



TOWN OF NORTHBOROUGH Conservation Commission

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Conservation Commission Meeting Minutes May 16, 2016

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

Others Present: Kale Kalloch-Getman, Conservation Agent; Jacquie Goring, Board Secretary; Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Matthew Moyon, Tetra Tech, Inc.; Ed Hutchinson, Tetra Tech, Inc.; William Clougherty, MassDOT; Anne Backstrom, resident of 152 Bartlett Street; Steven Stone, resident of 152 Bartlett Street; Jenna Kyel, resident of 71 Newton Street; Jo-Ann Sullivan, resident of 103 Church Street; and Mohamad Ramadan, resident of 85 Newton Street.

Approval of Minutes: Mr. Todd Helwig motioned to approve the minutes of April 11, 2016 as annotated. Mr. Todd Helwig seconded the motion and the vote was unanimously in favor of approval.

Abbreviated Notice of Resource Area Delineation, 1 Lyman Street, Map 66, Parcel 9, 10 and 11

- Applicant: Ian Gow
- Representative: Vito Colonna, Connorstone Engineering
- Request: New construction, Commercial Self-Storage facility
- Jurisdiction: Buffer Zone to a Bordering Vegetated Wetland

Ms. Kalloch-Getman informed the Commission that she had received a request from Mr. Vito Colonna to open and continue the hearing for the Abbreviated Notice of Resource Area Delineation (ANRAD) for 1 Lyman Street until the June 13, 2016 Commission meeting. Mr. Colonna also confirmed that the applicant would like to continue the process for a peer review which was discussed during the April 11, 2016 Commission meeting for the continued Notice of Intent (NOI) for 1 Lyman Street. Ms. Kalloch-Getman received quotes for peer review from Oxbow Associates for \$4,350 and Patrick C. Garner Co., Inc. for \$2,200. Mr. Litchfield confirmed that the Zoning Board of Appeals variance hearing for the project was continued to May 24, 2016. The Commission confirmed with Ms. Kalloch-Getman that the applicant would like to move forward with the peer review prior to the ZBA hearing. Ms. Kalloch-Getman recommended selecting Patrick Garner Co., Inc. for the peer review.

Ms. Guldner motioned to hire Patrick Garner Co., Inc. for the peer review of 1 Lyman Street. Mr. Tougas seconded the motion and the vote was unanimously in favor of the motion.

Mr. Tougas motioned to continue the hearing for the Abbreviated Notice of Resource Area Delineation filed by Ian Gow until June 13, 2016. Mr. Baldelli seconded the motion and the vote was unanimously in favor of the motion.

Notice of Intent, 343 Newton Street, Map 7, Parcel 38

- Applicant: Mohamed Ramadan
- Representative: Glenn Krevosky
- Request: Construction of a single family home and driveway
- Jurisdiction: Buffer Zone to a Freshwater Wetland

Mr. Ramadan was present and informed the Commission that he would be submitting an as-built plan for the expired 2007 NOI. Ms. Kalloch-Getman displayed the plan approved by the Commission in 2007. Ms. Kalloch-Getman informed the Commission that a site walk was conducted and some of the driveway work had been completed. Mr. Ramadan requested to continue the public hearing for the NOI until a request for a Partial Certificate of Compliance (COC) is submitted.

Ms. Guldner motioned to continue the hearing for the Notice of Intent filed by Mohamed Ramadan until June 13, 2016. Mr. Tougas seconded the motion and the vote was unanimously in favor of the motion.

Request for Determination of Applicability, 71 Newton Street, Map 14, Parcel 15

- Applicant: Jenna Kyes
- Request: Determine whether proposed residential fence is subject to the Wetlands Protection Act and Northborough Town Bylaw
- Jurisdiction: Buffer Zone to a Freshwater Wetland, Riverfront Area

