

Monday, August 10, 2015

Minutes

The meeting was called to order at 7:00pm.

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

7:00 pm Bills Payable

PARE CORP. – Motion by Ron O'Reilly, seconded by Jan Franceschelli. Approved.

W.B. Mason – Motion by Ron O'Reilly, seconded by Jan Franceschelli. Approved.

Chartley Landscape – Motion by Ron O'Reilly, seconded by Jan Franceschelli. Approved.

Chessia Consulting – Motion by Ron O'Reilly, seconded by Jan Franceschelli. Approved. (Lisa Carrozza abstained from voting)

7:05 pm **#250-38 – 162 West Main Street** Non Compliance Discussion

Attending the public discussion was Robert and Annabella Pesa.

Mr. Pesa commented that his attorney advised him that his previous proposal was the correct procedure to follow. David Henry asked Mr. Pesa if he intended on removing at least half of the unpermitted fill. Mr. Pesa replied that he is willing to complete the conditions in the original Order of Conditions, remove the concrete, install a drywell and install a silt fence.

Jennifer Carlino commented that the original Order of Conditions allowed a certain amount of fill and approximately 11,000 sq.ft. of property has been illegally filled. She said if he intends on complying with the original Order of Conditions, he would have to remove 11,000 sq.ft. of fill from the wetlands. Mr. Pesa replied that he does not agree that he should remove the extra fill.

Jennifer Carlino briefly updated the Pesa's and the commission on the history of the site to date as follows;

- a. A permit was issued on the property
- b. The conditions were not followed properly

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- c. An Enforcement letter was issued
- d. Through various agents, the Enforcement Order was not enforced
- e. A Certificate of Compliance was requested in order to close on the sale of the property
- f. A plan was drawn up by the engineer showing that 11,000 sq.ft. of excess fill had been placed in the wetlands.
- g. The Commission discussed the excess fill at a public hearing and noted that they cannot allow the excess fill to remain under the law.
- h. Letters have been sent to the owners with 2 options; remove all of the excess fill or remove a majority of the excess fill requesting an amendment to the Order of Conditions.
- i. Jennifer Carlino and the Pesa's spoke several times before they purchased the property.
- j. The Pesa's reviewed the files after purchasing the property.
- k. The Pesa's attended a couple of public meetings with the Conservation Commission.
- l. Several letters were sent back and forth between the owners and the Commission listing the only 2 options to resolve this matter were remove all of the excess fill or remove a majority of the excess fill requesting an amendment to the Order of Conditions.

Jennifer Carlino stated to Mr. Pesa that she had spoken with Town Counsel and that if Mr. Pesa does not agree with either one of these options, an Enforcement Order will have to be issued. She said that at this point they are at an impasse. Jennifer Carlino commented that if an Enforcement Order is issued and ignored, the Commission has the authority to file an injunction on the property which could impose fines up to \$25,000 per day per violation. She said that the commission has been extremely patient up to this point. Mr. Pesa replied that he has no intentions of complying with either of the two options presented to him.

Motion by Lisa Carrozza to issue an Enforcement Order, seconded by Scott Ollerhead. Approved.

7:05 pm Amendment to the Order of Conditions for **File #250-930 – Vincent Grzesik – Parcel 39 (Assessor's Map 9) 40 Farm Lane.**
--the amendment is for modifying the foundation height, grading and decks.

Documents

1. Request letter from John W. DeLano and Associates, Inc. dated July 13, 2015
2. Plan entitled "Building Permit Plan of Land 40 Farm Lane in Norton, MA owned by Vincent & Mary Grzesik, Scale 1"=20' prepared by John W. DeLano and Associates, Inc., signed and stamped by John W. DeLano and dated June 2, 2015.

David Henry stated that the public hearing could not be closed at the previous meeting because the legal ad bill had not been paid.

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He commented that the legal ad bill has been paid.

Motion by Scott Ollerhead to close the public hearing, seconded by Julian Kadish. Approved.

