



**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
August 14, 2013**

The meeting was called to order at 7:00 PM at the Tewksbury Town Hall by Stephen Deackoff, Chairman. Present at the meeting 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 – July 17, 2013

MOTION: Mr. Czarniecki made the motion to approve the July 17, 2013 meeting minutes as presented; seconded by Mr. Ippolito and the motion carried 5-0.

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

Present were Steven Erickson of Norse Environmental Service, Jeffrey Ryder of Cuoco & Cormier, and the applicant, Barry Sullivan.

Mr. Erickson provided the members with a copy of the site plan and noted that the project is the extension of a roadway from Andover to Tewksbury. Mr. Erickson reviewed the resources located on the site and noted that some changes have been made based on comments made by Weston & Sampson. Included in these changes is the creation of a small pocket wetland. The existing outlet to the detention area will not be impacted as it appears to feed into the potential vernal pool. The remaining drainage is directed towards the rear of the property.

Mr. Erickson noted that Weston & Sampson also requested an alternative analysis which they have provided. It was determined that it is not possible to go through Andover and the only other option would be a wetland crossing which would be much more harmful.

Mr. Ryder noted that Weston & Sampson also requested additional soil information. This information has been included in the drainage calculations and forwarded to Weston & Sampson. The concern was whether or not the pocket wetland would be viable. Mr. Erickson explained that the drainage will enter a forebay and go into the pocket wetland; which will both be below the water table.

Ms. Linder requested the results from the test pits be provided to the Commission. Mr. Ryder explained that this was part of the drainage calculations that has been sent to Weston & Sampson. Ms. Linder requested the Commission also be provided this information. Mr. Boyd noted that he has not heard back from Weston & Sampson in regards to the test pits.

Mr. Czarniecki asked if the wetland pocket will remain wet throughout the year and if there will be wetland plantings. Mr. Erickson explained that it will be dry in the warmer months, similar to the existing detention area, and will have wetland plantings and will be part of the operating and maintenance manual.

Mr. Czarniecki asked how the Commission would like to address the vernal pool as there is an impact to the 200 foot buffer. Mr. Erickson explained that the vernal pool meets the criteria of a vernal pool, but is questionable. There are photographs of wood frog eggs and Mr. Erickson explained that a dry open area is not a suitable habitat for the wood frog as they tend to migrate to the woods.

Mr. Czarniecki expressed concerns with the intermittent stream as DEP may have issues with this in the future. Mr. Erickson noted that there are maps of the site from 1998 and 2000 that do not show a stream.

Mr. Czarniecki asked for an explanation as to why a 2 year storm is just above post development flow. Mr. Ryder explained that originally all of the water was going into the existing detention basin and this has not yet been modified.

Ms. Linder asked if the infiltration basin on Lot 7 could be made smaller or moved further away to avoid the buffer zone. Mr. Ryder explained that they reviewed this and it is not possible. Mr. Erickson noted that it is a very small intrusion into the 100 foot buffer and the entire area is already disturbed.

Mr. Deackoff asked what the distance is from the vernal pool to the lawn area. Mr. Erickson noted it is approximately 50 feet from the edge of the lawn on Lot 7 to the vernal pool. Mr. Deackoff suggested the area be permanently demarcated. Mr. Erickson suggested Bernstein markers. Mr. Boyd noted that he has also seen signs stating the area is a vernal pool and not to disturb. Mr. Erickson confirmed this can be done in conjunction with the Bernstein markers. Discussion took place on the location of the signs/demarcations. Mr. Erickson suggested along the tree line at lots 6 and 7. Mr. Czarniecki noted that Weston & Sampson stated that the existing detention basin should remain and suggested this area also be marked. Mr. Erickson suggested a deed restriction stating the area is not to be filled or modified. Discussion took place on the future maintenance of the detention basin. Mr. Erickson explained that the detention ponds will be maintained by the homeowner's association and has been included in the operating and maintenance manual. Mr. Ryder noted that the area is part of the open space that may be deeded to the Town.

Mr. Deackoff asked if the applicant has heard back from National Heritage. Mr. Ryder noted that it has been approximately 45 days and they have not heard from them. Mr. Erickson noted that the applicant just informed him that he is in receipt of a letter from National Heritage with a negative finding.

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

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

MOTION: Mr. Czarniecki made the motion to approve the Notice of Intent for Barry Sullivan, Crystal Circle, Map 92, Lot 34, DEP #305-956; standard order of conditions; Bernstein markers shall be installed every 25 feet at the existing tree line as well as a sign marking the vernal pool; the applicant shall work with Mr. Boyd on the need for markers in additional areas; the homeowner's association shall maintain the detention basins as well as the new pocket wetland on Lots 7, 8, & 10; reference shall be made to the plans dated August 12, 2013; seconded by Mr. Ippolito and the motion carried 5-0.

B) Enforcement Order, Gora Banerjee, Memory Lane, Map 88, Lot 25

Present was Steven Erickson of Norse Environmental and the applicant, Gora Banerjee.

