



**Conservation Commission  
Meeting Minutes  
December 14, 2015**

**Members Present:** Greg Young, Diane Guldner, Wayne Baldelli and Todd Helwig

**Others Present:** Kale Kalloch-Getman, Conservation Agent; Jacquie Goring, Board Secretary; Scott Goddard, Goddard Consulting; Phil Palumbo, Colliers; Tim Alix, Colliers; Andrew Collins, New England Baseball; Paula Thompson, Waterman Designs; Frank Birchieri, Bertin Engineering; Brian Brosnan, VHB; Jeff Peters, resident of 4 West Street; Linda Peters, resident of 4 West Street; Stephen Lee, resident of 174 Howard Street; Bruce Goldsmith, resident of 63 Washburn Street; Jean Goldsmith, resident of 63 Washburn Street; Margaret Michalak, resident of 73 Washburn Street; Leonard Michalak, resident of 73 Washburn Street; Scott Michalak, member of 73 Washburn Street Trust; Vincent Femia, resident of 45 Washburn Street, Dawn Winsor-Hines, resident of 2 Pond View Way; John Bourgeois, resident of 52 Washburn Street; Linda Rankin, resident of 77 Washburn Street; Richard Rankin, resident of 77 Washburn Street; Ernest Wolshin, resident of 69 Washburn Street

**Approval of Minutes:** Mr. Todd Helwig motioned to approve the minutes of November 16, 2015 as amended. Ms. Diane Guldner seconded the motion and the vote was unanimously in favor of approval.

**Notice of Intent Continuation, 0 Church Street, Map 43, Parcel 8 MassDEP File #247-1104**

- Applicant: Joseph Bottieri
- Representative: Scott Goddard, Goddard Consulting
- Request: Installation of new septic system
- Jurisdiction: Bordering Land Subject to Flooding, Buffer Zone to a Bordering Vegetated Wetland

Mr. Scott Goddard of Goddard Consulting was present as representative for the applicant. Mr. Goddard noted that there were three outstanding issues from the previous hearing and provided revised plans dated November 25, 2015. The Commission requested during the previous hearing that the compensatory flood storage area be enlarged. Mr. Goddard noted that the area was expanded slightly in a downward direction while remaining outside of the 15' no structure area. Mr. Goddard explained that the revised plans also eliminated the bowl effect of the flood storage area by removing the lip and flattening the area to allow water to exit. Mr. Goddard noted that an additional 260 cubic feet of flood storage was added to the design which was the maximum amount available on the lot at the appropriate elevation. Mr. Goddard completed a soil sample within the proposed flood storage area and described the soil as eight inches of top soil, upland soils from eight to sixteen inches and fine sand from sixteen to 30 inches. Mr. Goddard noted that the soils in the flood storage area differed from the loamy soils found where the perc testing was completed. Mr. Goddard confirmed that the ratio for the compensatory flood storage is now greater than 1:1 and no other changes were made to the plans.

Mr. Goddard informed the Commission that he had received the letter from the Natural Heritage & Endangered Species Program (NHESP) which confirmed that the work will not adversely affect the resource area and will not result in prohibitive take of state listed rare species. Mr. Goddard clarified that no separate filing is required under Massachusetts Endangered Species Act (MESA). Ms. Kalloch-

Getman confirmed with Mr. Goddard that he has not submitted soil logs for the samples taken within the proposed compensatory flood storage area. Mr. Goddard confirmed that the soils in the proposed leach field consisted of coarse sand and gravel and the compensatory flood storage area consisted of fine sand material. Ms. Kalloch-Getman requested that the information be submitted in writing to the Commission and Mr. Goddard confirmed he will provide it.

Mr. Goddard reviewed the Appendix B Wildlife Habitat Evaluation which was requested by the Massachusetts Department of Environmental Protection (MassDEP). Mr. Goddard stated that no important wildlife habitat features were identified on the property for burrowing, nesting or overwintering. Mr. Goddard noted that the property is a former construction site and there will be no significant impact on wildlife habitat as a result of the proposed work. Mr. Goddard also noted that the Bordering Land Subject to Flooding (BLSF) requirement for compensatory flood storage is 1:1 which the revised plan exceeds and that the difference between the elevation for the Federal Emergency Management Agency (FEMA) 100 year storm is one foot. The proposed compensatory flood storage is 1.1:1. Mr. Wayne Baldelli confirmed with Mr. Goddard that the proposed plans have not been filed with the Board of Health. Ms. Kalloch-Getman stated that Mr. Goddard had informed her that he would provide the plans to the Board of Health and Mr. Goddard confirmed he did and no problems were raised during the preliminary review. Ms. Kalloch-Getman confirmed with the Commission that she had not received any comments from the Board of Health agent and Mr. Goddard recommended that an Order of Conditions could be issued subject to Board of Health approval.

