



# TOWN OF NORTHBOROUGH Conservation Commission

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Approved  
2-12-2018

## Conservation Commission

### Meeting Minutes

October 16, 2017

**Members Present:** Greg Young (Chairman), Diane Guldner, Wayne Baldelli, Justin Dufresne, Maurice Tougas, Todd Helwig

**Members Absent:** Tom Beals

**Others Present:** Fred Litchfield (Town Engineer), see attached Sign-In Sheet

The Chair opened the meeting at 7:00 p.m. and made an announcement that the meeting is being recorded and also to mute cell phones.

Approval of Minutes – Mr. Helwig made a motion to approve the Meeting Minutes dated July 10, 2017; Ms. Guldner seconded; Guldner/Baldelli/Dufresne/Tougas/Helwig voted in favor; motion approved; Young abstained. Mr. Baldelli made a motion to approve the Meeting Minutes dated September 11, 2017; Ms. Guldner seconded; Young/Guldner/Baldelli/Dufresne voted in favor; Tougas/Helwig abstained; motion approved. The August 14, 2017 Meeting Minutes were tabled to the November meeting.

Mr. Tougas read into record the hearing notices for the Request for Determination of Applicability application for 65 Cheryln Drive and the Request for Determination of Applicability for 235 West Main Street.

#### Request for Determination of Applicability (65 Cherlyn Drive; Map 14, Parcel 19):

Applicant: Sandeep RajGuru  
Request: Proposed addition to home and 2' retaining wall  
Jurisdiction: 100-foot buffer to bordering vegetated wetlands

The RDA process was explained to Mr. RajGuru. Mr. Young said the Conservation Commission as well as the Building Department have concerns. Mia McDonald visited the site and has spoken with Mr. Litchfield. Members also visited the site. Cement has been put in for the addition. Mr. Young asked if he was given permission from the Building Inspector, the reason being that he understood Mr. RajGuru had a Cease and Desist before the putting in sonotubes or building. Mr. RajGuru said that was correct. He said that Mr. Litchfield told him he could go ahead. He made the determination because of the weather and the delay from July until now that he is not going to keep paying for sonotubes, and will go to the Building Department after he is done with this meeting.

Mr. Young asked if the wall that he wants to put up is part of the RDA; yes. Mr. RajGuru said there is no actual plan for the wall. He wants to put up a wall to create a garden (4' bed) and on the other side nothing. Ms. McDonald established the wetland line and went over it with the applicant. Mr. Young said we need a more detailed plan and filing. The wall is 16'-20' off the wetland line. We have a no-disturb 15' and a no-build 30' structure; retaining walls have to be considered and they are required to be 30' off. 30' off puts it in the middle of his yard directly behind the house which is not what the

applicant wants. Mr. Litchfield said there are two activities: the addition on the back of the house (deck and solar room) which is approximately 46' from the wetlands (which could be issued a Negative Determination with erosion control). However, with the wall being at 16' off, it is not appropriate to issue a Negative Determination because it requires some relief from the local bylaw. Could the applicant modify his plan thusly: not build a wall and possibly grade between the 15' and 30' area where he is allowed to work, and leave the 30' and 15' lines undisturbed.

Mr. RajGuru was asked if it was his intention on the house side of the wall to be a different height elevation than on the wetland side. Mr. RajGuru described the property where there is a drop-off; he planned to construct a wall so he would have flatter ground to work with. He would use dirt for the fill. He said the wall would not go 30' off the wetland so there was no reason for him to be here. Ms. Guldner asked if it was necessary for him to have the wall, were there alternatives? Mr. RajGuru said he wants a garden. Mr. Young said we need more detail of what he wants to do, i.e., how long the wall is going to be: it needs to be staked out so we can see how far it is off the wetlands, and make our decision based on that measurement. Mr. RajGuru did not understand the "detail". He is doing it himself so there is no actual plan. He was told that the town has a bylaw that says that a wall is a structure and a structure is supposed to be 30' off the wetland, so he can understand the Commission wanting to know where it is going to be. Mr. RajGuru said he could mark it out stake where it should be.