The members reviewed the Amended Order of Conditions. Motion by Lisa Carrozza to sign and issue the Amended Order of Conditions as written, seconded by Scott Ollerhead. Approved.

7:15 pm Amendment to the Order of Conditions for File **#250-888 – Turtle Crossing** - to change conditions 13g, 13h, 37 and 38. (cont. from the July 27, 2015 mtg.)

Documents

1. Request letter from Daniel Campbell, Level Design Group, to the Norton Conservation Commission dated June 22, 2015.
2. Letter dated June 25, 2015 from Goddard Consulting stating that they will be evaluating vernal pools at the Turtle Crossing Development located on Newland Street, Norton MA (DEP File #250-888) sometime during July of 2015.

Attending the meeting was Daniel Campbell who explained the proposed amendments to the commission. He commented that the applicant is requesting a modification to Condition 38, but this condition is connected to 13g, 13h and 37 as well.

Dan Campbell commented that he had sent an email to Jennifer Carlino today to say that Dan Wells, Goddard Consulting, LLC, had inspected the site on May 15th but had not documented the details only noting that there were a few egg masses present and was planning on re-visiting the site in July. He commented that his client is willing to post a bond to ensure that the inspections are done. Mr. Campbell stated he was trying to obtain a copy of the original NHESP report on the vernal pool for more details.

Dan Campbell noted that the Purchase and Sales Agreement on the property at this time states that work can be started as soon as all permits are obtained even though the new owner is commenting that work will not be started before the beginning of the year.

Julian Kadish asked Mr. Campbell if the original information on the vernal pools will be available at some point and Mr. Campbell replied it would be.

David Henry asked Mr. Campbell why the May 1st deadline was not met for inspecting the vernal pool and he replied that there was no potential buyer until May 14th and the present owner had not anticipated to begin construction this year.

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Jennifer Carlino suggested reviewing the two conditions for which an amendment has been requested, as they are written. She highlighted the main details as follows;

#37

- Applicant had burden of proof and reason for the condition to provide documentation
- The Commission has to approve the consultant, provide name and qualifications.
- Evaluate the CVP and all other identified pvps.
- Commission approves a submitted proposal describing evaluation protocol
- 45 days for Commission to make sure the proposal is complete

Dan Campbell pointed out the Certified vernal pools and potential vernal pools that Mr. Wells had inspected.

#38

- Pre-construction year provides baseline info
- Dates are guidelines
- Minimum basic parameters to the evaluation

Jennifer Carlino noted that the main two reasons for these two conditions is 1. To document details on methods used, equipment used and numbers and types of species found in the vernal pools and 2. To ensure the critter culvert is built correctly for the species found in the vernal pools. She commented that any changes to the proposed critter culvert would have to be approved by the Commission before commencement of work.

Dan Campbell stated that the applicant will comply with all the conditions, including the designing of the critter culvert, before starting any work.

Jennifer Carlino suggested mapping out all the certified and potential vernal pools with documentation for each one before modifying conditions #37 and #38.

Dan Campbell noted that the owner is willing to provide a \$10,000 bond to ensure all vernal pool inspections and documentation is completed and submitted in order to design the critter culvert appropriately before work begins.

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Discussion ensued on when construction would commence. Dan Campbell commented that he did not think construction would begin before next spring. Jennifer Carlino noted that if this was the case, then condition #38 would not have to be modified. Dan Campbell agreed.

Lisa Carrozza suggested removing the dates from the conditions and modify the condition to allow the agent to oversee the inspections. She suggested it be written into the Order of Conditions that “if construction does not commence by January, 2016, all vernal pool documentation shall be submitted in April, May and June, 2016”. She noted that the owner shall notify the commission in February if they do not intend on performing the vernal pool studies in the spring in order to allow the studies to be done using the bond money.