Ms. Jenna Kyes, resident of 71 Newton Street was present. Ms. Kalloch-Getman displayed a GIS map of the property and noted that Coolidge Brook bisects the property and the entire property is within the 200' River Front Area. Coolidge Brook was delineated as part of the Newton Street enlargement project and delintation flags are still present. Ms. Kalloch-Getman noted that Ms. Kyes has two young children and dogs and is concerned about coyotes and road traffic and would like to install a fence. Ms. Kyes is proposing to allow an existing area of lawn adjacent to the stream to revegetate naturally. Ms. Kalloch-Getman displayed Title V plans for the site which included a hand drawn area for the proposed fence. Four foot chain link fence is proposed approximately fifteen feet from the mean annual high water line of Coolidge Brook at the closest point. Ms. Kyes noted that the placement of the proposed fence was adjusted to avoid the 15' no disturb area. Ms. Kalloch-Getman also displayed plans from the fence contractor. Ms. Kyes clarified that the plans show two areas of fencing, a chain link fence located fifteen feet from the brook and a smaller wooden fence area proposed as a second option but would prefer the chain link. The Commission discussed the proposed fencing and noted that proposed fencing is outside of the 15' no disturb area and that fencing is not considered a structure which are not permitted within the 30' no structure buffer. Ms. Kyes noted that the fencing contractor confirmed that chain link fencing would cause the least amount of damage and would not require concrete. The Commission requested that the fill from the fence posts be remove from the area via wheelbarrow or small equipment. Ms. Kalloch-Getman requested that Ms. Kyes contact her when the work is scheduled to conduct a site visit.

Mr. Tougas motioned to issue a Negative 3 Determination for the Request of Determination filed by Ms. Jenna Kyes. Mr. Baldelli seconded the motion and the vote was unanimously in favor of the motion.

Request for Determination of Applicability, Howard Brook at Interstate 290, Map N/A, Parcel N/A

- Applicant: Massachusetts Department of Transportation
- Representative: Edward Hutchinson, Tetra Tech
- Request: Determine whether proposed stormwater management system improvements are subject to Wetlands Protection Act
- Jurisdiction: Riverfront Area

Mr. Matthew Moyon, Tetra Tech, Inc.; Mr. Ed Hutchinson, Tetra Tech, Inc.; and Mr. William Clougherty, MassDOT were present. Mr. Moyon described the location of the proposed work which includes construction of a swale 300' west of the overpass of Green Street at Howard Brook. The proposed swale will be installed along Howard Brook to improve water quality as part of the MassDOT's efforts to mitigate water-quality impairments to the Assabet River. Mr. Moyon described the proposed work

including installation of stone check dams to prevent the direct flow from the existing catch basins to Howard Brook. The stone check dam voids will be filled with compost mulch and seeded with wildflower seed mix. Mr. Moyer noted that the entire State Highway layout map is within the River Front Area and flood plain. Mr. Moyer described the elevations associated with the Zone A flood plain elevation of 334 and noted that the drainage work will occur at elevation 335, outside of the flood plain. Mr. Hutchinson added that the proposed stormwater improvements are not considered alteration of the River Front Area. Mr. Clougherty confirmed that the project is scheduled to be advertised next month. Mr. Moyer added that the installation of the swale should take two to three weeks while the rest of the project will be ongoing. Mr. Clougherty stated that repaving of 290 will occur in Northborough, Marlborough, Shrewsbury and Worcester. The repaving has begun in Marlborough and the Northborough portion of the work is expected to start during either the 2016 or 2017 construction season.

Mr. Baldelli motioned to issue a Negative 3 Determination for the Request of Determination filed by Massachusetts Department of Transportation. Ms. Guldner seconded the motion and the vote was unanimously in favor of the motion.

Request for Determination of Applicability, Route 9, Map N/A, Parcel N/A

- Applicant: Massachusetts Department of Transportation
- Representative: William Clougherty
- Request: Determine whether proposed pavement resurfacing is subject to Wetlands Protection Act
- Jurisdiction: Buffer Zone to Freshwater Wetland

