



**TOWN OF TEWKSBURY
CONSERVATION COMMISSION
999 Whipple Road
Tewksbury, MA 01876**

Stephen Deackoff, Chairman
Anthony Ippolito, Vice-Chair
Sean Czarniecki, Clerk
Dennis Sheehan
Carolina Linder

**Meeting Minutes
October 2, 2013**

The meeting was called to order at 7:00 PM at the Tewksbury Town Hall Auditorium by Stephen Deackoff, Chairman. Present at the meeting were Anthony Ippolito, Sean Czarniecki, Dennis Sheehan, and Carolina Linder. Also in attendance was Kyle Boyd, Conservation Agent, and Melissa Johnson, Recording Secretary.

Approval of Meeting Minutes – September 4, 2013

MOTION: Mr. Czarniecki made the motion to approve the September 4, 2013 meeting minutes as amended; seconded by Mr. Ippolito and the motion carried 5-0.

MOTION: Mr. Czarniecki made the motion to table the approval of the September 18, 2013 meeting minutes; seconded by Mr. Ippolito and the motion carried 5-0.

A) Enforcement Order, Gora Banerjee, Memory Lane, Map 88, Lot 2

Present was Stephen Erickson of Norse Environmental Services and Gora Banerjee.

Mr. Erickson provided a copy of the plan of the site and explained that the wetland boundary was reviewed by Mr. Manuell. Mr. Erickson showed where the wetlands are located on the property and explained that the original plan was to go into a portion of the buffer zone. At this point, there are no plans to go into the buffer zone; all of the work will be done outside the buffer zone and they have not done any work within this area. Mr. Erickson explained that in the mean time, they would like to continue filling in the other area and they are requesting the enforcement order be lifted to allow them to continue to level the site for future work.

Mr. Ippolito asked if the plan provided is for Memory Lane as it does not look like the site. Mr. Erickson confirmed this and explained that Memory Lane was a planned street and has not yet been constructed. The property fronts on Maple Street.

Mr. Boyd noted that the bottom right corner of the property has been measured at 153 feet and he measures it at 200 feet; which would put it in the buffer zone. Mr. Erickson explained that he measured from the edge of the wetlands and would be happy to visit the site with Mr. Boyd to verify the measurements. Mr. Boyd noted that at a previous meeting the Commission requested an ANRAD be done and provided for this meeting. Mr. Erickson explained that Mr. Banerjee does not wish to incur the expense of that when there is an existing plan and he is happy to go out to the site with Mr. Boyd to mark out the wetlands. Mr. Boyd asked if Mr. Erickson has the plans for the site that were approved by the Commission. Mr. Erickson will provide this to the Commission and noted that he believes an ANRAD was done in 2002.

Mr. Deackoff noted that there has been clearing of trees, dumping of brush, a fence that was run over, fill being brought in, etc. and all is within 200 feet of the roadway so work has been done in the buffer zone. Mr. Deackoff noted that 100x100 foot area that was previously staked out is not longer marked and suggested scheduling a date and time to visit the site with Mr. Erickson and Mr. Banerjee. The parties agreed to schedule a site visit on Monday, October 7, 2013 at 8:00 a.m.

Mr. Ippolito noted that he also visited the site and it appears that the 100x100 foot area that was staked out was pushed back and there is brush and debris that was cut and dumped. Mr. Erickson noted that he has not investigated that far back into the property.

Mr. Czarniecki asked if an ANRAD expires and Mr. Boyd explained that an ANRAD is good for three years. Mr. Erickson noted that there is not a valid ANRAD for this property at this time. Mr. Boyd explained that the Commission would like to see one.

Mr. Czarniecki noted that he is not sure that there is full agreement on the other isolated wetland. Mr. Erickson explained that three different consultants have reviewed the area and determined that it is not a wetland and he will provide this documentation again. Mr. Deackoff explained that there is a Mass Wetland Change Map that indicates this area has changed within the last 10 years; 2008.

Mr. Deackoff noted that the Enforcement Order will be continued and all work shall continue to cease and desist.

Mr. Banerjee explained that he originally requested a 100x100 foot area, but went back to Mr. Boyd to request additional space and approval was given to increase the area to 100'x150'. Mr. Banerjee noted that they did push the branches out, but they are not in the buffer zone.

Mr. Czarniecki noted that the applicant was requested to provide an ANRAD 30 days from the September 4, 2013 meeting. It was agreed to put the ANRAD request on hold until after the site visit has been conducted.

