



TOWN OF NORTHBOROUGH Conservation Commission

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Approved 10/17/16

Conservation Commission Meeting Minutes September 12, 2016

Members Present: Greg Young, Diane Guldner, Wayne Baldelli, Tom Beals, Justin Dufresne, Maurice Tougas

Others Present: Kale Kalloch-Getman, Conservation Agent; Janette Hudson, 448 Green Street; Susan Stasaitis, 318 Green Street; Susan Satori, 465 Green Street; Julianne Hirsh, 19 Smith Road; Bob Malone, 396 Green Street; Michael Pannell, 318 Green Street; Lisa Ludwig, 51 Smith Road; Megan Kearns, Epsilon Associates; David Russell, 360 Church Street; D. R. Dunk, Epsilon Associates; Gregory Roy, Ducharme & Dillis Civil Design Group; Travis Willey, 444 Green Street; Byron Roscoe, 331 Green Street; Diane Smith, Trillium Tree; Jon Sullivan, 8 Smith Road; Dan Benway, Irrigation Plus; Mark Terrell, 323 Green Street; Ken McLeod; Vito Colonna, Connorstone Engineering; Mark J. Lanza, Attorney; Nichole Dunphy, Highpoint Engineering

Chairman Young opened the meeting at 7pm and Mr. Tougas read the legal advertisement for the public hearings.

Meeting Minutes

Mr. Young confirmed the second half of the June minutes, along with the July and August minutes need to be reviewed and approved. He stated he wasn't sure the second half of the June minutes were sent to them. Ms. Kalloch-Getman will check it out and the commissioners will review and vote on the available minutes at their next meeting.

Notice of Intent, 360 Church Street, Map 42, Parcel 17, DEP file# 247-1121

- Applicant: 360 Church LLC
- Representative: Gregory Roy
- Request: Installation of a 6,000 gallon water tank, installation of walkway with associated grading, removal of 36 trees
- Jurisdiction: Buffer Zone to a Vegetated Wetland

Applicant and property owner David Russell, 360 Church LLC, and Gregory Roy, Ducharme & Dillis Civil Design Group, were present. Mr. Roy presented a revised site improvement plan for the project dated 9/12/16, which reflects changes that came about from a site inspection he had with members of the commission and Ms. Kalloch-Getman. He explained the property located at 360 Church Street is 4.7 acres in size, and contains an office complex building and a driveway with access to Church Street. A bordering vegetated wetland is located on the eastern portion of the property and the project is located within the 100-foot wetland buffer to a vegetated wetland.

Mr. Roy stated the Applicant wants to do some renovations to the interior of the building that require a fire suppression system. The proposed project will include installing an underground water storage tank near the back of the property. The installation will require regrading of the site within the 30-foot no disturb zone to adequately cover the tank and connect the water line to the building's fire system. The water tank and site layout have been designed to minimize disturbance to the 100-foot wetland buffer

zone and existing utilities. As part of the fire tank installation, a new walkway on the eastern side of the building is proposed to improve access to the driveway from the building exit on the basement level. Grading for the walkway will be minor since the existing slope is stabilized and adequate for the required concrete stairs. Existing concrete stairs on the site will be demolished and replaced in the same place on the site, and new stairs have been added in the same area for access to the sprinkler room by the Fire Department.

Mr. Roy stated approximately 3,900 square feet will be regraded within the 100-foot buffer zone. None of the grading will be within the 15-foot no disturb zone. After the excavation and regrading, the disturbed areas will be loamed and seeded. Approximately 36 trees will be removed during the project. Tree removal will be outside the 15-foot no disturb zone; and tree replacement is not part of the proposed project since the majority of the trees will be 4-inches in diameter or less. He noted only one tree that has to be removed is in the 30-foot no build zone. He stated that, on the day of the site walk with the commission, he saw an orange ash tree in the front of the property that needs to be removed. Trees that need to be removed will be flagged and will be removed after he has permission from the commission to do so.

Mr. Roy noted the only part of the project that is inside the 30-foot no build zone is the grading for the water tank, and it is approximately 33 feet from the 100-foot buffer. In response to questions from Mr. Dufresne and Mr. Baldelli regarding the tank and grading, Mr. Roy responded the grading on the top of the tank will be about 4 feet and the tank is below grade for freezing purposes.

Ms. Kalloch-Getman confirmed erosion control and construction sequence plans have been submitted to the board. She stated they are proposing hay bales on the downslope side of the silt fence without burying the hay bales at all. Mr. Young suggested straw wattles could be used. Mr. Roy agreed to that and a consensus of the members are fine with the use of straw wattles. Ms. Kalloch-Getman agreed, adding she would like them buried deeper.

Ms. Kalloch-Getman noted there has been a lot of instances in town where work done on a steep slope up against the 15-foot no disturb becomes an issue with the silty soils, as the material gets suspended much more easily than anticipated. She stated she would like everyone working on the site to do everything they can to make sure the site is stable.

Mr. Roy stated work will start as soon as practicable.