Jennifer listed the items to be listed in the amended Order of Conditions as follows:

- Provide credentials for approval
- Provide vernal pool evaluations and protocol in detail & on a map for approval
- If the critter culvert is re-located, provide the largest opening with the shortest width and submit revised plan for a public hearing, notify abutters
- Culvert installation is for construction term
- Bond all monitoring
- Written acknowledgement from the buyer that all vernal pools may be certified and that all species found may be documented

Motion made by Lisa Carrozza to amend conditions #37 (13g, 13h) & #38, as discussed, seconded by Julian Kadish. Approved.

7:25 pm **Notice of Intent – (#250-957) – WLFB, LLC – Parcel 114-01 (Assessor’s Map 36) 1 Mary Joe Road – (cont. from the July 27, 2015 mtg.)** - for proposed plans to construct a single-family house and driveway within 100 feet of wetlands.

Dave Henry noted an email has been received requesting a continuance to the next meeting.

Motion by Lisa Carrozza to continue the public hearing to the next regular meeting of Monday, August 24, 2015, seconded by Scott Ollerhead. Approved.

7:30 pm **Notice of Intent – (#250-958) – WLFB, LLC – Parcel 114-04 (Assessor’s Map 36) 3 Mary Joe Road – (cont. from the July 27, 2015 mtg.)** - for proposed plans construct a single-family house, a septic system and a gravel driveway with underground utilities and associated grading within 100 feet of wetlands.

Dave Henry noted an email has been received requesting a continuance to the next meeting.

Motion by Lisa Carrozza to continue the public hearing to the next regular meeting of Monday, August 24, 2015, seconded by Scott Ollerhead. Approved.

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7:35 pm **Notice of Intent – (#250-959) – WLFB, LLC – Parcel 114-03 (Assessor's Map 36) 4 Mary Joe Road – (cont. from the July 27, 2015 mtg.)** - for proposed plans to construct a single-family house and associated grading within 100 feet of wetlands.

Dave Henry noted an email has been received requesting a continuance to the next meeting.

Motion by Lisa Carrozza to continue the public hearing to the next regular meeting of Monday, August 24, 2015, seconded by Scott Ollerhead. Approved.

7:20 pm **Notice of Intent – (#250-960) – Jeffrey O'Neill, Condyne Capital Partners – Parcel 116 (Assessor's Map 24) 60 Commerce Way – (cont. from the July 13, 2015 mtg.)** - for proposed plans to construct a commercial building and a portion of a driveway and storm water management within 100 feet of wetlands.

Document List

1. WPA Form 3 – Notice of Intent
2. Plan entitled "Norton Commerce Center, 60 Commerce Way, Plan to Accompany the Filing of a Notice of Intent (Sheets 1 & 2) prepared by Condyne Engineering Group, LLC, signed and stamped by Mark D. Dibb and dated May 13, 2015.
3. NHESP Vernal Pool Observation Report
4. Letter dated June 17, 2015 from Chessia Consulting Services LLC to the Conservation Commission.
5. Stormwater Management Report dated May 13, 2015.
6. SWPPP dated May 13, 2015.
7. Letter dated June 18, 2015 from Jennifer Carlino to Mark Dibb, Condyne Engineering Group LLC.
8. Letter dated June 30, 2015 from Jennifer Carlino to Mark Dibb, Condyne Engineering Group LLC.
9. Letter dated July 2, 2015 from Chessia Consulting Services LLC to Jennifer Carlino.
10. Letter dated July 2, 2015 regarding a Notice of Transfer for 60 Commerce Way.
11. Letter dated July 20, 2015 from Mark Dibb, Condyne Engineering Group to Jennifer Carlino in response to Chessia Consulting Services, LLC's letter dated July 2, 2015.
12. Memo dated July 21, 2015 to Mark Dibb from ECR
13. Supplemental Notice of Intent Review-60 Commerce Way dated August 3, 2015

Lisa Carrozza recused herself from the public hearing.

