



TOWN OF NORTHBOROUGH Conservation Commission

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Conservation Commission Meeting Minutes March 14, 2016

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

Others Present: Kale Kalloch-Getman, Conservation Agent; Jacquie Goring, Board Secretary; Scott Charpentier, Assistant Director of Northborough Public Works; Jim Venincasa, FJ Properties; Brian Harris, resident of 416 Whitney Street; Jonathan Gorham, resident of 391 Whitney Street; Jim Shore, resident of 34 Coolidge Circle; Scott Wellman, resident of 67 Coolidge Circle; Robert Frank, resident of 420 Whitney Street; and Joan Frank, resident of 420 Whitney Street.

Approval of Minutes: Ms. Diane Guldner motioned to approve the minutes of February 22, 2016 as written. Mr. Todd Helwig seconded the motion and the vote was unanimously in favor of approval.

Massachusetts Association of Conservation Commissions (MACC) Annual Meeting – Mr. Greg Young informed the Commission that the MACC Annual Meeting was on March 5, 2016 and noted that he attended a workshop on wetlands enforcement and qualities of high performing Conservation Commissions. Mr. Young added that the Northborough Conservation Commission had many of the same criteria discussed in the workshop and noted the benefits having Commission members with a diversity of backgrounds and careers. Mr. Young also attended a work shop with Ms. Diane Guldner on precipitation impacts on wetland regulations and noted that precipitation events are likely going to be heavier and less frequent with more intense rainfall. The Commission discussed the recent Cornell precipitation data and changes to the 100 year storm and precipitation amounts. Mr. Young also noted the format changes made to the MACC Annual meeting which now includes three workshops rather than four.

Hudson Street Pump Station – Mr. Scott Charpentier, Assistant Director of Public Works, was present to discuss the proposed improvements to the Hudson Street sewer pump station. Ms. Kalloch-Getman displayed plans and photos of the existing conditions of the site. Mr. Charpentier informed the Commission that the majority of the proposed work is inside of the existing pump station and includes pump and valve changes, new lighting and safety manways. Mr. Charpentier provided the Commission copies of the proposed site work plan which includes paving the existing stone dust parking lot and access area around the existing building. Mr. Charpentier confirmed with the Commission that the existing stone dust parking lot and access drive is problematic for plowing and maintenance and requires new material to be brought in each year. Mr. Charpentier added that the existing stone dust is 98% impervious and erodes during large rain events. The Commission inquired if pervious pavement was considered for the project and Mr. Charpentier noted that pervious pavement would not be applicable to the project and is predominately used for sidewalks or in low-impact development projects. Mr. Charpentier also noted that the site is previously disturbed and paving the area will decrease the amount of sediment running off into the resource area.

Mr. Charpentier stated that double straw wattles and silt fence has been installed as erosion controls and that significant run off is not expected during the proposed construction. The Commission discussed

the proposed paving and inquired if curbing could be installed to direct the flow of water away from the resource areas and into the catch basins on Hudson Street. Mr. Charpentier stated that there is no curbing along the street and would not prevent the water from entering the resource area. Mr. Charpentier confirmed that the sewer pump house is visited once to twice a day by DPW workers with the exception of holidays. Ms. Kalloch-Getman noted that she first reviewed the proposed work with Mr. Dan Nason, Public Works director, in January 2015 and determined the location of the mean annual water line of the adjacent perennial stream approximately 50 to 60 feet from the site. The site is also within 100' of a wetland. Mr. Charpentier added that the slope of the site is very steep which Ms. Kalloch-Getman confirmed.

The Commission discussed the proposed paving and noted that if the site was paved it could be cleaned with a street sweeper in the spring to avoid sedimentation into the wetland. Mr. Charpentier confirmed that the proposed paving will have the same footprint of the existing stone dust parking lot and expects the paving to be started after the work inside of the building is completed, in approximately five months. The Commission discussed the requirement for filing for the proposed work. Ms. Kalloch-Getman added that she spoke with Mr. Charpentier and Mr. Nason about filing for either a Notice of Intent (NOI) or a Request for Determination of Applicability (RDA) and noted that the same information would be required for both applications. Ms. Kalloch-Getman also noted that if the Commission would like a DEP file number for the site an NOI should be filed. Mr. Charpentier stated that he would be able to file an RDA himself and that the engineer who created the proposed plans may not allow an NOI be filed using his plans. Mr. Charpentier added that no alterations to the resource areas are proposed and Ms. Kalloch-Getman agreed that an RDA would be applicable for the project. The Commission discussed why the area was finished with stone dust previously and Mr. Charpentier noted that the parking lot was intended to be paved but due to funding issues stone dust was used to complete the project. The access around the building is required for emergency personnel to enter the back of the building. The Commission agreed that an RDA should be filed and Mr. Charpentier confirmed he would file for the April Commission meeting. The Commission requested Ms. Kalloch-Getman research why the parking lot was not paved when it was originally constructed approximately ten years ago.