Mr. Goddard stated that water should only be in the compensatory flood storage area every 100 years but there may be surficial run off. Mr. Young noted that the abutting property has an elevated septic system and confirmed with Mr. Goddard that the area should not have standing water and will flow towards the wetland. Ms. Kalloch-Getman clarified that a 100 year storm does not occur only every 100 years and is defined by FEMA as 6 to 7 inches of rain in a 24 hour period. Mr. Todd Helwig noted that the lot may not be buildable and that water has been observed on the property and beaver activity has caused water to back up onto the property as well. Mr. Helwig also noted that the requirement for 1:1 flood storage has been met in the proposed plans but future homeowners could have problems with flooding if the calculations are not accurate. Mr. Goddard noted that the house is proposed above the flood zone. Ms. Kalloch-Getman noted that an executive order was issued by the Federal government recommending that the 500 year flood plain be used to calculate flood storage capacity. Mr. Wayne Baldelli noted that beaver activity has caused various problems at nearby sites and that clearing spillways can take time. Mr. Goddard noted that the flood storage area will be graded to match the rest of the site that is being elevated to avoid flooding in those areas. Mr. Goddard also noted that the proposed plans have been designed to match the BLSF requirements and that the house and septic could be built within the flood plain but is not proposed. Mr. Goddard stated that the area would only flood a few inches during a 100 year storm event.

Ms. Kalloch-Getman noted that there is a buffer zone associated to the BLSF. Mr. Jeff Peters, resident of 4 West Street, stated that he lives next door and is concerned about the water level coming up and has seen the property flood from the wetland area across the street and into his property. Mr. Peters asked if there was a plan for water to flow in and out of the septic system. Ms. Kalloch-Getman displayed a GIS map of the property and Mr. Peters stated that the flooding on the property looks like what is shown as the 500 year flood plain on the GIS map. Mr. Peters described the flooding on the lot. Mr. Goddard stated that the proposed work would be beneficial to Mr. Peters property and would contain flood water within the flood storage area. Mr. Peters confirmed with Mr. Goddard that flooding should not come into his yard after the proposed work is completed and expressed concerns about the septic system backing up into his property. Mr. Goddard stated that the proposed septic system will be five feet higher than the high groundwater level and that concerns about the septic system should be addressed by the Board of Health. Mr. Peters confirmed with Mr. Goddard that flooding and septic

concerns will not be an issue on his property and that the proposed work will protect his property from flooding.

Ms. Kalloch-Getman noted that she had conducted soil sampling in the proposed leach field area and found hydric soils indicating the area is a wetland. Ms. Kalloch-Getman stated that she did not get a clear answer from Mr. Goddard regarding the hydric soils not on the Natural Resources Conservation Service (NRCS) maps. Mr. Goddard stated that the top soil will be excavated out and the septic system will be five feet higher than the high groundwater table. Mr. Baldelli inquired why Mr. Goddard does not show the area as a wetland. Mr. Goddard stated that the area is not a wetland under the bylaw. Ms. Kalloch-Getman stated that an isolated wetland is a resource area. Mr. Goddard stated according to the bylaw there must be 1/8<sup>th</sup> of an acre to qualify as an isolated wetland. The Commission discussed the jurisdiction of isolated wetlands. Ms. Kalloch-Getman noted that the bylaw does not state BVW but refers to vegetated wetlands and does not exclude isolated wetlands.

Mr. Goddard provided a written letter to the Commission which the Commission reviewed. Mr. Young noted that the bylaw seems to be unclear and that Mr. Goddard is interpreting it to say the Commission does not have jurisdiction over isolated wetlands. Mr. Goddard stated that there are different performance standards for BLSF and isolated wetlands and that the bylaw has more stringent standards for BLSF than the Massachusetts Wetlands Protection Act (WPA) and no standard for isolated wetlands. Mr. Goddard added that the bylaw does not include a buffer zone for isolated wetlands and defers to the WPA unless otherwise defined. Mr. Goddard noted that the WPA defines a wetland as having hydric soils, wetland vegetation and bordering a waterbody. Ms. Kalloch-Getman stated that the science and the regulation of isolated wetlands are separate issues. Mr. Goddard stated that the bylaw states in the absence of regulation the WPA should be referenced and that the state requires a wetland to border a body of water. The Commission clarified with Mr. Goddard that a vernal pool is considered a habitat within an isolated wetland, not a resource area itself.

Mr. Ernest Wolshin, resident of 69 Washburn Street, noted that his property is next door and the Commission stated that he is an abutter for another hearing on the agenda. Mr. Helwig confirmed with Mr. Goddard the current site characteristics and that hydric soils may be present. Mr. Goddard stated that there is no wetland vegetation and the area is barren. Ms. Kalloch-Getman stated that she disagreed and that the site is not barren and displayed photos of the site vegetation. Mr. Baldelli also noted that wetland plants may not be visible during this time of year. Mr. Goddard stated that compensatory flood storage is being provided and meets the standards of the state law. Ms. Kalloch-Getman confirmed with Mr. Goddard that twelve inches of top soil will be removed in the area of the leach field and Title 5 sand will be added. Ms. Kalloch-Getman also confirmed with Mr. Goddard that the hydric soils layer in the area is twelve inches followed by gravel subsoil. Ms. Kalloch-Getman noted that she conducted a soil sample in the area to eight inches below grade and confirmed the presence of hydric soils. Mr. Goddard added that the proposed work meets the standards for BLSF, habitat, rare species, Town bylaw, state law and the 15 and 30' no structure and no build requirements as well as exceeding the 1:1 flood storage requirement.

