



Approved 4/10/17

**Conservation Commission  
Meeting Minutes  
February 6, 2017**

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

**Others Present:** Kale Kalloch-Getman, Conservation Agent; John Grenier, JM Grenier Associates, Inc.; Gina Cotton, 40 Lydia's Way; Anne Backstrom and Steve Stone, 152 Bartlett Street; Mitch Cohen, 12 Whitney Street; Rashid Shaikh, VMax

Chairman Young opened the meeting 7 pm.

**Approval of Minutes:** The Commissioners reviewed and approved the minutes of November 14, 2016.

**Public Hearings**

Ms. Guldner read the legal notice for the public hearing, as follows:

*Notice of Intent filed by Bob Gleeson, PAMJAM Realty, LLC, for 111 Otis Street for installation of stormwater management system associated with a parking lot expansion and addition to a commercial/industrial building within the buffer zone of a Bordering Vegetated Wetland*

- Applicant: Bob Gleeson, PAMJAM Realty, LLC
- Representative: John Grenier, J.M. Grenier Associates, Inc.
- Request: Install a stormwater management system associated with a parking lot expansion and addition to a commercial/industrial building
- Jurisdiction: Buffer Zone to a Bordering Vegetated Wetland

John Grenier presented the project, which consists of building two additions on an existing industrial/commercial building and expanding the parking lot for the Central Massachusetts Mosquito Control Project located on the site. The work includes removing an existing septic system, tank, shed and trailers. An 80-foot by 22 foot office addition and a 30-foot by 60-foot garage addition are proposed on the existing building. Twenty parking spaces will be added to the side of the building and approximately 2,300 square feet of pavement will be added to the rear of the building. A stormwater management structure will be installed along the outer edge of the 100' Buffer Zone to a Bordering Vegetated Wetland. The structure consists of an infiltration basin, two forebays and an emergency spillway. Runoff from the parking lot shall be conveyed to the forebays via surface flow directed into 2-inch to 3-inch stone-lined swales. The only work extending into the buffer zone is approximately 10 feet of grading associated with the pavement in the rear of the building. The plan shows a 20-foot by 30-foot staging area in the location of the new parking spaces.

Ms. Kalloch-Getman stated the erosion and sedimentation control plan references settling basins for silty run-off, but they are not yet located on the plan and she recommend that this be done prior to beginning work on the project. She noted that, in the long term, the work should have no impact as long as the area in which the basin structure is to be installed is protected during construction.

In response to questions from Commission members, Mr. Grenier stated snow storage will be outside the 100-foot buffer; they are not planning to capture roof runoff; a list of chemicals used by Mosquito Control for spraying in mosquito-infested areas has been created for submittal to the Town Engineer; and the work on the project will be going out to bid by the State so there is no start time yet.

Mr. Tougas discussed adding a mixing loading containment area, which is an impervious structure that becomes a sink and which has a drain and collection system in case of a spill. If there is a spill, it goes into a tight tank. Mr. Grenier agreed this should be done; will explain it to the Applicant, and they will call Ms. Kalloch-Getman about it.

The hearing was continued to the March meeting in order to add information to the plan requested by the Commission; and Mr. Tougas and Ms. Kalloch-Getman will visit the site.

Mr. Helwig motioned to continue the hearing to the March 13, 2017 meeting, Ms. Guldner seconded the motion and the vote was unanimously in favor of the motion.

**Request for Determination of Applicability, 40 Lydia's Way , Map 62 , Parcel 44-40**

- Applicant: Gina Cotton
- Request 1) Determine whether the area on the property is subject to the Wetlands Protection Act and Town of Northborough Wetlands Protection Bylaw.
- Request 2) Determine whether proposed work is in an area subject to jurisdiction of the Wetlands Protection Act and the Town of Northborough Wetlands Protection Bylaw.

Mike Sullivan, Connorstone Engineering, and the Applicant, Gina Cotton, were present. Mr. Sullivan stated the proposed enclosed deck with a stairway in the back of the house is far from the wetlands. An Request for Determination of Applicability (RDA) was filed and the only work on the ground will be the installation of sono tubes. Ms. Kalloch-Getman stated the perennial stream has not been identified. Mr. Young noted they have had this discussion before, but that was 13 years ago. The members agreed nothing has changed to make it a river and this is a small project. Ms. Kalloch-Getman explained the DEP policy regarding perennial streams.

