

Monday, October 15, 2012

### **Attendance**

David Henry (Chairman), Ron O'Reilly (Vice-Chairman),  
Michele Simoneaux, Scott Ollerhead and Jennifer Carlino, Conservation Agent

Julian Kadish, Lisa Carrozza and Chris Baker were absent.

### **Minutes**

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

The members reviewed the draft minutes for April 23, 2012. David Henry stated that at the previous meeting, it was agreed that the secretary will revise the last sentence on page one, but this has not been done. Ron O'Reilly made a motion, seconded by Michele Simoneaux to table the minutes to the next regular meeting of Monday, October 15, 2012.

The members reviewed the draft minutes of June 11, 2012. David Henry suggested a revision to the first paragraph on page 18. omitting the word "or" at the end. He suggested changing the last sentence in paragraph 6 on page 19 by removing the word "the" before the word "altering" and the word "of" after the word "altering". Ron O'Reilly made a motion, seconded by Scott Ollerhead, to accept the minutes as amended. Approved.

The members reviewed the Bills Payable Sheet (Chartley Landscape). Ron O'Reilly made a motion, seconded by Scott Ollerhead, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Universal). Ron O'Reilly made a motion, seconded by Scott Ollerhead, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Verizon). Ron O'Reilly made a motion, seconded by Scott Ollerhead, to pay the bill. Approved.

### **Discussion – Violation – 12 Forest Lane**

Present at the public hearing were Sharlene Smith, owner of the property and David Simmons, Attorney. Mr. Simmons noted that he is a land use planner as well as a land use attorney. Mr. Simmons asked the board to explain what the violation is and how to correct it.

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Jennifer Carlino stated that Ms. Smith had come into the office to state she wanted to construct a shed on her property. Jennifer Carlino noted that the size of the proposed building is the size of a small barn. She noted that Ms. Smith was looking for an agricultural exemption under the Wetland Protection Act, but Jennifer Carlino stated that Ms. Smith's proposal cannot be an exemption because Ms. Smith was only going to be housing horses, not breeding them.

Jennifer Carlino stated that Ms. Smith did not acquire a wetland permit to clear her property to grow crops and did not apply for a new agricultural project. She said the clearing was done right up to the wetlands, possibly within a portion of wetland, and within the Riverfront Area without a permit. She said a permit will have to be obtained for the clearing of the property to clear up the violation. She noted that once the proper permits are obtained, she may be able to claim an agricultural exemption for certain activities. She said any work other than the permit to allow the driveway in the original Order of Conditions, hasn't been permitted and will have to be included in a new application.

Mr. Simmons asked why a permit would be necessary for the crops that have already been planted since the area is more than 100 feet from the river and buffer zone. Jennifer Carlino replied that some wetlands have been altered. Mr. Simmons noted that a valid permit had been obtained from the Building Inspector to construct a shed. Jennifer Carlino replied the "shed" or "barn" will require a wetland permit. He stated that he will have a botanist review the violation. Jennifer Carlino stated that the original file for the driveway has not been closed out and a Certificate of Compliance should be applied for at the same time the violation is corrected. Mr. Simmons stated he would need a little time to have a botanist review the project. David Henry asked if 30 days would be sufficient and he replied it would be.

The members reviewed a Notice of Intent – (#250-895) **Ralph Fairbanks – Parcels 47, 47-01 & 47-02 (Assessor's Map 14) 167 North Worcester Street – (cont. from the September 24, 2012 mtg.)** - for proposed plans for an addition within 100 feet of wetlands.

Document List

1. WPA Form 3 – Notice of Intent
2. Plan entitled "Plan Showing Proposed Garage for Ralph Fairbanks et al at 167 No. Worcester Street in Norton, MA, Scale 1" = 40', latest revisions on August 12, 2012 (Sheets 1 & 2) signed and stamped by John F. Vance, Jr.
3. Drawings entitled "Garage Plans, Fairbanks/Fonger Res., 167 N. Worcester St., Norton, MA 02766 submitted on November 13, 2012 (Drawings 1-6).

Ralph Fairbanks said he thought that his engineer, Jack Vance, would be here tonight. Michele Simoneaux asked him if he wanted to wait a little while to see if Mr. Vance showed up. He asked what information the board was waiting for and Jennifer Carlino stated they were waiting for details of the catch basin and grate. Mr. Fairbanks stated that the water is going to run off the driveway down towards the wetlands and river. Jennifer Carlino pointed out the dry well shown as a "catch basin" on the plan. Mr. Fair banks asked why storm water management is required for a single family home.