Mr. Litchfield asked if Mr. RajGuru has a plan prepared by an engineer or surveyor that shows the proper detail of the wall, how it will be built, what it is made of, how it will be reinforced, and has the heights and elevations showing the grade difference, would the board consider granting a variance from the 30' no structure to the location he has shown on the plan approximately, at the closet point, 16' up from the edge of the wetlands; the concern is the cost involved if the Commission decides not to waive the 30' no structure. At what point does the Building Inspector consider a wall a structure? The bylaw doesn't describe an actual height; it has to do with the permanency of it. The Building Inspector told Mr. Litchfield that up to 4' you can build a wall without a structural engineer; over 4' engineered plans are required to obtain a building permit. The Commission has not used that as a determination for considering a structure in the past. Mr. RajGuru was asked if there was a compelling reason for it, e.g., the structure was there before, they need it for access, can't do the project without it. If a variance is needed, a Negative Determination can't be issued; a Positive Determination would be issued requiring a plan for a proper Order of Conditions to show the details. Ms. McDonald recommended an RDA because the focus of the conversation was about the wetlands, sonotubes, and what he was building in the back; the wall was not included.

The Commission could issue a Negative Determination on the portion of the work that is near the building only, no variances will be granted, and a separate application will be required for the wall with a detailed plan. Mr. Young asked if there was an option to look at some non-wall alternatives, possibly a berm, pressure treated 6x6 as a way to make the garden and hold it back but not be an excavated permanent wall; Mr. RajGuru said that would be fine. He was asked about the elevation change and if he could put in a berm and grass and be done with it. Mr. RajGuru asked about cinder blocks. Ms. Guldner said they are more permanent. He said he is trying to preserve the wetland and not have any dirt going into it. He would have to bring dirt in, but not sure how much. He said he wants to put something there to have a garden on the edge of the wetland where it falls off and preserve the whole drainage area from anything else going down there. He was told if he wants to do something he could put the siltation fence, berm and seed it. If anything runs off it will be caught by the siltation fence and he would not need to have a wall. There are bylaws in place that have been upheld; a Notice of Intent is needed. He should forget the wall for now and go with the building addition. If he wants to do the wall at a later date he can come back with a Notice of Intent. The Commission will act on the addition; the wall will be

removed. Mr. RajGuru said nothing else will be done, no more topsoil will be brought in, no grass will be planted. He understands that filling or excavating within the wetlands will require him to come back. Mr. Baldelli made a motion to issue a Negative Determination for the RDA without the wall and only for the sonotubes and the addition; Mr. Helwig seconded; all voted in favor; motion approved.

Request for Determination of Applicability (235 West Main Street; Map 75, Parcel 190):

Applicant: Scott Charpentier (Town of Northborough)  
Request: Upgrade Pump Station  
Jurisdiction: 100-foot buffer to bordering vegetated wetlands

Jack Troidl and Dustin Briere (Woodard & Curran) were present on behalf of the DPW. Green cards were submitted. Mr. Troidl said the pump station is an existing building on top of a 10' circular wet well. It is in an existing easement; there are several sewer pipes that come into it from multiple directions. They are upgrading the entire pumping system in that station. They will pull out the skid and replace it with a new skid; the building will remain. There is a certain amount of funding available. If the bids come in where they hope they will, they plan to put in a flow meter for accurate measurements of the flow. With additional funding they would like to repave the parking area and would have a compressor for an air mixing system in the wet well which helps prevent ragging and mixes up grease. Mr. Young asked what would they do with minimum funding; the skid. Mr. Troidl explained the erosion control line; it is just over 20' off of the wetland, but the majority of work is well beyond the erosion control line. The contractor will have two options for bypass pumping: (1) pump directly out of the wet well directly into the force main, or (2) going to the upstream manholes pumping out of those into the force main. They are trying to get it out to bid in the near term and hope to schedule it over the winter. Mr. Tougas made a motion to issue a Negative Determination; Mr. Helwig seconded; all voted in favor; motion approved.

