

Monday, January 9, 2012

### **Attendance**

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

### **Minutes**

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

The members reviewed the draft minutes of **November 14, 2011**. Lisa Carrozza made a motion, seconded by Michele Simoneaux, to accept the minutes as written. Approved. Ron O'Reilly abstained from voting.

The members reviewed the Bills Payable Sheet (Universal.). Approved.

The members reviewed an Enforcement Order /Violation for Richard Tula – **38 John Scott Blvd.** Jennifer Carlino stated she has not received any response to the Enforcement Order. Julian Kadish asked what the violation was and Jennifer Carlino stated that he was in non-compliance of the Order of Conditions and has not stabilized the buffer zone. She said it has been one year since Mr. Tula came in and applied for a partial Certificate of Compliance. She stated he never posted the bond, did not do any stabilization and a partial Certificate of Compliance was never issued. David Henry asked if the Order was sent certified mail and Jennifer Carlino replied it was and that he was notified four times since last November and has not responded. Julian Kadish asked if he lives in the area, and Jennifer Carlino replied that he lives in the house at 38 John Scott Blvd.

Michele Simoneaux suggested contacting DEP. Julian Kadish asked if DEP would assist and Jennifer Carlino stated they did assist the last time she requested assistance from them. Michele Simoneaux made a motion, seconded by Julian Kadish, to request DEP's assistance with the Enforcement Order for 38 John Scott Boulevard. Approved.

The members reviewed a request for a 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 & December 19, 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.

### **Document List**

1. WPA Form 3 – Notice of Intent Application.

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2. Revised Plan entitled "Plan of Land in Norton, MA #2 Foster Drive Prepared for Brian & Jacqueline Donahue with a scale of 1" = 30' by Yarworth Engineering Company, Inc. and signed and stamped by Christopher D. Yarworth dated December 23, 2011.
3. FIRM map.
4. Mass. GIS Resource Area Map
5. Wetland Review report from Goddard Consulting revised on December 19, 2011.

Brian Donahue was present at the public hearing and submitted revised plans that he stated included all requested information by the Commission including a well, pool and shed. He also submitted a written restoration plan. Julian Kadish asked Mr. Donahue if any soil was proposed to be removed off site and he replied that the soils removed from the wetland area were going to be place around the proposed pool area. Michele Simoneaux asked if the elevations were shown on the plans and Mr. Donahue pointed those out to her. Julian Kadish asked Mr. Donahue when he intended on installing the pool and he replied spring. Chris Baker suggested installing the pool at the end of August when the ground is the driest to avoid dewatering. Mr. Donahue stated he would use portable sump pumps if necessary for dewatering.

Michele Simoneaux asked Mr. Donahue what type of plants he would be planting around the pool and he replied he did not know at this point, and he may not even use any plants. Michele Simoneaux asked Mr. Donahue what he intended on doing with the swing set and he replied he was getting rid of it. David Henry asked about the visual barrier and Mr. Donahue stated he would be installing a fence as well as the retaining wall for a visual barrier. Julian Kadish suggested checking with the building inspector as to whether or not the pool would have to be totally fenced in.

Michele Simoneaux asked Mr. Donahue if he had a phasing plan for the project. She suggested fixing the violation and going forward from there. He replied that he proposes to have his excavator remove the unwanted fill from the wetlands and then dig the pool area and the well would come last. David Henry asked if he had any idea when he would begin the project and Mr. Donahue replied he had contacted the pool company but has not set a specific date for the start of the project. Michele Simoneaux noted that the planting plan is a lot better than what was originally submitted. Ron O'Reilly made a motion, seconded by Michele Simoneaux, to close the public hearing. 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 – (cont. from the December 19, 2011 mtg.)** - for verification of the Wetland Resource Area boundaries. Scott Goddard, representative for the applicant, was present at the public hearing and described the property to the members. He stated the property was approximately 3.61 acres with no existing structures. He proceeded to point out the two Bordering Vegetated Wetland areas on the submitted plans which were colored in green.

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.

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Mr. Goddard noted that much of the site is forested upland consisting of an oak/pine tree forest. He then pointed out that there are two isolated wetland areas colored in blue. The first one he stated at wetland flags B1 – B26 has a 10” culvert that runs under Dean Street and collects surface runoff water from across the street and then discharges onto a small slope which, in his opinion, is non-jurisdictional. The second is an area at wetland flags C1-C11 labeled Mean Annual High Water Conditions/Limit of Isolated Vegetated Wetland that is not connected to any other bordering vegetated wetlands and therefore, not jurisdictional under the Mass Wetland Protection Act. Mr. Goddard stated he was seeking confirmation that the areas in green accurately describe the Bordering Vegetated Wetlands, that the areas in blue were non-jurisdictional under the Mass Wetland Protection Act and that there are no other wetland resource areas on-site.

