



Norton Conservation Commission
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MAR 24 2009

NORTON TOWN CLERK

Monday, March 9, 2009

7:00 pm

Attendance

Earl Willcott (Chairman), Julian Kadish (Vice-Chairman), Kathleen Giblin, David Henry, Chris Baker, and Jennifer Carlino, Conservation Agent.

Lisa Carrozza and Ron O'Reilly were absent.

Minutes

The meeting started at 7:00 pm.

The members reviewed the minutes of **February 23, 2009**. David Henry made a motion, seconded by Chris Baker, to accept the minutes as written. Approved.

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

The members reviewed the Bills Payable Sheet (Donald Nagle). David Henry made a motion, seconded by Kathleen Giblin, to pay the bill. 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** – for proposed plans to fill three (3) wetland depressions within 100 feet of wetlands. Chris Baker recused himself from the public hearing. Jim Marsh was at the public hearing to represent William Cuming and with him was Karen Skinner-Catrone, Wetland Specialist and Conservation Agent for Westwood. Mr. Marsh stated that the work proposed by this filing would not have any impacts to the wetlands. He stated it is his client's intention to fill in 3 existing basins. He said Ms. Catrone would explain to the Commission why the basins are not jurisdictional and why, in her opinion, there is no vernal pool on the site.

Ms. Catrone stated she had inspected the site in early November with Mr. Marsh. She said she revisited the site on November 11th. She stated she had asked the applicant to use his property line as his wetland line. She said the existing basins were originally created for bird fowl. Ms. Catrone stated that a Notice of Intent was filed in 1996 for this site and the basins were deemed non-jurisdictional by the Army Corp. of Engineers. She said that the 3 basins are non-jurisdictional by the State because of their size. She said that two out of three of the basins do have hydric soils and vegetation but in order to be under the state's jurisdiction, the basins would have to be at least 10,890 sq. feet or ¼ of an acre and holding at least 6" of water which they are not.

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Ms. Catrone stated that all work is being done at least one hundred feet from the property line which, she stated, is designated as the wetland boundary. Jennifer Carlino stated that a plan from 1995 is much too old to be used for an application. She said if the property line is going to be designated as the wetland boundary, then this should be stated on the submitted plans. Jennifer Carlino stated the filing should be an Abbreviated Notice of Resource Area Delineation (ANRAD) with new plans showing all wetland flags matching all the wetland flags on the site. Mr. Marsh stated that according to the submitted plans, all work is out of the 100-foot buffer zone. Jennifer Carlino stated there is no proof of this on the submitted plans and no wetland flags on the site. She said the Commission cannot verify wetlands on a plan when the flags aren't in the field.

Mr. Marsh stated the size of the basins match up with the basins drawn on submitted plans from 2002. At this point Ms. Catrone agreed that the wetland flags should be placed on site as well as on the submitted plans. Mr. Marsh argued the point of whether the flags need to be placed on site and on the plans stating nothing has changed since 1996 and all work is out of the Commission's jurisdiction. Jennifer Carlino stated the Commission cannot make a Determination without the flags. She again stated the correct application for this project at this time is an (ANRAD). Julian Kadish stated that the submitted plans have expired and new plans should be submitted.

Jennifer Carlino asked Ms. Catrone when she inspected the site for a vernal pool and she replied in November. Ms. Catrone stated there was no water and there were no fairy shrimp present. Jennifer Carlino stated in order to see fairy shrimp, water would have to be present. Ms. Catrone stated she found Fairy Shrimp skeletons. She said that she had checked with Natural Heritage and was informed that this pool had not been certified as a vernal pool and was not on the list of possible vernal pools. Jennifer Carlino stated that the best time to inspect vernal pools is March through June. She stated that the dry method is no longer acceptable to Natural Heritage.

Mr. Marsh stated that the information submitted in the filing for 2002 was sufficient for the Commission and Jennifer Carlino stated that there were no calculations in the 2002 filing and the Commission has learned a lot since 2002. Jennifer Carlino stated that it would be up to the Commission whether or not a Request for a Determination of Applicability would be acceptable for this project, but updated plans would have to be submitted with actual ILSF calculations and wetland flags in the field. Mr. Marsh stated the wetland line has not crossed over the property line and therefore, the work is not within 100 feet of the wetland line. He said the basins have not and will not change in size. Julian Kadish stated that there is always the possibility of somehow appealing any decisions made by the Commission, and, without written proof of the wetland boundaries, the Commission would have nothing to back up their decision.

Mr. Marsh stated he would have the site flagged and submit a revised plan with wetland flags to match wetland flags on the site. He requested a continuance of the project until the regular meeting of Monday, April 13, 2009. Kathleen Giblin made a motion, seconded by David Henry to continue the public hearing until April 13, 2009. Approved.

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The members reviewed a Notice of Intent – (#250-837) – **Jim Hendrickson, Chairman/Norton Open Space Committee – Parcel 118 (assessors map 27) Barrowsville Pond – (cont. from the February 23, 2009 mtg.)** - for proposed plans to manually remove Water Chestnut from Barrowsville Pond. Jennifer Carlino stated that the project has received a DEP file number. Kathleen Giblin made a motion, seconded by Julian Kadish, to close the public hearing. Approved.