The Commission discussed the proposed work. Mr. Young noted that he is uncomfortable with the project and noted that the two houses to one side of the property have flooding and raised septic systems and beaver activity. Mr. Young added that he is concerned about the risk of septic pollution to the neighbor's environment. Mr. Goddard stated that the proposed septic system is subject to Title 5 inspection and added that it would be appropriate for a preconstruction meeting with the Board of Health to demonstrate to the abutters that the proposed work will protect their land. Mr. Goddard also noted that the proposed work will be creating more flood storage capacity than there is currently and that water will continue to flood the area but a storage area will now be provided. Mr. Helwig clarified with Mr. Goddard that the proposed flood storage area will be 1:1.1. Mr. Helwig added that there is not much margin for error. Mr. Goddard stated that the Commission only requires 1:1 to be provided.

Ms. Kalloch-Getman noted that the BLSF is based on a designed event and that abutters have been present and describing the history of flooding on the property. Mr. Goddard stated that he is not denying that there is flooding on the property. The Commission discussed continuing or denying the project. If the project is denied under the local bylaw the matter could be brought to superior court. Ms. Kalloch-Getman noted that she has requested information in writing including the soil data sheets in the compensatory flood storage area during the previous hearing. Mr. Goddard noted that he had supplied test pit information. Ms. Kalloch-Getman noted that the test pit information did not include hydric soils which Mr. Goddard stated was not relevant to the discussion. Ms. Kalloch-Getman stated that she would like the information on record and that the information is relevant because the area will be excavated beyond hydric soils.

Mr. Goddard confirmed that the area will be excavated down twelve inches but will provide a specific elevation to the Commission. Mr. Baldelli added that the information will be pertinent for the Board of Health as well. Mr. Goddard confirmed with the Commission that they would like the information in writing. Mr. Goddard stated that he has not filed with the Board of Health but has contacted the office for comments. Mr. Helwig confirmed that the survey is included on the plan. Mr. Goddard noted that Church Street is a historic boundary and there is not a good plan of record for the street but the information is not pertinent to the Commission but will be for the building permit. The Commission discusses the survey note on the plan and determined that it would be pertinent to the Commission if the lot size changes. Mr. Goddard stated that the surveyors are doing additional research for Church Street and would provide it to the Commission. Mr. Goddard also noted that he would work on getting input from the Board of Health. Mr. Goddard requested a continuation to the next hearing.

Mr. Helwig motioned to continue the hearing for the Notice of Intent for 0 Church Street for installation of a septic system to January 11, 2016. Ms. Guldner seconded the motion and the vote was unanimously in favor of the motion.

**Abbreviated Notice of Resource Area Delineation, 172 and 172A Howard Street, Map 37, Parcels 93 and 94 MassDEP File #247-1105**

- Applicant: Craig Callahan
- Representative: Scott Goddard, Goddard Consulting
- Request: Review and confirm delineation of 65 linear feet of Bordering Vegetated Wetland and 475 linear feet of Bank
- Jurisdiction: Bordering Vegetated Wetland and Bank

Ms. Kalloch-Getman noted that the proposed project has been before various Boards previously and was recently denied by the Planning Board. Mr. Young asked Mr. Goddard if the goal for the site is for residential development. Mr. Goddard stated that the only goal at this time is to complete the Abbreviated Notice of Resource Area Delineation (ANRAD) and that he was not prepared to talk about the potential future plans for the project. Mr. Young noted that he had completed a site visit at the property and one house appeared to be abandoned. Mr. Goddard stated that the applicant may file a Notice of Intent (NOI) in the future for the property but has filed an ANRAD to verify the wetland resource areas on the entire property. Mr. Goddard displayed a map of the property and described the site. 172 Howard Street sits on top of a hill and the wetland resource areas are on the Washburn Street side of the property. Mr. Goddard noted that water flows down into a ditch system which splits into three ditches. A second series of six ditches flows out from the centralized channel. Mr. Goddard added that he reviewed the ditches to identify which are streams. A culvert is located under Washburn Street and ends across the street. Mr. Goddard noted that there is a wetland and intermittent stream onsite with wetlands on either side. Mr. Goddard described an area of white pines which appeared to have previously had six to eight inches of flooding at their base. Mr. Goddard displayed a colored map of the

site resource areas including wetland flags and noted that none of the ditches on the site were jurisdictional.

