

## WAYLAND CONSERVATION COMMISSION

Minutes, Thursday, November 2, 2017 7:02 – 10:18 PM

Approved: November 16, 2017

**Location:** Council on Aging (COA), Town Building, 41 Cochituate Road, Wayland, MA

**Present:** Barbara Howell, John Sullivan (7:02 - 10:05pm), Tom Klem (7:07pm), Sean Fair, Tom Davidson  
Chairperson: Sherre Greenbaum, Conservation Administrator: Linda Hansen

**Not Present:** Joanne Barnett

**Minutes:** Nicole Thomson

S.Greenbaum opened the meeting at 7:02 PM noting that a quorum was present and that the meeting was being recorded by WayCAM.

1. **Executive Session pursuant to M.G.L. Chapter 30A, Section 21(a) (3) to discuss litigation relating to 8 Hill Street.**

**Motion by the Chair, S.Greenbaum, to enter Executive Session:**

S.Greenbaum moves that the Conservation Commission enter into Executive Session pursuant to M.G.L. Chapter 30A, Section 21(a)(3) to discuss litigation relating to 8 Hill Street and that the Commission recess to the Planning Board conference room for approximately 10 minutes and return to the Senior Center to reconvene in open session; Seconded; Roll Call vote noting J. Sullivan, B. Howell, T. Davidson, S. Fair, and S. Greenbaum all in favor 5-0.

S.Greenbaum declared that a public discussion with respect to the discussion of litigation relating to 8 Hill Street will have a detrimental effect on the litigating position of the Town.

S.Greenbaum invites Linda Hansen, Conservation Administrator, and Nicole Thomson, Department Assistant, to attend Executive Session. Roll Call vote noting J. Sullivan, B. Howell, T. Davidson, S. Fair, and S. Greenbaum all in favor 5-0.

S.Greenbaum announced that the Commission is now going into Executive Session at 7:05pm for sole purpose of this discussion as noted and will reconvene in open session in approximately 10 minutes.

The Commission reconvened in open session at 7:27pm

2. **Citizens Time: Designated time for input to the Commission regarding items that are *not* on the agenda.**

Tonya Cunningham, 9 Williams Road, spoke as an abutter to the Oxbow Fields construction. Ms. Cunningham has visited the site multiple times and found that more than 40 trees are proposed to be removed. Ms. Cunningham is concerned with the Recreation Department's lack of knowledge adhering to the permit conditions. A request was made for the Commission to visit the property and confirm the amount of trees being removed.

**3. Land Management**

- a. **Mainstone trail system marking-** D. Stimson, SVT, and B. Harris will meet on Tuesday, November 7, to mark out the trail system at Mainstone Farm.
- b. **Gatehouse Roof** – Purchase Order for Weston and Sampson to design a roof has been submitted. The new roof will hopefully be built before winter.

4. **7:10 pm –Continued Public Hearing, Linda Malenfant, Applicant, 4 Shore Drive, DEP File No. 322- 904:** Abbreviated Notice of Intent filed pursuant to the Wetlands Protection Act and a Chapter 194 application filed pursuant to Wayland’s Wetlands and Water Resource Protection Bylaw filed by Linda Malenfant for 4 Shore Drive, Wayland to install a wood deck with a railing attached to the existing single family home, removal of a pine tree with replacement plantings, and minor grading changes. The property is shown on Wayland’s Assessor’s Map 36B, Parcel 006.

Linda Malenfant and Sherman Homan, homeowner and applicant, were present. The proposed deck is 46 ft. from mean annual high water. L. Hansen requested the deck be shortened to remove that section within the 50 ft. from mean annual high water. The 5 footings required for the deck will have 2 within 50 ft. The Commission requested planting native species for mitigation.

On the northern side of the house the homeowners are proposing the removal of old machinery and inclusion of a turtle landing.

