



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

Daniel Ronan, Chairman  
Patrick Holland  
Dennis Sheehan  
Steve Gove

**Meeting Minutes  
March 22, 2023**

The meeting was called to order by Daniel Ronan, Chairman, at the Tewksbury Town Hall at 6:30p.m. In attendance was Conservation Agent Joe Fontaine, Patrick Holland, Dennis Sheehan and Steve Gove.

**Approval of Meeting Minutes** – No meeting minutes were presented for approval.

**A) Violation Notice; Nikki Castrucci & Alex Oteri; 19 Bemis Circle, Assessor Map 108 Lot 21.**

Present was Alex Oteri of 19 Bemis Circle.

Mr. Oteri explained that he was given a notice a couple weeks ago about looms in his yard and is looking to discuss that.

Mr. Fontaine stated that he drove by the house and noticed 10-12 piles of filling material, and therefore met with the homeowner for access to the backyard. It is 40-50 feet away from the riverfront area according to the typography. This is all located on a protected resource area near the border of the 100-year floodplain. Mr. Fontaine asked Mr. Oteri what was there before and what he intends to do with the soil. Mr. Oteri responded that there was only dirt there originally and he is looking to re-do the grass.

Mr. Ronan asked if the dirt was still there, and Mr. Oteri responded yes. Mr. Holland explained that if they were to file a Request for Determination of Applicability, then a site plan would be necessary to determine the distance between the wetlands and floodplain and to identify the 25-foot, 50-foot, 100-foot and riverfront. Mr. Ronan agreed that the river front and floodplain is of the bigger issues. Mr. Fontaine added that in the past, creating the site plan and seeing where the impacts will be is necessary first before deciding. Also, if a delineation is done then they might as well do the Notice of Intent, that way there is a way to come back for a Certificate of Compliance.

Discussion took place and it was determined that the two choices are either to remove it or file a Notice of Intent. Mr. Oteri was unaware that to re-do his yard, it is necessary to consult with the board due to the location of his property with respect to the Wetland Protection Act. Mr. Fontaine also noted that the volume of fill is also a huge deal and must be specified on the Notice of Intent. Mr. Oteri asked if the land was recently surveyed by the solar panel company and Mr. Fontaine explained that he can check.

Mr. Ronan asked Mr. Oteri to file a Notice of Intent which can be done online.

**B) Violation Notice; Fabio Lima & Isabella Andrezza; 237 River Road, Assessor Map 27 Lot 19.**

No one was present for this item.

Mr. Fontaine explained that he had spoken with the homeowner and was informed they would not be in attendance this evening. To recap, the last time Mr. Lima was present, he informed the commission that the fill had been removed. Mr. Fontaine stated he just did a site visit and there is still fill there, and most of it is outside the no disturb zone. Ultimately an RDA or Notice of Intent will be necessary depending on how much fill material is left. This would be up to the commission.

Mr. Holland suggested, although he is cooperating, to send Mr. Lima another invite to the next meeting to discuss and if he does not show up, issue an enforcement order. Mr. Fontaine asked if Mr. Lima pulls back the fill to 25-feet and wants to leave everything else as is, what would the commission like to issue. Mr. Holland suggested having that conversation when he is here with updated photos. This would still be within jurisdiction.

**C) Exemption Discussion; Vanasse Hangen Brustlin, Inc. of Watertown, MA**

Present was Mr. Calvin C. from VHB.

Mr. C explained that this concerns an upcoming project for National Grid. They are proposing one soil boring within a wetland located on access to Andover Street and Highwood Drive. VHB on behalf of National Grid submitted a maintenance notification to the commission for this soil boring within the wetland as it is for maintenance work to do wood structure replacements that are in the right-of-way. Mr. C went on to explain that soil borings within the buffer zone are exempt within buffer zones under the wetland protection act and bylaws, but not when located within wetland. The soil boring is approximately 4-6 inches that will go into the wetland in order to gain information on the surface for a foundation to be installed there. This would be a minor impact to the wetland, with no permanent impacts.