Michele Simoneaux asked where the topography of the site was on the plan and Mr. Goddard noted the only topography shown were the two areas he just described in Chris Yarworth’s Hydrology report, also showing the hydrology calculations of the two areas. Lisa Carrozza stated she would like to see the topography between the two isolated areas on the plan which will show whether or not the two areas are hydrologically connected. Jennifer Carlino requested the topography toward the back of the two isolated areas be shown on the plan. Julian Kadish asked Mr. Goddard if the site was mostly flat and he replied it was for the most part. Lisa Carrozza stated that Chris Yarworth’s report made reference to a shaded area and she could not see that on the plans. Mr. Goddard said he would check into that with Mr. Yarworth.

Lisa Carrozza asked Jennifer Carlino if, when out in the field, she observed any evidence that the flooding goes beyond the wetland flags. Jennifer Carlino replied she noticed the flooding beyond the B series and C series of flags. Scott Goddard asked if she could give him details on this and she replied she could. He suggested going to the site with Jennifer Carlino and asked the board members if anyone was interested in attending the site walk. The members agreed they would meet at the site on Saturday, January 21<sup>st</sup> at 10:00 am. Scott Goddard requested a continuance of the public hearing to the next regular meeting. Michele Simoneaux made a motion, seconded by Julian Kadish, to continue the public hearing until the next regular meeting of Monday, January 23, 2012. Approved.

The members reviewed a Notice of Intent – **(#250-880) - Timothy & Oanh Russell – Parcel 94 (Assessor’s map 19) 4 & 6 Bay Road** – for proposed plans to re-grade, repair sewer lines and plant trees within 100 feet of Lake Winnecunnet.

Document List

1. WPA Form 3 – Notice of Intent.
2. Plan entitled “Conservation Plan of #4 & #6 Bay Road, Norton, Massachusetts Prepared for Timothy & Oanh Russell”, scale: 1”=40’, Prepared by Yarworth Engineering Company, Inc., signed and stamped by Chris D. Yarworth and dated November 30, 2011.

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Timothy Russell was present at the public hearing and described the project to the members. Mr. Russell stated he purchased the property in 1980 with his parents as well as the house at 10 Bay Road. He said that, after the sewer connections were installed by the Town to neighboring properties, an awful odor starting coming from the property. He reported this to the Water Dept. who advised him to go to the State. He said the State advised him to sue the Town of Norton which he stated he does not want to do. He stated he talked to the Town Manager who had no advice to give to him, and says he was advised by others to dig up the areas that were smelling. Mr. Russell said that the work was done incorrectly and was never inspected by the town. Consequently, he stated, it cost him a lot of money.

Mr. Russell submitted pictures of the dug up area. He stated that he was told that the sewage from the toilets was going directly to the grease traps. Mr. Russell stated the town plumber has fixed the situation. He said he has paid thousands of dollars over the years to have the three properties dug up at various times. He submitted pictures of what the property looked like before the work and after the work was completed. The pictures showed the areas after they were graded, loamed and seeded. He said he was very angry that the town did not help or advise him. Julian Kadish stated that the Conservation Commission is responsible for enforcing the Mass Wetlands Protection Act. He stated it is the Commission's duty to make sure any disturbed wetland areas are fully stabilized after any projects have been completed. Mr. Russell said he was confused as to why the company that did the excavation or the town plumber did not advise him that he would need a wetland permit to do the work.

David Henry asked Mr. Russell if he had used a plan when he had dug up the area and he said he did not. He replied that he had called the Water Dept. to find out where his pipes were and what the manhole covers were for. He said that the Water Dept. told him the manhole covers were supposed to be connected to the grease traps from the former restaurant. He stated this was not the case and that the toilets were actually connected to the manholes. He said he then called Ray Walker, Plumber, who suggested that he dig a 10' wide trench to the street so he could inspect the pipes. He stated he paid Ray Walker to cut the pipes from the grease traps and seal them since they are no longer used and then he had the grease traps pumped.

Getting back to the actual wetland issue, Mr. Russell said he had 60 yards of loam dumped and he seeded it himself and he presented the invoice for the loam. Jennifer Carlino noted that the invoice stated 60 yards of fill were also removed from the site and she asked Mr. Russell where the fill came from and what did he do with it. He replied that he had paid Dorrance Excavating to dig out and remove the asphalt and fill. Jennifer Carlino asked Mr. Russell to point out the area that was dug out and re-filled and loamed and seeded. She then pointed out to Mr. Russell that he not only dug out and filled the tarred area which contained the pipes, but he also dug out and filled in areas that abut the river and Lake Winnecunnet. She stated it is these areas that were disturbed without a valid wetland permit and needed to be stabilized at this point. She told Mr. Russell that he has to show that he has not increased the elevation within the floodplain. Chris Baker helped to explain what Mr. Russell had done based on his individual site inspection.

