



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

Stanley Folta, Chairman  
Anthony Ippolito, Vice-Chair  
Sean Czarniecki, Clerk  
Stephen Deackoff  
Dennis Sheehan

**Meeting Minutes  
May 1, 2013**

The meeting was called to order at 7:00 PM at the Tewksbury Town Hall by Stanley Folta, Chairman. Present at the meeting were Stephen Deackoff, Sean Czarniecki, and Dennis Sheehan. Also in attendance was Kyle Boyd, Conservation Agent, and Melissa Johnson, Recording Secretary. Anthony Ippolito was not in attendance.

**Approval of Meeting Minutes – April 17, 2013**

**MOTION: Mr. Czarniecki made the motion to approve the April 17, 2013 meeting minutes as presented; seconded by Mr. Sheehan and the motion carried 4-0.**

**A) Certificate of Compliance, Keith Anderson, 1009 Main Street, Map 61, Parcel 12, DEP#305-712**

Attorney Robert Scarano was present on behalf of Keith Anderson. Attorney Scarano explained that the applicant submitted a request for a Certificate of Compliance on April 12, 2013 seeking compliance with an Order of Conditions that was issued; #305712 recorded at Middlesex North Registry of Deeds at Book 2994, Page 282. There are no substantial deviations under the plan and an as-built plan has been submitted. Attorney Scarano noted that the original drafter of plans, Robert Morris, has passed. As a result, Cypress Design has prepared the as-built based on the original plans.

Mr. Czarniecki noted that he was not on the Commission when this project was originally proposed; however, it appears that the wetland delineation as presented is on the other side of the stream. Mr. Folta explained that the stream is actually an outlet for a storm drain. At the time of the application it was determined that the wetland line was to the left of the property rather than the right of the property. Mr. Czarniecki noted that there are also some debris items in the 25 foot buffer and requested this area be cleared. Attorney Scarano noted that Mr. Anderson only owns twenty feet behind the building and he will ensure this particular area is cleaned out.

**MOTION: Mr. Folta made the motion to issue a Certificate of Compliance for Keith Anderson, 1009 Main Street, Map 61, Parcel 12, DEP#305-712; contingent upon Mr. Boyd's review that all debris within the 25 foot buffer has been cleaned out; seconded by Mr. Sheehan and the motion carried 4-0.**

**B) Public Hearing, Request for Determination of Applicability, Donald Logan, 120 Poplar Street, Map 97, Lot 98**

Wayne Hinckley was present on behalf of Donald Logan. Mr. Hinckley explained that there is an existing foundation on 120 Poplar Road. The applicant is proposing to construct a single family home on the existing foundation and they are within the wetland boundaries.

Mr. Czarniecki asked who did the wetland delineation in 2010 and Mr. Hinckley noted that he is not sure. Mr. Czarniecki asked if the plan is to clear the trees up to 25 foot buffer. Mr. Hinckley confirmed this. Mr. Deackoff suggested the 25 foot buffer be marked out prior to the trees being removed. Mr. Hinckley explained that the area will be marked out with a silt fence that will be installed prior to the trees being removed. Mr. Sheehan suggested straw waddles be used rather than hay bales. Mr. Hinckley confirmed this.

Mr. Deackoff asked if the plan is to use the same foundation. Mr. Hinckley confirmed this.

Mr. Folta recommended Mr. Boyd review the area prior to any work beginning to ensure the silt fence is properly installed. Mr. Hinckley confirmed this.

Discussion took place on whether this matter should be a Notice of Intent rather than a Request for Determination of Applicability. Mr. Boyd explained that when he originally met with the applicant, he was told that they wanted to construct a home on the existing foundation and clear a few trees outside of the 50 foot no build in order to have a backyard. There was no mention of clearing up to the 25 foot no disturb. Mr. Boyd recommended clearing up to the 50 foot buffer and staying outside of it. Mr. Folta explained that a Notice of Intent is required to go into the 50 foot no build.

Mr. Deackoff suggested Bernstein Markers be installed every 25 feet along the 25 foot no disturb. Mr. Hinckley confirmed this will be done.

Mr. Folta noted that typically this type of a matter would not be a public hearing, but since it has been advertised as such it was opened to the public and no one came forward to comment.

