



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

Daniel Ronan, Chairman  
Evan Walsh  
Dennis Sheehan  
Steve Gove

**Meeting Minutes  
April 19, 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, Evan Walsh, Dennis Sheehan and Steve Gove.

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

**A) Public Hearing, Request for Determination of Applicability; Pan Am Railways, Inc.; Pan Am Railways Right of Way, 1 Railroad Street, Assessor Map 11 Lot 1.**

Mr. Fontaine noted that this agenda item will be continued to the next meeting due to the legal notice that was not published in time.

**MOTION:** Mr. Gove made the motion to continue the Public Hearing, Request for Determination of Applicability; Pan Am Railways, Inc.; Pan Am Railways Right of Way, 1 Railroad Street, Assessor Map 11 Lot 1 to the next meeting, seconded by Mr. Sheehan and the motion unanimously carried 4-0.

**B) Public Hearing, Request for Determination of Applicability, Christian Tirella; 495 Chandler Street, Assessor Map 60 Lot 163.**

Present was Christian Tirella of 495 Chandler Street.

Mr. Tirella explained that the first page of his handout was updated plans, and the second page was an update of the area to clear out. He plans to have sediment controls installed by a contractor, which includes a 9-inch compost sock. The next page displayed the area being cleared out, and they re-drew the 25-foot, 50-foot and 100-foot lines and re-staked it. Lastly, Mr. Tirella noted that the fence would be located inside those markers.

Mr. Fontaine asked what is depicted in the yellow shading on page two, and Mr. Tirella explained that is where the fence would be located. Mr. Tirella then asked, in the instance that he wanted to do something further back, would he have to submit a re-proposal and Mr. Fontaine noted that if it is not being proposed currently, it would be a separate proposal. Mr. Fontaine added that assuming if the commission approves of the permit, the draft needs to reference exactly what is being approved, which is why it is important to

commit to where the clearing is going to be located. Mr. Tirella voiced that his goal is the yellow shaded area but would be happy with more clearing area if possible.

Mr. Fontaine stated that if the commission was to issue a negative determination of applicability, the following conditions are suggested: Installing and maintaining erosion and sediment controls which include a properly entrenched silt fence and/or staked straw waddles to prevent the deposition of sediment from construction activities into nearby wetland resource areas, for which the 9-inch compost filter tubes would be fine. Sediment controls shall remain in place until all areas of disturbed loose soil and other erodible materials have been stabilized at the site. Number two, prior to any construction activity commencing, the following must be completed: One, the sediment controls shall be installed by the applicant, or an agent of the applicant. Two, the conservation agent shall inspect and approve of the installed sediment controls, and three, the sediment controls shall be placed along the boundary so that when the area is cleared, they have a stopping point.

Mr. Tirella clarified which line he should be following for sediment controls and Mr. Walsh suggested within 10-15 feet to protect the wetlands should suffice. For future clearing, Mr. Walsh suggested to follow the 25-foot buffer all the way down a bit past the pink mark, that way there is no concern if he clears any extra.

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

**MOTION: Mr. Walsh made the motion to issue a Negative Determination of Applicability, Christian Tirella; 495 Chandler Street, Assessor Map 60 Lot 163, seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

**C) Public Hearing, Notice of Intent; Eric Tibbetts; 230 Terramor Drive, Assessor Map 32 Lot 96. DEP File # 305-1178.**

Present was Klaudia Shimchuk on behalf of her fiancé Eric Tibbetts, who is traveling for work.

Ms. Shimchuk explained that they are planning on building a pool in their backyard. However, it was brought to their attention that it is 100 feet from wetlands, and they are asking for the town's permission to build the pool.

Mr. Fontaine explained that the in-ground pool is located between 50-100 feet away from nearby wetlands. There is a storm water ditch that goes behind the fence and into a storm water basin which is not jurisdictional. Mr. Fontaine added the storm water drain would act as the sediment controls although it still may be helpful to include sediment controls but would leave it up to the commission to decide. If the commission were to issue an order of conditions for this project, the following conditions are suggested: Standard conditions number one through four and nine through nineteen, with a note that number

twelve may not be necessary, because that requires an as built. Mr. Fontaine noted that a site visit may only be necessary.