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Michele Simoneaux pointed out to Mr. Russell that there are several Resource Areas involved with the work that he had done. She stated there is Lake Winnecunnet with its 100' buffer zone, Snake River with its 200' Riverfront area and the property which is Bordering Land Subject to Flooding. She stated to Mr. Russell the Commission needs to know what changes have been made. Chris Baker explained that Mr. Russell had dug out 60 yards of asphalt and fill and replaced it with 60 yards of top soil. Lisa Carrozza stated the plan did not show what the area looked like before the fill was put down and she wanted to compare the area from now to before it was dug out. David Henry stated a revised plan showing all the information would have to be submitted so that the commission can see exactly what has changed.

Julian Kadish asked Mr. Russell to show him in the pictures where the post and rope fence is and he asked him to show him on the plan where the cobble stone border is. Jennifer Carlino pointed out an area that previously consisted of Bluestem plants and now is lawn. Julian Kadish suggested, in his opinion, that since 60 yards of fill was removed and 60 yards of soil was put down, he did not see a problem with accepting the submitted plans and closing the public hearing at this point. Jennifer Carlino asked if the strip along the Snake River had been changed and Mr. Russell stated it had not. The members agreed to look at the site. Michele Simoneaux explained to Mr. Russell that any projects in the future would require a wetland permit and that the wetlands for this project have not been properly defined. Lisa Carrozza suggested if a topography of the area had been submitted, a site visit would not be necessary. David Henry suggested that Chris Yarworth should have included the topography with the application and suggested that he contact Mr. Yarworth and ask him to submit this information at no extra charge to Mr. Russell.

Julian Kadish made a motion, seconded by Lisa Carrozza, to continue the public hearing until the next regular meeting of Monday, January 23, 2012 after which time the members will have had a chance to review the site. Approved.

The members reviewed an Abbreviated Notice of Intent – **(#250-881) – Norton Mobile Home Realty Trust – Parcel 264 (Assessor's Map 9) Units 1 & 2, 157 Mansfield Avenue** – for proposed plans for restoration of a portion of the buffer zone and bordering vegetated wetland along the shore of the Norton Reservoir. Chris Baker recused himself from the public hearing.

Document List

1. WPA Form 4 – Abbreviated Notice of Intent.
2. Plan entitled "Restoration Site Plan" Project: Norton Mobile Homes, 157 Mansfield Avenue, Norton, MA for Norton Mobile Home Realty Trust, Prepared by Penney Engineering, Inc., Scale: 1"=10', signed and stamped by Ralph P. Penney and dated December 20, 2011.
3. Color pictures of the site.

Present at the public hearing were John Sullivan, applicant, Ralph Penney of Penney Engineering, Inc., Luther Grant, contractor and Walter Hewitson, Wetland Biologist. John Sullivan submitted revised plans. Jennifer Carlino asked Mr. Sullivan if he had the information that was missing from the filing checklist.

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He replied that he had a smaller version of the previously submitted plan with a few revisions. She asked Mr. Sullivan if the property has been flagged and the flag numbers shown on the revised plan. He replied that he did not have a chance to have the property flagged because this was an emergency and because he was just restoring the area to its original state by replacing the plants that were destroyed. She asked Mr. Sullivan if he showed the contours on the revised plan and he explained that he intends on filling the area to its original grading. Jennifer Carlino asked Mr. Sullivan if he showed the erosion control with a plan view with the details and he replied that he did not because all the areas are higher than the work areas.

She asked Mr. Sullivan if he planned to put erosion or sediment control at the bottom of the slope where the fill is going just above the wetland boundary and he replied that he was not because that is the access area. He stated that silt fence had been installed along the original shore line after the oil spill had happened to prevent further encroachment into the reservoir. Lisa Carrozza asked what the condition of the silt fence was and Mr. Sullivan stated it had been tightened up and he would make sure that it was repaired again. He stated that a lot of vegetation has grown back and partially covered the silt fence. Lisa Carrozza stated that the limit of the fill area and the edge of the reservoir have to be shown on the plan. Jennifer Carlino asked Mr. Sullivan if he had put the locus on the plan and if he had the FEMA flood map. Ralph Penney stated that these items could be included in the binder with the application. Jennifer Carlino asked Mr. Sullivan if he included the Certified Abutters List, The Affidavit of Service Form and the Abutter Notification Form with his application and he replied that he would send these items by mail.

