



MEDWAY CONSERVATION COMMISSION MEETING
Sanford Hall, Town Hall
155 Village Street, Medway, MA 02053
7:30 P.M.
Minutes
July 9, 2015

Members Present: David Travalini, Brian Snow, Scott Salvucci

Staff Present: Bridget R. Graziano, Agent

Members Absent: Ken McKay

Guests: Norman Hassellbarth, Russell Wheeler, Paul DeSimone, Mounir Tayara, Jeremy Fennell, David Dahlheimer, Kurt Schaefer, Donna Hainey, Cindy Malinak, Dan Strachan

7:30 p.m.

Call to order at 7:33PM

7:30 PM Review Agenda

- **Add topics not reasonably anticipated by the Chair 48-hours in advance**

None were requested.

Request for Determination of Applicability

- **8 Shaw Street RDA -15-11 Proposal to construct a deck** – Mr. Wheeler was present as the property owner to present his proposal to construct a deck. The Agent noted this is a request for an after-the-fact permit **and the deck has already been** constructed. She reported the proposed project was outside the 100' buffer zone but within the 200' Riverfront Area and 100 year flood plain. The Commission noted that permits are required prior to construction. Mr. Travalini moved to issue a positive 5 and negative 3 with no conditions since the project was complete and there were no effects to the riverfront or flood plain. Mr. Snow seconded and it was voted to approve 3-0.
- **10 Stallbrook Road RDA-15-12 Proposal to install a replacement septic system** – Mr. Gordon of Thunderchase Environmental was present as the applicant representative. Mr. Gordon presented the proposal for the installation. The Agent reported that there were locations within the buffer zone that had been used for dumping of lawn clippings. Most of the lawn clippings were removed but some were in decomposition and left, as removal would cause additional damage to sensitive areas. The Commission requested that the applicant plant Sweet Pepperbush (*Clethra alnifolia*) along the edge of disturbance to prohibit the further dumping of materials into jurisdictional areas and a small sign noting no dumping. Mr. Travalini moved to issue a Positive 2a, 5 and Negative 5 Determination with the conditions of erosion controls, no stockpiling within the Commission jurisdiction, addition of plants and signage. Mr. Snow seconded and it was voted to approve 3-0.

Request for Certificate of Compliance

- **6 Little Tree Road- DEP 216-0458 Construction of subdivision and single family homes (this includes the road and stormwater management) request to remove single family home from Order of Conditions:** Donna Hainey was present as the property owner. The Agent reported she completed the site visit to the property with Ms. Hainey and found the single family home was construction in the approved location. However, it should be noted the stormwater management system was not operational and not completed. The Agent recommended that a partial be issued to release only 6 Little Tree Road from the Order of Condition DEP 216-0458. It was also noted that there was an outstanding Enforcement Order issued to 2 Little Road property owners, but although the violation affected 6 Little Tree Road, there was no enforcement issued to 6 Little Tree Road. Mr. Travalini moved to grant a partial Certificate of Compliance for DEP #216-0458 for only the construction of the single family home at 6 Little Tree Road. Mr. Snow seconded and it was voted to approve 3-0.

Public Hearings

Continued (2/12/15, 3/26/15, 4/23/15) DEP #216-0841 Abbreviated Notice of Resource Area Delineation – Winthrop Street, Woodland Street, Map 15 Lot 19, Map 15 Lot 1, Map 8 Lot 19, Map 9 Lot 58, Map 8 Lot 16, Map 19 Lot 005, Map 14 Lot 5

Mr. Travalini opened the hearing at 8:03PM. Mr. DeSimone of Colonial Engineering was present as the applicant represented and the applicant Mounir Tayara was present. Mr. Travalini requested that it needs to be marked on the plans about the open ended delineation. The request comes from issues with previous projects have areas not marked as wetlands or uplands and then interpretation happens. It was requested that the ANRAD to be complete as possible and areas not considered for delineation should be marked so, such as Vernal Pools. These pools will need to be reviewed and approved prior to any issuance of permit. The Commission requested that Vernal Pools and intermittent stream and perennial stream be reviewed and noted on plans for either the ANRAD or NOI, but no matter what they will need to be reviewed and a determination made on the locations (lines). The Agent noted she is the person who authorizes Art Allen the Peer Reviewer hired by the town of review the wetlands. She will make a determination when he is authorized to make site visits and he should not be contacted directly by the applicant.

Mr. Travalini opened the hearing to public comment.

The Commission requested that the Agent ask if he can delineate now any Vernal Pool locations or if he is not able to make an educated decision.

Mr. DeSimone noted to the commission that Goddard Consulting was hired to review the Vernal Pools.

Mr. Schaefer of Fairway Lane asked a questions regarding the issued with heavy equipment moved through the property many year ago and how do you determine if there are wetlands resources with fill.