Mr. Clougherty provided plans for the proposed work and noted that he conducted a site visit with Mr. Moyer and Ms. Kalloch-Getman. Mr. Clougherty stated that the project includes 6.2 miles of paving in the towns of Northborough, Westborough and Shrewsbury. Mr. Clougherty added that stormwater upgrades will occur in Westborough but the only work occurring within Northborough is milling, paving and replacement of deteriorated concrete barriers. Mr. Clougherty clarified that Route 9 will not be widened and there will be no increase of impervious area. The existing catch basins will be raised or lowered to accommodate for the new pavement and the existing headwalls will be cleaned. Ms. Kalloch-Getman noted that recent regulation changes allow exemptions for road repairs within a right-of-way. Mr. Clougherty reviewed the resource areas which include a perennial stream and bordering vegetated wetland. Compost tubing will be used for erosion control barrier. The Commission requested that Ms. Kalloch-Getman be contacted if headwall repairs are necessary or any other additional work is required. Mr. Clougherty asked that the request be added as a condition to the determination. Ms. Kalloch-Getman requested that she also be notified when erosion controls have been installed on both MassDOT projects to conduct an erosion control inspection. Mr. Clougherty confirmed the project will also be advertised in June and is expected to start during either the 2016 or 2017 construction season.

Mr. Tougas motioned to issue a Negative 3 Determination for the Request of Determination filed by Massachusetts Department of Transportation. Mr. Baldelli seconded the motion and the vote was unanimously in favor of the motion.

Request for Certificate of Compliance, Otis Street Bridge , Map N/A, Parcel N/A

Applicant: Town of Northborough

Mr. Litchfield informed the Commission that the project has been completed and the stone was installed under the culvert as directed last month. Ms. Kalloch-Getman displayed plans for the project. Mr. Litchfield confirmed that the existing sluiceway will remain in place. Ms. Kalloch-Getman conducted

a site visit and confirmed the project has been completed. Mr. Litchfield confirmed that the dam is located on private property and that the I-beam was replaced during dewatering and the substructure has not changed. Mr. Litchfield added that the new culvert has been designed to carry water from the area and noted that he does not believe the culvert will be a point of constriction if the dam was to fail but does not know the downstream impact. Ms. Kalloch-Getman noted that the Office of Dam Safety requires that reports are submitted by all dam owners and that the Town typically get a copy of the reports or notification of work. Ms. Kalloch-Getman confirmed she has not received a report or notification of work on the dam. Ms. Kalloch-Getman added that she could contact the Office of Dam Safety but the dam is likely within compliance because the Town has not been contacted.

Mr. Baldelli motioned to issue a Certificate of Compliance for the Otis Street Bridge. Ms. Guldner seconded the motion and the vote was in favor of the motion.

Bigelow Nurseries – Whitney Street Lease Agreement Renewal – Mr. Litchfield informed the Commission that the Bigelow Family has had a lease agreement since the mid to later 1990's to lease a Town owned property on Whitney Street to grow nursery stock. At the time the lease agreement was drafted Town Council recommend that the lease be renewed every three years and the town be given a \$1,000 credit at the nursery. The Highway Superintendent requested that the credit be increased. Mr. Litchfield contacted Mr. Brad Bigelow and agreed to increase the credit to \$2,000. Mr. Litchfield provided the Commission a lease agreement to review and sign if agreeable.

Mr. Tougas motioned accept the lease agreement renewal terms with Bigelow Nurseries. Ms. Guldner seconded the motion and the vote was in favor of the motion.

The Commission signed the lease agreement renewal.

Project Updates

Assabet River Water Quality Monitoring – Ms. Kalloch-Getman confirmed that the U.S. Geological Survey (USGS) has installed equipment and has begun sampling the Assabet River. Ms. Kalloch-Getman noted that a graduate student from Boston College will be compiling the data and will have the data soon. Ms. Kalloch-Getman added that the Assabet River was identified to be impaired for phosphorous in a study completed ten years ago and it was recommended that sediment removal be conducted but it was determined not to be cost efficient.

Notice of Intent, 40 Bearfoot Road – Ms. Kalloch-Getman informed the Commission that the applicant requested a continuation for the Notice of Intent for 40 Bearfoot Road until the June 13, 2016 hearing.