Attending the meeting was Mark Dibb, Condyne Engineering Group who updated the commission:

- Located the Certified Vernal Pool
- Submitted all documentation and response letters
- Received a cost proposal for further review from Chessia Consulting Services and submitted a check to cover the cost.
- Discussed back and forth with Jennifer Carlino location of the Certified Vernal Pools

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- Submitted revised plan with all new documentation including the location of the Certified Vernal Pools in order to design the stormwater BMP to be located out of the buffer zone.
- No work within 100 feet from vernal pools (at the property line with the Town of Mansfield).

Jennifer Carlino asked Mr. Dibb what the new lines added to the ILSF area that were shown on the original plan approved in the ORAD were. He replied that at the time that the ORAD was issued there were no calculations done for this area but since then calculations have been done and the new lines added are the result of those calculations. He noted some of the lines reflected the Certified Vernal Pools. Jennifer Carlino commented that the ILSF borders are the ones approved in the ORAD and Mr. Dibb agreed.

Jennifer Carlino gave Mr. Dibb documentation and pictures of the Certified Vernal Pool in specific areas even though he assured the commission no work will be performed within 100 feet of any vernal pools.

Jennifer Carlino commented that there are two Certified Vernal Pools within one ILSF and suggested noting on the plan that they are considered as one. Mark Dibb replied he will check with his client first.

Jennifer Carlino suggested that the emergency spillway which was directed toward the created seasonal pond be revised to be directed toward the existing pond if possible.

Jennifer Carlino noted that there are a few areas that are intruding into the 25-ft. no-disturb area. She pointed out a basin that can be shifted slightly in a different direction.

Mark Dibb commented that he will contact Chessia Consulting tomorrow.

Motion by Scott Ollerhead to continue the public hearing to the next regular meeting of Monday, August 24, 2015, seconded by Julian Kadish. Approved.

Re-organization of the Commission -

Discussion ensued on how to improve the meeting process.

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Lisa Carrozza suggested that after each public hearing that is continued, have the representative make a list of items that are requested for the next meeting.

Jennifer Carlino suggested someone at the meeting keep notes for each project. Julian Kadish suggested each member take notes but have the Chairman and Vice Chairman take the bulk of the notes for each project asking each member to give comments.

Lisa Carrozza suggested having the main interests of the Wetland Protection Act written on a poster board to be placed in plain sight at each public meeting.

Jennifer Carlino noted that every applicant should be reminded of, and put on their plans, the **visual barrier** and **no-disturbance zone**.

Motion by David Henry to keep the Commission as is, seconded by Scott Ollerhead. Approved.

SIGN DETERMINATION OF APPLICABILITY

DET. #1021 – Michael Drahos – Parcel 23 (Assessor’s Map 31) 11 Dean Street – for proposed plans to cut down two trees within 100 feet of wetlands.

Motion by Lisa Carrozza to issue a negative (#3) Determination of Applicability with the condition that the applicant replant a tree to replace the tree removed from the wetland area and as long as the work is done according to the approved plan, seconded by Dan Pearson. Approved.

OLD BUSINESS

Violations:

195 East Main Street
90A Freeman violation
241 Dean Street
28 Alder Road – new violation

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NEW BUSINESS

David Henry read aloud a thank-you note to Jennifer Carlino from Andrew Barrick, Eagle Scout.

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

Jennifer Carlino noted that she had received the 401 Water Quality Certificate for Canoe River/Plain Street Bridge.

Jennifer Carlino commented that articles for the October 19th Annual Town Meeting are due by September 1st and meeting dates should be scheduled at this time. It was agreed to meet on October 5th and October 26th.

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

David Henry commented that bids have been received for the dam repairs. He said that Pare Corporation has reviewed the bid that was the lowest and replied that the bidder was qualified for the job.

Motion by Scott Ollerhead to accept Pare Corporation's letter of recommendation that Mass Building and Bridge are qualified for the Norton reservoir dam repairs, seconded by Julian Kadish. Approved.

The meeting adjourned at 8:42 pm.

Minutes Approved by Committee on: _____
(Date)

Respectfully submitted,

Signature:

(Name)

Chairman, _____