



**TOWN OF TEWKSBURY  
CONSERVATION COMMISSION  
1009 Main Street  
Tewksbury, MA 01876**

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

**Meeting Minutes  
December 16, 2015**

The meeting was called to order by Jonathan Parker, Chairman, at 7:00 p.m. at the Town Hall, 1009 Main Street. In attendance were Anthony Ippolito and Dennis Sheehan. Also in attendance was Kyle Boyd, Conservation Agent, and Melissa Johnson, Recording Secretary.

Steve Deackoff and Carolina Linder were not in attendance.

**Approval of Meeting Minutes – January 6, 2016**

**MOTION: Mr. Ippolito made the motion to approve the December 2, 2015 meeting minutes as presented; seconded by Mr. Sheehan and the motion carried 3-0.**

**A) Notice of Intent, New Horizons Realty Group, 1201 Main Street, Map 60, Lot 39, DEP #305-997**

Present was Eric Gerard of TEC, Lawrence, MA and Dr. James Wu, applicant. Mr. Gerard noted that they are present to provide an update on this project and explained that there is an existing office building at this site and they are proposing an additional 8,000 square foot office building. Mr. Gerard explained that since the last hearing they received comments from the Planning Board, wetlands peer review, the DPW, the wetland peer review consultant, and DEP. Initial concerns were related to the 25 foot no disturb zone and how it applied to the local wetland regulations and bylaws. Mr. Gerard explained that after conversations with the conservation agent, it was determined that the 25 foot does not apply to the bordering land subject to flooding; which was a comment made by the town attorney. Mr. Gerard explained that a wildlife habitat evaluation was also requested. As a result, they have engaged Remer Environmental consulting to perform the evaluation and the field work was performed this past Monday. Mr. Gerard explained that they are awaiting the final report; however, preliminary indications show that there is not any major wildlife habitat concern or anything that cannot be mitigated with standard measures. Mr. Gerard noted that the evaluation will be provided to the Commission once it has been completed.

Mr. Gerard noted that storm water was another concern with DEP as well as the town engineer as far as providing storm water management within the compensatory flood storage area. Mr. Gerard explained that they have reviewed this and are proposing to move the storm water management outside of the compensatory flood storage area. As a result, the building and parking will likely get slightly smaller. Mr. Gerard explained that

they are currently evaluating these alternatives and will coordinate with the Commission, town engineer, and Planning Board to provide an updated plan and technical data.

Mr. Boyd noted that the main concerns with the site are regarding storm water and explained that he feels, based on the current plans, that there appears additional work needs to be done. Mr. Boyd noted that Bill Manuell had some specific comments regarding the storm water structures on site and recommended the town engineer approve and sign off on this before the Commission takes action.

Mr. Parker opened the hearing to the public.

Joan Blanchard came forward and asked where this location is and Mr. Gerard provided an explanation. Ms. Blanchard explained that for the record she would like to state that there has been some building going on in front of Carter Green and the lawns are starting to erode prior to any storms even taking place. Mr. Parker requested the comments stay specific to the project at hand. Ms. Blanchard explained that the Commission approves things and things are happening as a result and discussed Victor Drive and the water problems that occur as a result.

**MOTION: Mr. Ippolito made the motion to continue Notice of Intent, New Horizons Realty Group, 1201 Main Street, Map 60, Lot 39, DEP #305-997 to January 6, 2016 at 7:02 p.m.; seconded by Mr. Sheehan and the motion carried 3-0.**

**B) Request for Determination of Applicability, 60 Victor Drive, Map 73, Lot 33**

Present was Steve Ericksen of Norse Environmental Services and Donald Carter, applicant. Mr. Ericksen provided the members with a plan of the site and noted that this project is for some relatively minor grading. Mr. Ericksen explained that the owner was doing some grading on the property and was stopped by the Conservation Commission as he did not realize that he was doing work within the 100 foot buffer zone. Mr. Ericksen noted that the wetlands area is shown in green on the plan provided. Mr. Ericksen explained that the slope has been there for years and that there was previously a green house operation at this site. The area is fairly stable and nothing has changed in this area recently. Mr. Ericksen noted that the base of the slope is approximately 50 feet from the wetlands and explained that they are proposing to add 12 inches of loam “on the flat area on top for gardening purposes”. The proposal includes the installation of erosion controls along the entire bottom of the slope, grading off the top, and loaming and seeding the area.

