



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

Stephen Deackoff, Chairman
Anthony Ippolito, Vice-Chair
Sean Czarniecki, Clerk
Dennis Sheehan
Carolina Linder

**MEETING MINUTES
June 18, 2014**

The meeting was called to order by Stephen Deackoff, Vice Chairman, at 7:02 p.m. at the Pike House. Present were Anthony Ippolito, Sean Czarniecki, Dennis Sheehan, and Carolina Linder. Also in attendance was Kyle Boyd, Conservation Agent, and Melissa Johnson, Recording Secretary.

Approval of Meeting Minutes - May 21, 2014 and June 4, 2014

MOTION: Mr. Czarniecki made the motion to approve the May 21, 2014 meeting minutes as amended; seconded by Mr. Ippolito and the motion carried 5-0.

MOTION: Mr. Czarniecki made the motion to approve the June 4, 2014 meeting minutes; seconded by Mr. Ippolito and the motion carried 5-0.

A) Enforcement Order, Brian MacNeill, 10 Cooney Road, May 26, Lot 5

Present was Maureen Hanley of Norse Environmental Services and Brian and Jenna MacNeill. Ms. Hanley provided the members with a plan of the site and noted that at the previous meeting the homeowners were in the process of having the site surveyed and a plan completed. Since that time this has been completed. Ms. Hanley showed the area of cutting on the plan and discussed the neighbors concerns with the runoff. Ms. Hanley explained that based on the typography lines, they do not feel there has been an impact to the neighboring property as it flows along the lawn area. In an effort to restore the disturbed area, the homeowner's are proposing to loom and seed the area. Ms. Hanley noted that the area was never trees and provided the members with a Google aerial map. The homeowner's would like to keep the lawn area if possible.

In addition, the homeowners would like to install a wood fence along the property line. Ms. Hanley explained that there is also an existing pool that was filled, but the concrete pool deck area remains. Mr. MacNeill would like to remove this concrete apron as well as a dying willow tree by flag 3A. Ms. Hanley noted that the fence would be installed in front of the existing stone wall.

Mr. Czarniecki suggested the homeowner's file separately for the installation of the fence, removal of the tree, and removal of pool apron as well as any other work being

proposed outside of the enforcement order. Mr. Boyd noted that the homeowner should also properly notify the abutters of the additional work.

Mr. Czarniecki noted that there is an area where a small amount of runoff is going onto the neighboring property.

Ms. Linder noted that there was brush removed within the 25 foot buffer and agreed that while it may only be a small amount, there is still some runoff occurring. Ms. Linder also agreed that any additional work should be filed for separately. Ms. Linder suggested the plantings be made a part of the restoration plan as they were in the 25 foot buffer.

Ms. Hanley noted that when the wetlands were flagged they did not see any stumps or evidence of tree clearing.

Mr. Deackoff suggested leaving an additional 10 foot buffer on each side of the fence when it is filed for. Mr. Ippolito suggested discussing the fence under a separate filing. Mr. MacNeill explained that he had all of the work put on the plan so he would not have to have it drawn up twice.

Mr. Boyd noted that he would prefer to see a row of wetland plantings (trees, bushes, shrubs, etc.)

Mr. Deackoff opened the hearing to the public.

Katherine Mendonca and Kristine Jarvis of 1066 Andover Street came forward. Ms. Mendonca noted that the trees that were removed ran the length of the property and much more was removed than has been stated. Ms. Jarvis noted that the wetland is a shrub wetland.

Mr. Deackoff asked if there are any tree stumps. Ms. Mendonca explained that there is one stump which she has already spoken to Mr. MacNeill about.

Ms. Mendonca noted that no one has come to view the flooding on her property aside from the wetland scientist that she hired. Ms. Mendonca suggested someone view her property as there is flooding occurring. Ms. Jarvis noted that the pile of loam that was spread was from 1986 and had substantial vegetation.

Ms. Linder asked why the wetland scientist that was hired by Ms. Mendonca states that an approximate 20 foot wide area was cleared. Ms. Hanley noted that they do not feel 20 feet was cleared and that Ms. Mendonca's consultant did not go onto the MacNeill's property. Ms. Jarvis noted that the property in its history was never a perfect rectangle like Mr. MacNeill is trying to do.

