



**TOWN OF TEWKSBURY
CONSERVATION COMMISSION
999 Whipple Road
Tewksbury, MA 01876**

Anthony Ippolito, Chairman
Carolina Linder, Vice-Chair
Steve Deackoff, Clerk
Dennis Sheehan
Jonathan Parker

**Meeting Minutes
February 18, 2015**

The meeting was called to order at 7:00 p.m. by Anthony Ippolito, Chairman at the Pike House (temporary Town Hall). Present at the meeting were Carolina Linder, Dennis Sheehan, and Jonathan Parker. Also in attendance was Kyle Boyd, Conservation Agent, and Melissa Johnson, Recording Secretary.

Steve Deackoff was not present.

Approval of Meeting Minutes – February 4, 2015

MOTION: Mr. Parker made the motion to table the February 4, 2015 meeting minutes to allow for additional time for review; seconded by Ms. Linder and the motion carried 4-0.

A) Abbreviated Notice of Resource Area Delineation, New Horizons Realty Group, LLC, 1201 Main Street, Map 60, Lot 39, DEP #305-978

Present was Eric Gerard of TEC on behalf of New Horizons Realty. Mr. Gerard noted that this property is located along Main Street just north of the Chandler Street intersection. Mr. Gerard explained that in 2007 an ORAD was issued for the property relative to the original construction of the first office building on the property. The wetlands were reflagged in October, 2014 and a peer review has been done by Weston & Sampson. As a result of the peer review, they have adjusted the C series wetlands with two additional flags. Mr. Gerard noted that the adjustment has pulled the limits approximately 50 feet towards the west. Peer review has revisited the site and is in agreement with the adjustments that have been made. Mr. Gerard explained that the applicant is requesting a determination on the limits of the A and C series wetlands.

Mr. Gerard noted that in 2007 it was determined that there is an intermittent stream on the site and explained that they currently have three days of observed no flow; however, when they went back out to observe the fourth day, it was the fall and heavy rains had started.

Mr. Ippolito noted that at previous meeting there was an area that had not been flagged and asked if this has been done and Mr. Gerard confirmed this.

Ms. Linder asked if there is in fact an intermittent stream or if they are just calling it that. Mr. Gerard explained that they feel confident that it is intermittent; however, they were unable to obtain the fourth day of observations due to the weather conditions. Ms. Linder feels the fourth day is needed and noted that DEP has submitted documents to help guide on issues such as this and suggested this be provided to the applicant so they are able to confirm that they are in compliance with all of the requirements of the regulations and to determine that there are no other issues that could make it not flow to call it intermittent. Mr. Gerard noted that he will have the wetland scientist confirm this.

Mr. Boyd noted that the applicant has reflagged were Weston and Sampson requested and his only concern is with the intermittent stream; which will likely set this matter back due to the large amount of snow that has been received. Mr. Boyd asked how the applicant plans to proceed in regards to the stream. Mr. Gerard explained that the applicant would like to move rather quickly with regards to the next submittals and would likely file for the next process in a month or so.

Ms. Linder noted that DEP has specific language on determining whether a stream is intermittent or not and the steps that should be taken and suggested providing this information to the applicant to help guide them in this process. Mr. Boyd confirmed this will be done.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

MOTION: Ms. Linder made a motion to continue Abbreviated Notice of Resource Area Delineation, New Horizons Realty Group, LLC, 1201 Main Street, Map 60, Lot 39, DEP #305-978 to March 4, 2015 at 7:02 p.m.; seconded by Mr. Parker and the motion carried 4-0.

B) Notice of Intent, FTO Realty Trust, 20 Riverview Avenue, Map 98, Lot 121, DEP #

Present was Jim Hanley of Civil Design Consultants. Mr. Hanley explained that the applicants originally filed for this property in December, 2014 and this matter has been before the Commission a few times. Mr. Hanley explained that originally the approach they took was to petition the Board of Appeals for a variance for the front yard setback which allowed the home to be constructed outside of the flood plain. The Board of Appeals has denied the variance request. Mr. Hanley explained that the plan presented tonight is significantly different than what was originally proposed and is one of the alternative plans that were previously presented to the Commission. Mr. Hanley noted that the building footprint is the same as previously proposed; 26 x 36, and explained that they are now forced to place the building within the setbacks set by the town which puts a portion of the home in the flood plain. As a result, there are significant permitting constraints that they now have to design around. Mr. Hanley explained that they will now have to fill in a portion of the flood plain and are required to compensate for the volume of flood plain that they lose by putting the home in the flood plain. Mr. Hanley noted that this work will be similar to the project he completed on Old Shawsheen Street. Mr. Hanley explained that local approval from the Commission would be the first step and then they would do the site work associated with the approval. Then an as-built survey of just the site work and a letter

of map amendment application will be prepared and filed with FEMA and it is typically a 60 day process with FEMA. If FEMA is in agreement with the calculations, they issue the letter of amendment and they can then file for a building permit to construct the residence.