Mr. Sheehan confirmed that this is just for one soil boring within the wetland and Mr. C confirmed yes. Mr. Sheehan voiced he has no issues with it. Mr. Fontaine explained the regulations, stating that it depends on what the commission considers as maintenance activities. There is a general utility exemption for maintenance activities, sometimes in the form of vegetation cutting for example, as without cutting could cause branches to fall and damage lines and prevent electricity from flowing. In a separate regulatory citation within the WPA regulations, it states that this is an exempt activity within the buffer zone, with activities that are temporary in nature that have negligible impacts and are necessary for planning and design purposes, such as an exploratory boring, provided that resource areas are not crossed for site access. This would mean that this would be an exempt activity provided that resource areas are not across from site access. It is crossing a resource area and it is crossing the wetlands, and therefore this would be negated and not be exempt. In addition, the exemption for the soil boring is not located within the bylaw, however they do have the general maintenance exemption in the bylaw. In the past, National Grid has submitted for an exception order regarding more than one boring, and the precedent has been a notice of intent.

Mr. Ronan asked Mr. C to explain more about the soil boring itself. Mr. C explained that there is existing access to the location and temporary construction mats would be placed in wetland areas so the soil is not compacted or impacted during construction. The soil boring is on a small drill rig that is not as large as an excavator. Essentially there is a drill rig on the back of it that will bore a 4-6 inch in diameter spot into the ground to look at the subsurface oils until it cannot go any deeper, then come back up and backfill the area of where the boring was staked in, then stabilization and restoration in the area. Mats would be taken up and the work would be completed. National grid has a manual and guidance that they adhere to during all projects. Mr. Ronan asked about the timeframe and how long the process would take. Mr. C stated that they do not have a specific timeframe, but it would be anticipated for this summer. The process depends on the site but typically many are done in a day.

Mr. Ronan stated that he would not have a problem with it and it sounds like WPA is trying to avoid this exact situation. Mr. Sheehan added that the difference with this is that they do not have the ability to call it maintenance as Mr. Fontaine explained. It is really considered a Notice of Intent.

Mr. Fontaine asked if this is happening in other towns, and Mr. C replied yes, also in Andover and Lawrence. Mr. Fontaine stated that he is not going to recommend against the letter from the WPA. Mr. Ronan suggested that since they are not taking a vote tonight, to consider filing for a Notice of Intent, and if they choose not to, they risk a WPA issue. Mr. C added that they are filing a self-verification notification under the Army Corps under survey activities which is covered under the general permit, and that is applicable to National Grids existing agreement with the DEP per their comprehensive water quality certification, so this is tied into survey activities. Mr. Fontaine clarified that MassDEP would not require them to file, and Mr. C stated that is correct as it qualifies as a survey activity. Discussion took place and Mr. Holland, Mr. Ronan and Mr. Sheehan stated they have no issues with it as the paperwork would only delay the process for one-two days worth of work. Mr. Fontaine stated if this comes up again, they would be conducting a similar conversation on the matter.

**D) Public Hearing, Request for Determination of Applicability; Dana, F. Perkins, Inc. of Tewksbury, MA on behalf of Bella Woods Condominium (C/O Silva Associates), Tewksbury, MA; 43 Kensington Way, Assessor Map 89 Lot 34 Unit 66**

Present was Andy Bajasek, whom works with Dana Perkins, on behalf of Bella Woods Condominium.

Mr. Bajasek is proposing to install a stone infiltration trench in the backyard of the unit located at 43 Kensington Way. He explained there is an existing landscape berm that runs along the units that are adjacent to the wetlands. The majority of the backyard is sloped down then flattens out behind this unit. In day-to-day storms it is not a big deal but during flooding storms, the water sits in their backyard. A landscape berm was not part of the design plan but it appears it has been there for a while. Instead of installing a structure, they are looking to put in a stone trench in the backyard to capture and recharge storm water that ponds there.