Informal Discussions:

Location: 83 Maple Street, Map 52; Parcel 1; DEP File #247-631  
Discussion: Possible work within the 15 foot no disturb area of a resource area.

Arthur Butt was present at the August meeting to discuss the work that was done. It was left at that meeting that he was to stake the area and members would visit the site before the September meeting, at which time the Commission could make a decision. He did not stake the property and he did not come to the meeting; a letter was sent approximately one week after the meeting inviting him to come tonight. Mia McDonald followed up last week and Mr. Butt said it was too short of a notice to attend. He indicated that he was not going to do anything. Ms. McDonald told him he had to come to the meeting in November to explain what he will or will not do; the Commission can then act accordingly with enforcement. He blatantly did the work. He did have an Order of Conditions, but not for the work that he did. The Commission could fine him, he can be told that until it is compliance, he will not get a Certificate of Compliance which could affect any future sale of the home. Mr. Litchfield will send a letter telling him the Commission wants to see him at the November 13<sup>th</sup> meeting and remind him that he has an outstanding Order of Conditions and no Certificate of Compliance will be issued until the issue is resolved. Mr. Young said to include that no Certificate of Compliance could negatively affect any proposed sale of his house in the future. It will also include staking the 15' offset as previously requested.

Location: Howard Street  
Discussion: Proposed Land Donation

Christa Collins (Sudbury Valley Trustees) said Ashley Davies has been working with the Town of Berlin to purchase the Oberg property on Lyman Road, a 90 acre parcel with land on both sides of Lyman Road. The town has applied for a Federal and Water Conservation Fund Grant which they have been awarded, but waiting from Washington to get the funds. It came to their attention that there is some land the Obergs own in Northborough on both sides of Howard Street (two strips at the southern end of the property totaling 4.017 acres). Since Berlin cannot purchase land in Northborough without going through legislation, they wanted to know if Northborough would like to accept the two pieces as Conservation. Berlin will pay the Obergs the full amount they agreed on; these parcels would be a gift. They are waiting for revised plans to show them as separate parcels (4.017 acres on the west side of Howard Street and approximately 4.017 acres on the east side). On the west side of Howard Street, the strip goes up to the Mt. Pisgah conservation land. Ms. Guldner asked if it would connect with the trails already there; yes. Mr. Litchfield said the Assessor's Office has the land listed as the Town of Berlin, but is being corrected to show that it is owned by the Obergs. The parcels are listed as 4 acres on the west side of street, 2.5 acres on the east side of the street, and another sliver parcel approximately ¾ acre (owner known possibly Town of Berlin). He asked Ms. Collins to check to see if that is part of the deal or if there is any way to define the ownership. Ms. Collins said she does not believe Berlin has not done a Phase I site assessment. Mr. Tougas made a motion to accept the donation of the land to the Town; Mr. Helwig seconded; all voted in favor; motion approved. Berlin is getting 75 acres.

#### **Old Business:**

407 Whitney Street – Mr. Litchfield said it is at the end of a common driveway off Coolidge Circle. The gentleman at the end of the common driveway has an Order of Conditions to repair a septic system. He received a Certificate of Compliance in February. In June/July Mr. Young observed some activity going on. Mr. Litchfield visited the site. The rains in the spring washed away the top soil around the septic tank and pump chamber to the point where the actual structure was exposed. The gentleman decided he would regrade his backyard and make a nicer lawn; he took down trees and moved material in the backyard towards the wetland area. He had also poured a concrete floor which cracked after one winter, leading them to find out there was no footing under the foundation around the house. He excavated to install a footing while they were doing all the other work. He was told to stop, file a NOI and contact the engineer that did the septic system design. Mr. Litchfield would have allowed him to use the plan he used for the septic system but it did not show the entire lot. He agreed and then notified Mr. Litchfield that his engineer was stricken ill as well as his wife so he is pursuing a new engineer. He does have the forms and he will be filing for next month. He has stopped work on the area around the yard. Mr. Litchfield has allowed him to continue the work on the foundation and driveway which leads to the crack in the garage floor; no other work is going on. He did put in erosion controls so it is secure. He placed 2'-3' diameter boulders around the rear of the property line; they may be within the 15' no disturb. Does the Commission consider boulders a structure? Mr. Litchfield's personal opinion is that he does not