Mr. Tougas motioned to issue an Order of Conditions for 360 Church Street, DEP #247-1121, with the conditions that straw wattles will be used instead of hay bales; matting will be placed on the downslope; and trees to be removed in the front and rear of the property as shown on the plan, will be flagged and Ms. Kalloch-Getman will be contacted prior to the beginning of any work on the site. Mr. Beals seconded the motion and the vote was unanimously in favor of the motion.

Notice of Intent, Route 9 and Route 20, DEP file# 247- 1120

- Applicant: Massachusetts Department of Transportation
- Representative: Dwight Dunk, Epsilon Associates, Inc.
- Request: Ramp Improvements requiring Wetland Alteration and Replication
- Jurisdiction: Bank, Bordering Vegetated Wetland

Dwight Dunk and Megan Kearns, Epsilon Associates, presented the project. Ms. Kearns explained the proposed project involves ramp improvements on Route 9 westbound in Northborough and Shrewsbury. The purpose of the project is to facilitate better access and improve traffic safety to Route 9 westbound from Route 20 southbound due to increase traffic from the new developments on Route 20. The proposed ramp improvements will alter a bordering vegetated wetland (BVW) and inland bank

associated with an intermittent stream, along with the 100-foot buffer zone to both the BVW and the inland bank. To mitigate the proposed loss of 724 square feet of BVW in Northborough and 845 square feet of BVW in Shrewsbury, MassDOT proposes to construct a 4,850 square foot wetland replication area in Shrewsbury to provide a 3:1 ratio of replicated wetland to wetland loss. The loss of 202 linear feet of inland bank in Northborough will be mitigated with the relocation of an intermittent stream that flows through Route 9 to create 295 linear feet of new inland bank with a rock bottom, in order to avoid the new toe of slope from being within the wider acceleration lane.

Ms. Kearns stated the proposed ramp improvements require roadway reconstruction and widening; the removal and installation of curbing; and pavement milling and overlay. Other work on the project includes installing new guardrail, placement of geotextile fabric, pavement milling, placement of mulch beneath the guardrail, work on drainage structures, cleaning drainage pipes and structures, clearing and thinning vegetation to improve visibility, applying pavement markings and installing reflectorized pavement markers, installing traffic management safety signing and erosion control measures as required, and grading and compacting.

Ms. Kearns stated this project has come about because of the high instances of fender-benders associated with the increased traffic in the area. She noted the project was approved by the Shrewsbury Conservation Commission and the hearing was closed.

In response to a question from Mr. Dufresne regarding the drainage system, Mr. Dunk stated there will be no change to drainage in Northborough.

In response to a question from Ms. Guldner regarding the new lane, Mr. Dunk stated drivers using the proposed acceleration lane will not have to stop when entering Route 9 West. He added that lane will taper off at the former Shrewsbury Nursery site.

Mr. Young confirmed with Mr. Dunk that the wetlands are on the sign side of the ramp. Mr. Dunk stated there are some limited wetlands in Northborough, along with a stream that flows underneath Route 9. Mr. Baldelli added the wetland is pretty close to the sign.

Mr. Tougas motioned to issue an Order of Conditions for Route 9 and Route 20, DEP file# 247-1120. Mr. Beals seconded the motion and the vote was unanimously in favor of the motion.

Request for Amended Order of Conditions, 8 Smith Road, Map 10, Parcel 26, DEP file # 247-976

- Applicant: Jon and Kate Sullivan
- Representative: Diane Smith
- Request: Amend Existing Order of Conditions
- Jurisdiction: Buffer Zone to a Vegetated Wetland

Applicant Jon Sullivan and Diane Smith, Trillium Tree, were present. Ms. Smith explained Mr. Sullivan is requesting to amend an Order of Conditions issued by the Conservation Commission on December 7, 2009 and recorded at the Worcester District Registry of Deeds on January 14, 2010.

Ms. Kalloch-Getman offered information regarding this filing. She stated the project received an Order of Conditions (OOC) in 2009 and because of the Permit Extension Act, the OOC is good until December 7, 2016. She displayed the original plans and explained the project included a large addition to the home, a C-shaped pool, grading and some additional patio work. She stated she was recently notified there was work going on at the site with no DEP signage and she, along with some commission members and Ms. Smith, inspected the site. It was clear to them that the wetland line is much closer than what is shown on the plan. She noted the Applicant has significantly changed the plans from what was originally approved. She displayed a slide showing what the site looks like now, and stated the pool is in a

different area and the patio is closer to the house. Ms. Kalloch-Getman stated she issued an enforcement order and the Applicant stopped the work.

Ms. Smith stated she was unaware of the original plan when she designed the project and Mr. Sullivan was under the impression the OOC expired in two years. The plan she designed was fairly similar, with the patio behind the house and the pool beyond that. In their plan, they have the patio against the house and the pool beyond the house. She stated she looked at the Northborough GIS Online Viewer which showed the wetlands as approximately 100 feet from the house. Ms. Smith stated that, according to Ms. Kalloch-Getman's markers, the pool is beyond 50 feet from the BVW; and she is trying to show that, on the original plan, 50 feet was approved and they still have it as 50 feet on the updated plan.