Mr. Holland asked how far away from the wetlands this would be located, and Mr. Bajasek stated approximately 35-feet away from the wetland and the landscape berm is high and provides a good buffer. Mr. Holland stated that he has no issues with it.

Mr. Fontaine stated that as the applicant discussed, the trench is going into an existing yard, so it is not disturbing any natural vegetation. If the commission issues a Negative Determination of Applicability, there is no need for sediment controls because the berm is there. Mr. Fontaine also notes that in that case, he would recommend that no soil stock piling or storage of materials should happen towards the wetlands or on top of the berm. Mr. Bajasek stated that he is comfortable with that.

**MOTION:** Mr. Holland made the motion to close the public hearing for this project, seconded by Mr. Sheehan, and the motion unanimously carried 4-0.

**MOTION:** Mr. Holland made the motion to issue a Negative Determination of Applicability; Dana, F. Perkins, Inc. of Tewksbury, MA on behalf of Bella Woods Condominium (C/O Silva Associates), Tewksbury, MA; 43 Kensington Way, Assessor Map 89 Lot 34 Unit 66, seconded by Mr. Sheehan and the motion unanimously carried 4-0.

- E) **Public Hearing, Request to Amend an Order of Conditions; Goddard Consulting LLC of Northborough, MA on behalf of Rhino Capital Advisors, LLC of Boston, MA; 30 Commerce Way/Beyond, Tewksbury, MA, 01876; Assessor Map 23, Lot 18 &19. DEP File # 305-1162**

Present was Tyler Murphy from Rhino Capital Advisors and Andrew Tebow from Goddard Consulting, LLC.

Mr. Murphy stated that they are back to present their changes to the site plan and wanted to discuss the impacts on the resource areas. The first page summarizes the history of their meetings, comments on March 10<sup>th</sup> and changes that were presented to the planning board last week. Next page is the proposed site plan, including the original. The plan displays a smaller building which positively impacts the resource areas by increasing the distance from the buffer zones. The next page is the design, which is appealing to tenants in the market for space. Mr. Tebow spoke about the impacts on the resource areas, stating that as part of the project's redesign, they had engineers out to look at and recommend improvements. At the site entry, the old road curves along the retaining wall, and they found out that by shifting the road slightly left, they could cut it down from 5,083 square feet to 4,835 square feet. There was a stream relocation plan also submitted, as now they can replant both sides of that stream whereas originally, they could only replant one side and run it along the retaining wall. This cuts down impacts and keeps the same replication, so instead of a 1.2 to 1 it is now a 1.25 to 1 as a positive side impact. The next page shows the original "L" shaped building and the new shape building. The difference is there is a net decrease in pervious surface totals, so the building was originally 87,000 square feet and it has been cut down to 65,790 square feet. This helps to utilize more area that was originally approved in the limit of work to be used for parking so there is no longer a waiver required for parking. The grading plans in the northwest corner of the site isolated wetland was originally proposed to grid right up the 25 but are

now able to move it 10-15 feet off that line. Mr. Tebow concluded by saying that this positive redesign allowed for a net decrease in the resource areas and buffer zones.

Mr. Holland asked which condition they were looking to have amended, and Mr. Murphy stated the site plan change with respect to all the calculations. Mr. Sheehan confirmed that they are now building a square building vs. the "L" shaped, to be less impervious and to apply the same conditions as the previous, and Mr. Fontaine stated yes. Mr. Ronan confirmed with Mr. Tebow that instead of the stream having rock walls, it should have actual banks on one side.

Mr. Fontaine asked the commission, since the project requires an as built submitted to the commission within 30 days following the completion of the wetland replication areas, whether it would be appropriate to have one for the stream relocation plan also, as a separate condition amended to the order. The commission, Mr. Murphy and Mr. Tebow all agreed. Mr. Fontaine also stated that he does not recall talking about snow storage signage in previous meetings, as they are proposing to change the area on the north-facing side of the building. He asked if the commission would prefer this to be posted on guard rails near the resource areas, and Mr. Holland stated that what is posted already would be fine. Mr. Fontaine also asked about no disturb zone signage, as there was none suggested in the northwestern corner of the wetlands, and Mr. Holland also stated that this has already been approved and therefore does not want to add any more burden onto the builder. Mr. Ronan added that overall these are good improvements, and no one else had any further questions or comments.

