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
July 17, 2013

The meeting was called to order at 7:00 PM at the Tewksbury Town Hall by Kyle Boyd, Conservation Agent. Present at the meeting were Anthony Ippolito, Stephen Deackoff, Sean Czarniecki, Dennis Sheehan, and Carolina Linder. Also in attendance was Melissa Johnson, Recording Secretary.

Reorganization

Mr. Boyd accepted nominations for Chairman.

MOTION: **Mr. Czarniecki made the motion to nominate Steve Deackoff as Chairman of the Conservation Commission; seconded by Mr. Sheehan and the motion carried 4-0-1. Mr. Deackoff did not take part in this vote.**

Mr. Deackoff accepted nominations for Vice-Chair.

MOTION: **Mr. Deackoff made the motion to nominate Anthony Ippolito as Vice-Chairman of the Conservation Commission; seconded by Mr. Czarniecki and the motion carried 4-0-1. Mr. Ippolito did not take part in this vote.**

Mr. Deackoff accepted nominations for Clerk.

MOTION: **Mr. Ippolito made the motion nominate Sean Czarniecki as Clerk of the Conservation Commission; seconded by Mr. Deackoff and the motion carried 4-0-1. Mr. Czarniecki did not take part in this vote.**

Approval of Meeting Minutes – June 12, 2013 and June 19, 2013

MOTION: **Mr. Czarniecki made the motion to approve the June 12, 2013 meeting minutes as presented; seconded by Mr. Ippolito and the motion carried 5-0.**

Mr. Czarniecki suggested a few minor edits on the June 19, 2012 meeting minutes.

MOTION: **Mr. Czarniecki made the motion to approve the June 19, 2013 meeting minutes as amended; seconded by Mr. Sheehan and the motion carried 5-0.**

A) Notice of Intent, Barry Sullivan, Crystal Circle, Map 92, Lot 34, DEP #305-956

Present was Steven Erickson of Norse Environmental Service, Dick Cuoco of Cuoco & Cormier, Jeffrey Ryder of Cuoco & Cormier, and Barry Sullivan.

Mr. Erickson provided the members with a copy of the plan of the site and explained that this project is for the construction of an open space residential subdivision consisting of 8 lots and extends from Crystal Circle in Andover into the Tewksbury area. Mr. Erickson reviewed the resource areas on the property which include a bordering vegetated wetland, a small certified vernal pool, a riverfront area, detention pond, etc. Mr. Erickson noted that the plans will be revised as an appeal was made to DEP regarding one of the detention ponds. DEP ruled that the area is in fact a detention pond and not a regular pond. As a result, the buffer zones shown on the map in this area will be removed. There is some additional work that will also need to be done to comply with the Weston & Sampson review. Mr. Erickson noted that the site is all sand and gravel and the water table is approximately 24-36 inches. Most of the homes will be located within the buffer zones and 125 feet from the nearest vernal pool (there are two on the property). There are approximately 6.6 acres of land.

Mr. Deackoff asked if the existing tree line will remain and Mr. Erickson confirmed this.

Mr. Czarniecki referenced the comments made by Weston & Sampson and asked Mr. Erickson what his thoughts are on the detention basin near the vernal pool. Mr. Erickson explained that they can lift it up assuming they maintain the 3 foot separation required by the town. They are not proposing to discharge into the vernal pool. Mr. Czarniecki noted that when the ANRAD was presented to the Commission it was stated that this detention pond was being removed. Mr. Erickson explained that they do not want to change the budgets to the vernal pool to maintain the current drainage. Mr. Czarniecki noted that an intermittent stream is noted on the GIS map. Mr. Erickson explained that he has worked on this project for approximately 6 years and has never seen an intermittent stream; it is his belief that the maps are incorrect.

Ms. Linder asked if an alternatives analysis will be done to determine if impacts to the riverfront can be avoided. Mr. Erickson explained that an alternative analysis will be provided; however, it will be difficult to run the water and sewer through the Town of Andover as a municipal agreement would be required. The only reasonable route is a limited project running through the easement. The alternative analysis was not done as they feel this is the only reasonable way. They are impacting a small area of the riverfront; which will be restored.

Mr. Czarniecki noted that the grass swale has not been included in the drainage calculations. Mr. Erickson explained that they are achieving 85% removal without it; which exceeds the required 80%. Mr. Czarniecki noted that he prefers to see it included. Mr. Ryder explained that they have not taken credit for this as there are a couple of minor points where it does not meet the exact criteria.

Ms. Linder inquired about the National Heritage plans. Mr. Erickson provided a copy of the plans they have sent to National Heritage and noted that they are awaiting their response. Mr. Deackoff asked if Weston & Sampson will also be provided these plans and Mr. Erickson confirmed this. Ms. Linder requested this information also be shown on the site plans provided to the Commission. Mr. Erickson confirmed it will be added to the plans.

Mr. Deackoff noted that this matter will likely be continued until the next meeting to allow for time to address the review letters. Mr. Erickson explained that the only concern they had with Weston & Sampson's review is to stake out the entire buffer zone (item 11) as they feel this is a bit excessive.