Mr. Young noted that the wetland area may go beyond and behind the existing house. Mr. Goddard stated that he evaluated the area carefully and completed the delineation himself. Mr. Goddard added that there was no evidence of hydric soils in that area although a few cinnamon ferns were present. Mr. Goddard conducted soil testing with Ms. Kalloch-Getman and confirmed that none of the ditches were resource areas with the exception of those shown as intermittent streams on the plans. Ms. Kalloch-Getman noted that the site is difficult and that the upland trees were identified in the area but emergent and ephemeral species would not be visible at this time of year. Ms. Kalloch-Getman also noted that the extreme flutes observed on the white pines indicate an upland species trying to get out of a wet area. Ms. Kalloch-Getman confirmed that the white pines appear to be flooded up to eight inches but soil testing did not find hydric characteristics outside of the area. Ms. Kalloch-Getman added that although the area is not a wetland she has concerns about flooding.

Mr. Ernest Wolshin, resident of 69 Washburn Street, noted that the area floods and a culvert in his yard can become blocked and flood his property. Mr. Wolshin added that he lives directly next door and that there is an easement next to his driveway for the property. Mr. Wolshin stated that when it rains the stream swells and empties into his yard and if the culvert is blocked his basement will flood. Mr. Wolshin provided photos to the Commission of flooding from March 2014. Mr. Wolshin added that the drainage is required to keep his basement dry and he approves of proposed work on the site if there is good drainage and his basement does not flood. Mr. Goddard added that the main intermittent stream on the property runs through Mr. Wolshin's property.

Mr. Vincent Femia, resident of 45 Washburn Street, stated that he agreed with Mr. Wolshin and that he keeps the culvert clear. Mr. Femia noted that ice causes flooding in the winter and that the adjacent property gets at least a foot of water in their basement and that his basement will flood up to five inches. Mr. Femia stated that he believes that the existing culvert is not sufficient and that he brought his concerns to the Planning Board during the recent hearing and was told they would look into it. Mr. Femia added that he was not notified of the hearing and Ms. Kalloch-Getman reviewed the abutters list. Mr. Stephen Lee, resident of 174 Howard Street, stated that the house on the property which appears abandoned is not abandoned but vacant. Mr. Bruce Goldsmith, resident of 63 Washburn Street, stated that the house was purchased by Mr. Callahan and has been vacant in excess of ten years.

Mr. Scott Michalak, resident of 12 Ashton Lane in Sterling and member of 73 Washburn Street Trust, asked if the BVW and bank have been reviewed. Mr. Goddard clarified that the ANRAD filing will verify all resource areas on the property. Ms. Kalloch-Getman confirmed with Mr. Goddard that he has walked the entire property. Mr. Michalak asked if the Commission would make a ruling on vernal pools. Mr. Michalak added that BLSF was found not to have saturation or inundation conditions but groundwater characteristics or soil borings were not documented. Mr. Michalak added that written documentation should be provided when accessing Bank, BVW or other resource areas. Mr. Goddard stated that 90% of Bank is a physical feature on the ground and that data sheets are used for BVW. Mr. Goddard added that the entire perimeter is Bank except a small area and that the Bank flags do not need to be verified. Mr. Michalak stated that it would be agreeable to have the information in a fact sheet. Mr. Young added that Bank is fairly obvious to observe in the field. Mr. Michalak stated that he was not sure if Bank was easily identified at this site and that he is not able to walk the property to observe it.

Mr. Helwig confirmed with Mr. Goddard that there are no other resource areas on the rest of property. Mr. Young asked Mr. Goddard if an NOI is filed for work on the property and other resource areas are

identified, such as a vernal pool, would the area be added to the NOI. Mr. Goddard stated that no other resource areas should be identified as part of a NOI filing because an ANRAD is intended to define all resource areas on the property. Mr. Young asked Mr. Goddard if an additional resource area was identified would the Commission have the right to protect them. Mr. Goddard stated that it would be a voluntary process by the property owner if an additional resource area was identified during the NOI process and would not be jurisdictional until the ANRAD expired. Ms. Kalloch-Getman provided the Commission an Order of Area Resource Delineation (ORAD) form to review. Mr. Goddard stated that he is requesting that all resource areas on the entire property be confirmed as part of the ANRAD filing. Ms. Kalloch-Getman stated that she had not walked the entire site and has checked the GIS data layers and there is no indication of additional resource areas based on her review. Mr. Goddard stated that another site visit could be arranged. Mr. Michalak asked if there is BLSF present on the property and stated that a subdivision and stream crossing could cause more flooding issues. Mr. Young stated proposed work under and NOI could also improve flooding in the area. Mr. Michalak expressed concerns about additional flooding and discussed the use of live bottom culverts. Mr. Goddard stated that there is no BLSF on the property.