Mr. Tougas motioned to grant a negative determination, as there will be no disturbance of the soils. Mr. Helwig seconded the motion and the vote was unanimously in favor.

**Request for Certificate of Compliance, 140/142 Ridge Road, Map 71 , Parcel 5-1, 5-2 , DEP file # 247- 1127 – Septic System**

Ms. Kalloch-Getman explained the Applicant was going to put down straw and when she went to the site, there was nothing done. They had put up the required signs, but on little stakes that will probably not hold too long. Ms. Kalloch-Getman noted the house has been sold.

The members agreed they will not issue a Certificate of Compliance until the erosion controls are in place.

**150 Church Street Requests for Extensions of Orders of Conditions  
John Grenier, J.M. Grenier Associates, Inc.**

Mr. Grenier explained the road, all the driveways, the drainage, 3 houses, and landscaping are done; and Lot 4 is in construction. He has submitted an as-built plan to the Town Engineer for the drainage and the road, and Lots 1 through 3 have been sold. He stated he will make sure everything is done and thinks he needs full as-builts.

Ms. Kalloch-Getman stated the common driveway Order of Conditions (OOC) expired last June; and the lots expired in January. She noted individual as-builts are needed.

Mr. Helwig motioned to grant Extensions to the Orders of Conditions for 150 Church Street, Map 55, Parcel 60, DEP files #247-1055; #247-1065; #247-1066 and #247-1067. Mr. Tougas seconded the motion and the vote was unanimously in favor.

**Informal Discussions:**

**12 Whitney Street: Proposed residence adjacent to Cold Harbor Brook, Project Updates**

Scott Morrison from EcoTec was present. Mr. Young noted the Board visited the site on Saturday. Mr. Morrison explained the site is adjacent to Mill Pond, not Cold Harbor Brook, as indicated on the agenda. He stated his client plans to build duplexes and single-family homes on the site, and all that work will be outside the buffer. Mr. Morrison suggested to the owner that he establish the 100-foot buffer; put in an erosion control barrier another 10 feet past that; and then clear and start building homes prior to filing a Notice of Intent (NOI) for grading that will provide better backyards. Mr. Morrison noted Waterman Design did the original flagging and he agreed with their delineation. He stated all work to be done now is well away from the 100-foot buffer zone. Mr. Young suggested Mr. Morrison's client could start the project if Ms. Kalloch-Getman agreed with their delineation. Ms. Guldner noted all they saw at their site visit was a lot of frozen stakes, and it needs to be properly marked.

Ms. Kalloch-Getman stated last week the new owner came to the office and stated he was told there were no resources on the property and that he didn't need to do any filings. She stated she told him that wasn't the case; that the commission hadn't reviewed it yet, and clearly there are resources on the property. The new owner said he would call Mr. Morrison. Mr. Morrison called her and said he would supply her with a plan and information. Ms. Kalloch-Getman stated S & M Farms called her and said they had been hired to install erosion controls; and she still hasn't received anything from Mr. Morrison. Mr. Morrison said he did email a copy of the plan to her, and will send it again. Mr. Morrison identified the flood plain on the property for Ms. Kalloch-Getman. She said the site was unclear and she has no Bordering Vegetative Wetland (BVW) data sheets.

In response to Mr. Young, Mr. Morrison stated they will file the NOI by April. The commissioners agreed that the work shown on the plan is outside the 100-foot buffer zone and there's nothing for them to do. The commissioners and Ms. Kalloch-Getman will go to the site to confirm the delineation done by Waterman Design.

Mr. Dufresne requested the erosion controls to be placed 50 feet away from the 100-foot buffer, and Mr. Morrison said he will check it out and will give Ms. Kalloch-Getman a report before they file the NOI.

The commissioners and Ms. Kalloch-Getman agreed that, if Mr. Morrison and the property owner are confident they are doing all their work out of the buffer zone, it's their choice to start work, and it would be at their own risk. Mr. Morrison stated they will put up the silt fence and he will make sure it's done properly.

Developer Rashid Shaikh was present and said he was going to buy the property, but decided not to because of the wetlands.