154 Rive Avenue – Ms. Kalloch-Getman displayed GIS maps for 154 Rice Avenue and reminded the Commission that she had received a call about the site during a large storm event last month. Ms. Kalloch-Getman displayed photos of a very steep slope which was not stabilized and water and sediment flowing down the street onto the 163 Rice Street property. Ms. Kalloch-Getman noted that portions of the 163 Rice Street property are within the River Front Area and added that the issue has since been addressed. Mr. Jim Venincasa, FJ Properties, was present. Ms. Kalloch-Getman informed the Commission that she contacted Mr. Venincasa the day she received the complaint and discussed with Mr. Venincasa what needed to be done and it was completed immediately. Ms. Kalloch-Getman displayed photos of the repair and noted that material was moved further back from the slope and woodchips were spread across the unstable area of the slope. Additionally, an area of rip rap was installed in an area at the end of the driveway where runoff had ponded which Ms. Kalloch-Getman noted made a significant difference with the issue. Ms. Kalloch-Getman also noted that Mr. Venincasa has also swept the area and Ms. Guldner added that the area and street now look clean.

Mr. Venincasa stated that rip rap was already in the area where the pooling occurred but through the winter the area became frozen and compacted. Ms. Kalloch-Getman added that the ponded area and tracking pad were cleaned out and refreshed with more rip rap. Mr. Venincasa noted that he removed all of the old rip rap and added new material, installed check dams on the sloped driveway, pulled material back from the slope and added hay bales. Mr. Venincasa added that the site work should be completed within a few weeks and Ms. Kalloch-Getman confirmed the site is now stable. The

Commission discussed the erosion issues on the site and potential future issues with runoff on the site. Mr. Venincasa displayed a plan for the site which included grading and described the site and runoff issues during construction. The Commission recommended that an area of rip rap be permanently installed on either side of the driveway to allow infiltration of runoff before running down the street. Mr. Venincasa clarified with the Commission the area of proposed rip rap which will be located from the existing sign to the end of the driveway, an area approximately 20 to 30 feet long. The Commission requested that Mr. Venincasa submit a plan for Ms. Kalloch-Getman's review and approval.

Ongoing Project Updates:

432 Whitney Street – Ms. Kalloch-Getman displayed photos of the site for the Commission. Mr. Young informed the Commission about his site visit conducted at 432 Whitney Street with Ms. Kalloch-Getman and Mr. Fred Litchfield, Town Engineer. Mr. Young stated that they walked along the and rail road tracks and observed the site activities from offsite. Mr. Santo Anza, property owner of 432 Whitney Street, arrived onsite and met with Mr. Young and Mr. Litchfield. Mr. Young confirmed that the proposed work Mr. Anza informed the Commission of during the November 2015 Commission meeting, including tree clearing within logging road, was the only work completed at the time of the site visit. Mr. Young described the photos from the site visit to the Commission. Ms. Kalloch-Getman also noted that the tree clearing currently being conducted at the site is all within the upland portion of the property and far from the wetland resources on the site. Ms. Kalloch-Getman clarified that all of the photos were taken from the rail road tracks and they did not enter the site during their visit.

Mr. Young noted that the he and Mr. Litchfield discussed with Mr. Anza his future plans for the site which include bringing in fill material to the site to make a driveway and build a house on the property. The Commission expressed concerns about the slope, integrity of the fill material and the amount of fill proposed. The discussed proposed fill for the site is 100,000 yards. Mr. Young noted that Mr. Anza stated that his land is under Chapter 61A and the Commission discussed the proposed work he discussed during the November 2015 meeting and potential exemptions for agriculture. The Commission also discussed the NOI filing requirement for any other proposed work other than tree cutting. Mr. Young noted that Mr. Litchfield, Ms. Kalloch-Getman, the Town Manager, Town Planner, Town Council and Mr. Anza and his attorneys may meet to clarify the proposed plans for the site and any potential exemptions for Chapter 61A land. The Commission confirmed with Mr. Young that as of the time of the site visit no work was completed that what was discussed at the November 2015 Commission meeting. The Commission noted that a lot of wood has been removed from the site and discussed the potential proposed filling and cow grazing. Mr. Young noted that Mr. Anza's interpretation of Chapter 61A allows him exemption from the Wetlands Protection Act (WPA) and that local bylaw should also be considered.