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

Mr. Czarniecki noted that the existing infiltration basin is near the vernal pool and also in the 25 foot no disturb. A new larger detention basin will is being created and will also be within the 25 foot buffer. Mr. Erickson noted that the area is already disturbed. Mr. Ryder explained that they are actually narrowing the detention area that is within the 25 foot buffer and making it longer. The only work within the 25 foot no disturb would be to fill in some of the detention basin to achieve the 3 foot separation. Mr. Deackoff asked if the existing basin can be left alone and a new basin can be created in a new location. Mr. Erickson noted that this is something that they can look at.

Dick Cuoco of Cuoco & Cormier came forward and requested the opportunity to speak. Mr. Cuoco noted that he started on this project. Mr. Cuoco explained that they originally wanted to eliminate the detention basin; however, they did not want to jeopardize the water budget going into the vernal pool. Mr. Cuoco suggested they extend the 25 foot no disturb in another area as it would be well within the 10%. The main concern is that the water budget into the vernal pool remains the same.

MOTION: **Mr. Czarniecki made the motion to continue Notice of Intent, Barry Sullivan, Crystal Circle, Map 92, Lot 34, DEP #305-956 to August 14, 2013 at 7:05 p.m.; seconded by Mr. Ippolito and the motion carried 5-0.**

B) Enforcement Order, Manuel & Barbara Correia, 10 Minute Man Way, Map 40, Lot 91

Present was Manuel and Barbara Correira of 10 Minute Man Way. Mr. Boyd explained that a couple months ago he received an email from a neighbor in the area stating that their property was flooding due to a clogged infiltration area. Mr. Boyd visited the site and there was in fact some water back flowing and materials blocking the infiltration. Mr. Boyd then issued an enforcement order.

Mr. Deackoff noted that this is a relatively new subdivision and asked if the Correia's recently moved in. Ms. Correira noted that they have lived there for 10 years and the area has always flooded.

Mr. Boyd explained that there used to be a stream as part of the subdivision and it was piped and now the area is flooding. Mr. Boyd also received pictures of the area from other town staff.

Ms. Correira noted that they have no problem un-piping the area.

Mr. Deackoff requested copies of plans for the original subdivision to determine the storm water management plans and noted that the area will need to be restored to its original condition.

MOTION: **Mr. Czarniecki made the motion to ratify the enforcement order, Manuel & Barbara Correia, 10 Minute Man Way, Map 40, Lot 91; seconded by Mr. Ippolito and the motion carried 5-0.**

C) Request for Determination of Applicability, O'Brien Homes, Florida Road, Map 81, Lot 75

Present was Steven Erickson of Norse Environmental Services and Jim O'Brien. Mr. Erickson provided the Commission with a copy of the plan and noted that this is a 22,500 square foot lot. The entire area is sand and gravel. There is a small wetland in the rear of the property running toward Alabama Street. Mr. Erickson noted that Alabama Street is a paper street and likely always will be such because of the wetlands. The porch is 75 feet away from the resource area and the corner of the dwelling will be 81 feet away. A small portion of the lot will be in the buffer zone. The tree cutting and grading will be limited to where the erosion controls are shown on the plan.

Mr. Deackoff opened the hearing to the public.

Mr. Steve Stoddard of 110 Florida Road came forward and noted that he lives across the street. Mr. Stoddard expressed concerns with flooding in the area as it is currently a problem. There is a storm drain in front of the property that runs down into the woods that already cannot handle the amount of water. Mr. Erickson noted any issues with the drainage being inadequate on the street would be a town issue; the runoff from the home will be directed towards the wetlands in the rear. Mr. Deackoff noted that the applicant also wants to avoid flooding. Mr. Czarniecki suggested some type of infiltration be put in the front of the home as well. Mr. Erickson noted that this is something they can look into and suggested Mr. Stoddard contact the town regarding the flooding in the street. Mr. Stoddard noted that turtles frequently cross his property and go into the woods across the street and asked if this is a sign that there could be a vernal pool. Mr. Deackoff noted that there possibly could be, but the disturbance is far enough away from the wetland that this would not impact the habitat. Mr. Stoddard asked what the purpose of tonight's meeting is. Mr. Deackoff explained to determine whether the proposal will have an adverse effect on the wetlands and whether a Notice of Intent is required.

Ms. Linder asked if they will be clear cutting the trees right up to the erosion control and Mr. Erickson confirmed this. Ms. Linder asked how the Commission feels about keeping an area

of trees. Mr. Erickson explained that they are tall pine trees that they feel are unsafe and offered to do some landscaping in the area with shrubs, etc.

Mr. Mike Bottaro of 120 Florida Road came forward and noted that he has resided at this location for 20 years. Mr. Bottaro explained that in 2004 someone tried to sell this property and they were told that they could not because of the wetlands and asked what makes it sellable now. Mr. Erickson does not see any reason why the lot would have been unbuildable in 2004 or now. Mr. Bottaro noted that he is the only home on the street that has 2 sump pumps and a French drain and explained that during a rain event all of the water runs onto his property and floods his basement. Mr. Bottaro expressed concerns that this project will make the water problem worse as they are within the buffer zone. Mr. Erickson explained that there are performance standards that they are required to meet under the Wetland Protection Act and they are meeting those standards. Mr. Erickson noted that this area is not a flood plain.