Mr. Sullivan handed to Jennifer Carlino the Certified Abutters List and the Abutter Notification Form and she asked him where the Affidavit of Service Form was. He replied that he thought it was included with the application and Jennifer Carlino stated it is one of the items listed on the application checklist on line. She said a letter was sent to Ralph Penney stating these items were missing from the application in a letter dated January 4<sup>th</sup> and needed to be submitted. She noted that the two items, Affidavit of Service and the FEMA FIRM map of the area need to be submitted. David Henry suggested to Mr. Sullivan he write down what Jennifer Carlino has requested so he will not forget.

Mr. Sullivan showed the commission two pictures of the area where the two booms were, one taken 30 days prior to the other picture. The pictures showed that the area had filled in with plants. Julian Kadish suggested that if the area is dug out, to save the plants and replant them because of their resilience. Mr. Sullivan stated that he proposes to restore the 300 sq. ft. of disturbed wetlands by bringing the grade back to its original height and replanting the plants that are currently growing there. He stated that an Interceptor Trench will be installed and pointed out that the details of the Trench are on the submitted plan. He said it is his goal to clean up the site of any contaminated soils within one year.

Jennifer Carlino asked Mr. Sullivan how he determined where the Bordering Vegetated Wetland was. Mr. Penney replied that he did not know because at the time that he went out to the site, the ground was

covered with snow and he could only see where the red kerosene had spilled. He said there were no records of where the wetlands were located before the spill. He said it was not possible to see the ground from aerial photos and had to ask abutters and neighbors approximately where the grassy areas and shoreline were. Mr. Luther Grant explained what the conditions were like when he started to excavate the area and could only guess where the existing wetland line began. Jennifer Carlino reminded Mr. Sullivan to install the sediment control between the wetlands and the fill area. Lisa Carrozza stated to at least maintain the existing silt fence.

Mr. Sullivan pointed out the existing berm which runs along the entire shoreline and stated this was the original shoreline which acts as a barrier. Lisa Carrozza asked what the berm consisted of and Mr. Grant stated it was made up of a massive root mass and natural elements. Lisa Carrozza asked Mr. Grant if he planned on dewatering during construction and Mr. Grant stated he cannot dewater but will be using a manhole trench box flanked by road plates. David Henry asked when the start date was and Mr. Penney replied that he has tried to keep the proposed Interceptor out of the BVW as much as possible. He stated that if the commission allows the installation of the Interceptor Trench, he will submit an IRA Plan to DEP for approval which would take about a week. He then stated the work could start. He said normally there would be a 21-day approval waiting period followed by a letter, but he thought that DEP would allow him to start sooner. David Henry requested that a copy of the IRA be submitted to the Conservation office.

Lisa Carrozza suggested that once the Interceptor Trench is in place, she would like to see it backfilled and stabilized before the fill is put in and plants are planted. Mr. Penney stated that the applicant intends to backfill the area and recreate the shoreline before the trench is installed. He said a filter fabric or mesh will be placed on the soil and it will be allowed to freeze. Michele Simoneaux asked if all the plantings will be original to the area and Mr. Sullivan replied they would. She requested that a planting plan be submitted showing the quantity and plant species names to ensure that the species planted would survive. Mr. Sullivan noted that Walter Hewitson's letter dated December 2, 2011 described the various names of the plants that will be planted on the site. Mr. Sullivan noted that there are a lot of plants and vegetation on the site that will be transplanted to other locations on the site. Michele Simoneaux made a motion, seconded by Julian Kadish, to close the public hearing. Approved. Michele made a motion, seconded by Julian Kadish, to amend the previous motion by stating that the applicant shall submit the FEMA FIRM Map and Affidavit of Service as soon as possible. Approved. Chris Baker abstained from voting.

The members reviewed a request for a Certificate of Compliance for File **#250-648 – Angelo Pasqualino/Teddy Realty Trust – Lot 8 – Parcel 611 (Map 10) 11 Johnson Drive.** - single-family house, porch, deck, garage, driveway and sewage disposal system within 100 feet of wetlands.

Jennifer Carlino stated that the Certificate is in violation of the Order of Conditions. Julian Kadish asked what the violation was and Jennifer Carlino replied that the Order specifically states that

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Japanese Barberry and Burning Bush are not to be planted and Japanese Barberry has been planted. Lisa Carrozza asked who planted the Japanese Barberry and Jennifer Carlino replied she did not know and stated that she will send a letter to the owner of the property stating that the lien on the property will not be removed until the Japanese Barberry has been removed. Michele Simoneaux made a motion, seconded by Ron O'Reilly, to have Jennifer Carlino send the owner of the property a letter requesting him to remove the Japanese Barberry in order to issue a Certificate of Compliance and to continue the request for a Certificate of Compliance to the next regular meeting of Monday, January 23, 2012. Approved.

