



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

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

**MEETING MINUTES
September 3, 2014**

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

Approval of Meeting Minutes - August 13, 2014

MOTION: Mr. Parker made the motion to approve the August 13, 2014 meeting minutes; seconded by Mr. Sheehan and the motion carried 5-0.

A) Abbreviated Notice of Resource Area Delineation, New England Power Company, Power Company Road

Present was John Vieira of Vanasse, Hangen, Brustlin, Inc., and Joshua Holden of National Grid. Mr. Vieira explained that the area contained in the ANRAD is in and around Power Company Road. There are two existing substations and a number of electric transmissions lines. National Grid is in the early planning stages of several proposed projects in this area. As part of this, National Grid would like to ensure the wetland locations are known. There are 7 wetlands in and around the area that have been flagged.

Mr. Boyd noted that he spoke with the two wetland scientists that reviewed the boundaries and he also attempted to reach Weston and Sampson; however, they were unable to review the matter prior to tonight's meeting. Mr. Boyd noted that he did not see any issues and it is the Commission's decision as to whether they want to act on the matter or wait until Weston & Sampson have reviewed it.

Mr. Deackoff noted that he was unable to walk the wetland line as it is quite substantial. Mr. Deackoff suggested continuing this matter until Weston & Sampson has reviewed it.

Mr. Ippolito opened the hearing to the public.

Ms. Sharon Kane Lucci of 12 Dock Street came forward and asked where this is located. Mr. Boyd explained that location and explained to Ms. Lucci that the purpose of tonight's hearing is mark the wetland boundaries. Mr. Holden explained that they will not be doing any work on Dock Street. Ms. Lucci noted that the town of Tewksbury says that Dock Street does not exist.

Mr. Chris Grace of 153 Trull Road came forward and explained that he received a certified letter of tonight's meeting and was not sure if he needed to attend. Mr. Viera explained that the letter is part of the application process and they will not be doing any work that will impact Trull Road.

Mr. Viera offered to meet with Weston & Sampson on the property.

MOTION: Mr. Deackoff made the motion to continue Abbreviated Notice of Resource Area Delineation, New England Power Company, Power Company Road to September 17, 2014 at 7:02 p.m., Weston & Sampson shall review the delineation; seconded by Mr. Sheehan and the motion carried 5-0.

B) Enforcement Order, Atilio Dispersio, 1275 Shawsheen Street, Map 101, Lot 7 6

Mr. Ippolito noted that the Dispersio's are not present. Mr. Boyd noted that the Dispersio's requested to be moved to the end of tonight's agenda.

C) (Continued) Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52, Lot 25, DEP #305-966

Mr. Boyd explained that he met with Jeff Ryder of Cuoco & Cormier to discuss the outstanding issues on the site; which is whether an area is a wetland or a detention basin. The applicant has not been able to provide sufficient evidence to prove that it is in fact a detention basin. Mr. Boyd has requested they have a wetland scientist review the matter and provide a review letter. The hope is that this will be ready for the next meeting.

Mr. Boyd explained that if the detention basin had not been maintained by a certain date then it was to be considered a wetland.

MOTION: Mr. Ippolito made the motion to continue Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52, Lot 25, DEP #305-966 to September 17, 2014 at 7:05 p.m.; seconded by Mr. Parker and the motion carried 5-0

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

Mr. Ippolito noted that Mr. Kowalchik is not present. Mr. Boyd explained that Mr. Kowalchik has also received Orders from the Building Department and Health Department. Mr. Kowalchik will be in Superior Court with the Building Department on

September 11, 2014; which includes addressing the removal of all of the material. Mr. Boyd suggested waiting on acting on this matter until after the Superior Court hearing.

Mr. Ippolito noted that he visited the site with Mr. Parker today and there has been some progress made since the last meeting. Mr. Ippolito suggested waiting until the end of the agenda to see if Mr. Kowalchik arrives.

E) Enforcement Order, Brian MacNeill, 10 Cooney Road, Map 25, Lot 5

Mr. Ippolito noted that the MacNeill's are not present.

Mr. Boyd explained that the applicant was requested to submit a list of plantings that were planted; however, Mr. Boyd has been unable to visit the site to confirm the list. Mr. Boyd noted that the species on the list all grow to be substantially large plantings.

Ms. Linder suggested that in the future the Commission clarify the quantity of plants based on the square footage of the area as well as implement a monitoring plan.