Mr. Czarniecki asked what happened with the garden that was originally planned. Mr. MacNeill explained that he has not done anything with the garden, but he does still have the plantings. Ms. Linder noted that the garden is in the 25 foot no disturb. Ms. Hanley noted that it is not a shed or driveway and is a garden with plantings. Mr. Boyd noted that the bylaws may have provisions that allow certain plantings. Ms. Jarvis noted that

irrigation of the garden may be a problem. Mr. MacNeill noted that there is an irrigation system and Ms. Jarvis noted that it is illegal. It was the consensus of the Commission to allow the garden plantings.

MOTION: Mr. Czarniecki made the motion to amend the Enforcement Order, Brian MacNeill, 10 Cooney Road, May 26, Lot 5, a 10 foot planting line of various native shrubs shall be installed along the stone wall with periodic inspection by Mr. Boyd, the homeowner's are allowed to plant the garden in its current proposed location; seconded by Mr. Ippolito and the motion carried 5-0.

B) Enforcement Order, Atillio Dispersio, Jr., 1275 Shawsheen Street, Map 101

Present was Maureen Hanley and Mrs. Dispersio. Ms. Hanley noted that she spoke with the homeowner's attorney today and a list of surveyors to choose from has been given. Ms. Hanley explained that financially it has been difficult for homeowners to respond and correct this situation. This is the reason for the delays.

Ms. Linder explained that the installation of a silt fence is a small cost and at a minimum could have been done to stabilize the area.

Ms. Dispersio explained that her husband is very ill, has been in the hospital 17 times in the last 2 years, and has a broken neck. As a result, he cannot do any physical work. Mrs. Dispersio noted that she will ensure that the silt fence is installed and explained that she was not aware that this is what needed to be done or what was going on as her husband tried to handle this matter without her knowledge. Mrs. Dispersio explained that currently they do not have the money to completely correct the situation, but she will do what she can to stabilize the area. Mrs. Dispersio noted that she has spoken with the lawyer for her husband's injury case and they have informed her that the case is about to settle. Once they receive the settlement, they will have the money to correct this situation.

Mr. Deackoff asked if Mr. Boyd feels comfortable with what has been said. Mr. Boyd noted that at this point and time he has been asked to not go onto the property by Mr. Dispersio and he does not feel comfortable handling the matter based on the threats that were made. Mrs. Dispersio noted that she will speak with her husband to correct the situation. Mr. Deackoff offered to be the contact person for this matter. Mrs. Dispersio noted that she will obtain the silt fence tomorrow.

Mr. Czarniecki noted that he would not be in favor of amending the enforcement order.

Mrs. Linder asked how the fill was paid for. Ms. Dispersio explained that the fill that was brought in was clean fill and they did not pay for any of it. The people who brought in the dirt were told not to fill the gully and they did. Mr. Boyd noted that the fill contains concrete pieces and is not clean.

Ms. Linder asked about the trees that were removed and Ms. Dispersio noted that the trees were removed with approval from the Commission. Mr. Boyd noted that there is nothing on record for the approval of the tree removal. Ms. Dispersio explained that Walter Polchlopek (the previous Conservation Agent) stated the trees could be removed.

Ms. Dispersio explained that approximately one month ago someone dumped another four loads of garbage fill in her yard. The fill contained concrete pool pieces and trash. Mr. Boyd explained that the bottom layer of fill is the one of most concern to the Commission.

Ms. Linder asked if it would be better for the Disperios to work with DEP or the Commission. Ms. Hanley explained that it would likely take longer to correct the situation through the DEP as this is their busier time of year. Essentially it would be the same steps, but would likely take longer. Mr. Czarniecki noted that DEP has enforceable fines.

Mr. Deackoff suggested he work with Mrs. Dispersio to see what can be done over the next month. Ms. Linder suggested deadlines be set for the silt fence, plot plan, etc. Mr. Czarniecki suggested the silt fence be put in within one week and noted that based on the threats that were made by Mr. Dispersio he feels this matter should go to DEP.

Mr. Deackoff explained that if the silt fence is not put in place by June 25, 2014 the matter will be deferred to the DEP.