Mr. Gove commented that a condition must be added so when they go to pump the pool down to winterize it, something must be there to keep the water from flowing into the storm water basin and drain into their property only. Ms. Shimchuk verbally understood.

Mr. Walsh asked Mr. Fontaine if the pool impacts the storm water basin, and Mr. Fontaine stated not to his knowledge, and there are no conditions that he is aware of that would prevent this from happening. Mr. Walsh asked if this was a natural detention basin or was it built as part of this project, and Mr. Fontaine said it was built as part of the project, and the project does not hinder the basin to his knowledge.

Mr. Fontaine read through the conditions, with the special conditions that include installing and maintaining erosion and sediment controls which shall include a properly entrenched silt fence and/or straw waddles 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. Two, 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. Mr. Fontaine clarified that sediment controls would more specifically be some sort of device that prevents sediment from getting into the basin or wetlands. Discussion took place and it was determined that an as built is not necessary and to remove condition number twelve.

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

**MOTION:** Mr. Walsh made the motion to Approve the Notice of Intent; Eric Tibbetts; 230 Terramor Drive, Assessor Map 32 Lot 96. DEP File # 305-1178, seconded by Mr. Sheehan and the motion unanimously carried 4-0.

**D) Public Hearing, Request for Determination of Applicability; Jeffrey Blute; 79 Chandler Street, Assessor Map 76, Lots 12, 33 & 3**

Mr. Gove removed himself for this agenda item.

Present was Jeffrey Blute, president of Tewksbury Rod & Gun.

Mr. Blute explained that they are looking to do routine maintenance on a gravel road that leads to their property.

Mr. Fontaine commented that this was derived from an enforcement order for this routine maintenance, which is to basically apply additional gravel to the gravel road that deteriorates over time. Since the enforcement order was issued, sediment controls have

been established along the roadway. 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. Two, suggestion for the permit would be regarding the maintenance of the road, being to limit the periodic application of gravel within the existing footprint of the road and within the existing height of the road, so the road does not expand. Mr. Blute agreed and said that the main issue has been potholes, but they do not add extra gravel unless absolutely necessary.

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

**MOTION:** Mr. Gove made the motion to issue a Negative Determination of Applicability; Jeffrey Blute; 79 Chandler Street, Assessor Map 76, Lots 12, 33 & 3, seconded by Mr. Sheehan, and the motion unanimously carried 4-0.

E) **Request for Certificate of Compliance; Salvi Couto (S&C Realty Investment Co., LLC) 1879 Main Street, Assessor Map 84 Lot 18; DEP File # 305-371**

Present for this item was Isaac Machado representing S&C Realty Investment Co.

Mr. Machado explained that he is present this evening seeking a certificate of compliance for the 1989 order of conditions. His client purchased the property in 2006 and has not done any work to the property in the last 13 years and is now in the process of trying to sell it. They have submitted the application by Weston & Sampson with the as built and written statements by the professional engineer.

Mr. Fontaine explained that from a regulatory standpoint all the requirements have been provided. From the evidence that was gathered, it seems as though the order was for the construction of a building and demolition of a few other structures on the property. Mr. Fontaine went on to explain that he did a site visit with a representative and it seems like that part of the project, from 1989, was completed, and if the commission agreed, this would be for a complete certificate of compliance.

**MOTION:** Mr. Walsh made the motion to Approve the Certificate of Compliance; Salvi Couto (S&C Realty Investment Co., LLC) 1879 Main Street, Assessor Map 84 Lot 18; DEP File # 305-371, seconded by Mr. Sheehan and the motion unanimously carried 4-0.

**F) Request to Extend an Order of Conditions; Peter Ellison of The Engineering Corp, Lawrence, MA; 3, 3R, & 4 Executive Place (Andover, MA Address; portions of project extend into Tewksbury), Assessor Map 115 Lots 4, 5, 6, 7 & 8. DEP File # 305-1093**

Present was Brad Mustaine with TEC who was there in place for Peter Allison.