<b>Motion to close the hearing under the Wetlands Protection Act;</b>	<b>Seconded</b>	<b>6-0</b>
<b>Motion to close the hearing under Chapter 194;</b>	<b>Seconded</b>	<b>6-0</b>
<b>Motion to issue an Order of Conditions with conditions as discussed under the Wetlands Protection Act;</b>	<b>Seconded</b>	<b>6-0</b>
<b>Motion to issue a Permit with conditions as discussed under Chapter 194;</b>	<b>Seconded</b>	<b>6-0</b>
<b>Motion to require a Performance Guarantee of \$200.00;</b>	<b>Seconded</b>	<b>6-0</b>

5. **7:15 pm – Public Hearing, Thomas and Sarah Greenaway, Applicants, 52 Rice Road, DEP File No. 322-902:** Notice of Intent filed pursuant to the Wetlands Protection Act and a Chapter 194 application filed pursuant to Wayland’s Wetlands and Water Resource Protection Bylaw filed by Thomas and Sarah Greenaway for 52 Rice Road, Wayland to install a septic system. The property is shown on Wayland’s Assessor’s Map 45, Parcel 63.

Tom Greenaway, Applicant, and Vito Colonna, Sullivan, Connors, & Associates, were present. 52 Rice Road is proposing to install a new septic system within the 200 ft. riverfront. 54 Rice Road has a proposal to remove the existing house and rebuild, and a new septic system will be installed.

L. Hansen spoke that stormwater for the entire subdivision needs to be permitted under DEP. These two projects are difficult to permit since there is not one single permit for the Conservation Cluster. V. Colonna spoke that all the stormwater was directed to the common driveway area to prevent each homeowner from having separate stormwater systems. The



previously, but the permit has since expired. The proposed project is exactly the same as previously filed. L. Hansen noted on a site visit that dumping has occurred on the slope abutting DCR land. A condition of the permit is to remove the debris and no future dumping is allowed.

- Motion to issue a Negative Determination as discussed under the Wetlands Protection Act;**  
Seconded 6-0
- Motion to issue a Permit w/conditions as discussed under the Chapter 194 Bylaw;**  
Seconded 6-0
- Motion to require a Performance Guarantee of \$200.00;**  
Seconded 6-0

8. **7:50 pm –Public Meeting, Charles Samiotes, Applicant, 65 East Plain Street, File No. D- 919:**  
Request for Determination of Applicability filed pursuant to the Wetlands Protection Act and a Chapter 194 application filed pursuant to Wayland’s Wetlands and Water Resource Protection Bylaw filed by Charles Samiotes for 65 East Plain Street, Wayland to confirm the proposed resource delineation and the installation of a new well. Property is shown on Wayland’s Assessor’s Map 51B, Parcel 028.

L. Hansen noted that there was miscommunication on the type of permit being filed, C. Samiotes only filed under Chapter 194.

Charles and Despina Samiotes were present. C. Samiotes stated that he has solar panels, battery backup for his house, and his goal is to get off the grid. He proposes installing a drinking water well, 300-500 feet deep; drawdown will have no effect on the wetlands. He is asking for wetlands delineation as his property has never been delineated. C. Samiotes noted that the original abutter notification stated a different property address but was corrected with a new notification to abutters.

C. Samiotes stated that Mary Rimmer, Rimmer Environmental Consulting, who the Commission has dealt with in the past, delineated the property. L. Hansen spoke with M. Rimmer and the field notes will be provided tomorrow. Discussion ensued on the location of the wetlands at the rear of his property. L. Hansen did a site visit along with P. Brinkman, Town Engineer, and S. Greenbaum and B. Howell. L. Hansen stated that she agreed with the wetland delineation. Discussion ensued on the difference between a drinking water and irrigation well.

Nancy Leifer, an abutter, stated that she is in favor of the well.

Attorney Thomas C. Grassia was here to represent the owners of 8 Hill Street. T. Grassia read a letter delivered to the Board of Health which stated among other things that the well should not be approved because there is public water service, it could be located elsewhere, and the Applicant was aware of the of the 8 Hill Street plans before he applied for the well. He did not address any impact the well would have on the wetlands. See Attachment.

L. Hansen stated that the Commission will not be voting on location of the well since it is determined by Board of Health. C. Samiotes has an approved well permit from Board of Health and this hearing is to determine if the well would have any impact on the wetlands. S. Greenbaum stated that the Applicant’s motivation for location of the well has no bearing on the Commission’s decision and is not considered.