Present was Kathy Mendonca of 1066 Andover Street. Ms. Mendonca explained that an enforcement order was issued to the MacNeill's on April 15, 2014. At the first meeting, the Commission determined the area needed to be restored. At the next meeting, the MacNeill's were represented by someone and the Commission "flipped flopped" and allowed the garden in the wetlands. Ms. Mendonca explained that there is now an illegal irrigation system that runs along her property that cannot remain as she is at the lowest point and receives all of the water. Ms. Mendonca explained that Mr. MacNeill has not restored the border and noted that he planted fruit trees to replace 50 years of vegetation that was shrubs and not fruit trees. Ms. Mendonca explained that she has based her case on the Commission's previous decisions regarding this property and these matters and Mr. MacNeill still continues to do whatever he wants, when he wants, and the Commission does nothing. Ms. Mendonca noted that she has also not been being notified of the hearings, whether they will take place or not, and has now wasted her time twice by showing up to the meetings and the MacNeill's do not.

Mr. Boyd explained that the Commission did allow the garden. Ms. Mendonca asked why there is now plumbing in the area as there is now a 10 zone illegal irrigation system that was not approved by the Commission that she can provide photographs of. Ms. Mendonca noted that not one member from the Commission has visited her property to see the impacts that are being made as the result of what Mr. MacNeill has done and continues to do.

Ms. Linder noted that the homeowner has missed two back to back meetings and has not provided any feedback, and, in her opinion, this displays a lack of cooperation on their part. Ms. Linder noted that at the last meeting she expressed concerns with what was planted and it was agreed it would be discussed at tonight's meeting and they are not present again. Ms. Linder does not feel that what has been planted is sufficient and suggested considering having Weston & Sampson review this matter.

Mr. Boyd explained that the irrigation system would be a separate issue from the buffer zone areas; which have been restored based on what the Commission has asked them to do. Ms. Mendonca noted that what has been planted is not a restoration as 13 fruit trees were planted. Mr. Boyd noted that the trees grow to have a 10 foot diameter. Ms. Mendonca asked how this proves that the trees will retain water.

Mr. Ippolito suggested setting up a site visit by the entire Commission to visit both properties.

A site visit by the entire Commission has been scheduled for September 15, 2014 at 9:30 a.m.; pending approval from the homeowner's.

MOTION: Mr. Ippolito made the motion to continue Enforcement Order, Brian MacNeill, 10 Cooney Road, Map 25, Lot 5 to September 17, 2014, a site visit shall be scheduled for September 15, 2014 at 9:30 a.m. pending approval by the homeowner; seconded by Mr. Linder and the motion carried 5-0.

F) Request for Certificate of Compliance, Attorney Robert G. Patterson, Sr., Orchard Street and Michael Street, Map 60, Lot 123, DEP #305-675

Mr. Boyd explained that Michael Street came in as part of a larger subdivision, Orchard Street, which was under one Order of Conditions. This one particular lot is not within 100 feet of the wetlands; however, they fall under the Order of Conditions for being a part of the subdivision. The applicant is requesting a partial certificate of compliance for just Lot 5.

MOTION: Mr. Deackoff made the motion to issue a partial Certificate of Compliance for 5 Michael Street, shown on Map 60 as Parcel 123 and recorded with Middlesex North District Registry of Deeds as Document No. 195571, Certificate #35286, this is a partial Certificate of Compliance only; seconded by Mr. Sheehan and the motion carried 5-0.

G) Request for Certificate of Compliance, Phel Jas, LLC, 1582 1596 Andover Road, Map 53, Lot 27 & 28, DEP #305-832

Mr. Boyd noted that the applicant has requested to continue this matter to the next meeting.

MOTION: Mr. Deackoff made the motion to continue Request for Certificate of Compliance, Phel Jas, LLC, 1582 1596 Andover Road, Map 53, Lot 27 & 28, DEP #305-832 to September 17, 2014 at 7:11 p.m.; seconded by Mr. Sheehan and the motion carried 5-0.

H) Robert Kowalchik, 2532 Main Street, Map 94, Lot 66

Present was Robert Kowalchik, 2532 Main Street. Mr. Kowalchik explained that he has been having some people helping him clean up the site by removing things, cleaning up leaves that caught on fire, etc. Mr. Boyd had informed him to install erosion control as soon as possible and he will work on that. Mr. Boyd requested the erosion controls be installed by Monday, September 8, 2014.