**MOTION:** Mr. Holland made the motion to close the public hearing for this project, seconded by Mr. Sheehan, and the motion unanimously carried 4-0.

**MOTION:** Mr. Holland made the motion to Approve the Request to Amend an Order of Conditions; Goddard Consulting LLC of Northborough, MA on behalf of Rhino Capital Advisors, LLC of Boston, MA; 30 Commerce Way/Beyond, Tewksbury, MA, 01876; Assessor Map 23, Lot 18 &19. DEP File # 305-1162, seconded by Mr. Sheehan and the motion unanimously carried 4-0.

- F) **Public Hearing, Notice of Intent; John G. Crowe Associates, Inc. of Bedford, NH on behalf of Raytheon Technologies, Inc. of Andover, MA; 100 Apple Hill Drive, Tewksbury, MA, Assessor Map 38, Lot 2. DEP File # 305-1177.**

Present was Scott Doty, Principal at John G. Crowe Associates.

Mr. Fontaine explained that this project is for the replacement of two culverts and three drainage pipes. This application is being filed as a limited project under 10.533k in the regulations which is for the routine maintenance and repair of road drainage structures, including culverts and catch basins to ensure water flow capacities which existed on the effective date of 310 CMR 10.51 through 10.60, or April 1<sup>st</sup>, 1983. Mr. Fontaine explained that one of the questions the commission must determine is if this project qualifies as a limited project and whether they want to permit it as a limited project. He also stated that allowing this to be considered as a limited project allows some of the

performance standards to be waived when there is no other practical alternative when necessary. Part of this determination is to decide whether the project is considered routine maintenance. There are impacts to banks and potential land under water, however this is all based off topography, not delineation. There are also stream crossing standards, which have not been addressed, however the applicant can elaborate on where that applies. There are also storm water standards that have not been addressed. Within the application, they address the violation which is on the agenda as a separate item.

Mr. Doty spoke about this project, stating that it is limited because they really do not have any other alternative. It is work that is necessary to repair culverts and pipes, and they are routine due to the materials used at the time. They have to do work in the small areas of the culverts, and they are looking to minimize the impact. The stream channel they are working with is man-made and there are limits to the flow and elevation as there is also vegetation involved. Some considerations are the disturbance areas at the ends of the pipes, and if they are determined to be a wildlife habitat in this instance. They present in the packets that there are negligible impacts to these, but nothing out of the ordinary. Stream or river flow in these culverts have Massachusetts Stream Crossing Standards that serve as the enhancement, creation, or preservation of wildlife corridors to make them as natural as possible. However, the goal in this project is just to replace pipes. They are not changing hydrology and have a map of where everything is located, to make the replacements as easy as possible. Mr. Doty explained that there is some sense of urgency surrounding this, as they do not want any pipes to fail, and it would be approximately 2 weeks' worth of work.

Mr. Fontaine noted that the DEP File # was recently assigned to 305-1177, and in the Assessor database, the addresses are listed at 100 Apple Hill Drive as well as 50 Apple Hill Drive. He also agreed that the pipes must be replaced for drainage and must read the regulations for the commission to make their decision. Mr. Fontaine stated that the applicant is asking for waivers for compliance with certain performance standards such as wildlife habitat evaluation, addressing storm water standards, and stream crossing standards to consider this a limited project for routine maintenance. Mr. Holland voiced that he would consider it as maintenance and not routine, and Mr. Sheehan stated that he would consider it routine, and they are not looking to change anything, with the hope that down the road to be able to use superior materials. Mr. Sheehan stated that he does not see any issues with it, and Mr. Holland and Mr. Ronan agreed as it did live out its 30-year expectancy.