Mr. Boyd asked if additional clearing will be taking place and Mr. Ericksen noted that no additional clearing is planned. Mr. Boyd asked approximately how far the fill will be from the wetlands and Mr. Ericksen noted that it will be approximately 70 feet from the wetlands and explained that the land below is flat so if something did happen to go down it would not go anywhere.

Mr. Boyd explained that at the November 3, 2015 meeting, the Commission had requested the materials be removed up to the 100 foot line or the homeowner come before the Commission for a request for determination of applicability; which has been done.

Mr. Parker opened the hearing to the public.

Ms. Louann O'Keefe of 175 Patrick Road, Carter Green came forward and noted that the area is not flat and the homeowner has stripped all the trees and if the land is raised it will flood into Carter Green. Ms. O'Keefe explained that as a resident of Carter Green, they are being circled by builders who are stripping the land and she does not know how they are getting away with this. Mr. O'Keefe noted that this homeowner has been digging at this land for years and is getting closer and closer to Carter Green. Ms. O'Keefe explained that if he raises his land, the water will go onto their property. Ms. O'Keefe noted that she does not understand why this stuff is being allowed to go on and why Carter Green is constantly being "picked on".

Ms. Joan Blanchard came forward and noted that she has been involved with the work on Victor Drive since the beginning as well as when the EPA was involved. At that time, she expressed concerns with traffic and the effects of the water on Carter Green. Ms. Blanchard explained that since they started building there was a sink hole on Victor Drive because of water from an old pipe. Ms. Blanchard noted that she does not understand why the building is being allowed around them and feels that the town will have to pay for any water damage to their foundations, etc. Ms. Blanchard noted that she is concerned that the EPA has said no more land filling in Tewksbury and does not understand what the town is not hearing. Ms. Blanchard stated that she will go to the District Attorney if needed, but someone will pay for the damages that will occur on their properties at Carter Green.

Ms. O'Keefe came forward and noted that this also does affect the wildlife as the land has been stripped down and there is no place for the wildlife to go.

June Alcott of Carter Green came forward and stated that she hopes the Commission likes all the trees down along Route 38. Ms. Alcott explained that she moved to Tewksbury because it had character and she feels it no longer does. Ms. Alcott noted that there are two fawns outside her window and they have no place to go as they are lost from the tree clearing. Ms. Alcott feels it is outrageous what the Commission has done to this town.

Ms. Blanchard came forward again and noted that she expressed concerns with traffic. Mr. Parker explained that traffic is not an issue of the Conservation Commission. Ms. Blanchard explained that she has already gotten into an accident and the buildings have not even been completed.

Mr. Boyd explained that the town wetland bylaws were approved at town meeting that require a 25, 50, and 100 foot buffer zones and if anyone would like to make this more stringent, they could certainly propose this at a town meeting. Mr. Boyd explained that it is the Commission's job to enforce the bylaws in place that have been voted on by the people of the town. Ms. Blanchard stated that she feels this is not true as town meeting is attended by so few.

Ms. Alcott explained that she feels the Commission should consider how things will affect other people as they have underground lighting that is out because of the water coming from the area that has been dug up. Ms. Alcott feels that if something hurts other people it should not be allowed.

Mr. Boyd explained that he observed this particular project while he was visiting the construction at Victor Drive and stopped the homeowner. Mr. Boyd explained that the Commission has a bylaw subcommittee where these issues are discussed in detail.

Ms. Alcott discussed the taxes paid by the owners at Carter Green and feels that the Commission should request changes at town meeting if the current bylaws are hurting people.