Mr. Wolshin pointed out the location of this property on the plans displayed by Mr. Goddard and inquired if the water table could rise due to future work on the property and expressed concerns that flooding not drain from his property. Mr. Goddard stated that he could not answer that question during this hearing. Mr. Wolshin stated that proposed culverts during the NOI process need to be large enough to drain water off his property when it ices over. The Commission discussed the abutter's experiences and recommended another site visit. Ms. Kalloch-Getman noted that the Commission would welcome written comments from abutters. The Commission determined to continue the hearing and conduct a more detailed site walk with Mr. Goddard and Ms. Kalloch-Getman and any other parties.

Ms. Guldner motioned to continue the hearing for the Abbreviated Notice of Resource Area Delineation for 172 and 172A Howard Street to January 11, 2016. Mr. Helwig seconded the motion and the vote was unanimously in favor of the motion.

**Abbreviated Notice of Resource Area Delineation, 5 Bearfoot Road, Map 30, Parcel 33, MassDEP File #247-1106**

- Applicant: Berlin Landing Realty Trust, Scott Goddard
- Representative: Scott Goddard, Goddard Consulting
- Request: Review and confirm delineation of 775 linear feet of Bordering Vegetated Wetland  
Jurisdiction: Bordering Vegetated Wetland

Mr. Goddard stated that the ANRAD for 5 Bearfoot Road was submitted to identify all wetland resource areas on the property. Mr. Young noted that he had walked the entire site with Ms. Kalloch-Getman. Mr. Goddard displayed plans and described the site. Mr. Goddard noted that a large two acre BVW is located on the property which discharges to a culvert under Solomon Pond Road. Mr. Goddard stated that he defined the area as BVW by soil conditions and hydrology and noted that there is an area of ponding in the middle of the wetland. Mr. Goddard also noted that one change was made to the wetland line during the site visit and wetland flag 10 was adjusted to the new flag location 10R. Mr. Goddard provided revised plans dated December 14, 2015 which included revised wetland flag 10R. The Commission reviewed the plans and the culvert location. Mr. Goddard noted that USGS maps show that Solomon Pond discharges to a stream through a 36 inch culvert shown as a perennial stream on the USGS map. Mr. Goddard stated that there is no stream in that location and that the area is a twelve inch culvert filled with leaves located in a ditch. Mr. Goddard stated that he has never observed water in it and noted that there is not a stream behind the condominiums but a cattail marsh is present. Mr.

Goddard also noted that the actual discharge point for Solomon Pond is unknown. Mr. Baldelli noted that the area could be a manmade structure at the condominiums. Mr. Goddard requested that the lack of river front area be confirmed by the Commission.

Mr. Goddard stated that a depression with hydric soils was identified on the site. A calculation determined that 1,500 cubic feet of water would be present in the depression during high water. Mr. Goddard stated that according to the bylaw an isolated feature must be at least a 1/8 of an acre in size and hold 5,000 cubic feet of water. Mr. Goddard also stated that the area identified on the site is not a resource area because it is too small to meet the bylaw and State regulations. Mr. Goddard referenced the letter regarding his interpretation of the bylaw provided to the Commission for the 0 Church Street hearing. Mr. Goddard stated that he has reviewed hundreds of Town bylaws and that he is not inexperienced in understanding what they are intended to protect. Mr. Goddard noted that the State law defines an isolated land subject to flooding (ILSF) as 1/4 of an acre and the Northborough bylaw defines an ILSF as 1/8 of an acre to be a regulated resource area. Mr. Goddard also noted that most ILSF contain wetland vegetation and hydric soils and the amount of water they can contain is based on flooding of a 100 year storm. Mr. Goddard stated that in his opinion the bylaw is clear and if a term is not defined in the bylaw the WPA regulations should be referenced. Mr. Goddard also stated that freshwater wetlands are defined by every Town differently and the State regulations require a wetland to border a water body. Mr. Goddard noted that the State does not define a puddle with hydric soils or wetland vegetation unless it borders something else. Mr. Goddard also stated that the bylaw only regulates an ILSF that is at minimum 1/8 of an acre or if the area borders a water body. Mr. Goddard noted that all Towns have different bylaws and define ILSF differently and he has worked with private council in various Towns regarding the matter. Mr. Goddard noted that the two features on the site are two small to be resource areas and requested that the Commission confirm the wetland flags, the lack of perennial stream and lack of resource areas associated with the two isolated wetlands on the site.

Mr. Young confirmed with Ms. Kalloch-Getman the she agrees with what has been flagged on the site. Ms. Kalloch-Getman noted that the isolated wetland was not flagged. Mr. Goddard stated that one flag was located and that the surveyor created micro-topographs of the areas and confirmed they were too small to be regulated by the bylaw. Ms. Kalloch-Getman confirmed with Mr. Goddard that the isolated wetland was not flagged. Mr. Young noted if the area was flagged it would not make a difference if it could be regulated and Ms. Kalloch-Getman agreed but stated there could be a different type of resource area found during flagging. Mr. Goddard added that the area is not a resource area because it is not defined in the bylaw. Mr. Baldelli asked Mr. Goddard if the stream supplies the isolated area during significant rain fall. Mr. Goddard stated the area is mostly fed by groundwater. Mr. Baldelli said the area is likely affected by heavy rain and that the State is ten inches below average rain fall this year and that it may not be a fair assessment of the area. Mr. Goddard stated that the other area is bordering to the culvert system and the isolated area does not border any water body.

