



Office of the

# CONSERVATION COMMISSION

Town of Townsend,  
272 Main Street  
Townsend, Massachusetts 01469

**James Deroian, Co-Chairman**

**Jennifer Pettit**

Leslie W. Gabrilksa,  
*Conservation Agent*

**John Hussey**

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## Minutes

### Selectmen's Chambers

### Memorial Hall

**Wednesday, June 24, 2015 @ 7:30 P.M.**

#### 1.0 Preliminaries

**1.1. Open Meeting** – Co-Chairman James Deroian opened the meeting at 7:30 pm.

**1.2. Roll Call** – Co-Chairman James Deroian (JD), Christine Vitale (CV), John Hussey (JH) and Veronica Kell (VK) were present. Jennifer Pettit (JP) was absent. Conservation Agent Leslie Gabrilksa was absent.

**1.3 Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting** - none

**1.4 Chair's Report** - none

**1.5 Administrator/Agent Report** - none

**1.6 Review of Minutes** – none

#### 2.0 Hearings and Appointments

**2.1 7:30 Notice of Intent (DEP #308-626 )**

**Applicant: Joseph LoPilato**

**Location: 94 Tyler Road**

**Project: proposed construction of a single family home, well, septic system and driveway within the 100 ft. buffer zone to a bordering vegetated wetland.**

JD opened the hearing at 7:35 pm. JD reported that a check was received to pay for the legal notice. VK asked the applicant for the abutter notifications, reviewed them, and reported that all was in order. JD reviewed the file, and asked for the applicant's forbearance as the agent was away. VK read the legal notice aloud. Brian Geaudreau, Hancock Associates, represented the future owner, Joseph and Cheryl LoPilato, who were also present.

Mr. Geadreau presented the project to the Commission. The applicant is filing a Notice of Intent because the Order of Conditions approved by the Commission for this property in 2003 had expired. They have made minor modifications to the 2003 plan. The property consists of a side of a hill, with a Bordering Vegetated Wetland at the toe of the slope. They plan to build a four bedroom house. The driveway has been straightened out to match the property line, and the house has been pulled back to 18' from the property line. Townsend zoning laws require a 15' setback for structures. Mr. Geaudreau said that the former septic system had grading within 50 ft of the wetland. They now propose a Cultec septic

system, which shrinks the footprint of the system and the amount of grading, and pulls the limit of work back. The 50' buffer is now the limit of work.

The entire slope will be planted with a New England Wetland Plants' upland seed mix on the entire slope. It will be mowed rarely and will be allowed to revert back to its natural conditions. Hay scented fern will be maintained for the first hundred feet next to the driveway

The project is exempt from stormwater management requirements because it is a single family home. There will be a drip edge instead of gutters. Runoff from the large impervious area in front of the garage will be recharged by a drainage trench, and the driveway will be pitched toward the trench to catch the runoff.

The septic system will be installed and stabilized and then the house will be constructed. Two rows of straw wattles are proposed because of the amount of grading and disturbed soils, and the potential volume and velocity of eroding sediment from the 3:1 slope. JD expressed his appreciation for the double wattles.

VK asked whether there would be a deck added to the house. Mr. Geaudreau responded that there will be a 14' x 14' deck, which will be completely outside the buffer. The foundation will be 28' x 36' with a 24' x 24' garage. The actual constructed building will be slightly smaller than the footprint shown on the plan.

They will be staying completely out of the 35' no disturb buffer zone.

VK asked for a site walk. Mr. Geaudreau questioned whether a site walk was needed for a project of this size. He stated that Seth Donohoe and LG did not coordinate a site walk, but he said that LG looked on the site on her own. JD reported that LG had gone out to the site twice. She had not indicated that she had any concerns about the proposed project. VK stated that she would like to look at the site. JD noted that it was within their jurisdiction to look at the property. JH noted that LG had reported that she did not have any concerns on the project. VK reported that her notes from the June 10<sup>th</sup> Commission meeting said that LG recommended that the Commission set up a site walk after listening to the presentation on the project at the hearing.