In response to a question from Mr. Young regarding how close they are from the 30-foot no-build zone, Ms. Smith stated it is 21 feet from the pool. Mr. Baldelli noted the 30-foot buffer is for a structure and that's not happening. It's the grading that can't go past the 15-foot no-disturb zone. Ms. Smith stated they are complying with the regulations and where they put the straw wattles is where the fence will be. The fence is needed for insurance purposes. The wattles will be placed outside the 15-foot no disturb zone, about 25 feet. Mr. Baldelli asked Ms. Smith to put on the plan where the wattles are going to be.

Mr. Tougas asked Ms. Smith why the Applicant didn't file for a new Order of Conditions if he thought the original one had expired. She replied she didn't know. Ms. Kalloch-Getman stated if an applicant doesn't request an extension to the Order of Conditions, it expires. Ms. Guldner asked if they have to request an extension if they don't finish the project by deadline in December. Ms. Smith stated it will be finished by then.

Ms. Kalloch-Getman noted a formal enforcement order was issued, but there was no fine because the work had stopped.

Mr. Beals motioned to issue an Amended Order of Conditions for 8 Smith Road, DEP #247-976 with the condition that the Applicant will contact Ms. Kalloch-Getman after the erosion controls are in. Mr. Baldelli seconded the motion and the vote was unanimously in favor of the motion.

Request for Determination of Applicability, 352 Church Street, Map 42, Parcel 46

- Applicant: Franca Enterprise Services
- Representative: Connorstone Engineering, Inc.
- Request: Review site work proposed in conjunction with the Construction of a Single Family Home including a Driveway and Septic System. Determine whether an area on the property is subject to the jurisdiction of the Wetlands Protection Act. Determine whether the area and/or work referenced is subject to the jurisdiction of the Northborough Wetlands Protection Bylaw

Vito Colonna, Connorstone Engineering, representing the Applicant, Franca Enterprise Services, presented the project. He explained the existing site at 352 Church Street is 1.8 acres in size and is undeveloped. Existing wetland resource areas are located within a low point adjacent to Church Street. The wetland discharges to a culvert running under Church Street and then discharges on the south side of Church Street. The proposed work includes construction of a single-family home with a driveway off Church Street, a septic system, utility connections, an on-site well, landscaping and miscellaneous site work. Work within the buffer zone includes a portion of the driveway and site grading associated with the septic system. The leach field is located outside the buffer zone. The proposed driveway has been located as far as practical from the resource areas and a proposed erosion barrier of straw wattles and silt fence has been proposed between the limit of work and the resource areas.

Mr. Colonna stated Maryanne DiPinto, wetland consultant, walked the site on Saturday with him and she had a letter determining it was not a regulated resource area. Mr. Young said it is the commission's consensus it is not under their determination. Mr. Beals stated he would issue a negative determination as long as the silt fence, hay bales and construction cushion is installed, because the site is steep and in a storm event, he doesn't want to see it washing out Church Street.

Mr. Young confirmed with Ms. Kalloch-Getman that she was fine with the plan.

Mr. Beals motioned to issue a Negative Determination of Applicability for 352 Church Street with the condition that the erosion controls as shown on the plan submitted shall be installed. Mr. Baldelli seconded the motion and the vote was unanimously in favor of the motion.

Request for Determination of Applicability, 0 Green Street, Map 11 , Parcel 7

- Applicant: Julianne Hirsch
- Representative: Mark J. Lanza
- Request: Determine whether the area depicted on the submitted plan and map is an area subject to jurisdiction of the Wetlands Protection Act. Determine whether the boundaries of resource areas depicted on the plan and map are accurately delineated. Determine whether the work depicted on the plan is subject to the jurisdiction of the Northborough Wetlands Protection Bylaw

Applicant Julianne Hirsch and her attorney, Mark J. Lanza, were present. Mr. Lanza explained they are asking for a determination that the area of the property at 0 Green Street, depicted on a submitted plan and map, is subject to the Wetlands Protection Act; whether the boundaries of the resource areas depicted on the plan and map are accurately delineated; and whether the work depicted on the plan is subject to the jurisdiction of the Northborough Wetlands Protection Bylaw. Mr. Lanza stated the subject property is part of Davidian Farm on the easterly side of Green Street and the work description is the removal of trees and other vegetation in the easterly portion of the site.

Mr. Lanza stated one member of the commission is an abutter to the subject property and Mr. Tougas identified himself as an abutter to 0 Green Street.

Mr. Lanza passed out an enhanced version of a DEP map. He stated that, because he and his clients are not allowed on the property, he is asking the commission to confirm his DEP map is accurate. In addition, he asked the commission to require the Davidians to have the subject area of his property delineated. He believes that will confirm there are resource areas, including perennial streams, on that easterly portion where Mr. Davidian is proposing to clear trees.