The Commission discussed the Chapter 61 application process and Ms. Kalloch-Getman noted that Mr. Anza applied for Chapter 61A with the Assessor's office in January 2016. Ms. Kalloch-Getman described the Forest Cutting Act and forest cutting plan procedure and regulations including the review by the State Forester and the 10 day comment period for the Commission. Ms. Kalloch-Getman reminded the Commission that Mr. Anza has not filed a forest cutting plan and the work he is currently completing was discussed during the November 2015 Commission meeting and determined not to be jurisdictional. Ms. Kalloch-Getman contacted the State Forester after the site visit with Mr. Young and Mr. Litchfield. Ms. Kalloch-Getman also discussed the exemptions for maintenance and improvements for areas already in agriculture. Mr. Young reiterated the need for a meeting to discuss the proposed plans for the property.

Mr. Robert Frank, resident of 420 Whitney Street, stated that he was first made aware of the site activities when he heard noises from the site and was shocked to see the site was clear cut. Mr. Frank expressed concerns about the tree cutting and the agricultural exemption claims and noted that he has heard frogs at the site in the past but has not heard them this year. Mr. Brian Harris, resident of 416 Whitney Street, stated that he reviewed the November 16, 2015 minutes and noted that Mr. Anza's statement that he does not have abutters is incorrect and expects to be notified when appropriate. Mr. Harris expressed concerns about Mr. Anza's interpretation of the agricultural exemptions and recommended that an independent council review the exemptions. The Commission noted that they plan to continue to communicate with Mr. Anza regarding the site. Ms. Joan Frank, resident of 420 Whitney Street, stated that the area is beautiful and often used for walking and expressed concerns regarding the amount of yardage permitted to be filled on the property. Ms. Frank also noted that the site work is not visible from Whitney Street and continued to express concerns about the site work and the effects on wildlife and habitat. The Commission noted that the property is privately owned and can only regulate the work within their jurisdiction.

Mr. Scott Wellman, resident of 67 Coolidge Circle, noted his concerns about the increased potential for pollutants as a result of the tree cutting and agricultural activities on the property. Mr. Wellman also expressed concerns about the water quality of Coolidge Brook and stated that there has been a change in color of the water and no longer has fish. Mr. Wellman also inquired about the tax liability of Mr. Anza for the property and the Commission noted that issue is unrelated to their jurisdiction. Mr. Jim Shore, resident of 34 Coolidge Circle, informed the Commission that he has recently begun working from home and often walks the trails of Northborough with his dog to deal with his post-traumatic stress disorder. Mr. Shore provided photos for the Commission of the tree clearing on the property and expressed concerns about tree clearing beyond the road conducted by Mr. Anza. Mr. Shore also expressed concerns about cows and horse being pastured together and the boat and other debris on the site. Mr. Shore stated that while out walking he met an operator on the site who stated that he had no limitations when clearing the site. Mr. Wellman also noted that he had met with Ms. Kalloch-Getman about discussed his concerns and requested a site visit which was later cancelled. Mr. Wellman also stated that he has called the Northborough Police regarding the unnerving sounds coming from the site and requested that the Town works collaboratively together and that an independent party be present at any meetings regarding the site. Ms. Kalloch-Getman and Mr. Young clarified that the Commission was advised to handle site visits internally first and advised the audience not to trespass onto the 432 Whitney Street property.

Mr. Jonathan Gorham, resident of 391 Whitney Street, stated that wetlands are present on the property and clarified with the Commission that the current tree clearing does not require a permit with the Commission. Ms. Kalloch-Getman confirmed that the tree clearing is occurring outside of the 100' wetland buffer but has not observed the tree cutting on the cart path. The Commission described their jurisdiction and the 15', 30' and 100' buffers and noted the current tree clearing is well outside of the 100' buffer. Ms. Kalloch-Getman also noted that there are exemptions under the Forest Cutting Act and agricultural activities. Mr. Gorham confirmed with the Commission that the current tree clearing has been confirmed to be out of the Commission's jurisdiction during the site visit where wetland flags were visible from outside of the property line. The abutters clarified with Ms. Kalloch-Getman the potential exemptions for agriculture and the Commission noted that Mr. Anza has stated the land is being used for agriculture and confirmed the evidence of cows on the property. The Commission discussed the Chapter 61A designation and confirmed any additional work on the property will require a NOI and recommended that the abutters notify the Town if any equipment is observed entering the site. The present abutters continued to express concerns about the activities on the site and encouraged the

Commission to work with the Town and have independent review of the site. Ms. Kalloch-Getman ensured the abutters that she and the Commission will stay involved and monitor the project.