The septic system work has been going on for two months, and they are working on obtaining Board of Health approval of the septic system.

The Commission discussed having LG draft the Order for the meeting.

Mike Turgeon, Balsam Drive, commented that once the Order of Conditions is issued, there was a 10 day appeal period added to the time before construction can begin. Karen Hill, Gardner, MA, said that the alternative was that he could start at his own risk. JD questioned whether the Commission should go ahead and approve it without a site walk. Ms. Hill commented that the plan had already been approved. VK responded that the Order of Conditions had lapsed. Mr. Geaudreau commented that they were pulling work away from the wetland. JH said that he did not see a problem with the proposed project.

JH motioned to accept the plan as approved. VK said that she would like to see the property. She asked whether there were wetland delineation forms. Mr. Geaudreau responded that the forms are usually only done when there are questions about the delineation. VK asked whether it was possible for a wetland to change since 2003. Mr. Geaudreau said that because of the topography, the wetland would not have changed. VK noted that she and CV had just attended the MACC wetland delineation class, and was advised that the delineation forms should be submitted with a Notice of Intent. Mr. Geaudreau

reiterated that the forms were not necessary. JD felt that it was not necessary since the plan had been approved in 2003.

The floor of the basement is 30' above the wetlands. JD felt comfortable going ahead without a site walk.

CV noted that LG had recommended that the Commission hold a site walk. If LG could draft an Order of Conditions for the next meeting, it would be possible to sign it that night. JH asked for Mr. Turgeon's thoughts on whether to do a site walk or not. Mr. Turgeon asked Mr. Geaudreau about the soils, who replied that the top 6-8" was sandy loam. VK noted that if we had the forms, we would have the information on the soils.

MT reported that he worked on 144 Tyler Road. He had found a seep on that site, and if it's loamy sand, you might not see the seep unless there was compact glacial till. In that case the wetland could creep up the slope. The data sheets would have had the soil profile. Mr. Geaudreau said that depended on how the wetland was delineated – whether it was just based on vegetation or whether soils were taken into consideration. Mr. Turgeon said that if it was not picked up in 2003, the Commission might want to check the delineation. VK again noted that LG had recommended a site walk at the June 10<sup>th</sup> meeting. Mr. LoPilato said he would withdraw his Notice of Intent if the Commission held a site walk, and would not be sign the Order at the next meeting.

JH said he would like to help Mr. LoPilato, but he also needed to protect the Commission. They could offer an emergency meeting to approve the Order before the next meeting on July 8<sup>th</sup>, but the Order would need to be drafted, and the Agent, who was on vacation, would need to review what needs to be put in the Order. Mr. LoPilato said he would withdraw his Notice of Intent.

Mr. and Mrs. LoPilato and his representative left the room to discuss the issue privately.

Karen Hill noted that LG would not be able to write the Order of Conditions, and the Commission would not be able to sign the Order anyway until the next meeting. JD said that the Commissioners could come in on their own time to sign it. Karen Hill commented that they would not be able to do anything in the next few weeks anyway.

JD asked Mr. Turgeon how big a risk it would be to approve it. Mr. Turgeon commented that if the wetland line moved 15' out, the protected areas would be impacted. He said that finding a seep would be the most likely change, and a "v" would be seen on the topographical contours. He did not see it on the , which he did not readily see.

Mr. Geaudreau and Mr and Mrs. LoPilato returned. They stated that they would prefer to close the hearing tonight, and that the only reason they are there is because the original Order had lapsed. They were receptive to a site walk if absolutely pressed, and JD agreed that he should not have to have a site walk. JH said that he still had a motion on the floor to approve the Order of Conditions tonight.

CV said that she was not comfortable issuing the Order without the agent being present. JD was in favor of approving it tonight. CV asked VK what she was looking for. VK said that there were no forms submitted, and she would like to see the wetlands and the steepness of the slope, as well as the topography. VK said that the delineation forms should be submitted with every Notice of Intent. Mr. LoPilato asked what he could do differently on the plan if the Commission had concerns from the site walk.