Mr. Young stated that, normally, a Request for Determination of Applicability (RDA) comes with a plan and, in this case, the landowner has not filed a plan with them. He stated he has been on the site and work they were doing was outside the 200-foot buffer, which is out of the commission's jurisdiction. He explained he went to the site with other members to look at the tree cutting situation only, not the composting. They walked part of the property and met with the Davidians and some loggers. They found there are some streams there and told the Davidians that the Commission has jurisdiction over areas that are within 200 feet of a river or stream. He told the Davidians they have the option of continuing to work no closer than 200 feet from the streams and suggested they mark that area. He stated the Davidians told them they believe they may have a farming exemption, and until they know one way or the other, they could either continue with what they are doing right now and respect the 200-foot boundary, or file with the Commission if they want to work beyond the 200-foot boundary. At the time, Mr. Davidian informed them he may hire the Natural Resources Conservation Service in Holden to do a

plan for them and, if so, the plan would have to identify any wetland resource areas. Mr. Davidian agreed that cutting of a wooded lot in order to come up with a different use within a resource area, is not an exempt activity. Clearing an area that is not in agricultural use is not exempt. Mr. Young stated they could not do a forestry management plan within the 200-foot buffer.

Mr. Lanza asked how the 200-foot area was determined. He stated that, according to DEP's Wetlands Map, there are extensive wetlands on the easterly side of the property where the tree removal was occurring. Ms. Kalloch-Getman asked Mr. Lanza who marked the DEP Wetlands Map to which he is referring. Ms. Hirsh responded a wetlands expert did it and she did not offer the name of this person when asked by Ms. Kalloch-Getman. Mr. Baldelli asked if all the streams on the DEP map he has are perennials, and Mr. Lanza responded he didn't know. They are relying on the MassGIS determination.

Ms. Kalloch-Getman stated she has been to the site and has spent a lot of time there to see if the USGS data layer found the streams to be perennial or intermittent. She explained the commission is required to use very specific data in a very specific way; it's not something they do just off the cuff. She stated she reviewed all the plans they had at the USGS office in Northborough and they made a determination that all the streams were intermittent, although Howard Brook has been seen to be flowing even with the severe drought.

Mr. Lanza said there hasn't been a full analysis on that stream and that's what they need. He stated his clients need it and the town needs it. He stated it's not just the stream, it is also other resource areas and anyone can see on the map that cutting occurred in resource areas. Mr. Young stated he disagrees with that, as he has been on the site.

Mr. Tougas stated that, given the three options, the Davidians stopped the work. Ms. Kalloch-Getman stated the USDA wetlands people were going to evaluate the data and she doesn't know how old the data layers are, but believes they were done about the same timeframe as the other plans they gave her. She reiterated the Davidians did stop the work, the wetlands people evaluated the data, and she was surprised when there was a determination that the streams were intermittent.

Janette Hudson, 448 Green Street, explained logging has happened north of the pond, and according to the map, it is wetlands and they shouldn't have been doing working there. She pointed out where the logging occurred in her area. She said she watched them and the work they were doing shouldn't have been done. Mr. Lanza stated it's not just the activity they are concerned with, it's the lines that need to be identified by the property owner.

Mr. Young stated the members who walked the site believe the Commission has no jurisdiction because of what they saw there, not what an unidentified scientist showed on the map. The work was not within the 200-foot buffer zone. He confirmed with Mr. Lanza that they are asking the Commission to require the property owner to pay for a delineation that the Davidians may never use because they don't plan to come close to the 200-foot buffer. Mr. Lanza stated the work was going to be on 40 acres in the eastern part of the property on which he thinks the wetlands might be.

Mr. Tougas asked Mr. Lanza if he heard the property owners say they would be clearing 40 acres of land and Mr. Lanza replied he did. He noted the Town Engineer's letter to Ed Davidian dated July 28, 2016, states it was his understanding from conversations with staff members that Mr. Davidian was intending to clear-cut approximately 40 acres of his property located at 0 Green Street. Ms. Hudson stated when the logging commenced, she and her husband asked Ed Davidian what he was doing and he said he was going to clear 40 acres.

Mr. Young stated if they started up again, the commission will go out and see it, and tell them if it is in their jurisdiction. Mr. Tougas stated it is not reasonable to require someone to pay money to have a delineation done for something they may not do.

Ms. Kalloch-Getman stated the day she was notified of this was July 29th and she went out to the site with the Building Inspector, Joe Atchue, and the Board of Health Agent, Steph Bacon. She explained they did see that trees had been cut, but she saw no indication of any wetlands. She stated Mr. Atchue and Ms. Bacon have done their due diligence to review the parts of the property on which they have jurisdiction.

Ms. Kalloch-Getman noted that, under an agricultural exemption, the river front buffer is 100 feet, not 200 feet. Mr. Young noted they haven't gone down that route yet. They walked down the cow path, crossed over a dry stream, kept on walking, walked over a second stream and one that had a bridge over it. Their work was way outside the commission's area of concern. After discussing it with the Davidians, they stopped their work.

Lisa Ludwig, 51 Smith Road, asked Mr. Young if he observed wetlands while walking the property. Mr. Young responded he did not. Ms. Ludwig asked if there was a pond there and noted there are 40 acres to be cut, but the members who walked the site only saw what they had just cut. Mr. Dufresne stated they would have issued an enforcement order if what the Davidians did was in their jurisdiction. Unless something happens, the commission can't do anything about it.

John Sullivan, 8 Smith Road, asked the commission to consider that this is impacting 50 families and is a very emotional situation. He added he is concerned about his well and stated what they are asking is a reasonable request.