Attorney George Hailer was also here to represent the owners of 8 Hill Street. He stated that there is a wetlands delineation of 8 Hill Street and the Applicant's plan is not accurate because it does not include that delineation. He stated that this requires a peer review and the meeting should be continued. S. Greenbaum stated that the Commission has not required delineations of other properties on plans for RDA applications. B. Howell stated that the delineation is only for the property in the application. Discussion ensued on whether other delineations are required on the plan.

J. Sullivan spoke that if the Commission decides not to pursue legal action on 8 Hill Street then the Chapter 194 decision is invalid.

C. Samiotes stated that he is asking for a delineation only for his property. L. Hansen stated that she has reviewed the application and delineation and is comfortable with approving the delineation without requiring a peer review.

**Motion to accept the delineation of the wetlands;**

**Seconded 6-0**

**Motion that there would be no significant impact on the wetlands with installation of the drinking water well;**

**Seconded 6-0**

9. **8:00 pm – Continued Public Hearing, Joe Tamposi, Tamposi Brothers, Applicant, 74 Moore Road (aka Lot 1 Hickory Hill Road) DEP File No. 322-900:** Notice of Intent filed pursuant to the Wetlands Protection Act and a Chapter 194 application filed pursuant to Wayland's Wetlands and Water Resource Protection Bylaw filed by Joe Tamposi, Tamposi Brothers, for 74 Moore Road (aka Lot 1 Hickory Hill Road), Wayland to construct a new single-family home with associated grading, drainage, patio and driveway work within an undeveloped ANR lot. The property is shown on Wayland's Assessor's Map 11, Parcel 14.

Joe and Jake Tamposi, applicants; Dan Wells, Goddard Consulting; Vito Colonna, Sullivan, Connors and Associates, were here to present. The Commission voted to accept the requested waivers:

**Waiver from requesting all waivers at the time of filing of application;**

**Seconded 6-0**

**Waiver from Site Plan showing trees greater than 6 inches in diameter;**

**Seconded 6-0**

**Waiver from Site Plan showing: Location for temporary stockpiles of or storage of soils or demolition debris during construction; Access route for construction equipment; and location for refueling of equipment;**

**Seconded 6-0**

D. Wells sent an email summary stating changes from the previous hearing, including datum and indication of elevation. V. Colonna stated that 2,050 sq. ft. of additional impervious surface is within the buffer zone. The trees requiring removal have been identified, a total of 20. Trees marked 2, 3, 4, and 5 require removal for driveway grading. L. Hansen spoke that a landscape plan will be required as a condition.

Demarcation of limit of lawn was discussed. Usually large boulders are preferred to prevent further lawn encroachment on buffer zone. Bark mulch will not be sufficient. Shrubs would be good and can be located along limit of lawn.

Discussion ensued on comments provided by P. Brinkman regarding stormwater. V. Colonna was able to provide information relating to the concerns raised.

Snow removal is proposed at end of driveway. Rather, snow should be placed at side of driveway since enough vacant space will allow for snow placement. A condition on the permit will require no salt use.

<b>Motion to close the hearing under the Wetlands Protection Act;</b>	<b>Seconded</b>	<b>6-0</b>
<b>Motion to close the hearing under Chapter 194;</b>	<b>Seconded</b>	<b>6-0</b>
<b>Motion to issue an Order of Conditions with conditions as discussed under the Wetlands Protection Act;</b>	<b>Seconded</b>	<b>6-0</b>
<b>Motion to issue a Permit with conditions as discussed under Chapter 194;</b>	<b>Seconded</b>	<b>6-0</b>
<b>Motion to require a Performance Guarantee of \$2,000.00;</b>	<b>Seconded</b>	<b>6-0</b>

10. **8:10 pm – Continued Public Hearing, Ben Stevens, Trask Development, Applicant, 32/34 Covered Bridge Lane, DEP File No. 322-899:** Notice of Intent filed pursuant to the Wetlands Protection Act and a Chapter 194 application filed pursuant to Wayland’s Wetlands and Water Resource Protection Bylaw filed by Ben Stevens, Trask Development, for 32/34 Covered Bridge Lane, Wayland to address mitigation for unpermitted work within a wetland buffer zone. The property is shown on Wayland’s Assessor’s Map 35, Parcel 030 P. (Owner on record is Ryan Dunne, 32 Covered Bridge Lane, and Vasant and Semma Padmanabhan, 34 Covered Bridge Lane).