VK asked the Commissioners if they were ready to approve every application without delineation forms, or without looking at the site. Mr. LoPilato asked if he was being treated differently than any other

applicant. VK said they typically do go on a site walk. Mr. LoPilato said that typically we do not see second submissions of plan. CV asked when it was originally approved. Mr. Geaudreau replied that it had been approved in 2003. JH said that the Commission does not do site walks on every project. Mr. LoPilato questioned the authority of the Commission regarding the wetland delineation and whether instead of holding a site walk, the agent could change it during the course of inspections once the project is underway. VK said that we can't change the plan once it's approved.

JH asked VK if she wanted to see if it's correct. He asked whether she was questioning what is on paper as opposed to what is on the ground. He asked her if the Commission found something different on the ground than is shown on the plan, was she aware in advance that that would mean a red flag and they would have to stop all action. He asked her if she would be satisfied with that. VK wouldn't sign it until after the site walk is made. The Commission would sign the Order after the changes are made that are a result of the site walk. Ms. Hill pointed out that if there is nothing to sign tonight, then the discussion is a moot point. Mr. LoPilato disagreed. JH said that the Commission could not make any decisions in the field. He would like to expedite it, but we have to cover our bases, so let's work together to where we want to go. It's what we have to do. If what is on the property matches your plan, he didn't think that anyone has a problem with the proposed plan. He asked Mr. Turgeon if what he said was accurate. Mr. Turgeon said that the wetland probably hadn't changed as long as there wasn't a seep that had been missed on the first site visit.

CV asked again for a delineation sheet. Mr. Geaudreau said it was the same wetland line that was flagged in 2003 and that Hancock Associates did not redelineate it. He does not have a form because they did not delineate it themselves. He stated that he could have a form done to the Commission. CV read the report out loud, and said that it sounded like Hancock did reflag it. The report said that the wetland delineation was reestablished. The flags are out there, but placed according to the old plan. She asked about the comment about the absence of hydric soils. VK asked also, and Mr. Geaudreau said that they would have done a visual inspection. Mr. LoPilato asked him what they would ask him to do if the wetland line changed since there is little room to move anything.

Mr. LoPilato discussed his planning process and the money that he spent on it. He asked if the Order would be drafted and voted on July 8<sup>th</sup>. was planning that it would be continued VK said that LG would be returning on 7/1/15, so holding a hearing in a week would not be possible, but it would be on July 8<sup>th</sup> anyway. She suggested just holding the site walk and voting on it in 2 weeks at the next meeting on 7/8/15. Mr. LoPilato said that he could see that he only had 2 votes and that he needed 3, so the site walk was going to happen.

JH agreed in VK's defense, it really would be a good idea to look at the site, and in reality we could not do anything in two weeks, and we need to do it correctly. We need to move ahead cautiously, and make sure that we are doing things right.

JD reiterated the difficulty the board is undergoing at this time.

CV said that most of the time, the Commission does a site walk. Mr. LoPilato agreed that the Commission would do a site walk the first time this was introduced. Mr. Geaudreau suggested a site walk before the meeting on the July 8<sup>th</sup> meeting. Mr. Geaudreau will contact LG to go over any issues or concerns. JD said he would need to work with his Commissioners about the site walk and hold one. They agreed to a site visit on Thursday, July 2<sup>nd</sup> at 6:30 pm.

JD thanked Mr. LoPilato for his patience.

JH motioned to continue the hearing to Wednesday, July 8<sup>th</sup> at 7:45, seconded by CV, all in favor.

## **2.2 8:00 Request for Determination of Applicability (TWB #2015-88)**

**Applicant: Christopher Aldrich**

**Location: 49 Brookline Street**

**Project: to determine whether a proposed carport within Riverfront Area is subject to the Massachusetts Wetlands Protection Act and/or the Townsend Wetlands Bylaw**

JD opened the meeting at 8:44 pm. VK read the legal notice. Christopher Aldrich was present.