MOTION: Mr. Deackoff made the motion to amend the Enforcement Order for Atilio Dispersio, Jr., 1275 Shawsheen Street, Map 101, a silt fence shall be installed along the property line by June 25, 2014, if the erosion controls are not in place by June 25, 2014 the matter shall be deferred to the DEP; seconded by Mr. Ippolito and the motion carried 4-1. Mr. Czarniecki was opposed.

C) Enforcement Order, Villa Sandra Cardenas, 394 Whipple Road, Map 20, Lot 4

Present was Maureen Hanley of Norse Environmental Services. Ms. Hanley explained that at the previous meeting the Commission requested erosion controls be put place. This has been done and the homeowner has hired Doug Lees from Land Engineering to complete the survey and they are in the process of doing a plan. This is expected to be completed for the next meeting. Mr. Deackoff asked if a restoration plan will also be submitted for that time and Ms. Hanley explained that a restoration plan could also possibly be submitted at the next meeting.

Mr. Deackoff asked if Mr. Boyd feels there is a need for additional erosion controls and Mr. Boyd explained that additional controls are needed in the rear of the property. Mr. Boyd explained that this area would have required a land disturbance permit and erosion controls are a requirement for a land disturbance permit.

Mr. Czarniecki noted that he is happy to see that the work stopped as they continued to work even after the last meeting.

MOTION: Mr. Deackoff made the motion amend the Enforcement Order, Villa Sandra Cardenas, 394 Whipple Road, Map 20, Lot 4, further erosion controls shall be installed along the rear portion of the property by June 26, 2014, a plan shall be submitted by July 16, 2014; seconded by Mr. Ippolito and the motion carried 5-0.

D) Enforcement Order, Robert Kowalchik, 2532 Main Street, Map 94, Lot 66

There was no one present to discuss this matter.

Mr. Boyd noted that he visited the site today with Mr. Ippolito and some of the debris has been removed. It appears that Mr. Kowalchik is making an effort to correct the situation just at a slow pace. Mr. Boyd has requested Mr. Kowalchik determine a timeline for the removal of the debris from the no disturb zone.

Mr. Czarniecki noted that Mr. Kowalchik was told not to further disturb the area and he has. In addition, the plan that was previously requested has not yet been submitted.

MOTION: Mr. Deackoff made the motion to amend the Enforcement Order, Robert Kowalchik, 2532 Main Street, Map 94, Lot 66, a plot plan including the wetland line and depicting the 25 no disturb shall be submitted by July 14, 2014; seconded by Mr. Sheehan and the motion carried 5-0.

E) Continued Request for Determination, Patrick Walsh, 418 Pleasant Street, Map 32, Lot 49

The applicant has requested to continue this matter to July 16, 2014.

MOTION: Mr. Deackoff made the motion to continue Request for Determination, Patrick Walsh, 418 Pleasant Street, Map 32, Lot 49 to July 16, 2014 at 7:13 p.m.; seconded by Mr. Ippolito and the motion carried 5-0.

F) Request for Determination, DiPalma Estates, All of Juniper Lane with associated Maps and Lots

Present was Jim Goyette, Chairman of the Board at DiPlama Estates, and Bill Keegan. Mr. Goyette explained that they are proposing to repave the roads in DiPalma Estates; Phase 3.

Mr. Deackoff asked if this is a private roadway and Mr. Goyette confirmed this and explained they will be repaving the existing roadway and will not be doing and widening or reconfiguring.

Mr. Czarniecki suggested the catch basins be protected during the paving. Mr. Goyette noted that the catch basins were just cleaned approximately 3 weeks ago.

MOTION: Mr. Czarniecki made the motion for a negative determination, DiPalma Estates, All of Juniper Lane with associated Maps and Lots, Standard Order of Conditions, silt fence shall be put in place and the catch basins are to be protected with fabric prior to beginning any work; seconded by Mr. Ippolito and the motion carried 5-0.

G) Request for Determination, Kellie Mixon, 9 Marie Street, Map 57, Lot 103

The applicant has requested this matter be continued to July 16, 2014.

MOTION: Mr. Czarniecki made the motion to continue Request for Determination, Kellie Mixon, 9 Marie Street, Map 57, Lot 103 to July 16, 2014, time to be determined; seconded by Mr. Ippolito and the motion carried 5-0.