Desheng Wang, Creative Landscape and Water Engineering, LLC, was present. D. Wang did a site visit with L. Hansen and P. Brinkman to determine the location of the wetland replication. L. Hansen sated that a more suitable wetland replication site is behind the property of 32 Covered Bridge Lane. Less grading and removal of trees are involved with this location. The stormwater management plan still has issues, which need to be resolved with Samiotes Engineering.

L. Hansen received a new site plan from D. Wang an hour prior to the hearing and the Commission has not had sufficient time to review the new material. A continuance of the hearing will be required.

<b>Motion to continue the hearing at the Applicant’s request to November 16, 2017 at 8:00pm under the Wetlands Protection Act;</b>	<b>Seconded</b>	<b>6-0</b>
<b>Motion to continue the hearing to November 16, 2017 at 8:00pm under the Chapter 194 Bylaw;</b>	<b>Seconded</b>	<b>6-0</b>

11. **8:30 pm –Continued Public Hearing, Chris D’Antonio, Windsor Place, Applicant, 24 School Street, DEP File No. 322-897:** Notice of Intent filed pursuant to the Wetlands Protection Act and a Chapter 194 application filed pursuant to Wayland’s Wetlands and Water Resource Protection Bylaw filed by Chris D’Antonio, Windsor Place, LLC, for 24 School Street, Wayland to demolish the existing house, barn and driveway followed by construction of two new townhouse buildings, paved parking and driveways, new subsurface sewage disposal system, stormwater management system and supporting utilities. The property is shown on Wayland’s Assessor’s Map 52, Parcel 189.

Brian Nelson, Metrowest Engineering; Chris D' Antonio, applicant; and Desheng Wang, Creative Landscape and Water Engineering, LLC were present. L. Hansen stated that results have not yet been received on the title search, but she has received two quotes for a stormwater peer review from Nover- Armstrong Associates and Meridian Associates. TEC's peer review is inconclusive for purposes of the NOI and the Commission needs more complete information for issues within its purview. The cost estimates are fairly close but the applicant needs to determine that there is no conflict of interest with either one.

The letter from TEC stated that further review of the stormwater management plan should be subcontracted out to a hydrogeologist (#3, #4 and #20). B. Nelson is waiting to provide further analysis of the TEC review until the ZBA, Planning, and Conservation have completed their reviews and he will then revise his calculations. He stated that they have provided as much recharge as they can to cover increased impervious surfaces.

J. Sullivan spoke that a peer review needs to be performed and the Commission will decide the best fit rather than have TEC subcontract it out. It is the Commission's decision as to who is the most qualified and appropriate to perform the peer review. Rather than leave to TEC to choose their hydrogeologist, the Commission will decide. Numerous questions have been raised if the stormwater management systems will actually work and a detailed scope of work for peer review will be provided to the applicant. L. Hansen expected to receive a stormwater mounding analysis, but is still waiting for B. Nelson to provide one. The back sections of roof runoff are not captured at all and there are questions about sizing of infiltration.

Discussion ensued on L. Hansen's responses to D. Wang's summary of how this project protects the interests of the Act. S. Greenbaum instructed D. Wang to provide further written responses to L. Hansen so the Commission can review and go over them at the next hearing.

L. Hansen asked what was found in the encroachment areas. D. Wang spoke that the retaining wall should be removed but not the soil. The 3 test pits off site showed 11 inches of loam and 12 inches of wood chips. The loam is beneficial as it is suitable for vegetative growth. Wall is 2 ft. tall with roughly 2 ft. or 2,500 cubic ft. of fill.

T. Davidson stated that the stone wall and fill need to be removed since they are on town land. Even with soil analysis the fill needs to be removed.

L. Hansen noted that the comment letter provided to ZBA stated that the encroachment and restoration of the area can be dealt with through enforcement or through restoration. C. D'Antonio stated that he will work with the Commission but is under no obligation to remedy the situation. The issue of who is responsible will be discussed with Town Counsel.

Discussion ensued on what should be included in the scope of services to have clear and specific standards and parameters. L. Hansen will have a scope of services ready for the Applicant before the next hearing so it can be discussed and voted on then.