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

**MOTION: Mr. Deackoff made the motion for a negative determination for Donald Logan, 120 Poplar Street, Map 97, Lot 98; the siltation fence shall be installed at the 50 foot no build and permanent markers shall be placed at the 25 foot no disturb line every 25 feet; seconded by Mr. Sheehan and the motion carried 4-0.**

**C) Continued Public Hearing, Notice of Intent, Michael Welch, 418 Pleasant Street, Map 32, Parcel 49, DEP # 305-949**

Mr. Steve Erickson of Norse Environmental Service was present. Mr. Erickson provided the members with a copy of the plan and explained that this matter was heard at the previous meeting and was continued as DEP had not yet issued the file number. Since that time, DEP has issued a file number and their comment was that there was no grading shown on the plan. Mr. Erickson noted that the grading has been shown on the plan and provided to DEP. Mr. Erickson noted that the grading is also shown on the plan provided to the Commission.

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

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

**MOTION: Mr. Deackoff made the motion to approve Michael Welch, 418 Pleasant Street, Map 32, Parcel 49, DEP #305-949 for a notice of intent, standard order of conditions, reference shall be made to the plans dated April 16, 2013; seconded by Mr. Sheehan and the motion carried 4-0.**

**MOTION: Mr. Folta made the motion to take a three minute recess; seconded by Mr. Sheehan and the motion carried 4-0.**

**D) Public Hearing, Notice of Intent, Tewksbury DPW, East Street, DEP #305-950**

Present was Tom from the Mass DOT Highway Division and Mike Meyers of TEC Design Consultants. Mr. Meyers explained that this project is primarily focused on the intersection of East Street and Shawsheen Street and will consist of reconstruction of the intersection to provide for traffic signals. There will also be some widening within the intersection to provide for the appropriate turn lanes. Mr. Meyers explained that the roadway will be constructed within the existing footprint. As a result, there will be no increase to the pavement area. Mr. Meyers explained that they are proposing to set up deep sump catch basins and showed the locations for each. The town will have to obtain a permanent drainage easement as part of this project. Mr. Meyers noted that all of the appropriate erosion controls will be put in place along the wetland area.

Mr. Folta asked how far the drainage easement has progressed. Mr. Myers explained the town is working on acquiring the easement and have been making contact with the abutters. Mr. Folta asked how many feet of linear roadway there will be. Mr. Myers explained that there is approximately 400 feet to the highpoint; the overall project is approximately 800 feet with the limit of work being at Jill's Way. Mr. Meyers explained that this project is separate from the project the town is working on for installing a water line. Mr. Folta noted that this project is contingent upon the town obtaining drainage easements. Mr. Myers confirmed this.

Mr. Czarniecki explained that it is difficult to determine what the assumptions are for pre and post peak flows as only a summary was given. Mr. Czarniecki noted that based on the summary there appears to be more impervious in post versus pre yet there is less peak flow; which he assumes is due to the sedimentation basin, but that is not shown. In addition, on the rain fall data there are two different figures: 10 year rain fall was 4.75 inches for pre and 4.6 for post and the 100 year storm is also shown as more in pre. Mr. Meyers noted that he will look into this. Mr. Czarniecki asked where the water will go after the deep sump catch basin. Mr. Meyers explained that the capacity is not accounted for within the calculations and will be treated as if it was full all of the time. Mr. Tom explained that the water will eventually evaporate and that the 4 foot deep sumps are typical for this area; there is no percolation.

Mr. Folta asked if there is a maintenance schedule. Mr. Tom confirmed this. Mr. Czarniecki asked if there is anything else available beside the sedimentation collector. Mr. Meyers explained that because the project is being federally funded this is the only option available.

Mr. Deackoff asked if there will be granite curbing. Mr. Meyers confirmed this.

Mr. Folta opened the hearing to the public.

Mr. George Ross, Jr. of 1074 East Street came forward and asked if there will be any changes in the grades. Mr. Folta noted that grade changes are not part of the proposal. Mr. Ross expressed concerns with drainage. Mr. Myers explained the drainage issues would be addressed under the drainage project being done by the Town.

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

**MOTION: Mr. Deackoff made the motion to approve the Notice of Intent for Tewksbury DPW, East Street, DEP #305-950, standard order of conditions, the storm water calculations should be updated and provided to Mr. Boyd and the Commission; seconded by Mr. Sheehan and the motion carried 4-0.**

**E) Public Meeting, Abbreviated Notice of Resource Area Delineation, OSB Builders, LLC, Crystal Circle, Map 92, Parcel 34**

Mr. Steve Erickson of Norse Environmental Services was present. Mr. Erickson provided the members with a copy of a plan of the site and explained this location borders on the Town of Andover. There are several resource areas on the property including a boarding vegetated wetland, a riverfront area, detention pond, and two certified vernal pools (one of which is only 3 inches deep and not functional). Mr. Erickson noted that he viewed the site with Bill Manuell and he had no issues with the flaggings.