The members reviewed a request for a Certificate of Compliance for File **#250-678 – Angelo Pasqualino/Teddy Realty Trust – Lot A-1 – Parcels 224 & 229 (Map17) 18 Johnson Dr.**

- house with attached garage, porch, sewage disposal system, driveway and utilities with related grading within 100 feet of wetlands.

The members reviewed a request for a Certificate of Compliance for File **#250-691 - Angelo Pasqualino/Teddy Realty Trust – Lot 3 – Parcel 606 (Map 10) 26 Johnson Dr.**

- house with attached garage, sewage disposal system, driveway, and utilities with related grading within 100 feet of wetlands.

**#250-628 – Angelo Pasqualino/Teddy Realty Trust – Lot 4 – Parcel 607 (Map 10) 24 Johnson Dr.**

- single family house, garage and sewage disposal system with related grading within 100 feet of wetlands.

Jennifer Carlino stated the projects for Files **#250-678, #250-691 & #250-628** were completed according to the approved plans.

Julian Kadish made a motion, seconded by Michele Simoneaux, to issue a Certificate of Compliance for Files **#250-678, #250-691 & #250-628**. Approved.

The members reviewed a request for duplicate Certificate of Compliance for **File #250-741 – Jacqueline Gill – Parcel 133 (Map 19) 65 King Phillip Road**. Jennifer Carlino stated the original was never recorded so another original is needed for recording. Michele Simoneaux made a motion, seconded by Julian Kadish, to issue the duplicate Certificate of Compliance. Approved.

**NEW BUSINESS**

Sign License Agreement (Lease) – Norton Reservoir – for Norton Kayak Company, Inc.

Jennifer Carlino stated the lease has not been returned from Mr. David Lennon for signing.

12 Woodward Street violation

Jennifer Carlino noted a letter had been sent to the homeowner and she is waiting for a response.



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15 Freeman Street violation

Jennifer Carlino stated that a violation notice had been sent for work being done around the wetlands. She stated that Peter Freeman, resident of the property, called and was quite angry about the letter. She said they agreed to meet on site and Jennifer Carlino asked for someone to assist her with the site inspection. She said Chris Baker agreed to go with her for the site inspection.

**OLD BUSINESS – Violations:**

241 Mansfield Avenue (Albertos)

Jennifer Carlino stated she met on site with the owner and he has agreed to follow a plan that was discussed on restoring the disturbed wetlands.

81 Freeman Street

Jennifer Carlino stated that progress is continuing on fixing the violation and she sent a letter confirming the progress and to continue working on fixing the violation.

119 Burt Street

Jennifer Carlino stated the owners had filed a Request for a Determination of Applicability for the clearing that was done without a permit and she advised them that the original permit was only for the work stated on the Notice of Intent application and not for any other work.

10 Freeman Street

Jennifer Carlino stated a letter was sent regarding the leaves dumped at the end of the culvert, but she has not gotten a response yet.

6 Rumford Road

Jennifer Carlino stated the owner is working on fixing the violation and she will inspect the property before the next meeting.

Reservoir Dam Repairs

Jennifer Carlino stated that a “Work Change Order” had been submitted. She said the project decreased by \$44,100 and increased by \$34,100 which resulted in a \$10,000 savings. She stated she received a complaint from Ruth and Ken Perlow and enclosed a draft response letter to Ruth and Ken Perlow with the agenda for the commission’s review.

Jennifer asked Michele Simoneaux, David Henry and Chris Baker if they had inspected the Bay Road Heights project and they all replied that they had. Jennifer Carlino stated she would discuss their inspection at the next meeting of Monday, January 23<sup>rd</sup>.

Jennifer Carlino stated she has been working with the Town Manager on finding another Conservation Vehicle and the request for the funds will have to be included in the Capital Improvements Budget.

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Jennifer Carlino noted a memo was received from the Finance Committee stating all funds used to attend conferences will have to be approved by the Town Manager from now on.

Michele Simoneaux made a motion, seconded by Ron O'Reilly, to adjourn the meeting at 9:15 pm. Approved.

Minutes Approved by Committee on: \_\_\_\_\_  
(Date)

Respectfully submitted,

*Signature:*

\_\_\_\_\_  
( Name)

Chairman, \_\_\_\_\_