H) Request for Determination, Town of Tewksbury School Department, 320 Pleasant Street, Map 46, Lot 32

Present was Kevin Hartman, Town of Tewksbury Engineer. Mr. Hartman explained that they are proposing to repave the existing driveway at the Tewksbury Memorial High School (TMHS) from the parking area to the ball fields. It is an existing paved road that is in a state of disrepair. Mr. Hartman noted that they will not paving the full width of the current roadway.

Mr. Deackoff asked if erosion controls are necessary and Mr. Hartman explained that they will be putting in sedimentation barriers along both sides of the road.

MOTION: Mr. Czarniecki made the motion for a negative determination, Town of Tewksbury School Department, 320 Pleasant Street, Map 46, Lot 32, Standard Order of Conditions, a silt fence shall be installed along both sides of the roadway; seconded by Mr. Ippolito and the motion carried 5-0.

I) Request of Determination, Town of Tewksbury Department of Public Works, Foster Road

Present was Kevin Hartman, Town of Tewksbury Engineer. Mr. Hartman explained that they are proposing to resurface approximately 1,800 linear feet of Foster Road beginning at the intersection at Shawsheen Street and continuing to Term Terrace. Mr. Hartman noted that there is a stream that runs under Term Terrace and there is a bordering vegetated wetlands associated with this. They plan to install sedimentation barriers along the buffer zones as well as fabric in the catch basins. The length of the project has been estimated at 3 days.

MOTION: Mr. Czarniecki made the motion for a negative determination, Town of Tewksbury Department of Public Works, Foster Road, Standard Order of Conditions, a silt fence shall be put in place and the catch basins protected; seconded by Mr. Ippolito and the motion carried 5-0.

New Business

Vote on Conservation Regulation Changes

Mr. Czarniecki noted that the changes were previously sent out to the members for their review.

Mr. Ippolito thanked Mr. Czarniecki for all of his work on the regulation changes.

MOTION: Mr. Ippolito made the motion to accept the conservation regulation changes; seconded by Ms. Linder and the motion carried 5-0.

Mr. Deackoff noted that this will be Mr. Czarniecki's last meeting with the Commission and thanked him for his service.

Old Business

There was none.

Adjourn.

MOTION: Mr. Czarniecki made the motion to adjourn; seconded by Mr. Sheehan and the motion carried 5-0.

Approved: 7/23/14

List of documents for 6/18/14 Agenda

Documents can be located at the Community Development Office

- A. 7:05 P.M** **Enforcement Order**, Brian MacNiell, 10 Cooney Road, Map 26 Lot 5
- *Enforcement Order dated 4/15/14*
 - *Catherine Mendonca letter submittal*
- B. 7:07 P. M** **Enforcement Order**, Atillio Dispersio Jr., 1275 Shawsheen Street, Map 101 Lot 76
- *Enforcement Order dated 4/16/14*
- C. 7:09 P.M** **Enforcement Order**, Villa Sandra Cardenas, 394 Whipple Road, Map 20 Lot 4
- *Enforcement Order dated 5/5/14*
- D. 7:11 P.M** **Enforcement Order**, Robert Kowalchik, 2532 Main Street, Map 94 Lot 66
- *Field photos taken at 2532 Main Street dated 5/14/14*
 - *Enforcement Order dated 5/14/14*
- E. 7:13 P.M** **(Continued) Request for Determination**, Patrick Walsh, 418 Pleasant Street, Map 32 Lot 49
- *WPA form 1 Request for Determination Application*
 - *Proposed Plot Plan dated March 7, 2013*
- F. 7:15 P.M** **Request for Determination**, Dipalma Estates, All of Juniper Lane With associated Maps and Lots
- *WPA Form 1 packet dated May 15, 2014*
- G. 7:17 P.M** **Request for Determination**, Kellie Mixon, 9 Marie Street, Map 57 Lot 103
- *WPA Form 1 Packet dated July 1, 2014*
- H. 7:19 P.M** **Request for Determination**, Town of Tewksbury School Department, 320 Pleasant Street, Map 46 Lot 32
- *WPA Form 1 dated July 11, 2014*
- I. 7:21 P.M** **Request for Determination**, Town of Tewksbury Department of Public Works, Foster Road
- *WPA Form 1 dated July 11, 2014*