Ms. Guldner said Curtis Septic did the septic system on the lot on the corner of Stone and Coolidge and she believes the back of the property is a straight line of large boulders that came out of where the septic was and the reason was because he lost a machine in there. Mr. Litchfield said it was stuck but they were finally able to get it out. Maybe the rocks were part of the septic redo. Mr. Litchfield said that gentleman also had to come back and file a NOI because his foundation did not have a footing under it either.

429-432 Anza – Mr. Litchfield received a call from Melissa Hamm who works in the Attorney General's Office under the Environmental Crime Strike Force Division asking for a copy of the Cease and Desist that the Commission had issued along with everything in our files. He encouraged her to come look at the file to see what it is she might need because the file is so large. She came in along with an attorney from the Attorney General's Office of Environmental Crime Strike Force Division; information was copied. There is no activity that Mr. Litchfield is aware of.

Davidians – The town did receive a call about some activity on the Sunday night before the public hearing in the wetland area, but Mr. Litchfield was not to confirm exactly what he was doing other than he said he was spraying the pumpkin patch. The neighbor who called thought it was an excavator, trees were coming down but could not see it from their property. Said a neighbor has permission to cut trees on the Davidian property for firewood; it could have been him.

### **Requests for Certificates of Compliance:**

Mr. Tougas made a motion to issue Certificates of Compliance for: 20 Davis Street, Map 96, Parcel 31-DEP File #247-0693; 195 Crawford Street, Map 60, Parcel 72-DEP File #247-1122; and Church Street Bridge, Map 63, Parcel 64-DEP File #247-1107; Mr. Helwig seconded; all voted in favor; motion approved.

76 Lincoln Street, Map 75, Parcel 40 – DEP File #247-1078 - Hold

Bartlett Pond Treatment – Mr. Litchfield said Ms. McDonald drafted the NOI and it has to be reviewed. It is going forward this winter. She did have a discussion with Joe Onorato (Solitude Lake Management) and they agreed that another survey would be in order to go forward with the most appropriate activity. It would advantageous to drain it down in the fall or winter. Mr. Litchfield said there is a submerged structure that was welded shut which eliminated the ability to lower the pond. He will discuss it with Mr. Onorato. The engineering study was done and they recommended further study and thinks we need to do that before going to the next step.

### **Other Business (as may legally come before the Commission):**

0 Church Street (House Relocation) – An Order of Conditions was issued earlier in the year. The floodplain (compensatory storage) was an issue. Mr. Litchfield said a gentleman came in the office and believes he wants to buy it and build a house, but wants to push the house back from the street another 20'. Mr. Litchfield's initial reaction was that it was fine as long as the compensatory storage volume that was required does not change; he is not filling any more of the floodplain. He showed the members Connorstone Engineering's plan putting the house 20' back. Mr. Litchfield's feeling is that if it doesn't change the compensatory storage required, it should be fine as long as it is not any closer to the wetland area in the corner. The members look at the plan. It increases the compensatory storage required from 2,480 to 2,690. Mr. Dufresne said he doesn't think the volume of fill would change, it would be deeper. If the landscaping plan with the house in the front further up was what was intended to be referenced in the Order of Conditions, then it would not require an amended Order of Conditions. Mr. Litchfield will call Vito Colonna and find out if the plan was revised and if the volume is the same, the gentleman will not be required to come in.

The next meeting will be held November 13<sup>th</sup> with site visits tentatively scheduled for November 11<sup>th</sup> (tentatively).

Mr. Tougas made a motion to adjourn; Mr. Helwig seconded; all voted in favor; motion approved. The meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Melanie Rich  
Commission Secretary