Mr. Ericksen explained that there is a stream channel that runs under Victor Drive and none of the water from this site goes towards Carter Green. Mr. Ericksen explained that even if it did go that far, it would go into the stream channel. Mr. Ericksen noted that Carter Green is at a higher elevation than this property and that rain fall typically runs down hill. Mr. Ericksen noted that they are not constructing anything and are only looming and seeding which actually reduces the runoff capabilities of the land.

**MOTION: Mr. Ippolito made the motion to close the public hearing; seconded by Mr. Sheehan and the motion carried 3-0.**

**MOTION: Mr. Ippolito made the motion for a negative determination, 60 Victor Drive, Map 73, Lot 33; seconded by Mr. Sheehan and the motion carried 3-0.**

**C) Notice of Intent, Arnold Martel, 15 Starbird Avenue, DEP #305-998**

Present was Steve Ericksen of Norse Environmental Services, Jim Hanley from Civil Design Consultants, Dick Cuoco, and Arnie Martel, applicant. Mr. Ericksen provided the members with a plan of the site and explained that this project is for the construction of three single family homes. They are proposing to expand the existing roadway, install a "T" area for turnaround, and install driveways to access the homes. Mr. Ericksen noted that two homes will be outside of the buffer and one will be within the buffer and explained that they are proposing the use of pervious pavement so that there will be no significant increase in the amount of runoff. Mr. Ericksen explained that the soils in the area are all course sand and gravel with a fairly deep water table. There will be no work within the wetland area and standard erosion controls will be installed along the edge. Mr. Ericksen noted that the grading will be relatively minimal.

Mr. Hanley explained that they originally filed this application in November. An interdepartmental review meeting was held and, at the time, they were originally proposing a cul-de-sac. Mr. Hanley explained that this has been changed to a "T" turn around and that to put the cul-de-sac in, there would have been approximately 650 feet of direct wetland impacts. Mr. Hanley explained that as a result of the comments received, they have revised the plans and have improved the entire layout. The new plan has an

approximate 15% decrease in total impact, approximate 40% decrease in impervious service, and there will be no wetland impacts.

Mr. Boyd explained that the original plans had a detention basin that was taking up most of the open space area. As a result, it was requested that the storm water management system be revised and the applicants have chosen the porous pavement. Mr. Boyd noted that he feels the plans are better and appreciates the applicant taking his concerns into consideration. Mr. Boyd noted that the Commission has not received a letter from the town engineer and he would feel more comfortable knowing his input. Mr. Boyd asked if the open space will be given to the Commission and Mr. Cuoco confirmed this.

Mr. Parker opened the hearing to the public.

Debbie Stodacost of John Street came forward and noted that her concern is the storm water and asked if it will still drain into the wetlands and Mr. Hanley confirmed this and noted that there will be no increase in the water. Mr. Cuoco explained that the runoff from the dwellings will sink into the ground. Ms. Stodacost noted that the ground is already saturated. Mr. Cuoco explained that this was one of the things they changed under the new plan; the net increase will be zero.

Linda Hattori came forward and noted that Mr. Boyd stated that the comments from the town engineer have not been received and requested the Commission wait to take action until the town engineer's input has been received.

Michael McCormick of 11 Starbird Avenue came forward and noted that he is a direct abutter to this property and explained that currently none of the water that flows down the streets goes into the basins and asked what is being proposed to address this. Mr. Ericksen explained that all of the water will run down hill and sink into the ground. Mr. Hanley explained that there is also a swale that picks up water that bypasses the two catch basins. Mr. McCormick asked who owns the swale and who is responsible for the future maintenance and Mr. Hanley explained that part of it is in the town's right of way and the other portion is on 15 Starbird Avenue.

Mr. Cuoco requested Mr. Boyd raise the right of way concern with Mr. Hardiman and Mr. Boyd confirmed this will be done.

Ms. Joan Blanchard came forward and explained that her concern is the water and the building that has been going on. Ms. Blanchard asked who is going to pay for the water damages after all this building is done.

Louann O'Keefe came forward and noted that the builders sell these properties and as a result there is no one to fight with when damages occur.