0 Church Street – Ms. Kalloch-Getman informed the Commission that Mr. Scott Goddard and Mr. Glenn Krevosky will be conducting a site visit on May 24, 2016. Ms. Guldner noted that the abutter discussed her concerns about the proposed septic system at the property. Ms. Kalloch-Getman added that the father of the abutter attended the public hearing and discussed the issues that the abutter has had with water in her basement. During that hearing Mr. Goddard identified that there is a drain coming from the basement of the abutting property. Ms. Kalloch-Getman noted that the site visit has been delayed because the area is saturated and it has been not possible to collect a soil sample. Ms. Kalloch-Getman also noted that Mr. Goddard believes that water from the abutting home could be effecting the hydrology of the site. Ms. Kalloch-Getman added that the abutters father has contacted her by phone reiterating his concerns about the proposed site work. The public hearing for the Notice of Intent will be continued to June 16, 2016.

394 Davis Street – Ms. Kalloch-Getman informed the Commission that no additional work had occurred at the 394 Davis Street property and noted that the property owner has been ill. Ms. Kalloch-Getman added that the site is stable. The Commission discussed the need for a Certificate of Compliance (COC) and concerns about the property being sold without the silt removal being completed. Ms. Kalloch-Getman will contact the property owner to follow up.

Lincoln Street School – Ms. Kalloch-Getman confirmed that all of the plantings in the drainage basin are dead and that she has not received revised plans from the site contractor. The Commission expressed concerns about the contractor completing all other site work and leaving without the drainage basin being repaired. Mr. Litchfield recommended that if the Commission is concerned a letter should be sent to the Town Administrator and Superintendent of Schools regarding the issue. Ms. Kalloch-Getman will contact the site contractor regarding Storm Water Pollution Prevention Plan reports. Ms. Kalloch-Getman clarified that the site contractor attended the November 2015 Commission meeting to discuss the failed basin and conducting soil testing in the spring to evaluate the permeability. Ms. Kalloch-Getman noted the testing has not been completed to date. The Commission requested that Ms. Kalloch-Getman send a letter requesting that the contractor attend the June 13, 2016 meeting and provide a plan and timeline for repairing the drainage basin. The Commission noted their concerns about the safety of the standing water in the basin. Ms. Kalloch-Getman noted that the Commission requested that the permeability of the basin be tested and redesigned as an alternative to installing a fence. The Commission noted they may still require a fence. Ms. Kalloch-Getman reiterated the Commission's concerns about the safety of standing water, including mosquitos.

West Main and Crawford Streets – Ms. Kalloch-Getman noted that she met with the property owner regarding the trees that were cut and left in the fire pond. Ms. Kalloch-Getman had identified significant invasive plants on the site including large bittersweet vines. Ms. Kalloch-Getman noted that cutting the trees and leaving the stumps in place was likely the better option rather than allowing the trees to fall naturally which would have damaged the bank. Some of the cut trees have been chipped and were placed on the slope to stabilize the bank which Ms. Kalloch-Getman confirmed is stable. The Commission confirmed they would like the remaining trees removed from the pond. Ms. Kalloch-Getman noted that the trees will be removed within the next two weeks and the Commission requested an update during the June meeting.

Reissue Certificate of Compliance – 74 Washburn Street – Ms. Kalloch-Getman informed the Commission that a COC was issued in 2003 for a septic system replacement and the COC was not recorded. The original COC could not be located and Ms. Kalloch-Getman requested that the Commission sign a reissued COC form. Mr. Litchfield noted that the applicants typically send a check to have the COC recorded but periodically request the original to be recorded themselves. The Commission discussed the additional options including issuing a true attest copy. The Commission signed the reissued COC form.

432 Whitney Street – Mr. Young informed the Commission that a Request for Determination of Applicability for 432 Whitney Street has been filed but was incomplete. Ms. Kalloch-Getman has contacted the applicant to compile the missing components of the filing. Mr. Young added that the RDA hearing will be on June 13, 2016 agenda but an earlier hearing may be required to meet the 21 day deadline if a waiver is not granted by the applicant. The Commission agreed to meet on May 25, 2016 if necessary. Ms. Kalloch-Getman added that she has contacted the applicants attorney requesting an extension to the 21 day meeting requirement and has not received a response. Ms. Joubert and Mr. Litchfield updated the Commission on their site visit conducted on May 11, 2016 at 432 Whitney Street.