**Motion for scope of services prepared by L. Hansen for peer review services based on the TEC report, any responses to the TEC report, Notice of Intent requirements, and Site Conditions; Seconded 6-0**

**Motion to continue the hearing at the request of the Applicant to November 16, 2017 at 8:20 pm under the Wetlands Protection Act; Seconded 6-0**

**Motion to reopen the hearing with permission of the Applicant for public comment; Seconded 6-0**

George Bernard, 103 East Plain Street, asked if any members from the Commission will be at the ZBA hearing to speak on the discussion from tonight. It is unclear as to what the ZBA will speak on regarding the TEC report. The Commission's peer review will not be done by then but ZBA will have their peer review ready.

**Motion to continue the hearing at the request of the Applicant to November 16, 2017 at 8:20 pm under the Wetlands Protection Act; Seconded 6-0**

## **12. Other**

- a. Stone's Bridge Conservation Area Grant Proposal** - submitted
- b. January- June 2018 Meeting Schedule**- Commissioners will review and let the Conservation Department know if there are any changes that need to be made.
- c. Wayland Meadows Signature**- The Board of Selectman will be meeting on Monday, November 6 to sign for Wayland Meadows. The Commission will be voting on Wayland Meadows on November 16.
- d. Request for CPC funds for aqueduct crossings**- The warrant article is being sponsored by the Commission for STM. The Finance Department prefers to have fiscal warrant articles only on Spring Town Meeting. L. Hansen plans to go to CPC to see if they would support recommending CPA funds for the project on Wednesday, November 8, either by amending funding source for STM or for a CPC article at ATM. Commission may want to pass over article.

**Motion for L. Hansen to inquire about CPC funds; Seconded 5-0**

- e. Continued discussion of Town Field underground irrigation**- A meeting was held with C. Chroust and K. Brenna to discuss invasive species removal and the sprinkler system. The Recreation Department has decided to comply with the permit and remove the two sprinkler heads in the buffer zone.
- f. Matters not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any**

## **13. Request for Certificate of Compliance**

- a. 25 White Road; File No. D-885**

**Motion to Issue a Certificate of Compliance under the Wetlands Protection Act; Seconded 5-0**

**Motion to Issue a Partial Certificate of Compliance under the Chapter 194 Bylaw; Seconded 5-0**

- b. 133 Plain Road; DEP File No. 322-842**



**Motion to Issue a Certificate of Compliance under the Wetlands Protection Act;  
Seconded 5-0**

**Motion to Issue a Partial Certificate of Compliance under the Chapter 194 Bylaw;  
Seconded 5-0**

- c. 113 Concord Road; DEP File No. 322-828- Brian Nelson, Metrowest Engineering, was present.**

Brian Nelson, Metrowest Engineering, was present. L. Hansen spoke about outstanding concerns with this project including a failure to submit a stormwater management plan, no final inspection of the infiltration system has been provided, and inspection reports were never submitted. B. Nelson stated that inspection reports were filed for the first month and he will look for other reports.

A planting plan was never included, screening only for the solar panels and the removal of trees have not been noted. L. Hansen was unsure if a shed was still present since it was shown on the As-built but inspection of the site showed nothing.

- d. 113 Concord Road; DEP File No. 322-852- above**

- e. 115 Concord Road; DEP File No. 322-853** -The submittal of photos was required but none were provided. The Order of Conditions states that proof needs to be provided for removal of the concrete foundation. No Certificate of Compliance for any of the properties will be approved until these issues are resolved.

**14. Request for Return of Performance Guarantee**

- a. 25 White Road; File No. D-885 (\$500.00)**

**Motion to return \$500 performance guarantee; Seconded 5-0**

- b. 133 Plain Road; DEP File No. 322-842 (\$1,750.00)**

**Motion to return \$1,750 performance guarantee; Seconded 5-0**

**15. Approve Minutes: October 19, 2017**

**Motion to approve the minutes of October 19, 2017; Seconded 5-0**

**16. Adjournment**

**Motion to adjourn at 10:18pm; Seconded 5-0**

The next **Scheduled** Conservation Commission Meeting is November 16, 2017 and will be held in the Wayland Town Building.



