



**Norton Conservation Commission**  
**70 East Main Street**  
**Norton MA 02766**

RECEIVED  
NORTON TOWN CLERK

2012 FEB 27 P 4: 06

**Monday, December 19, 2011**

**Attendance**

David Henry (Chairman), Ron O'Reilly (Vice-Chairman), Julian Kadish, Chris Baker, Michele Simoneaux and Jennifer Carlino, Conservation Agent

Lisa Carrozza was absent.

**Minutes**

David Henry called the meeting to order at 7:00 pm.

The members reviewed the Bills Payable Sheet (Registry of Deeds). Julian Kadish made a motion, seconded by Ron O'Reilly, to pay the bill. Approved.

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

The members reviewed the Bills Payable Sheet (Chartley Pond Reservoir). Michele Simoneaux made a motion, seconded by Julian Kadish, to pay the bill. Approved.

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

The members reviewed the Bills Payable Sheet (T Ford Co.). Michele Simoneaux made a motion, seconded by Julian Kadish, to pay the bill. Approved.

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

**Notice of Intent – (#250-877) – Brian & Jacqueline Donahue – Parcel 162 (Assessor's Map 15) 2 Foster Drive –(cont. from the October 17, 2011, November 14, 2011 & November 28, 2011 mtgs. )**  
- for proposed plans for restoration of 4,127 sq.ft. of wetlands, installation of a well and construction of an addition within 100 feet of wetlands. David Henry stated an email was received from Chris Yarworth of Yarworth Engineering, requesting a continuance of the public hearing until the next regular meeting of Monday, January 9, 2012. Michele Simoneaux made a motion, seconded by Julian Kadish, to continue the public hearing until January 9, 2012. Approved.

The members reviewed an Abbreviated Notice of Resource Area Delineation – (#250-879) – **Lillian Stenfeldt/Gerda A.M. Stenfeldt Trust of 2008 – Parcel 20 (Assessor's Map 35) Dean Street** – for verification of the Wetland Resource Area boundaries.

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Document List

1. WPA Form 4A – Abbreviated Notice of Resource Area Delineation.
2. Plan entitled “Plan of Wetland Resource Boundaries, Dean Street, Norton, MA Prepared for Gerda A. M. Stenfeldt Trust of 2008, Scale of 1”=40’, by Yarworth Engineering Company, Inc., signed and stamped by Christopher D. Yarworth and dated October 17, 2011.

David Henry noted that Scott Goddard of Goddard Consulting has requested a continuance of the public hearing until the meeting of January 9, 2012. Julian Kadish made a motion, seconded by Michele Simoneaux, to continue the public hearing until the next regular meeting of Monday, January 9, 2012. Approved.

The members reviewed a Notice of Intent – **Bay Road Heights/Shawn Kelly – (#250-871) - Parcels 27, 29, 30 & 131 (Assessor’s Map 12) & portions of Bay Road, off Bay Road (Phase 2 of Bay Road Heights 40B) – (cont. from the June 13, 2011, June 27, 2011, July 11, 2011, August 8, 2011, September 26, 2011, October 17, 2011 & November 14, 2011 mtgs.)** - for proposed plans to extend a water main, construct a roadway, 11-lot subdivision and storm water management within 100 feet of wetlands.

