemann Sawyer & Brewster were basically ignored. Jennifer Carlino commented that the board members are requested to sign the letter. She suggested that the correct parcels should be listed on the letter.

Reservoir Update
Report from Staff
Site visits
Waterbodies Committee update
Wetland Protection Fund
Grants

Open Session (topics not reasonably anticipated 48 hours in advance)

The Commission agreed to re-organize voting Scott Ollerhead as Chairman and Julian Kadish as Vice-Chairman.

The Commission agreed to start calling meetings to order at 6:30 pm.

Norton Conservation Commission
Monday, July 25, 2016
Minutes, Page 13.

Motion by Ron O'Reilly to adjourn the meeting at 9:32 pm, seconded by Julian Kadish. Approved.

Minutes Approved by Committee on: 11/14/16
(Date)

Respectfully submitted,

Signature:

Scott Ollerhead Chairman, Scott M. Oller
(Name)