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Jennifer Carlino stated that the Notice of Intent application stated that it would be constructed. As part of the Riverfront regulations, in the Economic Alternatives Analysis, the “catch basin” shows an improvement over the existing conditions.

Jennifer Carlino stated that the runoff water has to be captured and flow into the ground to improve conditions. She said a dry well can be used instead of a catch basin. Mr. Fairbanks asked if new drawings would have to be submitted if he decides to use a dry well. Jennifer Carlino told Mr. Fairbanks that he could copy the section on dry wells from the storm water regulations on the computer and submit that as part of the application. She said that a licensed contractor is required to accompany him to the pre-construction meeting and she can explain what needs to be done at that time.

Michele Simoneaux made a motion, seconded by Ron O'Reilly, to close the public hearing. Approved.

The members reviewed a Notice of Intent – (#250-896) – **Stacey Rosa – Parcel 223 (Assessor's Map 17) 4 Mill Lane** – for proposed plans to create a lawn and install a fence within 100 feet of wetlands.

**Document List**

1. WPA Form 3 – Notice of Intent
2. Plan entitled “Conservation As-Built Plan, #4 Mill Lane, Norton, MA” Prepared for Stacey Rosa by Yarworth Engineering Company, Inc., Scale 1”=30’, signed and stamped by Christopher D. Yarworth and dated October 15, 2012.
3. Photo of the location of the new fence.

Present at the public hearing were Stacey Rosa and her husband, Jeff Sihpol. Ms. Rosa stated that she found out there is an existing Order of Conditions for her property. She said she is proposing to install a fence along the edge of the woods. She stated that the 100-ft. buffer zone goes through her property does not look good. She said she would be encroaching into the buffer zone approximately 5-10 feet. Mr. Sihpol stated that the lawn was existing when he purchased the house. David Henry had a photo of the area with the fence hand drawn on it. Ms. Rosa stated that the garden fence is now constructed and can be moved if necessary. Jennifer Carlino noted that the fence is not drawn on the plan that was submitted to DEP and she stated they would have to draw the fence on the plan and return it to DEP.

Mr. Sihpol asked if they could maintain the lawn the way it is by moving the fence to the tree line since this is the way it was when they purchased the house. Ms. Rosa stated they intend to add a deck to the house but have to get a Certificate of Compliance for the old fence first (#250-521). She said no work was done on the side of the fence towards the woods. Michele Simoneaux reviewed a photo of the fenced area and noted that the fence at one area dipped toward the woods and asked if the fence was going to be installed that way. Ms. Rosa stated the fence would go straight and that little area would be allowed to grow back naturally.

Michele Simoneaux said the lawn is allowable under the Mass Wetland Protection Act but a permit should have been applied for by the former owners of the property. Michele Simoneaux requested that

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the proposed fence be drawn on the plan. Mr. Sihpol asked if he would have to have the fence re-surveyed and he was told he could draw it in himself. Jennifer Carlino asked if the fence would be located at the tree line and Mr. Sihpol replied it would be. Jennifer Carlino advised Ms. Rosa to send DEP a copy of her plan with the fence drawn in. Michele Simoneaux made a motion, seconded by Scott Ollerhead, to close the public hearing. Approved. Ron O'Reilly made a motion, seconded by Scott Ollerhead, to sign and issue the Order of Conditions.

The members reviewed a Request for a Determination of Applicability – **(DET. #988) – Chris Strynar – Parcels 90 & 90-01 (Assessor's Map 22) 64 West Main Street** – for proposed plans to install a scoreboard and chain linked fence within 100 feet of wetlands.

**Document List**

1. WPA Form 1 – Request for a Determination of Applicability.
2. Aerial photo showing Yelle Elementary Scoreboard project dated 9/19/12
3. Norton Field Fence & Barriers, DMR Construction dated 10/11/12

Present at the public hearing to represent the applicant was David Cohen, 7 Fuller Drive. He stated that the League is trying to raise money and would like to eventually sell advertisements like the Youth Baseball team does. He said money was raised to purchase a 20' x 8' LED score board which has been in storage for some time. He pointed out on a plan where the proposed fence would go which is the length of the field. He said he was not sure how far into the wetlands they were encroaching and noted the plan was not to scale. He said once the fence is installed, banners for advertising could be sold to make money for the league.

He stated that members of the community were willing to donate their money, time and expertise to install the fence and score board. Jennifer Carlino stated a fence cannot go more than two feet beyond the bleachers because it will then be in the wetlands. She advised him to have the bleachers and lines moved forward into the uplands at least two feet as to make room for the fence and at least two feet behind the fence for maintenance. Mr. Cohen stated that he thought this RDA application was to allow them to encroach into the wetlands and Jennifer Carlino stated it was not and she had already spoken to Chris Strynar about moving the score board further out of the buffer zone.