Ms. Kalloch-Getman stated important questions have been raised, but there are three requests they are looking at tonight. The first request is to determine whether the area depicted on the plan is subject to the jurisdiction of the wetlands protection act. She stated they are all familiar with the property. The second request is to determine whether the boundaries of resource areas depicted on the plan are accurately delineated. She stated there have been no delineations done; boundaries have not been delineated and other people would have to get permission to go onto the property if they wanted to hire someone to have a delineation done. The third request is whether the work depicted on the plan is subject to the jurisdiction of the Northborough Wetlands Bylaw, and Ms. Kalloch-Getman stated they have stopped the work they were doing. Mr. Young stated if their work starts again, the Davidians will have to come to the Commission.

Ms. Hirsh stated she filed an RDA in order to have this land investigated and to find out why the Davidians would be allowed to do this. She stated logging started and continued for a week before there was any intervention. Their request is that the delineation be made so if the logging started on Saturday, they wouldn't have to be worried about what they are doing.

Ms. Guldner asked if the Davidians have done anything else since they stopped the tree cutting. Mr. Tougas stated they have contacted the Natural Resources Conservation Service (NRCS) to look at the property and that would include identifying any wetland resource areas.

Mr. Tougas stated he is familiar with exemptions in the agricultural handbook, but a second part of the handbook is about forestry. That part specifically says forest land that is not actively being farmed is not exempt. He added he doesn't think the Davidians are going to clear 40 acres. Mr. Davidian stopped his clearing and is making an effort to get a plan. If Mr. Davidian hires the NRCS, the plan they develop is a plan for him and will be up to him to share. Speaking to the audience, Mr. Tougas suggested they should let the situation lie until the commission receives a plan. He stated he will abstain from voting. It was

not clear if Mr. Tougas is required to abstain from the discussion, as well. Mr. Young responded he did not think Mr. Tougas is required to abstain from either the discussion or the voting.

Mr. Young stated their options are to find a positive determination; a negative determination; or continue the discussion until they find out what plans the Davidians have for the property. Mr. Dufresne suggested waiting to see what the Davidians find out from NRCS.

Bob Malone, 396 Green Street, stated they could issue a positive determination saying that there are wetlands on the property. He noted his well has been negatively affected.

Ms. Hudson asked at what point the commission would have jurisdiction. Mr. Tougas responded it would be if they went closer to the stream.

Susan Sartori, 465 Green Street, stated the commissioners talked a lot about going to the site and it seems like some of them made decisions regarding resource areas on the spot. Mr. Young responded they walked the site and gave the Davidians some options.

Mr. Baldelli stated they have already advised Mr. Davidian regarding continuing to work, and he suggested continuing the discussion. If any work starts on the site, the commission will take it from there.

Ms. Guldner suggested a letter be sent to the Davidians asking them what has been going on, because if they don't communicate with the people around them, as well as the board, the situation could get worse. The letter could indicate in what direction they are leaning. Mr. Dufresne agreed, stating it is worth asking them. Mr. Young stated he would like to see the NRCS plan. Ms. Guldner noted it is not an easy issue and it would be helpful if the Davidians sent a letter telling us what's going on.

Mr. Baldelli motioned to continue the hearing, Ms. Guldner seconded the motion and the vote was 4 in favor of the motion. Mr. Beals and Mr. Tougas abstained from voting.

Mr. Young asked the abutters to let them know if they see anything going on.

Request for Certificate of Compliance, 394 Davis Street, Map 101, Parcel 133, DEP File # 247-1053

- Applicant: Eugene Curley
- Request: Issue Certificate of Compliance for Single Family Home and Driveway in Buffer Zone to a Vegetated Wetland and Bordering Land Subject to Flooding.

The commission received a letter from James Tetreault, Thompson-Liston Associates, Inc., stating that the work at 394 Davis Street was completed in substantial compliance with the plans referenced in the Order of Conditions, recorded at the registry of deeds, Book 520137, Page 262, and the Applicant is requesting a Certificate of Compliance.

Ms. Kalloch-Getman stated the work has been completed and the site is stable. The former owner, Randy Boyle, stabilized the site, removed approximately half of the sediment, and put up the wetlands signs. The members agreed to leave the site alone and let the vegetation grow as it will.

Mr. Tougas motioned to issue a Certificate of Compliance for 394 Davis Street, DEP File# 247-1053. Ms. Guldner seconded the motion and the vote was unanimously in favor of the motion.

Old Business

Notice of Intent continued, 40 Bearfoot Road, Map 29, Parcel 36, DEP file# 247-1110

- Applicant: David Pollack, AMERCO, Real estate Co./U-Haul Construction Dept.
- Representative: Michael Scott, Waterman Associates
- Request: Redevelopment
- Jurisdiction: Buffer Zone to a Bordering Vegetated Wetland

Michael Scott, Waterman Design Associates, and Jeffrey Vaine, AMERCO/U-Haul, presented the continued Notice of Intent. Ms. Kalloch-Getman confirmed the most recent plans have been submitted. Mr. Scott stated the plans have been revised based on comments from town staff, the Groundwater Advisory Committee, the commission's comments from their meetings in late March and early April, and meetings with town staff in the summer. Since then, U-Haul has purchased the property. They now propose to convert the existing unoccupied building on the site to a self-storage facility and construct a new free-standing warehouse building of approximately 2,500 square feet in the northwest corner of the lot. A large area of pavement will be removed by the west edge of the parking lot in addition to small areas by the new proposed warehouse and the rear of the building. A new parking area will be added in the front of the buildings. These changes create a net loss of pavement, even with an existing gravel parking area considered as pavement. He noted most of the reduction is in the buffer zone, and they would have reduced it more but they needed it for trucks. Vehicle storage will be in the front and the rear of the site. The proposed small building in the back will be built on existing pavement. The existing amount of impervious surface is 192,000 square feet.