MOTION: Mr. Czarniecki made the motion to continue the enforcement order, Gora Banerjee, Memory Lane, Map 88, Lot 2, all work shall continue to cease and desist, a site visit is scheduled for October 7, 2013 at 8:00 a.m.; seconded by Mr. Ippolito and the motion carried 5-0.

B) Request for a Certificate of Compliance, Robert W. Barron, 71 John E. Smith Drive, Map 45, Lot 115, DEP #305 661

The applicant was not present.

Mr. Henry Chiu, owner of 71 John E. Smith Drive, came forward with his girlfriend and noted that he did not file the paperwork, but purchased the home in September, 2013 from Mr. Barron.

Mr. Deackoff noted that he was out on the site today and it appears that there is some work going on. Mr. Chiu explained that they are in the process of tearing down the barn on the property and clearing out debris.

Mr. Boyd recommended continuing this matter to allow him time to contact the applicant. Mr. Chiu noted that he does not know what any of this is about and he was just informed today. Mr. Boyd explained that when work is being done within 100 feet of the wetlands, a permit to obtain conditions for what they are allowed to do is required, and, once completed; the person must come back to the Commission to obtain a Certificate of Compliance. Typically this is done before a home is sold. Mr. Deackoff asked if any of the attorneys expressed concern with the title to the property at the closing or if there was a holdback and Mr. Chiu noted that they did not.

Mr. Czarniecki cautioned the homeowners as they are doing some cleaning up outside close to the wetlands and there are no erosion controls in place.

MOTION: Mr. Czarniecki made the motion to continue request for Certificate of Compliance, Robert W. Barron, 71 John E. Smith Drive, Map 45, Lot 115, DEP #305-661 to October 16, 2013 at 7:02 p.m.; seconded by Mr. Sheehan and the motion carried 5-0.

C) Request for Determination of Applicability, DSM Mangano LLC, 881 Old Shawsheen Street, Map 99, Lot 58

Present was Jim Hanley of Civil Design Consultants. Mr. Hanley explained that he is present on behalf of Mr. Mangano who is proposing to raze the existing home and construct a new home outside of the flood plain. When the survey was done, it was determined that there is an area in the front yard that is above elevation 83.2; so there is an area on the lot that is above the flood plain that is not shown on the map. In order to obtain a building permit, a letter of map revision is required, because the maps are done on a large scale and do not show any area on the lot that is beyond the limit of the flood plain. Upon FEMA's approval of the map revision, the home can be constructed. The amount of existing and post flood storage was reviewed and the proposed lot has been graded so that at each contour there is as much or more flood storage than the existing conditions. The new home will be above the flood plain.

Mr. Ippolito noted that he visited the site and the elevation of the existing home is higher than any of the other homes in back; if any of the homes were to flood it would be the ones in the rear.

Mr. Czarniecki asked if the leaching basin is for the driveway drainage. Mr. Hanley confirmed this and explained that the leaching basin is existing and will remain.

Mr. Deackoff asked if fill will be brought in. Mr. Hanley explained they will likely be taking some out. Mr. Czarniecki noted that they are doing a cut and fill and will be moving the fill around and noted that the Commission should verify the contours when finished.

Mr. Deackoff asked if the Commission should require an as built plan be submitted. Mr. Czarniecki feels a full notice of intent should be applied for. Mr. Boyd noted that the Building Commissioner would also have to sign off on this project.

Mr. Deackoff opened the hearing to the public.

Ms. Marisa Avellani of 891 Old Shawsheen Street came forward and noted that her home is located next door and is lower and asked if this project will make her receive more water on her property than currently. Mr. Hanley explained that they will not be making the flooding any worse.

MOTION: Mr. Ippolito made the motion to close the public hearing; seconded by Mr. Czarniecki and the motion carried 5-0.

MOTION: Mr. Sheehan made the motion for a negative determination, DSM Mangano LLC, 881 Old Shawsheen Street, Map 99, Lot 58, an as built plan matching the plans provided and a certified excavation plan shall be submitted, approval of the Building Commissioner is required; seconded by Mr. Czarniecki and the motion carried 5-0.

D) Request for Certificate of Compliance, Fitzpatrick and Associates, 100 Ames Pond Drive, Map 51 and 66, Lots 7 and 1, DEP #305-335

There was no one present for this matter.