Mr. Boyd explained that he informed the Commission of the upcoming Superior Court date and that he has suggested the Commission wait to see the outcome of the court hearing.

MOTION: Mr. Deackoff made the motion to continue the Enforcement Order for Robert Kowalchik, 2532 Main Street, Map 94, Lot 66, to September 3, 2014 at 7:10 p.m., erosion controls shall be installed by September 8, 2014; seconded by Mr. Sheehan and the motion carried 5-0.

I) Enforcement Order, Atilio Dispersio, 1275 Shawsheen Street, Map 101, Lot 76

Mr. Ippolito noted that the Dispersios' are still not present and suggested continuing this matter to the next meeting.

Mr. Ippolito noted that Mr. Deackoff is the contact person for this matter and asked if he has visited the site. Mr. Deackoff noted that he has not, but he will visit the site to confirm the fill was brought back 25 feet from the wetlands as has been requested and report back to the Commission.

MOTION: Mr. Ippolito made the motion to continue Atilio Dispersio, 1275 Shawsheen Street, Map 101, Lot 76 to September 17, 2014 at 7:15 p.m.; seconded by Mr. Sheehan and the motion carried 5-0.

Old Business

Identification Badges:

Mr. Ippolito noted that he went to the Police Station for his identification badge and suggested the rest of the commission members do the same. Ms. Linder noted that she has also gotten her identification badge.

Discussion took place on the brochures prepared by Ms. Linder. Mr. Ippolito noted that he provided a homeowner with one of the brochures while on a site visit and it clarified many things for her. Mr. Ippolito suggested providing a copy to homeowners while doing site visits.

Ms. Linder asked if the brochures have been attached to the building permits as well. Mr. Boyd noted that he will work on this.

New Business

Mr. Boyd noted that there is a tree at 2000 Whipple Road that is hanging above the river that could be putting the roadway system in jeopardy. Mr. Deackoff suggested contacting the DPW as it is in the right of way. Mr. Boyd explained that there have been discussions as to whether it is Tewksbury or Billerica land. Mr. Boyd will reach out to Billerica to see what can be done. The alternative to this would be to hire someone to safely remove the tree.

Administrator's Report

Mr. Boyd noted that he would like to schedule a Bylaw Subcommittee meeting soon.

Adjournment.

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

Approved: 9/17/14

List of documents for 9/3/14 Agenda
Documents can be located at the Community Development Office

Approval of Meeting Minutes-August 13, 2014

- A. 7:02 P.M Abbreviated Notice of Resource Area Delineation, New England Power Company, Power Company Road
- *Abbreviated Notice of Resource Area Delineation dated August 26, 2014*
- B. 7:04 P.M Enforcement Order, Atilio Dispersion Jr. , 1275 Shawsheen Street, Map 101 Lot 76
- *Email from Robin Dipersio dated 7/16/14*
 - *Enforcement Order dated 4/16/14*
 - *Enforcement Order dated 8/26/14*
- C. 7:05 P.M (Continued) Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52 Lot 25, DEP # 305-966
- *Review letter from Weston & Sampson dated April 14, 2014*
 - *Notice of Intent dated March 6, 2014*
 - *Amended Site plan dated March 12, 2014*
- D. 7:05 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. 7:07 P.M Enforcement Order, Brian MacNiell, 10 Cooney Road, Map 25 Lot 5
- *Letter from Norse Environmental dated June 13, 2014*
 - *Enforcement Order dated April 15, 2014*
 - *Review letter from Catherine Mendonca*
 - *Planting email dated September 3, 2014*
 - *Plot Plan dated June 3, 2014*
- F. 7:09 P.M Request for Certificate of Compliance, Attorney Robert G. Patterson, Sr., Orchard Street and Michael Street, Map 60 Lot 123, DEP # 305-675
- *WPA 8A form submitted by Attorney Robert G. Peterson*
 - *Order of Conditions, DEP file # 305-675 dated April 5, 2001*
- G. 7: 11 P.M Request for Certificate of Compliance, Phel-Jas LLC, 1582-1596 Andover Road, Map Map 53 Lot 27 & 28, DEP # 305-832
- *Engineer letter from Stephen Dresser, dated August 20, 2014*
 - *Andover Estates Condominium Plot Plan, August 20, 2014*