Mr. Mustaine is looking to extend the Order of Conditions as things have not progressed quickly since April 2020.

Mr. Fontaine added that this order was issued during a State of Emergency, and therefore doesn't get the benefit of the permit, so it is typical for a three-year expiration. The regulation states that you must request an extension 30 days prior to the expiration date, which was not done. Mr. Ronan asked if in the future they could make the request with a little more advance notice.

Mr. Walsh asked if there was a reason they are requesting 3 years of substantial completion in the Spring of 2024, and Mr. Mustaine stated that he was not sure, as he is filling in for Mr. Allison, however he does know that there have been multiple delays on the site. Mr. Gove clarified that this seems more of a preventative strike, in which to request the extension of 3 years and hope it gets done. Mr. Mustaine agreed. Mr. Walsh voiced that he would suggest giving 2 based on the timeline that was presented. Discussion took place and it was agreed to extend it for 2 years.

**MOTION: Mr. Walsh made the motion to Extend an Order of Conditions; Peter Ellison of The Engineering Corp, Lawrence, MA; 3, 3R, & 4 Executive Place (Andover, MA Address; portions of project extends into Tewksbury), Assessor Map 115 Lots 4, 5, 6, 7 & 8. DEP File # 305-1093 for 2 years, seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

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

Present was Fabio Lima.

Mr. Lima explained that he has cleared 90% of the branches and has pushed as much of the fill as possible.

Mr. Fontaine provided photos from recent site visits within the last few weeks and stated that the area has been cleaned up substantially. The fill areas have been pushed back approximately 25 feet. Mr. Fontaine suggested the commission file a Request for Determination of Applicability as he is now to get the permit as the final step. Mr. Ronan asked Mr. Lima if he would be comfortable with leaving his property as it is now and filing for an RDA, which would be a quick process, and he stated yes.

No vote was required for this item, and Mr. Ronan clarified that is with understanding that Mr. Lima will file an RDA, and Mr. Fontaine will work with Mr. Lima on the details and any questions he may have.

**H) Violation Notice, Kenneth Sandberg; 85 William G Drive, Assessor Map 79, Lot 31.**

No one was present for this agenda item.

Mr. Fontaine explained that this is a violation notice that was issued for tree clearing. Mr. Fontaine met with the homeowner at the site and there was a machine that he was using to remove debris. It appeared to be tree removal within jurisdictional area, therefore he issued a violation notice so that they could have a conversation. Mr. Ronan asked where the tree cutting took place with respect to wetlands, and Mr. Fontaine stated that it appeared to be approximately 25-feet but for certain within the 100-foot buffer zone.

The commission had no further questions or comments on this agenda item.

**D) Minor Modification; Town of Tewksbury; 900 Chandler Street, Assessor Map 43 Lot 84. DEP File # 305-1175.**

No one was present for this agenda item.

Mr. Fontaine explained that this is a minor modification for the installation of new boardwalks, however the project did not account for the removal of an existing bridge structure. There would be chains and hand tools used for the removal, and no digging within the resource areas. The site plan had details of the procedures.

Mr. Gove commented that he thinks it would be impossible to finite this project because there is so much stuff in there. Mr. Ronan believes that it is not a dumping area but there has been a lot happening there. Mr. Gove stated that he liked the idea of removing the bridge and having the area completely redone. Mr. Walsh asked if the dead trees with a red "X" on them will be removed, and Mr. Fontaine stated yes as that poses as a hazard to folks walking on the boardwalk. Mr. Fontaine also stated that they are going to be pulling items out by hand, and the commission stated they are fine with it.

Mr. Walsh asked if the trees they cut are going to be removed and Mr. Fontaine stated no, they will be left there and let nature do its work. Mr. Gove added the only thing they mentioned they were removing was the sawdust. Discussion took place and it was agreed to leaving the trees in place when practical except for if they are in the way of construction.