Document List

1. WPA Form 3-Notice of Intent
2. Plan entitled “Phasing Plan, Bay Road Heights in Norton, Massachusetts prepared by Outback Engineering Incorporated with a scale of 1”=50’ dated February 23, 2011 and signed and stamped by Rene L. Gagnon, RPE (sheets 1 & 2).
3. Plans entitled “Bay Road Heights, A Residential Development in Norton, Massachusetts, prepared by Outback Engineering Incorporated signed and stamped by Rene L. Gagnon, RPE (sheets 1 to 13) dated January 9, 2007 with latest revisions of October 14, 2010.
4. Drainage Report, Bay Road Heights, Norton, Massachusetts, A Proposed Housing Development in the Town of Norton, MA prepared by Outback Engineering Incorporated dated June 24, 2010.
5. Addendum to Drainage Report, Bay Road Heights, Norton, Massachusetts, A Proposed Housing Development in the Town of Norton, MA prepared by Outback Engineering Incorporated dated October 12, 2010.
6. Letter dated June 6, 2011 from Jennifer Carlino to Seth Dufort of Outback Engineering.
7. Letter dated June 29, 2011 to the Conservation Commission from Chessia Consulting.
8. Letter dated September 16, 2011 from James Pavlik, Project Manager for Outback Engineering to Secretary Richard K. Sullivan, Jr.
9. Letter dated September 26, 2011 from Chessia Consulting to the Conservation Commission.
10. Letter dated September 27, 2011 from Mass Audubon to Secretary Richard K. Sullivan, Jr.
11. Letter dated December 1, 2011 from James Pavlik, Project Manager for Outback Engineering.
12. Letter dated December 15, 2011 from NHESP to Bay Road Heights.
13. Letter dated December 8, 2011 to the Norton Conservation Commission from Jake Kubel, Conservation Scientist.



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James Pavlik of Outback Engineering was present at the public hearing along with Sean Kelly, owner, and Rene Gagnon of Outback Engineering. Mr. Pavlik refreshed the memories of the board members and stated that this is a 40B project which the developer had received a ZBA permit for in 2007 but never went forward with the project. He said the developer decided to go forward in 2010 but ran into a problem with Natural Heritage. In October of 2008 the property had been mapped by Natural Heritage, and, after some discussion, it was agreed back then by Natural Heritage that the project was grandfathered and required no permits from their department. He noted that plans were approved by the Zoning Board of Appeals as well as the Water Department for the water main continuation down Bay Road.

Mr. Pavlik said the next step was filing the Notice of Intent with the Conservation Commission. He said that two Notices of Intent have been filed, one for the subdivision portion of the project which includes the water main extension down Bay Road to be connected at the Bay Road end of Buttermilk Way. He said the other one was for the condominiums. He noted that the project involved 36 units including 2 existing houses, one at 50 Lincoln Street and one at 135 Bay Road. He said there are 23 condominiums proposed as well as a subdivision with 10 new houses. He mentioned that there is also an existing house at 135 Bay Road to be converted into a duplex. Mr. Pavlik stated there is no wetland alteration and the project is a buffer zone project.

Mr. Pavlik stated that when the Notice of Intents were filed last May, he was informed by Natural Heritage, that because of new regulations, there were endangered species issues. He said that these issues were worked out through the summer months with Natural Heritage and received a certificate. The applicant has filed with MEPA (and is working on filing the Conservation Management Permit). He stated that revised plans have been re-submitted incorporating the Wetland Consultant's, Conservation Commission's, MEPA and Natural Heritage comments, suggestions and requirements.

Mr. Pavlik noted that he has submitted a response letter dated December 1, 2011. He presented the original submitted plan from 2010 along with the newly revised plan. He said a majority of the revisions have to do with the condominium layout. He said that nine of the twenty-three units have been reduced from three to two bedrooms. He stated that a smaller septic system has been proposed because of the smaller footprints of the condominiums and less bedrooms. He said the closest unit to the wetlands is now 85' as before the revisions it was 50'. Jennifer Carlino asked Mr. Plavik what the limit of work was now and he pointed out the limit of work on the plan. He said at a few areas it is 25 ft. minimum but mostly 30 ft. to 40 ft. minimum. He stated that not only were three units moved further from the buffer zone, but also the limit of work also. Michele Simoneaux asked if there were any discharge areas and he replied there were, but not within the 25 ft. areas.