Mr. Erickson provided the members with a copy of a packet detailing the history of this site and explained that he has been involved in this particular area for a long time. Mr. Erickson noted that there is a November, 1998 review letter from Linda Basbanes stating that there are no wetlands in the area of concern. Mr. Erickson showed the area in concern on the plan and noted that DEP shows this area as a filled wetland. Some years ago Mr. Erickson tested the soil and found that it was not a hydric soil; it is a disturbed area, but not hydric soil. The Commission at that time reviewed the matter and had no issues. Mr. Erickson noted that there is also plan from determination for applicability from 1999 for additional work that was done that does not show the area as a wetland and a positive determination was granted.

Mr. Erickson explained that Mr. Banerjee is filling the area in the front. Mr. Erickson had viewed the area and determined that there are not wetlands in this particular area. There is a wetland on the property that is approximately 150 feet away from the work being done and is clearly marked. Mr. Erickson noted that Mr. Banerjee is aware of this wetland and its location. Mr. Erickson suggested visiting the site with Mr. Boyd to mark the wetlands.

Mr. Deackoff noted that the Town has received many telephone calls regarding this matter. Mr. Erickson noted that DEP was also contacted and suggested that they also be included in the site visit. Mr. Erickson will copy the Commission on his communications with DEP.

Mr. Czarniecki asked about a plan included in the packet provided by Mr. Erickson. Mr. Erickson explained that it was a conceptual plan and was never done; there are no plans to develop the property in the future.

MOTION: Mr. Czarniecki made the motion to continue Enforcement Order, Gora Banerjee, Memory Lane, Map 88, Lot 25 to September 4, 2013; seconded by Mr. Sheehan and the motion carried 5-0.

C) Notice of Intent, Raytheon Company, 50 Apple Hill Drive, Map 38, Lot 2, DEP #305-957

Present was Dan Thompson of Raytheon Company, and Paul Finger and Jacqueline Finger of Paul Finger & Associates.

Mr. Ippolito disclosed that he worked for Raytheon Company in the 1960's. No one present had any objections to Mr. Ippolito hearing this matter.

Mr. Thompson explained that the site consists of 66 acres with three buildings. Ms. Finger explained that they are proposing to replace the existing pedestrian foot bridge that passes over a drainage channel.

Mr. Deackoff noted that the Commission members visited the site and the channel is currently in poor condition and this would be an improvement.

Mr. Ippolito asked if the wetlands will be protected while the bridge is being replaced. Mr. Thompson explained that erosion controls would be installed both up and down stream. The plan is to lift the existing bridge from its current location without cutting it. Mr. Thompson will also be adding rip rap around the foundation. Mr. Finger noted that the project will be done during low flow and if any materials were to fall they could be handpicked out.

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

MOTION: Mr. Sheehan made the motion to close the public hearing; seconded by Mr. Ippolito and the motion carried 5-0.

MOTION: Mr. Ippolito made motion to approve Notice of Intent, Raytheon Company, 50 Apple Hill Drive, Map 38, Lot 2, DEP #305-957; standard order of conditions; seconded by Mr. Sheehan and the motion carried 5-0.

D) Enforcement Order Rescindment Request, Scott & Jennifer Peitzsch, 399 Kendall Road, Map 79, Lot 66

Present was Scott & Jennifer Peitzsch of 399 Kendall Road.

Mr. Boyd explained that the Peitzschs' were requested to do some restoration and replanting that was disturbed. Mr. Boyd visited the site as the project moved along and has no objections to moving this matter along with the condition that the Commission be granted the authority to monitor the project as it moves further.

Mr. Czarniecki noted that the site does not yet appear to be stabilized. Mr. Peitzsch explained it has not yet been stabilized as the lawn has not yet been seeded; they wanted to fix the wetland area first so not to disturb the lawn. Mr. Peitzsch noted that the wetland

seeding that was used does not germinate for 1-2 years. All of the restoration work has been completed.

Mr. Peitzsch noted that two properties were impacted, 499 Kendall Road and 423 Kendall Road. Both properties have been restored and they are requesting both orders be rescinded.

MOTION: Mr. Czarniecki made the motion to rescind the enforcement orders for Scott & Jennifer Peitzsch, 399 Kendall Road, Map 79, Lot 66 and Kristine and David Hart, 423 Kendall Road, Map 79 Lot 65; seconded by Mr. Ippolito and the motion carried 5-0.

There were two residents present for a liquor license hearing. Mr. Deackoff explained that type of matter would be heard by the Board of Selectmen and suggested contacting their office.

New Business

There was no new business.

Old Business

There was no old business.

Administrator's Report

Mr. Boyd noted that he would like to appropriate funds to purchase MACC publications for office use.

Mr. Boyd suggested the Commission members contact him if there are any publications they are interested in.

MOTION: Mr. Ippolito made the motion to appropriate up to \$150.00 from the Wetland Protection Fund for the purpose of purchasing MACC publications; seconded by Mr. Sheehan and the motion carried 5-0.

Adjournment

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

Respectfully submitted,

Approved: 
Sean Czarniecki, Clerk

9/4/13
Date