Mr. Litchfield informed the Commission that they first visited 429 Whitney Street and observed a delivery of roughage which appeared to consist of leaves, grass, twigs and branches. Mr. Santo Anza stated during the site visit that he currently has 200 head of cattle at 429 Whitney Street. Mr. Litchfield noted that they then visited 432 Whitney Street where approximately 25 to 30 tractor trailer loads of food and bedding has been dumped. Mr. Litchfield added that the material was much darker in color and was dumped near the cart path which Mr. Anza stated was done to allow the animals to cross. Mr. Litchfield also noted that photos were not allowed during the site visit.

Ms. Joubert informed the Commission that Mr. Anza confirmed during the site visit that he is bringing in fill to 432 Whitney Street. Mr. Litchfield stated that the material is not suitable for a road and is located within the buffer zone. Wetland flags were observed during the site visit. Mr. Anza stated during the site visit that he has had animals at 432 Whitney Street for the past 7 years. Mr. Litchfield clarified that 432 Whitney Street has been fully forested until last year. Mr. Litchfield also noted that he disagreed with Mr. Anza that only one cow had to be on the property and that it is not clear if the material at 432 Whitney Street is suitable feed for beef cattle. Mr. Litchfield added that Mr. Joe Bellino, MassDEP Environmental Analyst, and Mr. Jim McQuade, MassDEP Regional Solid Waste Section Chief, were also present at the site visit. Mr. McQuade indicated that the material would need to be tested to confirm it is suitable for cattle and until the material is determined not to be feed the MassDEP Solid Waste Division will not be involved. Ms. Joubert added that if the material could be access the Town could hire a consultant to complete the necessary testing. Mr. Tougas noted that cattle will eat grass clippings and Mr. Litchfield clarified that the material at 432 Whitney Street is darker and appears to consist dirt and leaves. Mr. Litchfield also noted that Mr. Anza stated that the material is being stockpiled to compress it and keep water and oxygen out.

The Commission discussed the material observed at the site visit and noted that Davidian's Farm is operating a commercial composting business. Mr. Tougas clarified that Davidian's Farm has an agricultural composting permit and Mr. Litchfield added that the work is not within the wetland buffer. The Commission discussed Davidian's and the previous discussions regarding collecting water samples from Howard Brook. Ms. Kalloch-Getman clarified that the farm pond on the Davidian's property drains to Howard Brook and there are exemptions for farm ponds in the Wetlands Protection Act (WPA). Ms. Kalloch-Getman has not received a response from OARS regarding testing of Howard Brook. Ms. Joubert informed the Commission that Mr. Anza has a court order which does not allow him to have a commercial composting business on his property. Mr. Tougas recommended that the Department of Agriculture be contacted and request their council determine if the work being done at 432 Whitney Street is considered agriculture. Mr. Litchfield added that during the site visit Mr. Anza indicated that he will be getting more cattle. No animals were observed on 432 Whitney Street during the site visit. Mr. Litchfield also confirmed with the MassDEP and the Department of Agriculture that 429 and 432 Whitney Street properties were purchased at the same time.

The Commission discussed the Chapter 61A status of the property and agricultural exemptions of the WPA. Mr. Litchfield noted that new agricultural use within the buffer zone should be subject to a NOI. Ms. Joubert added that a staff person from the Department of Agriculture stated that there are no farms in Massachusetts where cows have free range in wetlands. Mr. Tougas stated that allowing livestock within wetlands is common practice but not a best management practice. Ms. Kalloch-Getman added that there are exemptions in the WPA for existing activities but new activities are not exempt. The Commission discussed the tree clearing and proposed filling at 432 Whitney Street, Chapter 61, and agricultural exemptions of the WPA. Ms. Kalloch-Getman described the WPA agricultural exemption and the requirement that the area must be presently and primarily in commercial agriculture in the specific location in order to be exempt. Ms. Kalloch-Getman also clarified that Chapter 61 status does not

indicate an exemption from the WPA. Mr. Litchfield and Ms. Joubert noted that they will keep the Commission updated.

Mr. Tougas motioned to close the meeting at 8:40PM. Ms. Guldner seconded the motion and the vote was in favor of the motion.

The meeting adjourned at 8:40 PM

Respectively submitted,

Jacquie Goring