Mr. Helwig asked Mr. Goddard what his plans are for the property. Mr. Goddard stated that he does not have a proposal to do something on the property. Mr. Helwig added that Mr. Goddard did not file an ANRAD without some intention for future development and without his interpretation of the bylaw there would not be a building envelope on the lot. Ms. Dawn Windsor-Hines, resident of 2 Pondview Way, agreed that this has been a very dry year. Ms. Windsor-Hines noted that she has lived there for eight years and there is usually water in both areas and has seen ducks swimming in the depressions. Ms. Kalloch-Getman added that she has received calls about the area being a lot wetter in the spring. Mr. Goddard stated that he doesn't question that wetlands are wetter in the spring and drier in the fall. Mr. Helwig noted that the Commission needs additional time to review the project and Mr. Goddard agreed that was fair. The Commission discussed going through the letter provided by Mr. Goddard and

noted that isolated wetlands have been regulated by the Commission in the past. Mr. Goddard stated regulation of isolated wetlands may have been a pattern created overtime. The Commission discussed the State law and bylaw for isolated wetlands and requesting a change to the bylaw which would require a Town meeting vote. The Commission requested a continuation to review the bylaw. Ms. Guldner noted that less buildable lots are available and climate change may also have an impact the remaining buildable lots.

Mr. Helwig motioned to continue the hearing for the Abbreviated Notice of Resource Area Delineation for 5 Bearfoot Road to January 11, 2016. Ms. Guldner seconded the motion and the vote was unanimously in favor of the motion.

#### **Request for Certificate of Compliance, 8 Moore Lane, Map 8, Parcel 36, MassDEP File #247-1041**

- Applicant: Todd Chapin
- Representative: Scott Goddard, Goddard Consulting
- Request: Evaluation of a wetland replication and stream bed reconstruction
- Jurisdiction: Bordering Vegetated Wetland, Land Under Water and Bank

Mr. Todd Chapin, owner of 8 Moore Lane was present. Mr. Young noted he walked part of the site with Ms. Kalloch-Getman and the area is functioning as a wetland. Mr. Young stated that he and Ms. Kalloch-Getman identified that the bounds appear to be sparse. Mr. Goddard agreed the bounds were too sparse and stated that Mr. Chapin added additional bounds for a total of thirteen bounds. Mr. Goddard provided updated plans for the site. Mr. Chapin noted the bounds are now less than 50 feet apart. The Commission reviewed the plans, bounds and the locations of the wetland signs. Wetland signs will be posted in three places using signs recommended by the Commission. The Commission discussed the sign locations shown on the plan and requested one additional sign be posted. Ms. Kalloch-Getman noted that the deed reference was not recorded and Mr. Goddard clarified that it was discussed onsite and determined not to be needed. Ms. Kalloch-Getman confirmed that was correct. Ms. Kalloch-Getman added that the berm was removed and hydraulic connection was restored. The Commission agreed to sign the Certificate of Compliance (COC) but requested that Ms. Kalloch-Getman hold the Certificate until the signs are posted. Ms. Kalloch-Getman added that the Order of Conditions required a deed reference. The Commission discussed the deed reference and determined that the signs and bounds were sufficient.

Mr. Helwig motioned to issue a Certificate of Compliance for 8 Moore Lane. Ms. Guldner seconded the motion and the vote was unanimously in favor of the motion.

#### **Request for Partial Certificate of Compliance, 333 Southwest Cutoff, Map 109, Parcels 9, 11 and 12, MassDEP File #247-1059**

- Applicant: Andrew Collins
- Representative: Waterman Engineering
- Request: Evaluation of a Baseball Playing Field Center, Medical Facility and associated site work for compliance with an Order of Conditions
- Jurisdiction: Buffer Zone to a Bordering Vegetated Wetland

Mr. Young noted that the discussion was continued from the November Commission meeting because there were additional questions regarding the work. Ms. Paula Thompson of Waterman Designs and Mr. Andrew Collins from New England Baseball were present. Ms. Thompson provided the Commission as-



built which included more information as requested by the Commission and required by Order of Conditions (OOC). The updated as-builts included the limit of clearing, 100' buffer and River Front Area. Ms. Thompson noted that the area still under construction on the site is not subject to the partial COC. Ms. Thompson confirmed that a partial COC was requested to receive a Certificate of Occupancy for UMass Medical. Ms. Thompson added that there are still soil piles on the site and the old building does not have a tenant but they are working with a realtor to find a new tenant for the space. The Commission discussed issuing a partial COC.