Michele Simoneaux noted there was no wetland delineation on the submitted plan. Jennifer Carlino stated she gave Mr. Strynar the original wetland delineation plan on which to draw where the fence and score board was proposed to be located but hasn't received it back yet. Michele Simoneaux asked what assurance the board had that there would be no further encroachment into the wetlands. Jennifer Carlino stated that she had met with Mr. Strynar a couple of times on site and explained to him what to do and he agreed to put the proposed work on the plan. She told Mr. Cohen that he did not have to have the property re-surveyed but just to draw the proposed fence on the copied plan she gave to Mr. Strynar with the correct distances.

Michele Simoneaux asked Mr. Cohen where he was going to put the score board and he pointed out on the plans where it was going to be located. He said there was a utility pole on Seminary Way that he

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was going to run wires underground to. He said the PVC pipe would be in the ground 3 feet deep and 3 feet wide. David Henry asked Mr. Cohen to draw in where the trench for the PVC pipe will be located. He asked Mr. Cohen when they were going to begin the project and Mr. Cohen replied that they would like to at least run the power from the field to the utility pole this fall. He said the rest of the project can wait until spring.

David Henry asked Mr. Cohen to stake out the new location for the fence, and Jennifer Carlino stated that this has already been done and she is ok with the location. Mr. Cohen said he will bring in a revised plan.

Ron O'Reilly made a motion, seconded by Michele Simoneaux, to continue the public hearing until the next regular meeting of Monday, November 19, 2013. Approved.

The members reviewed a Request for a Determination of Applicability – **(DET. #989) – Keith Bandecchi – Parcel 5-05 (Assessor's Map 29) 256 Old Taunton Avenue** – for proposed plans to construct a shed within 100 feet of wetlands.

Document List

1. WPA Form 1 – Request for Determination of Applicability
2. Plan showing 256 Old Taunton Avenue, scale 1"=50', signed and stamped by George C. Collins, PLS with proposed shed and dimensions hand drawn.

The applicant was present at the public hearing and described the project to the members. Mr. Bandecchi stated he had cut and cleared within the wetlands without a wetland permit. He said that Jennifer Carlino had taken a look at the area and suggested he file an application for the violation as well as his proposal to construct a shed within 100 feet of a wetland.

Jennifer Carlino noted that Mr. Bandecchi had removed the piles of brush from the wetlands. She asked Mr. Bandecchi how far from the house and wetlands the shed would be. He replied 38 feet from the house and 25 feet from the wetlands. Michele Simoneaux asked Mr. Bandecchi for the details on the shed. He said he proposed to use 10-inch sona tubes to be placed on 24" round concrete bases. Jennifer Carlino stated it is not in a flood plain. Jennifer Carlino stated silt fence will be required for the project which she will inspect before the project begins. Michele Simoneaux made a motion, seconded by Scott Ollerhead, to close the public hearing. Approved. Michele Simoneaux made a motion, seconded by Scott Ollerhead, to issue a negative (#3) Determination of Applicability with the conditions that there will be no more encroachment into the wetlands, the project will not be any closer than 25 feet to the wetlands and erosion control (silt fence) must be installed and inspected before work begins. Approved.

The members reviewed an Abbreviated Notice of Resource Area Delineation – **(#250-893) – Walter Landry – Parcels 10-01, 101, 182-185 (Assessor's Map 35) & Parcels 114-117, 138 (Assessor's Map 36) – East Hodges Street – (cont. from the Sept. 10, 2012 & Sept. 24, 2012 mtgs.)** - for verification of the Wetland Resource Areas.

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**Document List**

1. WPA Form 4A – Abbreviated Notice of Resource Area Delineation
2. Plan entitled “Plan of Wetland Resource Boundaries, East Hodges Street, Norton, Massachusetts Prepared for Walter Landry by Yarworth Engineering Company, Inc., Scale 1”=120’, signed and stamped by Christopher D. Yarworth (Sheets 1-5).

Present at the public hearing were Fred Bottomley, Walter Landry and Chris Yarworth of Yarworth Engineering Co., Inc.

Chris Yarworth explained that he received a comment letter dated October 9, 2012 from Jennifer Carlino but did not reply because he is waiting for the Commission to decide on who will do the Peer Review for the project. He requested that they go over the violation portion of the letter.