**MOTION: Mr. Ippolito made the motion to continue Notice of Intent, Arnold Martel, 15 Starbird Avenue, DEP #305-998 to January 6, 2016 at 7:04 p.m.; seconded by Mr. Sheehan and the motion carried 3-0.**

Mr. Hanley requested a response be obtained from Mr. Hardiman as soon as possible and Mr. Boyd confirmed this.

**D) Notice of Intent, Jack Berube, 70 Shawsheen Avenue, Map 112, Lot 70, DEP #**

Present was Jack Berube of 2543 Main Street. Mr. Berube noted that he is present on behalf of the Dostobians who reside at 70 Shawsheen Avenue. Mr. Berube explained that the proposal is for a 20 x 24 addition to the left side of the existing single family dwelling. Approximately  $\frac{3}{4}$  of the addition is within the 100 foot buffer. Mr. Berube provided the Commission with the determination on the endangered species and explained that it is exempt as the proposal is in a landscaped area and they will not be changing the grading. Mr. Berube noted that all fill will be taken off site and the grading will remain the same.

Mr. Boyd noted that his biggest concern was that the area is in a National Heritage area and this has been addressed.

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

**MOTION: Mr. Ippolito made the motion to close the public hearing; seconded by Mr. Sheehan and the motion carried 3-0.**

**MOTION: Mr. Ippolito made the motion to approve Notice of Intent, Jack Berube, 70 Shawsheen Avenue, Map 112, Lot 70, DEP #; seconded by Mr. Sheehan and the motion carried 3-0.**

**E) Abbreviated Notice of Resource Area Delineation, Maple Estates Trust, 108 & 118, and 55 Memory Lane, Assessor Map 88, Lots 35, 25, and 36, Map 89, Lots 38, 36, 37, 39**

Present was Steve Ericksen from Norse Environmental Services. Mr. Ericksen provided the members with a plan of the site and explained that the property was before the Commission several months ago. Since that time, Bill Manuell has reviewed the wetland boundaries and made some changes. Mr. Ericksen explained that they are only requesting an agreement on the wetland boundary and that the plan being presented tonight is the agreed upon wetland boundary.

Mr. Boyd noted that Mr. Manuell mentions a vernal pool area and Mr. Ericksen explained that there is an area that was excavated long ago in the past and is a potential vernal pool and shows some of the same characteristics of a vernal pool. Mr. Boyd explained that this is something the Commission would like to see some research done on. Mr. Ericksen explained that it is difficult to verify this time of year.

Mr. Parker opened the hearing to the public.

Vasilios Kafkas of 98 Maple Street came forward and noted that he is a direct abutter. Mr. Kafkas explained that he has pictures showing that the area was recently filled and provided them to the Commission members. Mr. Kafkas asked if the other abutters were

notified of tonight's meeting and Mr. Parker confirmed this. Mr. Kafkas noted that he would also like to request a copy of the previous meetings. Mr. Kafkas explained that these two homes, 98 Maple and 108 Maple, are built on a stream and he has three sump pumps that go on in the middle of July. Mr. Kafkas noted that this gentleman had dozens of trucks bringing in fill and he does not know from where, but would like to know or he is going to the State. Mr. Kafkas noted that there are environmental issues as well as wetlands issues. Mr. Kafkas explained that the other issue is the sewer line that runs through his property and that he disagrees with the line and showed where he believes the line is. Mr. Kafkas noted that there is water coming uphill to his property year round. Mr. Kafkas asked how many lots there are and Mr. Boyd explained that there is no proposal for that at this time. Mr. Kafkas noted that he feels that this project cannot happen.

Mr. Ericksen explained that the proposal is to obtain an agreement on the wetland boundary and there is no construction being discussed or proposed. Mr. Kafkas noted that he disagrees with the wetland boundaries and discussed the driveways. Mr. Ericksen explained that the subject of tonight's meeting is the wetland boundaries. Mr. Kafkas noted that he will go to the State if he has to.