Ms. Kalloch-Getman noted that in her best profession judgement everything was in compliance with the OOC. Ms. Thompson added that the site is very stable. Mr. Helwig confirmed with Ms. Thompson that the Building Inspector has requested a COC in order to issue a Certificate of Occupancy. Ms. Kalloch-Getman provided the Commission a letter from Waterman clarifying the request and displayed the details of the retaining wall. Ms. Kalloch-Getman added that the only unstable area on the site is outside of the Commission's jurisdiction and the area near the wetland and River Front Area has been hydro-seeded and is stable. The Commission discussed the area of remaining work and noted it could be more stable. Ms. Thompson recommended silt fence be added. Ms. Thompson confirmed that they will return for a complete COC when all of the work has been completed. The Commission requested that silt fence be added to the area still under construction.

Mr. Baldelli motioned to issue a partial Certificate of Compliance for 333 Southwest Cutoff. Mr. Helwig seconded the motion and the vote was unanimously in favor of the motion.

#### **Request for Certificate of Compliance, 407 Whitney Street, Map 15, Parcel 3, MassDEP File #247-1073**

- Applicant: Peter Simoneau
- Request: Evaluation of a septic system replacement
- Jurisdiction: Buffer Zone to a Bordering Vegetated Wetland

Ms. Kalloch-Getman conducted a site visit and noted the site looked stable and provided plans. The Commission reviewed the plans. Ms. Kalloch-Getman noted that the applicant had requested a COC last year and at that time the soils were loose and an area near the septic tank had caved in but the area is now solid.

Mr. Helwig motioned to issue a Certificate of Compliance for 407 Whitney Street. Ms. Guldner seconded the motion and the vote was unanimously in favor of the motion.

#### **508 Green Street – Informal Discussion**

Mr. Frank Birchieri of Bertin Engineering was present. Ms. Kalloch-Getman displayed a site plan and noted that the applicant had received an OOC in October. Ms. Kalloch-Getman had received a call from the applicant after the hearing inquiring why so few trees were being removed and they had felt there was a miscommunication and they would like a significantly large number of trees to be removed. Mr. Birchieri stated that the proposed pool was located 40 feet off the house but during the planning the pool location was moved to 30 feet from the house and farther from the wetlands. The applicant thought the pool was approved to be 40 feet from the house and Mr. Birchieri stated that there was a communication breakdown between Bertin Engineering and their client. Mr. Birchieri stated that the applicant would like to request that the pool be located 40 feet off the house and ten feet closer to the wetland. Mr. Birchieri displayed plans showing the limit of work for the new request. All work will be

outside of the 15' no structure zone and grading will take place up to the 30' no build zone. Ms. Kalloch-Getman asked if stump removal and landscaping was proposed and Mr. Birchieri stated he was not aware of the applicants landscaping plans. Two trees were proposed for removal within 15' of the wetland and approved as part of the OOC. Mr. Birchieri requested that the OOC be amended to allow the pool 40 feet from the house.

The Commission discussed the request for amendment to the OOC. Mr. Baldelli noted that the request includes cutting trees and moving the pool but still meets the regulations. Mr. Baldelli asked Mr. Birchieri if they could use more siltation devices and if stumping would occur. Mr. Birchieri stated he assumed the applicant would be stumping. The Commission discussed and requested that the amended Order include more erosion control devices and tree cutting and stumping details.

### **Lincoln Street School**

Ms. Kalloch-Getman displayed plans for the Lincoln Street School project. Mr. Young noted that the drainage basin was not operating or built as designed. Mr. Phil Palumbo and Mr. Tim Alix of Colliers were present. Mr. Palumbo stated that he was notified in late October of the issue by the general contractor and noted that the bio swale was not built as designed. Mr. Palumbo stated that a drilling company installed four soil borings to define the soils in the center of the swale and three additional today and will provide a field report of what was observed. Mr. Palumbo added that the area around the swale had not settled and that the area below the swale had good draining soil. Mr. Palumbo stated in past jobs he has removed the plantings added six inches of soil and added new bio swale mix. Mr. Young recommended that Mr. Palumbo wait and see what the soil report finds before removing the plantings. Mr. Palumbo stated that the time of year the swale was completed could have been a factor.

Mr. Alix asked the Commission if there were other questions and noted that he was aware of a lot of confusion and poor communication during the project. Ms. Kalloch-Getman confirmed that Mr. Palumbo is still the point of contact for the project. Mr. Young noted the Commission member Mr. Justin Dufresne was not present but had concerns about safety issues with the school. Mr. Palumbo confirmed that they are waiting for the civil engineering report before stripping soil out of the area before winter. Mr. Palumbo added that the civil engineer noted that the plantings had not grown in which may have contributed to the issues and recommended they wait until spring to see how the plants grow and affect the ponding in the swale.