Mr. Doty added that it may be possible for Raytheon employees to submit an annual report on cleaning to the Conservation Commission in the future. Mr. Fontaine stated that he likes the idea, but it would have to be included as an amendment separate from this hearing. Mr. Holland agreed because it is not mandatory to report that to the town.

Mr. Fontaine noted that if the Commission was to issue an order of conditions for this project, they can do so with these following suggested conditions; standard conditions number one through four and nine through nineteen. Special conditions include installing and maintaining erosion and sediment controls which shall include a properly entrenched silt fence and/or staked compost filter tubes around the area of construction as to prevent the deposition of sediment from construction activities into nearby wetland resource areas. Sediment controls shall remain in place until all areas of disturbed loose soil and other erodible materials have been stabilized at the site. Prior to construction activities

commencing the following must be completed: Sediment controls shall be installed by the applicant and the conservation agent shall inspect the installed ESCs. Three, the erosion and sedimentation notes and catch basin sedimentation protection notes on drawing number L-1 of the approved site plan shall be abided by. Four, sediment controls shown on the approved site plan shall at least include a 12-inch diameter compost filter tube. Alternative sediment controls may be approved by the conservation agent. Six, the reconstructed and restored area notes on drawing L-3 of the approved site plan shall be abided by in addition to the planting and seeding table that is provided. Seven, riprap aprons near wetland areas proposed to be replaced shall not expand in spatial extent compared to existing conditions. Prior to the riprap apron replacement, dimensions of existing conditions shall be provided to the conservation agent for comparison and verification the apron has not expanded in size. Mr. Doty agreed and stated he thinks it is a good idea. Eight, an as built plan of all completed work shall be sent to the commission upon the filing of a Request for Certificate of Compliance. The as built shall be prepared by a professional land surveyor and/or a professional civil engineer licensed in Massachusetts. After the conservation agent has inspected and approved erosion and sediment control devices, a construction monitoring report shall be submitted to the conservation commission's office every four months until construction has been completed. The construction monitoring report shall include information relating to construction activities, maintenance replacement of erosion sediment controls, etc. Mr. Doty noted that he thinks they should ask for a weekly report as it will take about 3-4 weeks and move fast. Mr. Fontaine added that if something goes wrong and construction is delayed, then allowing the agent to extend the frequency in which updates are provided. Ten, regarding area of construction that are very steep and a short time frame, Mr. Fontaine asked Mr. Doty if there is anything they can do to stabilize the area. Mr. Doty noted they use blankets for erosion control. Mr. Fontaine advised they should be used in a 3:1 ratio. Eleven, the restoration of wetlands derived from temporary alterations as shown on the approved site plan shall achieve at least 75% vegetative growth within two seasons from when restoration efforts are first implemented. Once they are first implemented, annual monitoring reports shall be submitted to the conservation agent thereafter. Monitoring reports shall summarize activities conducted to date relative to restoring wetlands and what additional monitoring/ activities may be needed to achieve at least 75% vegetative growth within effected wetland areas. Mr. Doty stated the conditions are totally acceptable. Mr. Fontaine added if the vegetative growth is not achieved during the first two growing seasons from when restoration efforts first begin, additional planting efforts shall continue in addition to the requirement to cement annual monitoring reports until 75% vegetative growth or greater is achieved.

**MOTION:** Mr. Sheehan made the motion to close the public hearing for this project, seconded by Mr. Holland, and the motion unanimously carried 4-0.

**MOTION:** Mr. Holland made the motion to Approve the Notice of Intent and all conditions as discussed at this meeting, John G. Crowe Associates, Inc. of Bedford, NH on behalf of Raytheon Technologies, Inc. of Andover, MA; 100 Apple Hill Drive, Tewksbury, MA, Assessor Map 38, Lot 2. DEP File # 305-1177, seconded by Mr. Sheehan, and the motion unanimously carried 4-0.