Chris Yarworth stated that Fred Bottomley had cleaned out and removed trash and had smoothed out piles of loam right up to the wetlands and Jennifer Carlino has sent a violation notice to Fred Bottomley. He said that the clearing may not be a violation. He stated that Fred Bottomley may have photos of this area before the original Order of Conditions was issued showing the area cleared and afterwards showing junk on this area. He said the area has since grown it right on top of the junk and this is what Fred Bottomley had cleaned up and cleared. Mr. Yarworth asked Jennifer Carlino what she wanted done at that area now.

Fred Bottomley stated he had never seen a plan that was approved with a 25-ft. no disturbance zone until today and never received a copy of the Certificate of Compliance for the original Notice of Intent filing. He said that he has aerial photos showing the area cleared and has also looked on Google Earth Pro which showed past pictures of the area. He showed pictures of the property which showed the building constructed on the property by the original applicant, Vadala, in 2001 and pictures from 1999 before the building was constructed. He then showed pictures of the property from last April before he cleaned the area which showed the area grown in over junk piles and he admitted he cleaned the area up without realizing this would be a violation.

Jennifer Carlino advised Mr. Bottomley to include all his comments and photos from this evening in his response letter to her comment letter and present it at the next public meeting. She said she will do a site inspection before the next meeting. Mr. Bottomley asked what the three quotes for a Peer Review were and requested the Commission to choose one. Jennifer Carlino stated the Commission will discuss the Peer Review quotes and he may listen to the discussion. Chris Yarworth noted that if the Commission wants to see vegetation on the site that was cleared, they had better do it soon because of the time of year. Jennifer Carlino asked Mr. Bottomley if he was going to call this week to inspect the site and he said he was. She said erosion control can be discussed at that time.

Discussion ensued on the three quotes for the Peer Review. Jennifer Carlino stated the three quotes were as follows: BSC Group - \$770, Chessia Consulting Services, LLC - \$2,500 and ThompsonFarland - \$900. Scott Ollerhead made a motion, seconded by Ron O'Reilly, to retain

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ThompsonFarland to do the Peer Review. Approved. Michele Simoneaux made a motion, seconded by Scott Ollerhead, to continue the public hearing until the next regular meeting of Monday, November 19, 2012. Approved.

**Notice of Intent – (#250-888) – Turtle Crossing, LLC – Parcels 4 & 22 (Assessor’s Map 2) – Newland Street – (cont. from the May 21, 201, June 11, 2012, July 23, 2012, August 27, 2012 & September 10, 2012 mtgs.) -** for proposed plans to construct 7 buildings, 8 garages, driveways, parking, utilities and associated grading within 100 feet of wetlands.

David Henry stated an email was received from Nick Facendola requesting a continuance of the public hearing to the next regular meeting. He noted that the applicant was waiting for a finalized decision on the appeal for the ANRAD from DEP which should be received this week. Ron O'Reilly made a motion, seconded by Scott Ollerhead, to continue the public hearing until the next regular meeting of Monday, November 19, 2012. Approved.

**Chapter 61 & 61A – Notice of Right of First Refusal – Newland Street (Map 5, Parcel 5)**

Jennifer Carlino stated that this property was being taken out of the Chapter 61 status by Daggett Crandall Newcomb Home and the Town has the Right of First Refusal to purchase the property. She said that they did not submit the Purchase and Sales Agreement as part of the requirement for notification and therefore the time frame does not begin until the required information is received. She noted the Town then has 120 days to decide to purchase the property or not.

The members reviewed the draft Order of Conditions for Notice of Intent – (#250-895) **Ralph Fairbanks – Parcels 47, 47-01 & 47-02 (Assessor’s Map 14) 167 North Worcester Street – (cont. from the September 24, 2012 mtg.) -** for proposed plans for an addition within 100 feet of wetlands.

Amendments were made as follows:

--Jennifer Carlino suggested removing #11D since she was going to make a photo copy for the applicant.

--Jennifer Carlino suggested removing #11E since this information will be included in the copies being made for the applicant.

--Jennifer Carlino suggested removing the words (catch basin as shown on the plan) from condition #25.

--Jennifer Carlino suggested removing the words (catch basins) from condition #26.

--Michele Simoneaux suggested removing condition #30 requiring a visual barrier.

--Michele Simoneaux suggested removing condition #40 regarding lighting.

Michele Simoneaux made a motion, seconded by Scott Ollerhead, to sign and issue the Order of Conditions as amended. Approved.

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The members reviewed the draft Order of Conditions for Notice of Intent – (#250-896) – **Stacey Rosa – Parcel 223 (Assessor's Map 17) 4 Mill Lane** – for proposed plans to create a lawn and install a fence within 100 feet of wetlands. Ron O'Reilly made a motion, seconded by Scott Ollerhead, to sign and issue the Order of Conditions as drafted.