Mr. Ippolito explained that he visited this site approximately one year ago and has seen the photographs that were given tonight and he agrees with Mr. Kafkas and has observed the same things such as the gravel road, tagged trees, fill, etc. Mr. Ippolito noted that he is aware of what is going on and the Commission is also concerned. Mr. Ippolito explained that the purpose of tonight's meeting is to confirm the wetland boundaries only and the other issues will be addressed as they come forward.

Mr. Boyd requested Mr. Kafkas provide the Commission with a copy of the photographs presented for the record.

**MOTION: Mr. Ippolito made the motion to close the public hearing; seconded by Mr. Sheehan and the motion carried 3-0.**

**MOTION: Mr. Ippolito made the motion to approve Notice of Resource Area Delineation, Maplewood Road, Map 54, Lot 2, Map 40, Lot 26, DEP# 305-992; seconded by Mr. Sheehan and the motion carried 3-0.**

**F) Notice of Intent, Marc Tortorici, 390 Kendall Road, Map 79, Lot 74, DEP#**

Present was Steve Ericksen of Norse Environmental Services. Mr. Erickson provided the members with a copy of a plan of the site and explained that the proposal is for the construction of a garage onto an existing single family dwelling. Mr. Ericksen reviewed the resource areas on the property and noted that there is a perennial stream along the left hand side and is presumed to be a river. Mr. Ericksen explained that currently, the design proposes that the garage would be approximately 41.8 feet from the riverfront area and that they cannot achieve the 50 feet the town would like as a vehicle would not fit in the garage if the size is reduced by 8 feet. Mr. Ericksen noted that the grading will be minimal and explained that there is a large rock in the front that will be removed and there will also be a slight expansion of the driveway as well as a tree in the rear that will

be removed. They will be altering 1,100 square feet and the regulations allow for up to 5,000 square feet.

Mr. Boyd requested Mr. Ericksen show the flood plain on the plan and Mr. Ericksen explained that it is not shown as they area approximately 4 feet above it. Mr. Boyd explained that he would like to see some sort of buffer with some plantings along this area.

Mr. Ericksen noted that the DEP number has not been issued.

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

**MOTION: Mr. Ippolito made the motion to close the public hearing; seconded by Mr. Sheehan and the motion carried 3-0.**

**MOTION: Mr. Ippolito made the motion to continue Notice of Intent, Marc Tortorici, 390 Kendall Road, Map 79, Lot 74, DEP# to January 6, 2016 at 7:06 p.m.; seconded by Mr. Sheehan and the motion carried 3-0.**

**G) Request for Determination of Applicability, Susan Ferreira, 10 Hillside Road, Map 98, Lot 137**

Present was Katie McSheehy. Ms. McSheehy explained that they are proposing to construct a 20 x 20 addition on footings with no foundation.

Mr. Boyd noted that he has no issues with this project.

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

**MOTION: Mr. Ippolito made the motion to close the public hearing; seconded by Mr. Sheehan and the motion carried 3-0.**

**MOTION: Ms. Ippolito made the motion for a negative determination, Susan Ferreira, 10 Hillside Road, Map 98, Lot 137; seconded by Mr. Sheehan and the motion carried 3-0.**

**H) Notice of Intent, Maplewood Road, Map 54, Lot 2, Map 40, Lot 26, DEP #**

Mr. Boyd noted that this matter will be continued to January 6, 2016.

**MOTION: Mr. Ippolito made the motion to continue to January 6, 2016; seconded by Mr. Sheehan and the motion carried 3-0.**

**New Business**

Mr. Boyd noted that he has provided the members with correspondence from Steve Sadwick regarding open space at Lynne's Way and requested the members vote to accept this open space.

**MOTION: Mr. Ippolito made the motion to accept the open space parcel on Lynne's Way; seconded by Mr. Sheehan and the motion carried 3-0.**

Mr. Boyd noted that he received an email from Karen Theodores regarding the Commissions take on the proposed pipe line and is requesting the Conservation Commission intervene and submit something that would require the Commission be notified throughout the process. The commission members were all in favor of this.