Mr. Scott explained in order to improve the stormwater management system on the site, overall impervious surface has been reduced by approximately 4,700 square feet, for a proposed total of 187,070 square feet. Plantings will be added in the area of pavement removal. The westerly detention basin will be enlarged, a gabion basket will be added to increase the flow path length and two small basins on the easterly side of the property will be improved. Sediment will be removed from these basins and they will be regraded and reseeded to endure they function properly. The expanded stormwater basin is proposed to contain runoff from the 100-year storm event. The area for reserve parking in the southwestern portion of the site, along Bearfoot Road, that was previously paved but is now gravel, was considered as impervious. If U-Haul wants to restore the area to paved parking in the future, the basin will not require expansion, however a water quality inlet would be required to provide treatment of runoff from the new pavement. That area will be loamed and seeded

The Groundwater Advisory Committee (GAC) had concerns about the existing catch basin at the west side of the site; the condition of the long-term use of the gravel parking lot; and had questions regarding the roof on the new building. Mr. Scott noted the groundwater is too high for underground utilities.

Mr. Scott summarized the revisions to the plan, as follows:

- Correction of the existing conditions plan to reflect the existing roof drain system as being tied to the existing site drainage system, previously shown as being connected to the existing site sewer system;
- Expansion of the existing detention basin on the west side of the site; will more than double the size of the basin;
- Cleaning of the existing stormwater swale behind, and north of, the building;

- Installation of curbing on the west side of the parking lot along with the installation of two water quality catch basin continuous deflective separation (CDS) units to replace the existing catch basins;
- Clarification of the proposed condition of the existing gravel parking area that had been paved and now is shown to be loamed and seeded with a wild flower mix; and
- Calculations provided to reflect past and future paved conditions if U-Haul requests to pave the gravel parking lot area in the future

Mr. Dufresne stated they have presented a plan that is everything the commission looks for in a project. He asked Mr. Scott if the gravel could be removed and be used to support the new parking lot for some infiltration, as gravel is very compact and almost acts as pavement. Mr. Scott stated the Town Engineer wanted it to be left as is. Ms. Guldner stated since the building was new, it was never used as a parking lot, even when it was paved. It was left to disintegrate.

Mr. Scott noted they were not going to have curbing and planned to let the water run to the grass and then to the pond, but the Groundwater Advisory Committee asked them to remove the existing catch basins and install a curb for spill control and a water quality structure. Mr. Scott also noted that, per the Groundwater Advisory Committee, there will be no vehicle indoor overnight parking and they won't need a floor drain.

Ms. Kalloch-Getman stated she was fine with the plan.

Mr. Baldelli motioned to issue an OOC for 40 Bearfoot Road, DEP #247-1110. Mr. Beals seconded the motion and the vote was unanimously in favor of the motion.

Notice of Intent continued, Clark Woods, Map, Parcel, DEP file# 247-1116

- Applicant: Craig Callahan, Daniel Benway
- Representative:
- Request: Common Drive
- Jurisdiction: Buffer Zone to a Bordering Vegetated Wetland

Ms. Kalloch-Getman stated revised plans dated September 6, 2016 were submitted on Friday, September 9th and she distributed them to the members. Mark Arnold, Goddard Consulting, LLC, and Daniel Benway, Irrigation Plus, were present. The project was before the commission in July and August.

Mr. Arnold stated there have been changes to the plan that have been reviewed and approved by the Planning Board and the Town Engineer. The road right-of-way has been reduced to 40 feet, which allows for the elimination of the retaining wall and a slope along the north side of the road. The sidewalk along the north side of the road has also been removed. With the reduction of the roadway size, the stormwater system has been reconfigured and now includes 2 single and 2 double catch basins. A stormceptor is set up for the water entering the single catch basins. The detention basin has been re-designed into a high and low marsh wetland feature with native plantings. The limit-of-work line on the north side of the work area has been reduced again, saving additional trees and eliminating the replication work on the other side of the ditch. The total permanent wetland impacts have been reduced from 700 square feet to 375 square feet. The temporary impacts have also been reduced from 250 square feet to 95 square feet. The proposed mitigation is still over the 1.5:1 mitigation ratio required under the bylaw. Details on the proposed stormwater system features and roadway sections have been revised per the Northborough Planning Board's and the Town Engineer's review.

Mr. Dufresne stated this is a much better plan.

Ms. Kalloch-Getman stated she is missing the part of the stormwater operation and maintenance report that includes the construction period. Mr. Arnold stated it is the last page in the report and he gave her another copy. She also stated she would like to comment on the erosion control barriers, but hasn't had the time to review the revised plans.