The members reviewed the draft Order of Conditions for Notice of Intent – (#250-894) - **David Worthley – Parcel 68 (Assessor's Map 6) 19 Fairlee Lane** for proposed plans to extend a lawn within 100 feet of wetlands. Amendments were made as follows:

-- Jennifer Carlino suggested adding another condition stating “Riverfront Area alteration is cumulative.” After condition #2.

-- Jennifer Carlino suggested adding another condition to read “Filter fabric shall be placed between the retaining wall boulders and the upland side of the placed fill.

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

**Old Business**

Violations

**18 Richardson Avenue** – Jennifer Carlino stated that the well installer said that his engineer was finishing up a sketch plan and she should have it within a week or two.

**241 Mansfield Avenue** – Jennifer Carlino stated that she met with the engineer, Chris Charrette, a couple of times who will be filing for a permit. She said he will have to do storm water management for the new area which will take up most of the buffer zone up to the 25-ft. No Disturbance Zone.

**6 Rumford Road** – Jennifer Carlino stated that she sent a second letter requesting an update.

**45 Crane Street** – Jennifer Carlino said she has not heard anything yet from the homeowners. She said she will do another site inspection and send them another letter.

**Wheaton College** – Jennifer Carlino noted they had planted the restoration area and are doing a winter shut-down for the turf field and track.

**New Business**

Jennifer Carlino noted that there is a new 40B project proposed for East Main Street by Campanelli Thorndike Norton LLC called 274 East Main Street.

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**New Business (cont.)**

**418 Reservoir Street** – Jennifer Carlino stated that the homeowner has not removed a retaining wall but has removed the entire shrub border. She said she has a meeting with him on Thursday, October 25<sup>th</sup>.

**Report from Staff**

Jennifer Carlino noted she received a copy of the Shpack conditional approval of the 100% design issued by EPA. She said there is a meeting tomorrow morning at the library for all the Dept. heads.

**Site visits** – Jennifer Carlino noted that the Shelly Road half of the River Oaks Subdivision is requesting a Certificate of Compliance. She stated that there will be a site walk with DEP on Wednesday, October 17<sup>th</sup> at 9:30 am. She said she cannot attend the walk but sent a letter regarding the condition of the maintenance of the storm water management areas and the replication area, etc. She said she will follow up with a phone call.

**Waterbodies Committee update** – Jennifer Carlino stated that a lot of emailing has been going on back and forth between her and the Town Manager regarding putting out an RFQ. It was finally decided she would do the RFQ. Ron O'Reilly said the committee would like a representative from the Conservation Commission to attend the November 5<sup>th</sup> meeting. She noted that the Winnecunnet Association had paid ESS to do new study on Lake Winnecunnet without notifying the Conservation office. She said this was done without permission from the owners, Conservation Commission, and the Conservation office did not even get a copy of the study. Jennifer Carlino stated the Commission has had trouble with ESS in the past with billing and compromising the bid process. Jennifer Carlino stated the RFQ will not be done for awhile. Michele Simoneaux offered to attend the meeting on November 5<sup>th</sup>. Jennifer Carlino said she will email a copy of ESS's study to each member.

**Town Meeting Articles** – Jennifer Carlino said she presented all the land articles to the Finance Committee and they requested a letter of intent to sell property to the town from the Eriksons. She said she received the letter and forwarded to them. She stated she will not know how they voted until next week.

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

Brandt Henderson of 25 So. Lakeview Road addressed the Commission to express his disappointment with DEP's Superceding Order of Conditions for the Pheeny's Island project and asked if the Commission could appeal the decision.

Jennifer Carlino stated that Bay Road Heights LLC appealed both Order of Conditions, Files #250-871 & #250-872 with DEP. She said she would email a copy of the appeals to each member.

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Jennifer Carlino stated she received the Superceding Order of Conditions for Pheeny's Island and the Commission has ten days to appeal the Order. She said she will send a copy of the Superceding Order of Conditions to each member by email.

David Henry noted that there is a meeting on Tuesday, October 23<sup>rd</sup> at 7:00 pm at the Norton Public Library with the Town Manager, Bd. Of Selectmen and the Town Manager regarding the reconstruction of East Main Street and the installation of sidewalks from Pine Street to Route 495.

David Henry noted that the FY14 dues for MACC is going up to \$443.00.

Jennifer Carlino noted that National Grid will be doing maintenance work on the high tension wires on Harvey Street.

Michele Simoneaux made a motion, seconded by Ron O'Reilly, to adjourn the meeting at 9:29 pm.  
Approved.

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

Respectfully submitted,

*Signature:*

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

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