**MOTION: Mr. Walsh made the motion to Approve the Minor Modification; Town of Tewksbury; 900 Chandler Street, Assessor Map 43 Lot 84. DEP File # 305-1175, seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

**N) Violation Notice; Michael and Lauren Kippenberger, 540 Whipple Road, Assessor Map 19 Lot 38.**

Present was Michael and Lauren Kippenberger of 540 Whipple Road.

Mr. Kippenberger explained that recently he removed sod and soil in the area of his yard and to dry it he put crushed stone and sand, because he gets run off from both his neighbor's house and Whipple Road. They had a water main break on the street that saturated the yard tremendously, especially that area, and the berm of his driveway was taken off by a plow. Because of that happening, water was running off into his driveway rather than the storm drains, and since then the berm has been fixed. Ultimately, they are looking to create a dry area of yard for their kids.

Mr. Kippenberger clarified that their intention was to level off the land and the soil was so saturated that they were trying to get some sort of spacing in there, such as crushed stone or sand, to let the water run through.

Mr. Fontaine stated that he went out to the area back in August of 2022 for an application of an above ground pool and at the time, conservatively called the area near the digging a wetland because it was wet and there is a 50-foot set back. After seeing it from the street, he investigated it deeper. The area is within 100 feet of wetland and per the WPA and bi-law, it is a project that needs to be permitted. It comes down to knowing where the wetland resource areas are and what the proposed work is. Mr. Kippenberger stated that he was not able to put together a plan on paper yet due to short notice.

Mr. Fontaine stated that to his knowledge, nothing within the 25-foot no disturb zone had been affected, but there is activity between the 25 and 100. Mr. Gove asked if this area is an existing lawn area and Mr. and Mrs. Kippenberger stated yes. Mr. Ronan asked the commission if they would like a full delineation and plan and they all agreed yes, as they seem to be doing everything the right way, just without a permit. They agreed to find the RDA forms online and fill them out and come back for another meeting.

Finally, as for now, Mr. Fontaine recommended installing sediment controls to prevent the erosion of the materials into the wetlands.

**J) Emergency Certification; Mark Bradley; 71 Heidenrich Road, Assessor Map 2 Lot 25.**

Mr. Fontaine explained that this was an emergency certification issued due to a failed septic system and failed Title V, issued by the health department which allowed Mr. Fontaine to issue an emergency certification.

Mr. Fontaine noted that he would read the conditions once, however they apply to agenda items J-L. The conditions for the emergency certification were as follows: One, install a silt fence and/or straw waddle adjacent to the area of construction so the erosion of disturbed loose soil is not deposited within wetland resource areas (nearby stream for agenda item J). The silt fence and straw waddle is to be installed prior to beginning construction activities. Two, coordinate with conservation agent once the silt fence and/or straw waddle is installed and prior to beginning construction activities, the conservation agent shall approve of the silt fence and straw waddle location and installation.

**MOTION:** Mr. Walsh made the motion to ratify the Emergency Certification; Mark Bradley; 71 Heidenrich Road, Assessor Map 2 Lot 25, seconded by Mr. Sheehan and the motion unanimously carried 4-0.

**K) Emergency Certification; Billy Roper; 55 Windham Road, Assessor Map 97 Lot 102.**

Mr. Ronan noted that the typical emergency certification information had been previously mentioned and Mr. Fontaine had nothing additional to add.

**MOTION:** Mr. Walsh made the motion to ratify the Emergency Certification; Billy Roper; 55 Windham Road, Assessor Map 97 Lot 102, seconded by Mr. Sheehan and the motion unanimously carried 4-0.

**L) Emergency Certification; Billy Roper; 64 Waldo Road, Assessor Map 106, Lot 25.**

Mr. Fontaine stated the same conditions apply to this item as well and no one else had anything additional to add. Mr. Ronan noted that the typical emergency certification information had been previously mentioned in item J.

**MOTION:** Mr. Walsh made the motion to ratify the Emergency Certification; Billy Roper; 64 Waldo Road, Assessor Map 106, Lot 25, seconded by Mr. Sheehan and the motion unanimously carried 4-0.

**M) Community Preservation Committee**

Mr. Gove stated that he volunteers for that.