### **39 & 40 King Street - Notice of Project Change**

Developer Rashid Shaikh stated he filed plans for some condo units, and the commissioners agreed with the delineation. He had presented an original plan to the Commission identified as Plan A. Subsequently, the plans changed and two revised plans, Plan B and Plan C, were submitted to the Worcester office of DEP. Mr. Shaikh noted the Worcester DEP agreed with the delineation.

Ms. Kalloch-Getman stated Mr. Shaikh is here because he submitted Plans A, B and C to DEP, but also must come before the Commission to get a determination as to whether he needs to file for an Amended Notice of Intent or a new Notice of Intent. She noted DEP has received Plan 2 but the Commission has not.

Mr. Shaikh explained the plans changed because of requests by the Design Review Committee, as well as the change by the Department of Public Works of a proposed sewer connection for the site to a septic system. Other changes were reviewed with the commission.

Mr. Tougas read a letter from DEP that stated they received the revised plans and agree with the Order of Conditions, subject to the plan change. The commissioners agreed it is in their hands now and told Mr. Shaikh he needs to submit the revised plan to the commission in order for them to decide if he will need to amend the current OOC or file a new NOI.

Since the Applicant has appealed the decision of the ZBA and the neighbors have also appealed the decision, the commission suggested the Applicant come before them with a revised plan after the appeals have been settled. Ms. Kalloch-Getman told the Applicant that he should submit a request for a Certificate of Compliance, which will be denied because the project will not have been finished.

### **1 Lyman Street Peer Review Status**

Ms. Kalloch-Getman she sent out a request to 4 people and 2 of the companies replied. The only response was from Patrick Garner. Mr. Young thought Scott Goddard may have an issue with Mr. Garner regarding conflict of interest, and Ms. Kalloch-Getman replied Mr. Garner contact the state ethics board and they It's not considered a conflict if two consultants have worked together in the past. Ms. Kalloch-Getman note J.M. Fiske Environmental responded as

well. She stated she heard nothing from Greenhill Engineering. Mr. Young suggested Ms. Kalloch-Getman call the two other people who have not responded. She noted Mr. Arnold has sent a couple of email and said he wants to review the qualifications of the consultants Ms. Kalloch-Getman will be contact prior to her contacting them; and Ms. Kalloch-Getman denied his request.

Mr. Dufresne asked about the status of the project. Kathy Joubert, Town Planner, stated the Applicant withdrew his ZBA application for a storage facility. Mr. Young noted the Applicant told them they want to do industrial condos now. Ms. Kalloch-Getman explained the Applicant first filed an NOI and an ANRAD concurrently; withdrew the NOI; the commission issued a notice of resource area delineation, declining to approve their wetland delineation; and the Applicant appealed to DEP, requesting a superceding order of conditions; and DEP backed the commission. They have since submitted an abbreviated order of resource area delineation.

### **Lincoln Street School**

Ms. Kalloch-Getman stated Phil Palumbo sent her a message stating they do not want to put up the no disturb markings, as the OOC was excessive regarding marking the perimeter. She showed a slide of what they are proposing. They want to go with metal fence; remove stakes, and use metal fence posts instead of hardwood stakes. The commissioners agreed to the metal fence and the use of less signage, as described. Ms. Guldner stated she would like a legend to so the kids understand it.

### **Newton Street**

Ms. Guldner stated the place where the road is being constructed needs to be staked so the silt that goes underneath the stones that are there to delineate the road, doesn't go across or down the road.

Mr. Young suggested looking at all the remaining issues with the project and Ms. Kalloch-Getman suggested they ask the Applicant, Ziad Ramadan, to attend the next meeting and give a presentation regarding the status of the project. There are a few outstanding issues. The culvert was replaced, but the work that should have been done first wasn't, which was the wetland replication. They dug it out, ran into problems with bedrock, made some changes, then dropped the ball and that is a violation of the order of conditions. She noted the Applicant brought in plants but did nothing with them.

At the suggestion of Mr. Baldelli, Ms. Kalloch-Getman will make up a list of the outstanding items, give it to the Applicant, and will ask him to attend their next meeting.

Ms. Kalloch-Getman explained there are two Orders of Conditions. The road work he's done is the culvert component, but not the wetland replication. Also, he has done a marginal job of protecting the resources with erosion control barriers along the road and he does a marginal job responding. The road that Ms. Guldner was talking about is not the common driveway and he has not recorded that order of conditions for the common drive for pulling out trees on the property. She would like to walk the site and could schedule it prior to the next meeting.