Mr. Baldelli motioned to issue an Order of Conditions for Clark Woods, 172-172A Howard Street, DEP #247-1116. Mr. Beals seconded the motion and the vote was unanimously in favor of the motion.

Other Business As May Legally Come Before the Commission

39-43 King Street: Scott Goddard informed the commission he has been hired by an abutter to submit an appeal of their Order of Conditions issued for 39-43 King Street. He stated the neighbors had concerns about drainage and the steep slope. He noted the deadline for the appeal is Thursday, 9/15/16.

30 Forbes Road: Nicole Dunphy, Project Manager, Highpoint Engineering, stated Aspen Aerogels, Inc. received an Order of Conditions at the July meeting for the expansion of the existing loading dock, removal of lawn area and expansion of the concrete. An underground infiltration system was proposed to collect all additional runoff and no additional runoff will go to the catch basin. After the Order was recorded and the appeal period was over, the site contractor went to the site, and in the area of the loading dock, he discovered an existing drain manhole about 10 feet off the building. There's an 18-inch reinforced concrete pipe (rcp) that collects drainage from the roof into the manhole and then into the existing catch basin at the edge of the driveway and discharges to the wetland. In addition, he discovered shallow ledge within the in the area of the loading dock footprint. They redesigned the plans so there will be no disturbance to the roof drain system and will not be blasting so close to the existing foundation. What they are proposing to do now is to maintain the loading dock within the area and shorten the width by 5 feet to maintain a 5-foot landscaped strip between the existing loading dock and the new loading dock. Instead of the underground infiltration system, the area will sheet flow to the existing catch basin which will be retro-fit with an oil/gas separated hood on the outlet. The roof drain system is a shallow install and they will replace a portion of the existing 18-inch rcp pipe with class 5 rcp pipe to deal with the low coverage.

The new loading dock area will add 1,750 square feet of impervious cover to the area. To off-set that, they are proposing to remove 2,200 square feet of impervious surface from the existing parking lot and have them restripe the area. What happens here today is a bridge runs through the center of the parking, one area drains to a drainage easement and then goes out to Bearfoot River. The other area flows to an existing curb and into an existing wetland system. They all end up in the same area based on the town's GIS and research. They will be reducing the overall impervious surface flow to the Bearfoot River by 450 square feet.

In response to questions from Mr. Dufresne and Mr. Baldelli, Ms. Dunphy responded they will remove some of the parking and some of the pavement. The only spaces will be for truck access and will still comply with zoning requirements. They are not tying into anything; it would be sheet flow from that structure.

Ms. Kalloch-Getman stated this has been done by an informal discussion tonight, but needs to be done formally as an amendment to the Order of Conditions. Mr. Beals stated they still need the OOC and after field investigation, they commission can amend the order to show the upgrade to the new plans.

It was determined the Applicant needs to file for an amended OOC, which requires going through the public hearing process.

Mr. Beals suggested that, if they are going to change the end of the parking lot that discharges into the brook, they could do a little low-grade there. Ms. Dunphy responded it's a mess there and they are going to clean it and plant it so it will be a grass buffer area.

Ms. Dunphy stated they will be back before the commission on 10/17/16.

518 Green Street: Ms. Kalloch-Getman and Mr. Young did a site visit on Saturday and drove by the house. He had a pool in back of his yard, the commission issued an OOC, and they thought they would check it out. They went to the driveway next to 518 Green Street and at the end of the driveway was construction equipment. They met with the owner and he told them he has had his DEP# sign up all summer, but had taken it down on Saturday because his sister was having a bridal shower. Ms. Kalloch-Getman stated all the wetland signs were gone; all erosion control barriers were gone; and they had added an extension to their driveway. Ms. Kalloch-Getman talked with the owner about the next steps. The owner stated he wants a Certificate of Compliance. The OOC requires him to get an as-built plan by an engineer. She told him to bring the as-built to the commission, get it surveyed; and get the wetland signs and erosion control barriers back in place. Ms. Kalloch-Getman noted the site looks stable and the work has been done. The owner did the work and finished filling that area. She went out to meet with him today and he will be submitting the Request for a Certificate of Compliance (RCOC). She suggested he read the OOC thoroughly to make sure he is meeting all the conditions before he submits the RCOC.

Mr. Baldelli stated it is not the same plan. The members reviewed the approved plans. The original driveway was right up to the silt fence at the time it was installed. Ms. Kalloch-Getman stated she won't be able to see the delineation until he gets the flags up. Mr. Baldelli stated he will have to get everything put back up and then Ms. Kalloch-Getman can go back to the site and the new plan has to reflect what he did. Ms. Kalloch-Getman stated she did let him know that there was no indication that what he did was approved and he will get some comments from the commission on that. She said he told her he had just taken down the silt fence, but she didn't see any indication it was ever there. Basically, he is going to have to create a whole new plan to include what he did. She noted communication is good with him and they will see him next month.