Mr. Plavik stated the detention basins were re-configured and pulled further away from the wetlands per Chessia Consulting's comments. Jennifer Carlino asked Mr. Plavik if he had his response letter to Chessia's and her comment letters and asked him to go over his responses in order. He continued with his comment responses to the letters as follows:



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#3. He stated that the wetland line had been flagged in 2006 and had expired and was re-flagged earlier this year. He noted that a wetland upland island not previously flagged has been flagged and a wetland area across the street has been flagged. He said a few wetland areas on abutting properties were not flagged as they are over 100 feet from the BVW. He noted that a certified pool has been located on a town-owned parcel which had been previously overlooked by the applicant.

Jennifer Carlino requested that he put the number for the Certified Pool on the plan. Jennifer Carlino stated that she agrees with the BVW boundary on the town-owned parcel but not the vernal pool boundaries, but she explained he would not have to verify this information at this time because this area will not be altered. Jennifer Carlino noted the wetland at 134 Bay Road, across from the main project, and said she did not have a problem with the boundaries.

Jennifer Carlino noted a couple of flag changes to Mr. Pavlik. She suggested connecting D9 to D11 and D25 to D27, as well as C48 to the second C49 eliminating the first C49. She mentioned that the debris had been removed at the house on Lincoln Street which fixes the violation. She asked that the pond be labeled on all the sheets of the revised plans. Jennifer Carlino pointed out a small area on the plan near Lincoln Street and asked that a new flag be added to be labeled C39A to be connected with C64 and to connect C39 to C63. She stated she did not check the soils at this area at this time but it should be considered wetland. She asked Mr. Pavlik to check with the owner of the house on Lincoln Street and ask what the white granular material is on the ground between the shed and the wetland boundary.

Mr. Pavlik stated he had added a few site features to the plan such as a short segment of a stone wall, rock crop detail at the top of the hill and an excavated area on an abutter's property. He noted that Chessia Consulting asked what happens to the runoff on Bay Road and he added details showing that the water will flow toward the two existing catch basins at 134 Bay Road. An abutter, Brian Cody, of 138 Bay Road stated that the water does overflow into his yard as well as his neighbor's yard and the wetlands. Jennifer Carlino asked Mr. Pavlik what the additional volume of that would be and would the culvert under the driveway at 135 Bay Road be able to handle it. Mr. Pavlik stated he did not have the figures with him this evening. Mr. Pavlik said that the additional flood elevation is less than 1 inch and the rate of runoff for all the designed storms has been reduced to be less than 1 inch. Jennifer Carlino asked Mr. Pavlik if he was stating that the post-development rates would be less than the pre-development rates and he replied they would be. David Henry asked how this would be achieved.

Mr. Pavlik pointed out on the site design a ridge on-site several hundred feet from Bay Road. He stated that the proposed roadway will intersect Bay Road and a portion of the road where the runoff is draining towards Bay Road will now be directed toward a detention basin at 134 Bay Road. Jennifer

Carlino asked Mr. Pavlik if he included any information regarding the culvert at 138 Bay Road and he replied he had as a suggestion per Chessia Consulting. Jennifer Carlino stated that Chessia Consulting had reported that once the runoff had reached the catch basin at 134 Bay Road it shot back across the street towards the wetlands next to 147 Bay Road. Mr. Pavlik stated that the water clearly does not do this and he agreed that he had enough spot elevations to prove this. Jennifer Carlino asked Mr. Pavlik if he has submitted enough information about the volume and suggested that Chessia Consulting



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confirm that the water is not going to be a problem for the resident at 138 Bay Road. She said there is an estimate of \$2,000 for the consultant to review the newly submitted information.

Michele Simoneaux asked Mr. Plavik if the deteriorating existing catch basins will be a problem with additional overflow and he replied they would not.

Mr. Plavik stated that one of the comments pertained to the roadway entrance to the site. He stated that at the ridge site, in order to meet appropriate grades for the roadway, a cut was proposed in some rock out cropping and requires removing large boulders. He stated there was no evidence of additional ground water present. An abutter, Shirley Giroux of 137 Bay Road stated that at the area of the ridge, the underneath is ledge and will not absorb water.