The members reviewed a Notice of Intent – (#250-) – **Scott Pietruszewicz – Lot 16, Parcel 270 (assessors map 21) 12 Ellis Road – (cont. from the February 23, 2009 mtg.)** - for proposed plans to clear and grade additional lawn within 100 feet of wetlands. Jennifer Carlino stated that a DEP file number has not been received for this project. Kathleen Giblin made a motion, seconded by David Henry, to continue the public hearing until the next regular meeting of Monday, March 23, 2009. Approved.

Michael Riha addressed the Commission regarding the Order of Conditions for file **#250-830 – 40 So. Lakeview Road**. Mr. Riha stated he had a question regarding condition #35 requesting that the garden fence be re-located 10 feet toward the upland area. He stated that he did not recall discussing this issue at any of the previous meetings. Jennifer Carlino stated that the Commission can add any conditions necessary to protect the quality of the water. Mr. Riha argued that moving the fence leaves a very small back yard. Jennifer Carlino stated to Mr. Riha that this is the situation because he decided to double the size of the house and add a garage on a very small lot.

Julian Kadish suggested to Mr. Riha that he create two shallow swales to catch any runoff from the property before going into the Reservoir. Jennifer Carlino stated it would be easier just to plant shrubs or trees listed in the order instead of creating two swales at the edge of the water. Mr. Riha stated that his mother would be planting shrubs eventually. Julian Kadish suggested to Mr. Riha to continue with the project and decide what he would like to do and at that time the members would inspect the property.

Mr. Riha stated he had concerns with using geotextile fabric between the bottom of the driveway and the top of the gravel. He said that it was his opinion that over a period of time the fabric would in fact block, rather than filter, any water runoff and shorten the life of the driveway. Jennifer Carlino stated that Mr. Riha had included this in his detail of the driveway on the submitted plans. Chris Baker stated that the geotextile fabric is actually used for stabilization of the driveway to keep it from shifting rather than to filter the water runoff from the driveway.

Jennifer Carlino asked if anyone had any new revisions to the proposed by-law. No one responded.

Jennifer Carlino stated invoices keep coming in from Pare Corp. but she has not received any updated information.

Jennifer Carlino presented a letter to be signed by the chairman regarding a violation for **Emma's Pizza at 130 Mansfield Avenue – File #250-815**. She stated that the issues are a stockpile of snow that is not stored in the area designated on the approved plans and not having received any monthly reports to date. Kathleen Giblin made a motion, seconded by David Henry, to send the letter. Approved. Chris Baker abstained from voting.

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Jennifer Carlino presented a letter to be signed by the chairman regarding a violation for **St. Mary's Church** at **Power Street – File #250-832**. She stated that the issues are a stockpile being placed next to the wetlands and not in the area designated on the approved plans and not having received any monthly reports to date. Kathleen Giblin made a motion, seconded by Julian Kadish, to send the letter. Approved.

Jennifer Carlino noted that the **Norton Police Dept. – File #250-669 – Hill Street** – is not in compliance with their Order of Conditions and have stated they would be constructing a shed on the property as well. She stated she has advised them that they have to revise their existing plan and record the Order of Conditions.

Jennifer Carlino noted that the owner of **71 Maple Street** have cut several trees in the back yard, partially in the wetlands and on Town property. She stated she sent to the owner a letter to Cease & Desist all activities and contact the Conservation Office for an inspection.

Earl Willcott noted two Norton Reservoir leases have to be signed; 1. LL Bean and 2. Norton Kayak. Kathleen Giblin made a motion, seconded by David Henry, to have the members sign the leases. Approved.

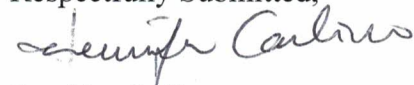
Jennifer Carlino presented a letter allowing the Selectmen to transfer \$8,000 from the Wetland Protection fund to the General fund. Kathleen Giblin made a motion, seconded by Julian Kadish, to have the members sign the letter. Approved.

Jennifer Carlino noted Town Meeting this year is May 11th and the Conservation Commission will have two articles on the warrant; 1. The Open Space Committee is proposing to acquire a Forestry Plan Grant and to do a Forestry project involving Lincoln Woods and the Town Forest. She stated that a forester would selectively cut dead trees and sell the wood and put the money into a revolving fund which would be used to pay for a Forestry Plan. She stated a town meeting vote is needed to put the money from the cutting into a revolving fund rather than into the general fund. She said that whatever the amount stated in the article is, this is the amount that can be put into a revolving fund and any extra money received would have to automatically be put into the general fund. 2. Adopt the new flood plain maps (F.I.R.M.).

David Henry made a motion, seconded by Kathleen Giblin, to adjourn the meeting at 8:30 pm. Approved.

The meeting went into **EXECUTIVE SESSION** at 8:30 pm.

Respectfully Submitted,



Jennifer Carlino
Conservation Director
JC/pmb