Lincoln Street School: Ms. Kalloch-Getman explained the site looks good. The town asked her to look at the school as they were anxious for approval so the contractor could remove the erosion controls. The site is stable and they did the work they said they would and their erosion controls aren't necessary. They went in with equipment to remove (what's in the basin in the front). They went over it numerous times to remove the substrate that was not letting the water infiltrate. They planted it and also changed the grading that reflects what the commission approved. She stated there is no reason to believe it will not function correctly. She went out after one rain event and it looked good.

Mr. Tougas asked Ms. Kalloch-Getman if she thinks the basin is in danger of collecting water and children getting into it. She replied the Lincoln Street School people talked about planting the basin with vegetation that will grow very tall, but noted she can't say there won't be any danger to children. Mr. Beals stated it looked like it was hazardous when they went out there previously. Ms. Kalloch-Getman stated the plants will help to take the water out. She suggested the commission could hold off issuing the Certificate of Compliance until the basin has been functioning for a few years. Mr. Beals stated they need to have 2 years of consecutive growth and monitoring before they issue a Certificate of Compliance. Ms. Kalloch-Getman noted they haven't requested one yet, but they might be soon because the construction people are leaving. Ms. Kalloch-Getman will check the Order of Conditions to see if the 2-year monitoring is in it. It was noted a member of the building committee was present, but was not identified.

Yellick Property Fire, Hudson Street: Mr. Young reported Ms. Kalloch-Getman found asbestos shingles in the water and DEP got involved. They put the fire out and she's met with the contractor hired by the family to pull out the part of the building that was completely destroyed. A portion of the structure was built in the 1920s and 1930s and hangs over the Assabet River. It is the part of the building that went down. It was still standing when the Fire Department was trying to take it out, but during the fire the shingles fell off into the water and they hired a remediation company that went in immediately. The remediation people were in the water handling the shingles without gloves. The shingles were basically cement with some asbestos and were put in bags. Now they will be starting to take down the part of the building that can't be saved. The front of the building will stay, but the rear will be taken down. Erosion controls will be installed and they will be working with the DEP Division of Asbestos Remediation. The contractor is going to install wattles and silt fence, and will install a pad underneath the portion of the building that is overhanging the river. They will also be putting tarps on the platform to make sure nothing falls into the river. DEP gave them an emergency go-ahead to get the asbestos plates out of the river so they wouldn't break down and suspend. Ms. Kalloch-Getman stated the biggest part of the project will be taking the building down. The contractor hired to do the work is going to call her when the barriers are down.

A discussion was held and the members agreed they do not want to impede anything that's being done now, as the Yellick family has lost their home. If they decide eventually to rebuild, they would have to come before the commission for an RDA or an NOI. DEP is just handling the asbestos. Ms. Kalloch-Getman will contact the building inspector, Joe Atchue, to ask him what information he has acquired to as to how the Yellicks are going to proceed. Ms. Guldner suggested getting photos as the project goes along. The commissioners agreed they should have them file after the fact; after they know what they are going to do. Ms. Kalloch-Getman noted the person at DEP working with them told her that as long as the Conservation Commission is OK with what the Yellicks are doing, then DEP is OK with it.

Ms. Kalloch-Getman will work with the Building Inspector and will check out the erosion controls from time to time. The contractor has been very clear as to how he is going to handle the river resource of the project. If Kale gets all the info from Joe Atchue and the contractor, she could do the RDA herself.

432 Whitney Street, Site Visit: Mr. Young reported there is going to be a site visit at a time to be determined. He, Ms. Kalloch-Getman, Ms. Joubert, Mr. Anza and DEP, along with attorneys for the Town, DEP and Mr. Anza, will attend. The site visit is taking place because Mr. Anza appealed their decision of a positive determination.

1 Lyman Street, Appeal: Ms. Kalloch-Getman reported the Applicant has submitted a request for a superceding determination regarding the delineation of the wetlands on the property.

39-43 King Street, Appeal: Neighbors have appealed the commission's decision on this project.

200 Bartlett Street, Dumping: Ms. Kalloch-Getman stated she went out to the site, met with the office manager for the landscaping company and walked around the property. Debris has been dumped over the side of the slope and the wetlands can be seen about 50 feet further. She stated she told the office manager he had to get the debris off the slope and off the toe of the slope; and needs to put up a visual barrier to make sure the employees know they cannot dump anything past barrier. She issued a Cease & Desist order, and they have co-operated and cleaned up the site. She noted the business owner will be contacted by the Building Inspector and the Town Engineer because a permit is required for the landscaping use in a groundwater district and there is a concern about the fuel spilled on the site.

CPC Application for Bartlett Pond: Mr. Baldelli stated their CPC application has been submitted.

Westford Open Space APR Issue: Mr. Young explained the Town of Westford is considering whether to allow a large restaurant, banquet hall, and parking lot on an APR-protected 9-acre fruit orchard that has fallen into disrepair. The developer has argued the use would not violate the site's protected status as it would be a "farm-to-table" restaurant that would serve produce grown on the property, making it a legitimate agricultural use of the land. Residents are upset because the town is using taxpayer money to save farms with permanent preservation, and there is concern about other protected land deals unraveling.

The meeting adjourned at 10:30pm.

Respectfully submitted,

Debbie Grampietro
Administrative Assistant
Conservation/Planning/ZBA