Mr. Palumbo stated that there was less than six inches of water each time he measured it. Mr. Baldelli expressed concerns about winter and having six inches of water and ice and the safety of the children at the school. Mr. Palumbo stated that it does not make sense to strip out the soil now and recommend they install a snow barrier to keep children out of the area. Ms. Kalloch-Getman asked how the depth of water was measure and stated that she had checked the swale after a small rain event of ¼ of an inch in 24 hours and there was more than six inches of water. Mr. Palumbo stated he provided photos of the swale with less than six inches of water. Ms. Kalloch-Getman stated that she went out to the middle of the swale with waders and took her measurement and noted the area is not level across the bottom of the swale asked how it would be addressed. Mr. Alix stated he was not aware that the as built deviated from the original plan. Mr. Palumbo stated he believe the work is close to what was proposed. Mr. Alix recommended that any concerns be brought to Colliers and Ms. Kalloch-Getman confirmed that she has. Mr. Young confirmed that Ms. Kalloch-Getman will be attending the next site meeting. Mr. Alix said he would like to work together and will resolve any issues before the contractor leaves the site. The Commission will continue to discuss the project during the January 11, 2016 meeting.

## 150 Church Street

Mr. Brian Brosnan of VHB was present and provided a plan for the Commission for the Church Street Bridge project. Mr. Brosnan noted that intersection improvements ended at the existing culvert on Church Street. Three lanes now taper down to two lanes going in each direction and recommendations through traffic analysis show that the extra lane should be extended past the existing culvert. Mr. Brosnan noted that the culvert will need to be widened to accommodate the additional lane. Mr. Brosnan confirmed that there is a lot of width in the area and no additional land will be required as part of the project. A precast structure will be used for the replacement culvert. Mr. Brosnan noted that meetings have occurred with staff, fire and police and determined that the best situation for traffic would be to keep one lane in each direction open because there is not a sufficient detour in the area. The work will be completed in three phases, widening each section at a time to keep two lanes active. A meeting with utility companies took place to discuss the water, gas, sewer and overhead electric. A NOI will be filed for the project.

Mr. Brosnan noted that once the Conservation Commission approval is made the project will go out to bid and will be built during August during low flow for the brook. The project will require a Town meeting vote. Mr. Brosnan noted that the general plan highlights the intent to meet Best Management Practices (BMPs) for drainage and storm water control. Mr. Brosnan added that flow will be controlled using cofferdams and footings will be completed using precast structures. New drainage with hoods, sumps and manholes will be installed with an outfall on the south side of the bridge. Mr. Brosnan noted that he has met with the Historical Committee a few times and provided options for the historical wall and determined it will be rebuilt and replicated using the same facing. The existing outfall will be replaced with a plunge pool and grass swale on the edge of the brook. Mr. Brosnan noted that the area has been flagged and a certified abutters list has been requested and he expects the NOI to be filed in time for the January 11, 2016 meeting. Ms. Kalloch-Getman confirmed she has been attending meetings regarding the project and will continue to pass along information to the Commission. Mr. Brosnan described the bidding process and noted that the work will be awarded to a qualified MassDOT vendor and that the project is larger than the Otis Street bridge project.

## Discussion Items

**370 Southwest Cutoff:** Ms. Kalloch-Getman noted that the project at 370 Southwest cut off is looking good.

**394 Davis Street:** Ms. Kalloch-Getman noted she has been in touch with the new owner and is getting a plan for the wetland replication.

**81 Maple Lane:** Ms. Kalloch-Getman noted that site was in worse shape and that she requested that the erosion control barriers be repaired where they had fallen down. Ms. Kalloch-Getman will be meeting with the contractor tomorrow to ensure the site is fixed and secure and confirm that the landscaping is complete.

**Newton Street:** Ms. Kalloch-Getman noted that there are no new updates on the Newton Street project but the street looked dirty from logging truck activity. Ms. Kalloch-Getman later confirmed that the road looked okay and notified the Town Planner and Town Engineer.

**Bylaw Discussion:** Ms. Kalloch-Getman will look into surrounding towns and court cases regarding isolated wetland regulations.

**2016 Meeting Schedule:** Mr. Helwig motioned to approve the proposed 2016 Conservation Commission meeting schedule. Ms. Guldner seconded the motion and the vote was unanimously in favor of the motion.

**DCR Grant:** Ms. Kalloch-Getman noted that she was notified of a DCR Grant opportunity for outreach to land owners interested in donating property. Mr. Young requested that Ms. Kalloch-Getman provide the information to the Open Space Committee.

**Phosphorous Regulations:** Ms. Kalloch-Getman reminded the Commission that as of December 5, 2015 the new plant nutrient regulations for phosphorous are in effect.

**Westborough State Hospital:** Ms. Guldner noted that a Committee for input regarding the Westborough State Hospital has been formed. Mr. Young noted Town Planner Ms. Kathy Joubert is on the Committee. The Committee discussed the portion of the property in Northborough which is still owned by the State.

The meeting adjourned at 10:08 PM

Respectively submitted,

Jacque Goring