Mr. Plavik stated he would address the comments for the 10 Standards in the DEP Storm water Management Regulations. He noted there were changes to all three detention basins in order to meet the TSS Removals. Michele Simoneaux asked Mr. Plavik what the different basins were and he replied that Basin #1 was a detention basin and basins #2 and #3 were infiltration basins. Jennifer Carlino asked Mr. Plavik if he could label the basins on the plans. He noted that there will be several bio-retention basins located behind a few of the units, such as lot 11 and lot 8. He said these will be shallow swales with wetland plants around them. He stated that these issues summarize his responses to Chessia Consulting.

Mr. Plavik suggested going over comments received in a letter dated September 26, 2011 by Lucas Environmental. He stated that several of Lucas's comments were similar to Chessia's. He said that the wetland resource areas have been flagged and located on the revised plan. He stated that basically what he has done was to document how the site design is not going to impact the wetlands. Mr. Plavik said two sheets have been added to the plans detailing the use of erosion control during construction. Mr. Plavik stated no work was proposed within a wetland resource area. He said he would be working closely with Natural Heritage on their required permit. Jennifer Carlino stated she has received a letter from Natural Heritage dated December 15, 2011 which states that even though the project will not adversely affect the rare species habitat under the Wetland Protection Act, a permit will be required through the Natural Heritage Endangered Species Program under the Mass Endangered Species Act. She asked Mr. Plavik if he had applied to Natural Heritage yet and he replied he would be within the next two weeks.

Mr. Plavik stated that many of the comments in a letter dated June 6, 2011 from the Conservation Commission have already been addressed by responding to Natural Heritage, MEPA and Chessia Consultants. David Henry asked Mr. Plavik if he had obtained the permits from the Board of Health and he replied he has not. Jennifer Carlino made note of hay bales being shown on the plans which Mr. Plavik stated he would remove from the plans. Jennifer Carlino asked Mr. Plavik if the unit on Lot 8 could be moved slightly to move it out of the buffer zone, and Mr. Plavik replied he hasn't completed all the perc tests and wants to make sure he leaves enough space to move the septic system if necessary. He said once the location of the septic system is permanent, he can always make an

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amendment to these plans. Jennifer Carlino asked him when the septic tests will be completed and he replied he had nothing planned at this time.

David Henry stated that the consultants will review the new revisions to the plan and comments by the Conservation Commission. He said that all final comments will be discussed at the next Conservation Commission meeting. Linda Mayer of 101 Bay Road asked Mr. Plavik to show her where the water main was going to "loop" around. He explained that the water main will come from Lake Winnecunnet area up Bay Road to the proposed project site and loop around within the project site itself and not go back onto Bay Road or Buttermilk Way. Ms. Mayer asked about the detention basin at 134 Bay Road and Mr. Plavik explained to her what this was for. Ms. Giroux had questions regarding the runoff water from the new roads and Mr. Plavik explained to her where the water will go. Ron O'Reilly asked Mr. Plavik to explain how the water will get from the road to the detention basin for the audience's benefit.

Ron O'Reilly made a motion, seconded by Michele Simoneaux, to continue the public hearing until the regular meeting of Monday, January 23, 2012. Approved.

Discussion ensued regarding an on site meeting for Bay Road. It was agreed they would meet on site on Saturday, January 7, 2012 at 11:00 am.

**Notice of Intent – Bay Road Heights/Shawn Kelly – (#250-872) - Parcels 29, 30 & 131 (Assessor's Map 12) off Bay Road (Phase 3 of Bay Road Heights 40B) – (cont. from the June 13, 2011, June 27, 2011, July 11, 2011, August 8, 2011, September 26, 2011, October 17, 2011 & November 14, 2011 mtgs.) - for proposed plans to install a 23-unit condo complex, road, storm water management and utilities within 100 feet of wetlands.**

Document List

1. WPA Form 3-Notice of Intent
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All discussion is the same as in File #250-871.