Mr. Deackoff requested the application be completed properly. Mr. Boyd noted that five Certificates of Compliance were given to him for one lot. Mr. Boyd researched this matter and determined that there were four other projects for this lot that each got DEP numbers and were never started. These were all still on the title. Discussion took place on whether a Certificate of Compliance is issued even if the work was never done.

MOTION: Mr. Czarniecki made the motion to continue Request for Certificate of Compliance, Fitzpatrick and Associates, 100 Ames Pond Drive, Map 51 and 66, Lots 7 and 1, DEP #305-335 to October 16, 2013 at 7:05 p.m.; seconded by Mr. Ippolito and the motion carried 5-0.

E) Notice of Intent, Stephen Mullane, Mullane Construction, LLC, 73 Kernwood Avenue, Map 3, Block 80, DEP #305-0958 [added after meeting]

Present was Stephen Mullane of Mullane Construction. Mr. Mullane explained that he purchased this property and did not realize it was within a wetland area. The proposal is to raze the existing home and construct a new home. The new home will be more centered on the lot and further away from the wetlands than the existing home.

Mr. Ippolito noted that there may possibly be a wetland on the right hand side of the property as well. Mr. Boyd noted that he has verified that this area was not a wetland.

Mr. Czarniecki noted that he has an issue with the erosion control being right next to the wetland and the yard has been disturbed right up to the wetlands. Mr. Czarniecki feels the barrier should be moved further in and continued on to the areas that have not already been cleared to protect those areas as well and permanently marked for the future. Ms. Linder suggested creating a buffer of plantings within the buffer zone to protect the area. Mr. Mullane noted that he would be happy to meet with Mr. Boyd at the site again to mark out where the silt fence should be.

Mr. Deackoff opened the hearing to the public.

Mr. Robert Leone of 68 Kernwood came forward and noted that there is an existing water problem in this area and he is concerned that changing the elevations will create more of a water problem. Mr. Mullane explained that he plans to build a split gambrel and they will not be changing the outside elevation much at all. Mr. Leone noted that he is fine with a change of 6 to 8 inches, but he does not want to see the elevations changed dramatically;

Mr. James Spencer of 74 Kernwood came forward and noted that his home is located across the street and has lived there since 1974 and is very familiar with this area. Mr. Spencer explained that in the past there was a big water problem, but since the sewer was done that has improved and he has not seen water in the wetland that is being discussed. Mr. Spencer noted that he does not have concerns with this project so long as it is not graded too high.

Mr. Czarniecki noted that the DEP number has not yet been issued. [It has since been issued and included in the minutes for future tracking.]

MOTION: Mr. Ippolito made the motion to close the public hearing; seconded by Mr. Czarniecki and the motion carried 5-0.

MOTION: Mr. Czarniecki made the motion to approve the Notice of Intent for Stephen Mullane, Mullane Construction, LLC, 73 Kernwood Avenue, Map 3, Block 80, DEP #305-0958 [added after meeting]; pending a DEP number is issued, the silt fence shall be moved to surround the area that is not currently disturbed, once construction has been completed the silt fence shall be turned into some type of permanent demarcation, reference shall be made to the plans dated September 25, 2013; seconded by Mr. Ippolito 5-0.

New Business

Mr. Boyd requested the Commission appropriate \$600.00 for the Commission members MACC memberships. The cost is \$100.00 per person.

MOTION: Mr. Czarniecki made the motion to appropriate \$600.00 from the Wetland Protection Fund for the MACC membership fees; seconded by Mr. Sheehan and the motion carried 5-0.

Mr. Ippolito noted that he will not be at the next meeting.

Old Business

Mr. Ippolito noted that he visited the site on Main Street across from Mahoney's and it looks good. Discussion took place on the installation of hay bales as a siltation barrier. Mr. Boyd explained that the Commission requested wattles, but the developer contacted him to ask if hay bales were okay and Mr. Boyd informed them it was fine as he did not know the Commission's position on this. Mr. Deackoff explained that the Commission does not like to use hay bales due to the potential for invasive species. Mr. Boyd will inform the developer to install the straw wattles rather than the hay bales.

Administrator's Report

There was no administrator's report.

Adjournment

MOTION: Mr. Ippolito made the motion to adjourn; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

Respectfully submitted,

Approved: 
Sean Czarniecki, Clerk

10/16/13
Date