Mr. Helwig stated the Applicant has been abused on that project by the Town because he was forced to do roadwork, which they had no business to do as a community. Now he is being penalized and the person across the street will not pay a cent for it, but will benefit from it.

Ms. Joubert explained the person across the street cannot get building permits. He has a decision that states he can't get building permits until he does his road work. Whether he does it or he pays Mr. Ramadan to do it, they have to figure that out. But he has a decision that states he is responsible for the work for the lots, which he and Mr. Ramadan worked out formula at a Planning Board meeting. Only a permit for the existing house.

Ms. Kalloch-Getman will make a list of outstanding issues; she and Ms. Guldner will walk the site; and Ms. Kalloch-Getman will ask Mr. Ramadan to come to the next meeting. Ms. Kalloch-Getman noted she is concerned with the vernal pool and if there's been cutting in that area.

### **432 Whitney Street**

The commission reviewed a copy of a Cease and Desist letter sent to Santo Anza by Ms. Kalloch-Getman, on behalf of the commission, dated November 14, 2016. Ms. Kalloch-Getman explained the DEP issued a Positive Superceding Determination of Applicability on Santo Anza's appeal of the Conservation Commission's positive Determination of Applicability regarding his proposed project at 432 Whitney Street. The project was for the road work and he was supposed to file an NOI by December 2, 2016. The Town's attorney drafted a Cease and Desist letter on February 1, 2017 and Ms. Kalloch-Getman sent it to Mr. Anza that same day.

Mr. Anza is under a Cease and Desist order and he is supposed to be at this meeting for a status report.

Ms. Kalloch-Getman explained Mr. Anza called her this afternoon and stated he was confused as to what the Cease and Desist is about because it referred only to the road work; that DEP had only discussed the road work in their Superceding Determination of Applicability, and this letter talks about other activities on the property. She stated she told him that the commission had gone beyond the call of duty and been very gracious to allow his representative to discuss a project that was different than the one he had submitted under the request for a determination of applicability and limited the discussion to the project he presented that night. Ms. Kalloch-Getman stated what the commission ruled on and what DEP approved. That in no way should lead him to believe that there are no other concerns about activities on the property. She stated she wants to see what's going on and that's how she left it with him. He needs to come before the commission. She stated he's brought fill in; and she doesn't know what else is there, but what he's doing could be closer to the resource area. She noted he doesn't have an agricultural exemption.

Ms. Joubert stated the DEP independently tested the material he brought onto the site and found it wasn't what Mr. Anza said it was. She noted the Town is going nowhere fast with the probation officer.

Ms. Kalloch-Getman informed those present that a Cease & Desist Order is sent to the Applicant; and an Enforcement Order is sent to the DEP as well as the Applicant.

At the request of the commissioners, Ms. Kalloch-Getman will draft another enforcement order tomorrow; review it with Ms. Joubert; and then send it to Town Counsel to review.

### **Open Space Committee: Update regarding converting town-owned parcels to Conservation Commission ownership**

Ms. Joubert stated the Open Space Committee will have an article for Town Meeting on the warrant regarding converting 4 town-owned parcels to Conservation Commission ownership. These parcels are on Church Street, West Street, Off Crawford Street, and Davis Street. After a brief discussion, the commission members voted in support of the Open Space Committee's Town Meeting article.

**White Cliffs Update**

At the request of the commissioners, Ms. Joubert gave an update on the status of the White Cliffs.

**Executive Session**

Mr. Tougas motioned to enter into Executive Session pursuant to M.G.L., Chapter 30A, Section 21, Subsection # (litigation and collective bargaining) due to the Chair's determination that a discussion regarding this matter in an open meeting may have a detrimental effect on the position of the Commission. Ms. Guldner seconded the motion, and the roll call vote was taken as follows:

Greg Young	"aye"	Wayne Baldelli	"aye"
Maurice Tougas	"aye"	Todd Helwig	"aye"
Justin Dufresne	"aye"	Tom Beals	"aye"
Diane Guldner	"aye"		

The members entered into Executive Session.

The members returned to regular session and the meeting adjourned at 9:30pm.

Respectfully submitted,

Debbie Grampietro  
Administrative Assistant  
Conservation/Planning/ZBA