Ron O'Reilly made a motion, seconded by Chris Baker, to continue the public hearing until the regular meeting of Monday, January 23, 2012.

The members reviewed a request for a duplicate Certificate of Compliance for File #250-407 – **Allen O. Riley – Plain Street (Joanna Estates) – Parcels 55 & 154 (Assessor's Map 18)** - proposed construction of a residential subdivision with associated drainage structures and detention basin within 100 feet of wetlands. Michele Simoneaux suggested obtaining a copy of the As-Built plan and Jennifer Carlino stated that the Planning Dept. may have one and could get her a copy for our files. Julian Kadish made a motion, seconded by Ron O'Reilly, to issue the duplicate Certificate of Compliance. Approved.

The members reviewed the draft Order of Conditions for the Notice of Intent – (#250-875) – **James Cochrane – Parcel 145 (Assessor's Map 16) 121 Freeman Street – (cont. from the Oct. 17, 2011 mtg.)** - for proposed plans to install a dock within 100 feet of wetlands on the Norton Reservoir. Michele Simoneaux suggested the following revisions:

Condition #7, a., the words "shall be submitted" shall be deleted.

Conditions #10, after the word "pictures", the words "prior to the commencement of the Certificate of Compliance." should be added.

Condition #14, the words "as soon as possible" should be replaced by the words "in the Spring of 2012".

Condition #25, add the "Massachusetts Banned Plant List".

Michele Simoneaux made a motion, seconded by Ron O'Reilly, to sign and issue the Order of Conditions, as amended. Approved.

**Norton Reservoir Island Project proposal by Kenneth Leavitt/Norton Teambuilding Camp of an Aerial Adventure /Teambuilding Program.**

Jennifer Carlino stated that Mr. Leavitt was going to discuss filing a Notice of Intent at tonight's meeting but called to say he was withdrawing his intentions and did not want to attend tonight's public meeting.

Discussion ensued regarding a complaint for **10 Freeman Street**. Jennifer Carlino stated this may be an argument between the owner and the people across the street. She stated leaves were being dumped at the end of the culvert at 10 Freeman Street. She stated that the town does not have an easement at that location. She said the leaves are restricting the flow of water in the stream. Julian Kadish asked who was dumping the leaves and she stated the Enforcement Order should be sent to the home owner if they didn't respond. Jennifer Carlino said she would like to review the file of when the reconstruction of Freeman Street was done. She said she had previously spoken to the owner. It was agreed to send a letter to the land owner.

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Discussion ensued regarding **6 Rumford Road**. Jennifer Carlino stated that there was cutting and clearing within floodplain/riverfront, but the owner is cooperating and will let the area grow back to its original state.

Jennifer Carlino had written two letters for the members to sign regarding the cutting of Elizabeth Sorenson's position at the ACEC Program. One was to thank Elizabeth Sorenson for her help over the years and one was to her boss expressing the board's disappointment in the state budget and lack of support/funding for her position. Ron O'Reilly made a motion, seconded by Michele Simoneaux, to sign the letters. Approved.

**Violation-81 Freeman Street** – Jennifer Carlino presented pictures of the disturbed area on November 14<sup>th</sup> and again today, December 19<sup>th</sup>. She stated the owner is cleaning up the area, slowly, but said it is a start.

**Violation-4 & 6 Bay Road** – Jennifer Carlino stated that a Notice of Intent has been filed, but the plan does not show the grading. She said the board will review the information at the next regular meeting.

**Violation-241 Bay Road** – Jennifer Carlino stated she finally got a phone call from the owner and met onsite to discuss the violation. She said he will remove all debris from the site and is aware that he will need a permit to extend the parking area. She noted he explained that he did not know who was cutting in the wetlands, but would make sure they would not be cutting again. She stated that the gravel driveway had been bulldozed and the material was dumped into the wetlands. She said the owner will remove all the plants and then she can inspect the area.