JH asked for a map. Mr. Aldrich said that he had attached a plot plan to his application. He explained that when he went to apply for a building permit, he was advised that the carport must be 50' off the road and 15' from the property lines with his neighbors. That put it in the middle of his backyard. He spoke with LG, who said it needed to be 50 ft from the brook. He would prefer that it cover his driveway, which would be more than 50 ft from the brook. VK asked if the application was different from what he originally filed. Mr. Aldrich responded that he had originally staked where the concrete pad would go to meet building setbacks. He said that LG visited the site and saw the amount of impervious surface close to the brook and said that it would be better in terms of wetlands impact if it could be located on the driveway. Mr. Aldrich and the Commission discussed how it would be attached to the driveway. It will be screwed to the driveway, but could be moved. VK suggested that he talk to the Building Dept. The Commission would prefer not to have additional impervious surface, a concrete pad or footings, in the Riverfront Area so close to the brook if possible.

VK asked for clarification if this application is different than the one LG reviewed. He said that the setbacks are on the application, but there was nothing about brooks. VK said that she did not know whether the setbacks are a bylaw or not, and whether he could actually put the structure over the existing driveway. JH said to find out from the Building Inspector if it's considered a temporary or permanent structure. He thought that it changes the rules. Karen Hill, Gardner, MA said that if it's a permanent structure, all you do is go to the Zoning Board of Appeals, and chances are they will give you a waiver. She then said that maybe they will and maybe they won't, she couldn't say.

JH motioned to issue a Negative Determination #2 as long as the structure goes on the driveway, seconded by CV, all in favor.

JH motioned to close the meeting at 9:02 pm, seconded by CV, all in favor.

## **3.0 Work Session**

**3.1 Discuss and possibly vote on election of Commission officers for FY16** – VK motioned to table this until the July 8, 2015 meeting, seconded by JH, all in favor.

**3.2 Discuss and agree to several possible dates for site visit to Coppersmith Way in order to review and vote on request to extend Order of Conditions (DEP #308-497) for one year.** – VK felt that it was important to have the site walk before the July 8<sup>th</sup> as recommended so that there would still be another meeting to discuss issues if necessary before the Order expires. The Commission agreed to a site walk on Monday, July 6<sup>th</sup> at 6:30 pm.

**4.0 Correspondence** - none

**5.0 Items for discussion at the next meeting** - none

**6.0 Advertisements and Conferences**

**7.0 Next meeting – July 8, 2015 @ 7:00 pm**

**8.0 Adjournment** – JH motioned to adjourn. Karen Hill, Gardner, MA, interjected that the Commission was going to vote officially to change the time to 7:30 pm. VK and JD responded that they thought that the Commission had already voted on it and JD noted that the draft July 8<sup>th</sup> agenda that LG gave the Commission already stated that the meeting would start at 7:30pm. JH motioned that the Commission will meet at 7:30 pm in order to better suit the needs of the Commission, including the Chair. VK said it

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was probably a cut and paste. CV seconded. VK noted that the agenda for tonight's meeting, June 24<sup>th</sup>, says 7:30 pm. JH said he thought so too, but also thought it would be ok to just vote again. Karen Hill said the vote wasn't listed on the agenda last time, but it was a suggestion for the benefit of the Chair because the Chair couldn't get to the meetings by 7:00 pm. VK said that it was not on the agenda this time either, so what we are doing now is exactly what we did the last time, and she questioned whether the Commission was going to do this at every meeting. She suggested that the Commission just agree to meet at 7:30 pm and we are good. All agreed to meet at 7:30 pm.

JH returned to his motion to adjourn, now at 9:09 pm., seconded by VK, all in favor.

Minutes transcribed by Leslie W. Gabriliska from audio tape recording, and respectfully submitted by Leslie W. Gabriliska