Mr. Hanley explained that this plan is the alternative that they did not really want to do and noted that this is a grandfathered lot and the current building is basically in the river. The demolition of the existing home is still a part of this application. Mr. Hanley discussed his letter dated February 16, 2015 that was provided to the Commission along with a flood plain analysis. Mr. Hanley noted that there will be approximately 100 cubic feet of storage post construction.

Mr. Boyd asked what the total percentage of riverfront disturbance is. Mr. Hanley noted that he can provide this information as he does not have it with him. Mr. Boyd requested language on where it states this is a grandfathered lot under the Wetland Protection Act. Mr. Boyd asked if the new home is the same size and Mr. Hanley explained that it is close and he will also provide this information. Dick Cuoco noted that the lot was created prior to the Rivers Protection Act and as a result, it is exempt from the 10% requirement.

Ms. Linder asked if there are any storm water plans or details. Mr. Hanley noted that they do not have this information. Ms. Linder noted that they are within the riverfront and requested the impact size be provided. Mr. Hanley confirmed this will be done.

Mr. Ippolito opened the hearing to the public.

Carol McCarthy of 50 Riverdale came forward and noted that she feels the home should be put further up the hill away from the river as it would be less likely to experience flooding and would make the river area look better. Ms. McCarthy noted that she currently experiences flooding.

The Commission has requested the applicant provide statics on the amount of disturbance within the riverfront area, references to the grandfather lot with size comparison of the existing to proposed, and storm water plans.

MOTION: Ms. Linder made the motion to continue, Notice of Intent, FTO Realty Trust, 20 Riverview Avenue, Map 98, Lot 121, DEP #305-982 to March 4, 2015 at 7:04 p.m.; seconded by Mr. Parker and the motion carried 4-0.

C) Notice of Intent, Brian J. Smith, Laurier Ave (Now Day Street), Map 10, Lot 56, DEP #305-981

Present was Matt Hamor of Robert Gill & Associates. Mr. Hamor explained that Mr. Gill was unable to attend tonight's meeting and apologizes for this.

Mr. Hamor noted that he was just informed by Attorney Richard O'Neill that the street access permit was filed and has been recorded with the Registry of Deeds today.

Mr. Hamor noted that that at the previous meeting the Commission requested rip rap be included at the inlet and outlet of the culvert and this has been added to the plan and has been submitted. Mr. Hamor explained that since that time, they have received comments from Pamela Merrill of DEP. Mr. Hamor reviewed some of those comments which included:

- Provide data sheets for the delineation: Mr. Hamor provided copies of the data sheets to the Commission members and noted that Norse Environmental did the delineation in September, 2013.
- Concern on whether there was a Wetland track on the up gradient portion of the culvert: Mr. Hamor explained that Norse Environmental has reviewed this concern and has provided a letter confirming there is not a wetland at the up gradient portion.
- Provide an overall plan to see if the wetland along the Golen property will provide a buffer zone to this project: Mr. Hamor explained that they did the work at the Golen property so they are aware of the wetland delineations in that area as well.
- Mr. Hamor noted that they have updated the Form 3 with the signatures of the owners and provided this to Mr. Boyd. Mr. Hamor noted that they also have the additional tax map reference and that he has emailed this information to DEP and will also be sending same via certified mail.
- Additional question on the culvert: Mr. Hamor explained that they do not know the integrity of the culvert and it is likely that they may replace the culvert if in fact it proves to be a problem. Mr. Hamor will report to Mr. Boyd on the condition of the culvert as soon as it has been determined.

Mr. Boyd noted that he shares the same concerns as DEP regarding the culvert. Ms. Linder noted that she would like the integrity of the culvert to be known prior to the Commission issuing their determination and asked when the work will be done. Mr. Hamor explained that they will be doing that work in the spring.

Mr. Ippolito asked if they are able to prepare a detailed plan on how they would replace the culvert. Mr. Hamor explained that they would not provide the details on a new culvert as of right now as there are currently no plans to replace it. If in fact they will be replacing the culvert, they will contact Mr. Boyd and/or the Town Engineer, Kevin Hardiman. Mr. Boyd suggested making the culvert information a condition.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Ippolito made the motion to close the public hearing; seconded by Mr. Sheehan and the motion carried 4-0.

MOTION: Ms. Linder made the motion to approve Notice of Intent, Brian J. Smith, Laurier Ave (Now Day Street), Map 10, Lot 56, DEP #305-981, standard Order of Conditions, once field observations have been completed on the culvert the information on the integrity of the culvert shall be provided to the town engineer and/or Mr. Boyd; seconded by Mr. Parker and the motion carried 4-0.