**MOTION:** Mr. Walsh made the motion to appoint Mr. Gove to the Community Preservation Committee, seconded by Mr. Sheehan and the motion unanimously carried 3-0.

A brief discussion took place regarding agenda item H, and the commission agreed that it would be best for them to come in due to the substantial tree clearing. Mr. Walsh stated that the situation seems to lead to requiring them to file an RDA for the violation notice.

**Old Business, New Business, Administrators Report:** None for discussion.

Mr. Ronan announced that the next meeting is May 10<sup>th</sup>.

**Adjournment**

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

**Approved on: November 15, 2023**



*List of documents for the 04.19.2023 meeting  
Documents can be found in the Community Development Office*

**06:30 P.M. Call Meeting to Order**

**Approval of Minutes** June 22, 2022; 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; February 22, 2023; March 8, 2023; March 22, 2023; April 5, 2023;

- A. [PUBLIC HEARING] **Request for Determination of Applicability**; Pan Am Railways, Inc.; Pan Am Railways Right of Way, 1 Railroad Street, Assessor Map 11 Lot 1.
- **Application packet dated 4/12/23**
- B. [PUBLIC HEARING] **Request for Determination of Applicability**; Christian Tirella; 495 Chandler Street, Assessor Map 60 Lot 163. (CONTINUED FROM 01/25/2023 MEETING)
- **Application packet dated 1/11/23**
  - **Comment letter dated 1/19/23**
  - **Wetland Border Report – 3/25/23**
  - **Existing Conditions – 3/23/23**
- C. [PUBLIC HEARING] **Notice of Intent**; Eric Tibbetts; 230 Terramor Drive, Assessor Map 32 Lot 96; DEP File # 305-1178.
- **Application packet dated 4/5/23**
  - **Plan dated 7/6/21**
- D. [PUBLIC HEARING] **Request for Determination of Applicability**; Jeffrey Blute; 79 Chandler Street, Assessor Map 76, Lots 12, 33, & 3.
- **Enforcement Order dated 5/16/22**
  - **Field Notes – 8/29/23**
  - **Photos – 8/29/23**
  - **Application Packet dated 4/5/23**
- E. **Request for Certificate of Compliance**; Salvi Couto (S&C Realty Investment Co., LLC); 1879 Main Street, Assessor Map 84 Lot 18; DEP File # 305-371.
- **Application packet dated 4/12/23**
  - **As Built Plan – 2/2/23**
  - **Photos – 4/12/23**
  - **Letter of Substantial Compliance dated 4/4/23**
- F. **Request to Extend an Order of Conditions**; Peter Ellison of The Engineering Corp, Lawrence, MA; 3, 3R, & 4 Executive Place (Andover, MA Address; portions of project extend into Tewksbury), Assessor Map 115 Lot 4, 5, 6, 7, & 8. DEP File # 305-1093.
- **Application packet dated 4/11/23**
- G. **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 – 4/11/23**
- H. **Violation Notice**; Kenneth Sandberg; 85 William G Drive, Assessor Map 79 Lot 31.
- **Violation Notice dated 4/13/23**
  - **Photos – 4/12/23**

- I. **Minor Modification;** Town of Tewksbury; 900 Chandler Street; 900 Chandler Steet, Assessor Map 43 Lot 84. DEP File # 305-1175.
  - **Site Plan**
  - **Photos – 4/3/23**
  
- J. **Emergency Certification;** Mark Bradley; 71 Heidenrich Road, Assessor Map 2 Lot 25.
  
- K. **Emergency Certification;** Billy Roper; 55 Windham Road, Assessor Map 97 Lot 102.
  
- L. **Emergency Certification;** Billy Roper; 64 Waldo Road, Assessor Map 106 Lot 25.
  - **Emergency Certification form – 4/6/23**
  
- M. Community Preservation Committee
  
- N. **Violation Notice;** Michael & Lauren Kippenberger, 540 Whipple Road, Assessor Map 19 Lot 38.
  - **Historical Aerials**
  - **Field Notes – 8/3/22**
  - **Field Notes – 4/18/23**
  - **Photos – 4/18/23**

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