Thomas C. Grassia  
Attorney at Law

PO Box 5325  
COCHITUATE, MASSACHUSETTS 01778-6325  
PH: 508.653.0054 ~ Fx: 954.656.0054  
tom@tomgrassia.us

By Hand

30 October 2017

Board of Health  
Town of Wayland  
31 Cochituate Road  
Wayland, MA 01778

Re: 65 East Plain Street (Samiotes)  
Application for Permit to Construct a Well

Ladies and Gentlemen:

Please be advised that I represent Kenneth Todd Nelson and by assignment of contract and specific authorization, John and Karen Perodeau, all as regards the property located at 8 Hill Road, here in Wayland. Eight Hill Road is an abutting property to 65 East Plain Street.

Mr. Nelson intends to construct a single family residence at 8 Hill Road and while the application process for such construction has been on-going, it has been unnecessarily slowed by ill-advised decisions made by the town's Conservation Commission; decisions which we have appealed to the Massachusetts Department of Environmental Protection (DEP) and ultimately to the courts. In each instance, Mr. Nelson's position, supported by the reports of his engineers and wetlands experts, has been confirmed by the DEP and upheld by the courts.

Throughout this process, Mr. Samiotes, representing himself and his wife personally and himself as a professional engineer; has waged a concerted campaign to derail the project, speaking before and sending correspondence to the Conservation Commission; sending correspondence to the Department of Environmental Protection; sending correspondence to the Wayland Department of Public Works; denying our consultants access to the Samiotes property; and providing questionable information to the Conservation Commission.

In addition and as your records should confirm, Mr. Samiotes filed an application for the construction of a well in August of 2015. This application was some eight months after Mr. Nelson had begun his formal application process. Not only has Mr. Samiotes been acutely aware of Mr. Nelson's applications and proceedings, but he has been the principal antagonist in opposing Mr. Nelson's progress, a progress which has been the subject of multiple administrative and legal proceedings, all of which have ultimately ended with decisions favorable to Mr. Nelson.

**RECEIVED**

OCT 30 2017

TOWN OF WAYLAND  
BOARD OF HEALTH



RECEIVED  
OCT 30 2017  
MAIL ROOM

T. Grassia to Wayland Board of Health  
30 October 2017 – Page 2

I believe the Board should publically disclose the above as well as the facts below:

- This well is not a hardship as the Samiotes residence has public water service;
- There are several other locations where the well can be located;
- Mr. and Mrs. Samiotes were aware of Mr. Nelson's application and plans long before they filed their initial well construction application and yet located the well, where if their application had been timely, which it was not, could have prevented Mr. Nelson from moving forward with his project.

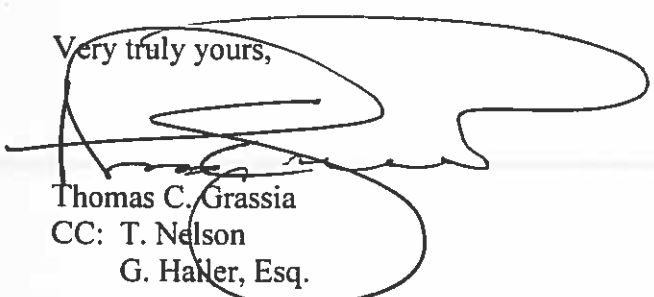
While I find the need most unfortunate, I bring this brief history to the Board's attention in the hope that it will defer a decision on the new Samiotes well application until the conclusion of the current litigation. This conclusion is awaiting the Town's determination as to whether or not to appeal its latest setback, to the Supreme Judicial Court. This determination is, I am informed, to be made this week.

In the event that no appeal is taken or the matter is appealed and the Town loses once again, the granting of this well construction permit (as presently filed) will likely precipitate yet another round of litigation and the Board may well find itself, at the very least, trying to explain why, in the face of all that it knew, it appears to have decided to assist Mr. Samiotes in his concerted effort to circumvent the multiple decisions made in Mr. Nelson's favor, including the most current decision, rendered by the Massachusetts Court of Appeals.

I respectfully urge the Board to consult with counsel prior to making its determination.

I am grateful for your courtesy and attention.

Very truly yours,



Thomas C. Grassia  
CC: T. Nelson  
G. Haller, Esq.