D) Discussion – Drainage for Wamesit Lanes

Present was Dick Cuoco of Woodland Designs and Attorney Richard O’Neill. Mr. Cuoco noted that they do not have a file number yet as they are awaiting review from Weston & Sampson. Norse Environmental was expected to reach out to Weston & Sampson to see if they could expedite the process.

Mr. Cuoco noted that one of the items they would like to discuss tonight is outside of the order of conditions. Mr. Cuoco provided the members with a copy of a handout entitled “Topographic Design” and explained that they were previously before the Commission in early summer to discuss some of the confusions existing between the Colantuonio property (Tewksbury Florist) and the proposed Wamesit Lanes. Mr. Cuoco explained that it was determined that the drainage “ran across and onto Wamesit Lanes”. As a result, they were trying to determine alternatives to resolve the drainage issues by installing a system on the Colantuonio property and they have been working towards this. Mr. Cuoco explained that one of the issues that have come up is when the town sewer was done it was run up Colab Avenue and the road was repaved. Mr. Cuoco explained that the original road (Colab) had a crown so the water disbursed to the sides and when the road was repaved after the sewer project there was no crown done and the road is actually elevated towards the Colantuonio property. The goal is to try to get the road back to the original condition it was in approximately 5 years ago; prior to the sewer project. Mr. Cuoco explained they are requesting a negative determination for working within Colab Ave.; which to them is clearly outside the 100 foot area. There will not be any work off of the shoulders or close to the wetlands. The applicant is proposing to install a berm to keep the water from coming in and to put the road back in its original condition. Mr. Cuoco explained that this work is time critical for the Colantuonio family so that they do not miss the Easter and spring season as this is typically one of their busiest times for their business.

Attorney O’Neill explained that he has worked with and represented the Colantuonio family for several months and this has been a cooperative and friendly effort by both sides. Attorney O’Neill explained that the issue is how to deal with the storm water that is inundating the Colantuonio property and noted that there is a working agreement to live under the existing Order of Conditions, but to also continue working cooperatively to determine a solution and alternative. Attorney O’Neill explained that a negative determination is critical for them to restore the road back to how it was and noted that there are also issues with Route 38 itself and the State has agreed to begin to look into ways to remediate the issues. The Colantuonio’s would support a negative determination.

Mr. Boyd explained that a negative determination is being requested; however, there is no formal request for a determination and there is no wetland review. As a result, the Commission is not able to make a determination tonight. Mr. Cuoco requested a negative determination contingent upon Mr. Boyd's review and explained that there is an alternative plan in the event it is determined the distance is at least 100 feet. Mr. Boyd noted that this work would also be on a separate property.

Attorney O'Neill agreed a formal filing should be done and noted that the Colantuonio's would prefer Plan A.

Discussion took place on holding an emergency meeting next week to address this matter. Ms. Linder noted that some of the members may not be able to attend and asked if the meeting could wait until the next regular meeting on March 4, 2015. Attorney O'Neill explained that the goal is to ensure Tewksbury Florist does not lose out on their busiest season spring, Easter, etc.

Mr. Cuoco explained that the negative determination will not be needed if it is in fact determined that Colab is 100 feet away. Mr. Boyd suggested continuing the notice of intent and filing for a negative determination for this work first. Attorney O'Neill requested Mr. Boyd walk the site prior to next Wednesday and indicate whether he feels it is 100 feet away and they will amend the original request. Discussion took place on whether a separate filing would be required for this work. Mr. Cuoco noted that they would not need to file if it is determined they are at least 100 feet away.

E) Discussion – National Grid

Present was John Vera of VHB and Dan Macintyre of National Grid. Mr. Vera provided the members with a copy of a plan of the site and explained that National Grid has a new project involving a substation in the vicinity of Power Company Road. The substation is identified as "Tewksbury 22A" and is a substation that was built out in the late 1970s and is in need of upgrading. Mr. Vera explained that there are also a number of high voltage transmission lines that enter into the station and there are two that cross. The plan is to replace the equipment and eliminate the line cross over. When that is done, National Grid plans to construct a substation to replace what is there now. Mr. Vera noted that part of the problem with the replacement is the existing structure needs to function throughout the entire construction process. Mr. Vera explained that reworking of the substation expands it roughly to the northwest and the entire site is surrounded by wetlands that have been approved as a part of an ANRAD last year. The project has gone thru several reiterations and was originally larger with wetland impacts well over one acre. Since that time, the project and impact to the wetlands has been reduced. Mr. Vera explained that there is approximately 4,200 square feet of wetland impact of which 1,800 square feet is wetland fill. Mr. Vera explained that there is also a temporary wetland impact to realign one of the transmission lines as it will require a timber mat on the surface of the wetland and is considered a temporary impact. In addition, since they are realigning the transmission line, it will then be closer to the trees which, as a result, will require tree removal in the wetland to allow for the sufficient distance to the transmission line.