Mr. Bottaro suggested the Commission require a Notice of Intent be filed as it is a huge burden to him if his property takes on more water. Mr. Deackoff noted that it would likely still be the same proposal with additional calculations. Mr. Bottaro feels it would still be worth it. Mr. Boyd explained that a Notice of Intent would not do anything additional to protect the wetlands; any drainage issue on the street is a separate issue. Mr. O'Brien noted that the drainage pipe is likely clogged and explained that the infiltration they are proposing with the roof runoff would not make the flooding worse. Mr. Boyd will speak to the Town Engineer regarding the water and drainage issues. Mr. O'Brien stated that he is willing to meet with Mr. Boyd and/or the Town Engineer at the site to review the drainage issues; if the town cannot afford to clean the pipe he will pay for it. Mr. Sheehan noted that with the gutter and infiltration that is being proposed there will likely be less water.

Mr. Stoddard came forward again and asked how it will be known that the applicant will do the additional items they have mentioned. Mr. Boyd explained that it would become part of the order of conditions.

MOTION: **Mr. Deackoff made the motion for a Negative Determination; O'Brien Homes, Florida Road, Map 81, Lot 75, the siltation fence shall be put in place prior to any excavation, roof drains and piping in the rear shall be installed, Bernstein makers shall be put in place along the 25 foot buffer, as-built plan shall be submitted to the Commission; seconded by Mr. Ippolito and the motion carried 5-0.**

D) Request for Certificate of Compliance, Robert Lewis, 165 & 166 McCarthy Way, Maps 81, Lots 63 & 254, DEP #305-866

Present was Robert Lewis of 166 McCarthy Way. Mr. Deackoff noted that the Commission is in receipt of correspondence from Steve Erickson, and he also visited the site, and it appears to be in order. Mr. Lewis explained that that they are in the process of selling the home and they were not aware of this issue. Mr. Lewis noted that there is a $1,000.00 bond in place from the builder and requested the money be released to him as this is what it has cost him to resolve this problem.

Mr. Czarniecki noted that Bernstein markers were to be installed as part of the Order of Conditions and they were not. In addition, the silt fence is still in place and some grass debris has been dumped in the buffer zone. Mr. Lewis noted that Mr. Erickson installed the Bernstein markers. Mr. Czarniecki noted that they may have been buried. Mr. Lewis noted that he was unaware that he could not dump the grass in the area and he will clean it out.

Discussion took place on the disturbance that would occur if the silt fence is removed. It was the consensus to keep it in place so not to disturb the area.

MOTION: **Mr. Czarniecki made the motion to issue a Certificate of Compliance, Robert Lewis, 165 & 166 McCarthy Way, Maps 81, Lots 63 & 254, DEP #305-866; any bond currently in place shall be released, subject to Mr. Boyd's review that the Bernstein markers are in place; seconded by Mr. Ippolito and the motion carried 5-0.**

New Business

Memory Lane:

Mr. Boyd explained that many complaints have been received on this matter. The owners of one of the parcels of land paid Bill Manuel to determine how much land could be utilized. Mr. Manuell informed them they could use a 100x100 parcel of land without violating any of the town's bylaws. Mr. Boyd had them complete a land disturbance permit and silt fences were installed. They have gone well beyond the designated area and have encroached on some wetland areas. Mr. Boyd has been researching the matter and it appears the entire area may have been filled. Mr. Czarniecki asked if the State has been notified. Mr. Boyd confirmed this and explained that the State was notified after the agenda was posted, as a result, this matter will be discussed further at the next meeting.

Old Business

2000 Whipple Road:

Mr. Deackoff noted that this property was purchased last year. The existing home still remains on the property and has to be demolished. The Community Preservation Committee (CPC) has offered to pay up to $5,000.00 for any engineering fees. Discussion took place on the Commission's funds and whether they can be utilized for this purpose. It was the consensus to work with the CPC on this project.

MOTION: **Mr. Czarniecki made the motion to proceed with the utilization of Community Preservation Committee Administrative Funds to hire an engineer for work at 2000 Whipple Road; seconded by Mr. Ippolito and the motion carried 5-0.**

Mr. Czarniecki noted that the Subcommittees also need to be reorganized and suggested three members be appointed to the Bylaw Subcommittee so that there are no issues with quorums. Mr. Czarniecki will continue as Chair of the Bylaw Subcommittee and will work with Mr. Sheehan and Ms. Linder.

MOTION: **Mr. Deackoff made the motion to reform the Bylaw Subcommittee to consist of Sean Czarniecki, Dennis Sheehan, and Carolina Linder; seconded by Mr. Ippolito and the motion carried 5-0.**

Administrator's Report

None

Adjournment

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

Respectfully submitted,

Approved: _____ 8/14/13
Sean Czarniecki, Clerk **Date**