Mr. Wellman clarified with the Commission that additional work outside of the current tree clearing would trigger the need to file an NOI including if a request for an Earthwork Permit was filed. Ms. Kalloch-Getman noted that the State Forester, Laura Dooley, could be contacted regarding concerns about the tree cutting activities. Ms. Kalloch-Getman also clarified the updated abutter notification regulations for activities located within large properties. Mr. Wellman noted that he feels that he should have received an abutter notification due to the location of a parcel he owns adjacent to the rail road tracks and aqueduct. Mr. Wellman also recommended the use of cameras with live stream video to monitor the site. The abutters present for the discussion continued to express concerns about the taxes for the property. The Commission noted that they are working with other Town Boards and Commissions and recommended that the abutters with concerns about tax liabilities should direct their questions to the Assessor's office.

370 Southwest Cutoff – Ms. Kalloch-Getman noted that the site is currently stable.

394 Davis Street – Ms. Kalloch-Getman informed the Commission that the new owner of 394 Davis Street, Mr. Randy Boyle, was expected to attend this evenings meeting but was not present. Ms. Kalloch-Getman noted that Mr. Boyle has been ill and that there was no new status updates from the last meeting.

5 Bearfoot Road – Ms. Kalloch-Getman noted that she issued the Order of Resource Area Delineation (ORAD) for 5 Bearfoot Road and Mr. Scott Goddard did not agreed with the interpretation of the ORAD. Mr. Young reviewed the minutes from the hearing during the January meeting which included Mr. Goddard's comment after the motion and before it was seconded. Mr. Goddard interjected after the motion was made and requested that the ORAD include that the bordering vegetated wetland (BVW) delineation was accurate, the Isolated Land Subject to Flooding (ILSF) located on the site was not subject to the Commission's jurisdiction and that there was no River Front Area on the site. Mr. Young noted that the motion was made and Mr. Goddard interjected before the motion was seconded. The Commission discussed the issue and requested clarification on what was included on the plan. Ms. Kalloch-Getman noted that the plan does not show the ISLF and that she issued the ORAD based on what the Commission discussed and decided and did not include that there was no River Front area or any other resource areas on the property. Ms. Kalloch-Getman stated that Mr. Goddard would like that information included on the ORAD and would like a new ORAD issued which includes those details. Ms. Kalloch-Getman noted that her understanding is that the Commission did not vote on those items. Mr. Wayne Baldelli and Mr. Helwig recommended that Mr. Goddard refile or apply for an amendment. Mr. Dufresne noted that the Commission approved the plan and if something was not included on the plan it is assumed that it is not on the site. Ms. Kalloch-Getman will update Mr. Goddard.

O Church Street – Ms. Kalloch-Getman informed the Commission that she met onsite with Mr. Goddard and Mr. Glenn Krevosky. Mr. Krevosky recalled that he looked at the site 25 years ago and found the property to be an unbuildable lot. Mr. Krevosky contacted the State Ethics Commission and was informed that they did not expect there to be a problem and would issue a statement to that effect. Ms. Kalloch-Getman noted that Mr. Krevosky and Mr. Goddard are now in communication.

508 Green Street – Ms. Kalloch-Getman noted that she has visited 508 Green Street and assisted the surveying firm with hay bale staking instructions.

280 Newton Street – Ms. Kalloch-Getman informed the Commission that she is expecting a filing for 280 Newton Street for the April meeting.

0 Newton Street – Ms. Kalloch-Getman informed the Commission that no new work has been completed at 0 Newton Street and that some tree cutting has been completed and she would like to confirm that the wetland flags are still up. Ms. Guldner noted that during the recent rain storm the area flooded over onto Mr. Bemis’s property. The Commission discussed the flooding on the site. Ms. Kalloch-Getman noted that after Mr. Mohamad Ramadan’s certification was revoked and he was not able to hire someone in time for the winter and just tightened up. Ms. Kalloch-Getman added that she has been keeping an eye on the site for conservation related concerns. Ms. Kalloch-Getman confirmed that the road work is proposed to be completed first, prior to the development, and that Mr. Ramadan must hire someone approved by the Public Works director. Ms. Kalloch-Getman also noted the potential vernal pool which was identified eight years ago but has not been certified and the Commission discussed certifying the vernal pool.