Mr. Folta noted that the Commission is in receipt of Mr. Manuell's correspondence dated April 20, 2013 which states that flags 49A-54A were missing and were not confirmed. Mr. Erickson explained that 10 flags were removed as the area is steep and the boundary is clear. Mr. Erickson confirmed that this area will be addressed when the Notice of Intent is filed.

Discussion took place on the potential vernal pools. Mr. Boyd noted that moving forward the two areas should both be treated as vernal pools as they have been certified. Mr. Erickson confirmed this.

Mr. Folta noted that this is not a public hearing; however, there were residents present and Mr. Folta allowed them the opportunity to speak.

Ms. Melissa Irving of Andover came forward and noted that her property abuts this project. Ms. Irving explained that she went to the town of Andover to speak with the conservation agent prior to the property being purchased by the current owners and was told that there was only 2-3 buildable acres in Tewksbury. Mr. Folta noted that this was an assumption made by the town of Andover. Ms. Irving asked what the minimum lot size is in Tewksbury. Mr. Boyd explained that in Tewksbury there is a one acre minimum with a few exceptions and suggested Ms. Irving contact him if she would like additional information on this. Ms. Irving asked if this would be town sewer or if it would be private septic. Mr. Erickson explained it would be on municipal sewer. Ms. Irving asked if Tewksbury has a requirement to fence in detention areas. Mr. Folta explained there is no requirement for fencing. Mr. Folta explained that at this point, nothing is being proposed and the applicant is only confirming the wetland delineation.

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

Mr. Czarniecki asked what the concrete structure near the vernal pool is. Mr. Erickson explained that there was a small detention basin in this area that is no longer functional and will be removed.

**MOTON: Mr. Deackoff made the motion to approve the order of resource area delineation, OSB Builders, LLC, Crystal Circle, Map 92, Parcel 34, reference shall be made to the plans dated February 26, 2013 as well as Bill Manuell's letter dated April 30, 2013; seconded by Mr. Czarniecki and the motion carried 4-0.**

#### **F) Public Meeting, Bylaw Change Proposal Article 3, Conservation Commission**

Mr. Czarniecki explained that at last year's special town meeting some residents proposed an article to change the buffer distances in the bylaw. The Commission spoke with the proponents and the article was withdrawn based on the fact that the Commission agreed to research this issue. A Subcommittee was set up to work on this matter and research was done on the buffer distances. Mr. Czarniecki prepared a report summarizing all of the information that was obtained. The report can be found on the town's website or at the community development office. It was determined that Tewksbury's buffer zone distances are less than what would be recommended; however, to increase them would remove developable space and would be hardship on some homeowners. The Subcommittee determined that the best thing may be to change the bylaw to provide more flexibility to the Commission and homeowners in the future.

Mr. Folta noted that the Commission is given some latitude through the regulations rather than the bylaws. Mr. Czarniecki noted that for the most part yes. The Commission is still looking to change some of the bylaws and regulations in the future.

Mr. Folta noted that the Commission previously voted to approve the proposed changes.

### **New Business**

Mr. Folta explained that a selection committee is being put together for the selection of a consultant for wetland and engineering and he would like to be a part of this committee.

**MOTION: Mr. Czarniecki made the motion to appoint Mr. Folta to the selection committee for the selection of a consultant for wetland and engineering; seconded by Mr. Deackoff and the motion carried 4-0.**

Mr. Folta noted that some submittals have been received and are available for review by any of the Commission members.

Mr. Deackoff noted that the Community Preservation Committee met earlier tonight. There is a warrant article for the upcoming Special Town Meeting that requests to utilize CPA funds to assist in the construction of the athletic turf field at the high school and a separate warrant article to utilize funds from the stabilization fund for the same purpose. The stabilization fund article will not be needed as the PARC grant was awarded from the State and CPA funds can be used for the remainder since this is now an allowed use. The CPA has authorized up to \$600,000.00.

### **Old Business**

There was no old business.

### **Administrator's Report**

None

### **Adjournment**

**MOTION: Mr. Czarniecki made the motion to adjourn; seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

*Respectfully submitted,*

Approved:   
Sean Czarniecki, Clerk

9/4/13  
Date