Mr. Doty asked if there needs to be a vote on the violation notice, and Mr. Ronan stated they typically do not vote on those. Mr. Fontaine explained that there is a general understanding of what to do next between the commission and the applicant which in this case, is to follow the sediment control plan within the notice of intent. A stipulation of that is that Mr. Fontaine will go out on site to do reconnaissance.

**H) Conservation Land Acceptance; 2347 Main Street, Assessor Map 95, Lot 96.**

Mr. Fontaine explained that this is a property on Main Street being donated to the town. It is suggested to the Conservation Commission's acceptance, as it is over 6 acres of mainly wetlands.

**MOTION: Mr. Holland made the motion to Accept 2347 Main Street, Assessor Map 95, Lot 96 under Conservation, seconded by Mr. Sheehan, and the motion unanimously carried 4-0.**

**Old Business, New Business & Admin Reports**

None for discussion.

As this was his final meeting with the Conservation Commission, Mr. Holland expressed gratitude and wished them the best of luck.

**Adjournment**

**MOTION: Mr. Holland made the motion to adjourn; seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

**Approved on: November 1, 2023**

*List of documents for the 03.22.2023 meeting  
Documents can be found in the Community Development Office*

**06:30 P.M. Call Meeting to Order**  
**Approval of Minutes** June 22, 2022; July 13, 2022; August 17, 2022; September 7, 2022; September 21, 2022; October 5, 2022; December 7, 2022; December 21, 2022; January 11, 2023; January 25, 2023; February 8, 2023.

- A. Violation Notice; Nikki Castrucci & Alex Oteri; 19 Bemis Circle, Assessor Map 108 Lot 21.**
- **Violation Notice dated 3/3/23**
  - **Photo Log**
  - **100-year Floodplain Measurement**
- B. Violation Notice; Fabio Lima & Isabella Andrezza; 237 River Road, Assessor Map 27 Lot 19.**
- **Violation Notice dated 8/9/22**
  - **Photos 8/8/22**
  - **Photos 12/5/22**



- C. **Exemption Discussion**; Vanasse Hangen Brustlin, Inc. of Watertown, MA.
- **National Grid Letter dated 3/31/23**
- D. [PUBLIC HEARING] **Request for Determination of Applicability**; Dana F. Perkins, Inc. of Tewksbury, MA on behalf of Bella Woods Condominium (C/O Silva Associates), Tewksbury, MA; 43 Kensington Way, Assessor Map 89 Lot 34 Unit 66.
- **Application packet dated 3/3/23**
  - **Site Plan**
- E. [PUBLIC HEARING] **Request to Amend an Order of Conditions**; Goddard Consulting LLC of Northborough, MA on behalf of Rhino Capital Advisors LLC of Boston, MA; 30 Commerce Way/Beyond, Tewksbury, MA, 01876; Assessor Map 23 Lot 18 & 19. DEP File # 305-1162.
- **Application packet dated 3/10/23**
  - **IDR Comments 3/10/23**
  - **Conservation Commissioner Review dated 3/16/23**
- F. [PUBLIC HEARING] **Notice of Intent**; John G. Crowe Associates, Inc. of Bedford, NH on behalf of Raytheon Technologies, Inc. of Andover, MA; 100 Apple Hill Drive, Tewksbury, MA, Assessor Map 38 Lot 2. DEP File # Not Yet Assigned.
- **Application packet dated 3/8/23**
  - **Conservation Commissioner document dated 3/16/23**
- G. **Violation Notice**; Raytheon Technologies, Inc. of Andover, MA; 100 Apple Hill Drive, Tewksbury, MA, Assessor Map 38 Lot 2.
- **Application packet dated 3/8/23**
  - **Conservation Commissioner document dated 3/16/23**
- H. **Conservation Land Acceptance**; 2347 Main Street, Assessor Map 95 Lot 96.

**Old Business**  
**New Business**  
**Administrators Report**  
**Adjournment**