299 Davis Street – Ms. Kalloch-Getman informed the Commission of a violation at 299 Davis Street and displayed photos of the work which includes tree cutting in the wetland and filling of wetlands with wood chips. Ms. Kalloch-Getman sent a certified letter, met the property owner onsite, and requested that they attend the meeting. The owner communicated to Ms. Kalloch-Getman that they would not attend the meeting and believes they have a right to continue the work. The Commission discussed the violation would like the material be removed from the wetland. Ms. Kalloch-Getman will send another certified mailing requesting the owner to cease and desist and will follow up with an enforcement order and contact DEP, if necessary.

Davidian’s Composting – Ms. Kalloch-Getman provided the Commission with copies of a letter from the abutters of the Davidian’s composting facility. Ms. Kalloch-Getman noted that the letter was sent to various Town and State officials but was not sent to Fish & Wildlife, the abutting property owner. Ms. Kalloch-Getman described the location of the site and displayed a GIS map of the property and noted the location and size of the compost rows in 2014 and 2016. Ms. Kalloch-Getman added that she drives by the site frequently and has never noticed odors coming from the site. An abutter to the property contacted Ms. Kalloch-Getman to express concerns about the composting facilities effect on Howard Brook. The Commission discussed the locations of the compost rows and Howard Brook and Ms. Kalloch-Getman noted the close proximity of the composting area to a farm pond which drains into the brook. Ms. Kalloch-Getman also confirmed that the composting activities are regulated by the Department of Agriculture. The Commission discussed their jurisdiction and the concerns noted by the abutters including the smell, impact to roads, and water quality. Ms. Kalloch-Getman noted that the abutters could file an RDA for the property. The Commission expressed concerns about the water quality of Howard Brook, a cold water fishery, and discussed water sampling. Ms. Kalloch-Getman noted that Fish & Wildlife and OARS may have water sampling data available for Howard Brook. The Commission noted that if historic data is not available samples could be taken upgradient and downgradient of the composting facility. Ms. Kalloch-Getman will contact OARS regarding water quality data for Howard Brook.

40 Bearfoot Road – Ms. Kalloch-Getman noted that a filing for 40 Bearfoot Road will likely be on the next agenda for a storage facility and parking lot. Ms. Kalloch-Getman described the location of the site and resource areas.

Correspondence

United States Geological Survey Sampling – Ms. Kalloch-Getman informed the Commission that she was notified of sampling of the Assabet River by the United States Geological Survey (USGS). Representatives from the USGS will attend either the April or May Commission meeting.

Storm Water Structures – Ms. Kalloch-Getman informed the Commission that a storm water structure company would like to meet with the Commission regarding their line of storm water structures.

Mail – Ms. Kalloch-Getman reviewed the mail received by the Commission including a mailing from Sudbury Valley Trustees, a letter regarding conservation easements on the Fish & Wildlife property and a mailing regarding MACC erosion control guides and laminated WPA regulations available for purchase. Ms. Kalloch-Getman also noted that she has been given permission from Ms. Kathy Sferra, Town of Stow Conservation Coordinator, to adapt an outreach document for homeowners.

Commission Member Re-appointments – Mr. Baldelli and Mr. Helwig confirmed their re-appointment to the Commission. Ms. Kalloch-Getman will inform the Board of Selectman.

Farming in Wetland Resource Areas Guideline – Ms. Kalloch-Getman provided the Commission copies of the Farming in Wetland Resource Areas guidelines.

Bylaw Review – Mr. Young and Mr. Baldelli will meet with Ms. Kalloch-Getman to review the bylaw. Ms. Kalloch-Getman noted that she was contacted by the Town of Berlin regarding creating a bylaw and recommended that both Towns work together when reviewing the bylaw.

Community Outreach – Mr. Young noted that he would like the Commission to take part in community outreach including having information at the library and attending Applefest. Mr. Young also recommended sending mailings to abutters to resource areas and suggested a student or intern could be used to help with outreach. Ms. Kalloch-Getman noted that the owner of 299 Davis Street expressed concerns about being contacted regarding working without a permit and stated that all of the neighbors have also completed work without a permit.

Northborough Junior Women's Club – Mr. Young informed the Commission that he and Ms. Kalloch-Getman met with the Junior Women's Club regarding conservation and the members would like to know more about water sampling.

Elementary School Wetland Science Project – Ms. Kalloch-Getman informed the Commission that she was contacted by the Northborough Public Schools requesting resources for the third grade wetland science project.

April Meeting – The next Commission meeting is scheduled for April 11, 2016 with site visits on April 9, 2016.

The meeting adjourned at 9:20 PM

Respectively submitted,

Jacque Goring