**Update – 157 Mansfield Avenue**

Jennifer Carlino stated that John Sullivan advised her that he did not know that the LSP for the project has resigned. He told her that a Notice of Intent will be filed by this Wednesday.

The members reviewed an Enforcement Order – **Tula – 38 John Scott Boulevard**. Jennifer Carlino stated the owner had received a temporary Occupancy Permit from the Building Inspector so he could move in before Thanksgiving of last year. She stated he had agreed to complete the stabilization on the property but, after a years time, has not. She said she had emailed Mr. Tula a couple of times requesting him to finish the stabilization and has not received a response. She said she had emailed him that if she does not hear from him, an Enforcement Order would be issued at the December 19<sup>th</sup> meeting and still has not heard from him. Michele Simoneaux made a motion, seconded by Julian Kadish, to issue and Enforcement Order to the owner at 38 John Scott Boulevard. Approved.

The members reviewed a violation for **Joyce Majcher – 119 Burt Street**. Jennifer Carlino stated she drove by the property and noticed trees were being cut near the wetlands. She said she spoke to the owner and the owner stated that she already had a wetland permit. Jennifer Carlino said she advised



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Ms. Majcher that the wetland permit was for a previous project and not for the cutting of trees. She said she sent a letter advising Ms. Majcher what her next step was. Ms. Majcher agreed to file an application for a wetland permit for the tree cutting she has been doing.

**Reservoir Dam Repairs** – Jennifer Carlino stated there has been a credit and a Change Order and the project is under budget by \$10,000.

Jennifer Carlino stated that Pare Corp. had received a letter from the residents at 14 Falls Road, Ruth and Kenneth Perlow, with concerns of bank erosion and filling of floodplain. She said that Pare Corp. had responded to the concerns in their letter to us dated December 9, 2011. Michele Simoneaux asked Jennifer Carlino if she had any theories or comments about the letters and she replied that, in her opinion, there is no problem with the present repair work going on at the dam and that the areas are not eroding or causing sedimentation.. She said that Ms. Perlow has requested that rip rap be placed along the bank and both she and Pare Corp. have spoken to her twice stating that this is a dam repair project and that rip rap cannot be placed all along the bank as she is suggesting, but she is ignoring their comments. She said she will draft a response letter to Ruth and Kenneth Perlow for the next meeting for the board's review.

Jennifer Carlino noted that T Ford Company had asked her if the board would like to leave the access roadway on the left side in place in order to maintain the dam in the future. She suggested leaving it but narrowing it down a bit and installing a gate. She also suggested leaving the area on the left side of the dam that resembled an old parking lot in place to be used for parking, but if it starts to get filled with trash, close it to the public. Jennifer Carlino asked the members to drive by and look at it.

Jennifer Carlino stated that, regarding the bill board on West Main Street, Clear Channel had hired Weston & Sampson and will be submitting a Notice of Intent for the next meeting. She said she had to remind them a couple of times to file.

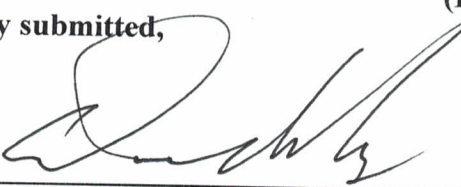
Jennifer Carlino noted she had written a letter of release for the violation at the former bird garden site at Mansfield Avenue. She stated the materials had been moved away from the wetlands and boulders were in place as a visual barrier to prevent any future encroachment into the wetlands. Michele Simoneaux made a motion, seconded by Julian Kadish, to send the release letter. Approved.

Michele Simoneaux made a motion, seconded by Ron O'Reilly, to adjourn the meeting at 8:58 pm. Approved.

Minutes Approved by Committee on: 2/13/12  
(Date)

Respectfully submitted,

Signature:

  
(Name)

Chairman, Conservation Commission