Mr. Snow answered the question on fill and alteration of wetlands from disturbance, noting that Mr. Allen is good at reviewing these areas and if necessary the soils can be reviewed through borings of two or three auger holes. Mr. Schaefer remembers the machinery going through specific areas, when Mr. Wickett allowed them to walk the property. He noted concerns at flags, WF 137A and 4-4 abutters concern. Mr. Travalini stated that there could be fill but if it is three to four feet down then it is possible that hydric soils were filled and not discovered and continued to state that wetlands are not determined by presence of water.

Mr. Strachan of Fairway Lane asked if there is a time of year when studies should be conducted. The Commission responded that the ideal time would be March/April but expert could make a determination of species are present at this time, for example Fairy Shrimp, blue spotted salamander, wood frogs. Mr. Snow

noted that there are “off season” signs of the presence of Vernal Pools. Mr. Travalini requested the Agent send these questions to our Peer Reviewer to answer for the abutters, request that if the applicant proposes to expand the delineation area then abutters need to be re-notified and an amended ANRAD submitted, additionally if this is requested the an additional proposal will be needed from Mr. Allen, and the speak with TA about contacting Town Counsel regarding amending the ANRAD. Mr. Travalini move to continue the hearing to the August 13, 2015 meeting at 7:45PM. Mr. Salvucci seconded and it was voted to approve 3-0.

Continued Notice of Intent (4/23/15, 5/28/15) – 13 & 15 A Fisher Street Map 45 Lot 039/041: The Haven Subdivision (DEP #216-0847) - Mr. Travalini opened the hearing and moved to continue to the July 23, 2013 meeting at 7:45PM. MR. Salvucci seconded and it was voted to approve 3-0.

Continued Abbreviated Notice of Resource Area Delineation (5/28/15) – Exelon 9 Summer Street and 34 West Street (DEP File #216-0849)

Mr. Snow recused himself. Mr. Travalini opened the hearing and noted the Commission does not have a quorum to hold the hearing and must continue to the next meeting. It was noted that Jeremy Fennell of Epsilon was present as the applicant’s representative. Mr. Travalini moved to continue the hearing to the August 13, 2015 (with applicant’s representative’s request). Mr. Salvucci seconded and it was voted to approved 2-1-0.

The Agent asked about choosing a Peer Review consultant, the Commission agreed that the Agent should be in charge of choosing the most qualified and least expensive proposal.

Mr. Snow returned to the Commission as a member.

Approval of Minutes – 4/23/15, 5/28/15, 6/11/15, 6/25/15 continued to the next meeting.

Discussions

Discussion #1 – 16 Little Tree Road issues with Certificate of Compliance request with Mr. Mohka (previous property owner of 16 Little Tree Rd)-

Mr. Mohka was present as the property previous owner and applicant for a Request for Certificate of Compliance for 16 Little Tree Road, which was previously denied as the house did not seem to have been placed 25’ from the wetland resource. Mr. Mohka was here to find out how to move forward with trying to be granted compliance. The Commission responded by asking for the lot to be re-surveyed now, referencing points like Summer Street or other locations that were present prior to the Little Tree Road Subdivision development. Then overlay the approved plan.

Mr. Mokha asked how this all could happen, that the house is constructed in the wrong location. Mr. Snow responded by stating there is an Order of Conditions recorded on the titled of the property and then the lot sells, and the closing attorney does not recognize the Order of Conditions and then the purchase house goes through and then later a new attorney finds the lien on the deed during another sale. It is important to have the right closing attorney. A lot of times the houses are sold without recognizing the Order on the title.

Mr. Mohka noted that someone from the property and the conservation agent or commission member signed off on the markers.

Mr. Snow noted that there are many permits and inspectional services and sometimes they do not all jive. It is possible there was an issue with the plans from one Department to the next. He noted Commissions no longer have one entire OOC there would be individual Order of Conditions.

The Commission asked that Mr. Mohka to complete the survey as discussed and return with the plan for review by Agent and Commission.

Discussion #2 – Meeting with the Open Space Committee

Mr. Travalini noted he did not receive a call in regards to the Eagle Scout Project at Breshanan's Landing. This has never happened before, there was never an issue. The Agent reported a non-handicapped accessible picnic table was placed at the site and this was not part of the original project since the site was supposed to be gear toward handicapped accessibility. Mr. Travalini asked the Agent contact Mr. Burgess the gentlemen that agreed to help the scout with the

Discussion #3- Review of proposed Conservation Land Objectives and Goals

The Commission reviewed the documents and requested the Agent send documents via email for the Commission to review electronically. They would send edits to the Agent for the next meeting.

Discussion #4 – Schedule site visit for ANRAD DEP #216-0841 known as the “Wickett Property”-

Not Discussed.