Mr. Vera explained that he met with Mr. Boyd, the Town Engineer, and the Building Inspector and walked the site after the meeting with Mr. Boyd. Mr. Vera explained that they understand the Commission has a 2:1 mitigation ratio; however, one of the problems with mitigating on this site is they would have to cut trees in order to mitigate the wetland loss. As a result, the applicant is proposing mitigation in the area of the tree removal for the line realignment to create the 2:1. Mr. Vera explained that they would plant shrubs that would grow to be approximately 10-12 feet. The applicant intends to file a formal notice of intent, but would like the input of the Commission prior to that filing.

Mr. Boyd noted that this is a tight site and he is just receiving the plans tonight and would like additional time to review the matter

Discussion took place on some of the previous versions of this project and the large amount of impact that would have occurred to the wetlands such as over an acre of fill. Mr. Vera noted that this is a difficult site due to the location of all of the wetlands and the high voltage power lines.

Ms. Linder requested Mr. Vera review the secondary impacts. Mr. Vera explained that the existing conditions are two transmissions line that cross. Mr. Vera showed the location of these lines and further explained that in order to separate the lines, the structure needs to be shifted over making the lines close to the trees which is requiring they be cut to allow for the required distance from the lines. Mr. Macintyre noted that the area will be managed under a vegetation plan in the future.

Mr. Boyd asked if any other communities have handled the mitigation in a different manner. Ms. Linder asked about replication on another site that would not be close to the lines. Mr. McIntyre cautioned against the selection of plantings as anything over 10-12 feet would get cut. Discussion took place on potential locations for replications. Mr. Boyd noted that the Commission is open to proposals of replications on other sites.

Mr. Vera discussed a program offered by Scott Jackson at UMass that look at culverts and run them through a program and it shows the condition of the culvert, what could be done to improve the culvert, etc. Mr. Vera noted that other communities have done this and it does not involve restoration or recreation. The study would be done by UMass under the direction of Scott Jackson. Mr. Vera noted that Mr. Jackson could do a presentation to the Commission regarding this program. It was the consensus of the Commission members that this could be beneficial.

Mr. Ippolito requested the grid be broken out larger so it is easier to read.

Mr. Vera noted they will be doing a formal filing for the next meeting.

New Business

There was no new business.

Old Business

There was no old business.

Administrator's Report

There was no Administrator's Report.

Adjourn.

MOTION: Mr. Sheehan made the motion to adjourn; seconded by Ms. Linder and the motion carried 4-0.

Approved: 3/4/15

*List of documents for 2/4/15 Agenda
Documents can be located at the Community Development Office*

Approval of Meeting Minutes-February 4, 2015

- A. 7:02 P.M Abbreviated Notice of Resource Area Delineation, New Horizons Realty Group LLC, 1201 Main Street, Map 60 Lot 39, DEP # 305-978
- Existing Conditions Plan dated October 20, 2014
 - Existing Conditions Plans with revisions
 - Letter from Weston & Sampson dated December 8, 2014
 - ANRAD Application dated November 21, 2014
- B. 7:04 P.M Notice of Intent FTO Realty Trust, 20 Riverview Avenue, Map 98 Lot 121, DEP #, 305-982
- Site Plan dated December 4, 2014
 - Site Plan with revisions dated January 2, 1015
 - Site Plans with revisions dated February 16, 2015
 - Letter from James Hanley dated February 16, 2015
 - Letter from James Hanley dated January 2, 2015
 - Notice of Intent packet dated December 4, 2014
- C. 7:05 P.M Notice of Intent, Brian J. Smith, Laurier Ave (Now Day Street), Map 10 Lot 56, DEP # 305-981
- Notice of Intent Report dated January 8, 2015
 - Notice of Intent plan dated December 19, 2014
 - Letter from Pam Merrill dated February 17, 2015
 - DEP Bordering Vegetated Wetland Delineation Form
 - Letter from Town Engineer dated December 12, 2014
- D. 7:07 P.M Discussion, Drainage for Wamesit Lanes
- WPA Form 3- Notice of Intent
 - Topographic Plan dated February 18, 2015
 - Drainage Improvement Plan dated February 5, 2015
- E. 7:09 P.M Discussion, National Grid
- Existing Conditions Plan dated September 5, 2014
 - Existing Substation Aerial
 - Wetland Impact Plan dated February 17, 2015