### **Old Business**

There was no old business.

### **Adjourn.**

**MOTION: Mr. Ippolito made the motion to adjourn; seconded by Mr. Sheehan and the motion carried 3-0.**

***Approved: 1/6/16***

List of documents for 12/16/15 Agenda  
Documents can be located at the Community Development Office

Approval of Minutes December 2, 2015

- 7:02 P.M (A) Notice of Intent, New Horizons Realty Group, 1201 Main Street, Map 60 Lot 39, DEP #305-997
- *Review letter from Bill Manuell dated November 11<sup>th</sup>, 2015*
  - *Review letter from Kyle Boyd*
  - *Notice of Intent submittal package dated October 15<sup>th</sup>, 2015*
  - *Site Plans submitted by TEC signed and stamped by Eric Girade dated 10/9/15*
- 7:04 P.M (B) Request for Determination of Applicability, 60 Victor Drive, Map 73 Lot 33
- *Topographic Plan of Land signed and stamped by Richard E. Cuoco dated December 7<sup>th</sup>, 2015*
  - *Request for Determination submitted by Norse Environmental dated December 2015*
  - *Enforcement Order Form WPA Form 9 dated October 30<sup>th</sup>, 2015*
  - *Photographs from 60 Victor Drive dated October 29, 2015*
- 7:06 P.M (C) Notice of Intent, Arnold Martel, 15 Starbird Avenue, DEP # 305-998
- *Grading, Drainage, and Erosion Control Plan signed and stamped by James E. Hanley revised December 4<sup>th</sup>, 2015*
  - *Letter from Arnold Martel dated December 9<sup>th</sup>, 2015*
  - *Drainage report dated December 4<sup>th</sup>, 2015*
  - *Review letter from Bill Manuell dated November 21, 2015*
  - *Review letter from Kyle Boyd dated November 21, 2015*
  - *OSRD Special Permit Requirements Doc*
  - *Notice of Intent submittal package dated November 2015*
- 7:07 P.M (D) Notice of Intent, Jack Berube, 70 Shawsheen Ave, Map 112 Lot 70, DEP #
- *Notice of Intent submittal package*
  - *Plot Plan dated December 1, 2015 signed and stamped by Richard Mede Jr.*
  - *Letter from Division of Fisheries & Wildlife dated December 14, 2015*
- 7: 08 P.M (E) Abbreviated Notice of Resource Area Delineation, Maple Estates Trust, 108 & 118, and 55 Memory Lane, Assessor Map 88 Lots 35, 25, and 36, Map 89 Lots 38, 36, 37, 39  
DEP#
- *Revised ANRAD Plan titled "Conservation Plan" with final revisions dated November 30<sup>th</sup>, 2015 signed and*

*stamped by James Aho*

- *Review letter from Bill Manuell dated December 10, 2015*
- *ANRAD Plan titled "Conservation Plan" dated June 16, 2015 signed by James Aho*
- *ANRAD Submittal package dated June 2015 submitted by Norse Environmental*

7:09 P.M

(F) Notice of Intent, Marc Tortorici, 390 Kendall Road, Map 79 Lot 74, DEP #

- *Notice of Intent submittal package dated December 2015 submitted by Norse Environmental*
- *Conservation Plan dated November 9<sup>th</sup>, 2015 signed and stamped by James Aho*

7:10 P.M

(G) Request for Determination of Applicability, Susan Ferreira, 10 Hillside Rd, Map 98 Lot 137

- *Request for Determination submittal package*
- *Letter and package from Norse Environmental signed by Steve Erickson dated December 9<sup>th</sup>, 2015*
- *Construction document dated December 9<sup>th</sup>, 2015 signed by contractor*

7:13 P.M

(H) Notice of Intent, Maplewood Road, Map 54 lot 2, Map 40 lot 26, DEP #

- *Letter from DPW Superintendent dated December 3, 2015*
- *Culvert replacement plans submitted by Joseph Guiliano*
- *Notice of Intent Package dated September 23, 201*