Discussion #5 - Kelley Street Map 49 Lot 32 (DEP file #216-0846)- Proposal to construct a single family dwelling with associated septic system and utilities, landscaping, and driveway that crosses a wetland resources (box culvert)-

The Commission review a draft Order of Conditions for the proposed project. Mr. Travalini moved to approve the proposed project under DEP #216-0846 with the following findings;

The Commission hereby finds that the work proposed for construction of new single family dwelling, addition of town water line and sewer line, construction of driveway with stream crossing, landscaping and wetlands replication (this project includes some grading) within the 100' of a Bordering Vegetated Wetland and the wetland itself, during the public hearing process the applicant has presented evidence sufficient to demonstrate that the proposed activity shall have no impact on this wetlands resource and meets the provisions under 310 CMR 10.02 (2)(b) and (3), 310 CMR 10.05(4), 310 CMR 10.55 (4), and 310 CMR 10.54 (4) and Medway General Bylaw Article XXI Regulations and the performance standards under Section 4 and 5. It was noted that all conditions of this Order must be met in order to meet the above mentioned provisions. The Commission additionally finds that the work must be conditioned to protect all interests of the MA Wetlands Protection Act and the Medway General Wetlands Protection Bylaw.

Additionally, the Medway Conservation Commission finds that the following conditions are necessary in order to protect the wetland resource for the duration of this proposed project. The Commission orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced in the Special Conditions, section of this Order. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

Mr. Snow seconded and it was voted to approve 3-0.

Agent Report

- **Open space work** – (no discussion)
- **Site visits scheduling** – none (no discussion)

- **54R Adams Street Site Visit** – The Agent reported on her visit to 54 R Adams Street with the Building Inspector, Health Agent and herself to determine the status of the property, as a perspective purchase for the town. The Agent report that in her opinion the purchase of this property would be a huge assest to the town

Chair Report – no report

Adjourn

Mr. Travalini moved to adjourn. Mr. Snow seconded and it was voted to approve 3-0 at 10:00pm.

Respectfully Submitted,

**Bridget R. Graziano, Agent
Medway Conservation Commission**

Documents Presented at the July 9, 2015 Public Meeting

All documents shall be kept in the Conservation Commission Office files

Request for Determination of Applicability

8 Shaw Street RDA -15-11 Proposal to construct a deck

- Copy of Legal Notice for 8 Shaw Street
- WPA Form 1 submitted by Russell Wheeler for 8 Shaw Street on June 23, 2015 with supplemental materials (photos)
- Application Summary Draft by Agent
- Draft of WPA Form 2 Agents recommendation

10 Stallbrook Road RDA-15-12 Proposal to install a replacement septic system

- Copy of Legal Notice for 10 Stallbrook Road
- Application Summary draft by Agent
- WPA Form 2 Recommendation of Agent

Request for Certificate of Compliance

6 Little Tree Road- DEP 216-0458 Construction of subdivision and single family homes (this includes the road and stormwater management) request to remove single family home from Order of Conditions

- WPA Form 8 A Request for Certificate of Compliance submitted by Donna Hainey
- Quitclaim Dees for 6 Little Tree Road
- Certified Plot Plan for Lot 3 Speroni Acres, no date (received by Conservation June 18, 2015)
- Plan titled “ Plot Plan in Medway, MA” by CEC Land Surveyors, dated April 25, 2000
- Draft letter to Ms. Hainey

Public Hearings

Continued (2/12/15, 3/26/15, 4/23/15) DEP #216-0841 Abbreviated Notice of Resource Area Delineation – Winthrop Street, Woodland Street, Map 15 Lot 19, Map 15 Lot 1, Map 8 Lot 19, Map 9 Lot 58, Map 8 Lot 16, Map 19 Lot 005, Map 14 Lot 5

- Copy of Legal Notice
- Email from Colonial Engineering to Agent, dated July 7, 2015
- Email from David Dahlheimer to Agent dated June 26, 2015
- Final Report from Arthur Allen of Eco Tec, Inc, dated July 2, 2015
- Agent and Art Allen Wetlands Delineation Review from April 22, 2015 site visit
- Email from Arthur Allen to Agent and Colonial Engineering, dated June 25, 2015
- Plans Titled, “ Wetlands Plan of Land in Medway, MA” by Colonial Engineering, Inc, dated July 7, 2015

Continued Notice of Intent (4/23/15, 5/28/15) – 13 & 15 A Fisher Street Map 45 Lot 039/041: The Haven Subdivision (DEP #216-0847)

No materials presented

Continued Abbreviated Notice of Resource Area Delineation (5/28/15) – Exelon 9 Summer Street and 34 West Street (DEP File #216-0849)

- Peer Review Proposal from Ecoterra, dated July 5, 2015
- Peer Review Proposal from Eco Tec, dated June 19, 2015

Discussions

Discussion #1 – 16 Little Tree Road issues with Certificate of Compliance request with Mr. Mohka (previous property owner of 16 Little Tree Rd)

- Letter from Agent to Kawalijit Mokha, dated June 12, 2015
- Plan titled, “Plot Plan Lot 8 Little Tree Road Medway, MA for John Tofot” by CEC Land Surveyors, dated May 15, 2002

Discussion #5 - Kelley Street Map 49 Lot 32 (DEP file #216-0846)- Proposal to construct a single family dwelling with associated septic system and utilities, landscaping, and driveway that crosses a wetland resources (box culvert)

- Draft Order of Conditions for DEP File 216-0846