

Conservation Commission

One Liberty Lane
Norfolk, MA 02056

Meeting of March 11, 2015

7:00PM

Commission Members	Others
John Weddleton –Chair ----- --present	Janet DeLonga ---Agent -----present
Joyce Terrio-----V. Chair ----- present	Marie Simpson –Ad. Asst.-----present
Patrick Touhey ----Member ----- present (8:00PM)	
Dan Crafton -----Member ----- present	
Michelle Lauria --- Member ---- present	

The duly posted meeting of the Norfolk Conservation Commission convened at 7:15 p.m. in room 124 at the Norfolk Town Hall.

Mr. Weddleton announced that the meeting was being audiotaped. Said announcement being pursuant to G.L. c.30A, §§18-25, the Open Meeting law.

MINUTES:

The commission reviewed the **Minutes of February 11, 2015**. *Mrs. Terrio made the motion to accept the minutes as revised. Mr. Crafton seconded the motion. The vote on the motion was 3-0-1. Mrs. Lauria abstained. Mr. Touhey was not present.*

NEW BUSINESS:

The Commission reviewed the results of the **citizen survey for the open space and recreation plan**. It was noted that a majority of the respondents selected “wildlife habitat” as a very important aspect of current and future open space protection. A two page draft document outlining the **Goals and Objectives** of the open space and recreation plan was also reviewed. The Commission will recommend that the “Conservation Fund” be reactivated to help fund the management of conservation land. Mrs. Terrio recommended that the Commission try to reactivate the appropriated fund if the account is still on the town’s list of appropriated accounts. *Mrs. Terrio made the motion to approve the open space Goals and Objectives as revised. Mr. Crafton seconded the motion. The vote on the motion was unanimous. (4-0).* Mr. Touhey was not present.

The Commission reviewed the draft **Town Meeting Report for 2014**. *Mrs. Terrio made the motion to accept the report as drafted. Mr. Crafton seconded the motion. The vote on the motion was unanimous. (4-0).* Mr. Touhey was not present.

PUBLIC HEARING:

7:30 PM – **36 Fredrickson Road – ANRAD - #240-567**. The Applicant, Frank Bonvie, was present, as was Dan Merrikin, P.E. of Merrikin Engineering. Abutters and others in attendance signed an attendance sheet. The site plan showed an overview of the property, which consists of 17 acres with several resource areas. Mr. Merrikin noted that the Applicant is not seeking to affirm all of the resources as there will be areas that will not be impacted. He noted that the property contains a dilapidated house, lawn, and some pasture land. A 4,400 square foot man-made pond is on the site but does not meet the criteria under the State or Bylaw Regulations to be jurisdictional. An intermittent stream discharges to the pond. The stream is depicted on

the USGS maps as intermittent; therefore there is no riverfront area. A *streamstat* analysis was conducted and the watershed area to the stream was less than .5 square mile so by definition it is deemed to be intermittent.

Along the east side of the lot there is a Bordering Vegetated Wetland that abuts the intermittent stream. The Applicant is not requesting that the Bank or Land Under Water be affirmed as they bear no importance to the design of the project. The boundaries of the Bordering Vegetated Wetlands were flagged however and they are seeking an affirmation of that line. On the westerly side of the property is estimated priority habitat area for the Eastern Box Turtle. No delineation is requested for that area either. On the westerly side there is a plateau that contains an Isolated Vegetated Wetland, which was also flagged. This wetland is not State jurisdictional but it is jurisdictional under the Bylaw. The Applicant is seeking approval of this local jurisdictional wetland resource.

Mr. Merrikin noted that they conducted calculations for the Isolated Land Subject to Flooding (ILSF) in December. After surveying the edge of the water they determined that it contained approximately 8,000 cubic feet of water, which is under the state threshold but jurisdictional under the Bylaw. The Bylaw requires however that the area must contain water for two consecutive months. The area will be observed again in the spring. The definition under the Bylaw is that the ISLF must contain an average depth of at least 6 inches of water for a minimum of two consecutive months. This area is at least 18 feet higher than Fredrickson Road. Mr. Merrikin noted that the area should be observed to see how long it contains water and to see if it is a vernal pool. Mr. Merrikin noted that only the lots will be within the resource areas. Mr. Weddleton noted that the season for checking wetland flags starts on May 15th. Mr. Merrikin stated that the wetlands were flagged last season by Russell Waldron (AES).

Ms. DeLonga requested that the flags be checked to see if they are still in place. She requested that they recheck the Natural Heritage delineation lines and show more accurate Inland Restricted Wetland lines. She presented a copy of the Inland Restricted Wetland map to Mr. Merrikin. She noted that the Inland Wetland may also consist of upland. She noted that there is a potential vernal pool on a Frederickson Road property, which appears to be off site.

This project has a DEP file number. They have not filed any plans with Natural Heritage as yet. Ms. DeLonga noted that when they file with Natural Heritage the Commission will require a copy of their findings.

Mrs. Terrio made the motion to continue the public hearing April 22, 2015 at 7:40 PM. Mr. Crafton seconded the motion. The vote on the motion was unanimous.

7:45 PM - **47 Seekonk Street - #240-564.** Mr. and Mrs. Christopher Ray, the applicants, were present. Also present was Tracy Sharkey from Guaranteed Builders. The agent had conducted a site inspection that afternoon and observed that the foundation for the dwelling had been constructed and the access to the construction was via the access way on 47 Seekonk Street. Photographs of the site had been taken by the agent and presented to the Commission members. Mr. Weddleton had contacted the Building Inspector via phone earlier this evening regarding the foundation construction and noted to him that only the house kit for this pre-fab house was to be deposited outside of the buffer zone and access for that delivery was to be from the adjacent lot. Mr. Weddleton had informed the Building Inspector that the proposed house was shown in different locations on the plans that were presented to the Commission during different sessions of the public hearing.

Mr. Weddleton stated that at the last hearing the Applicant was given permission to stockpile the house materials outside of the buffer zone at the rear of the lot. He stated that he was surprised to see the photos of the concrete foundation and clearing of vegetation. He stated that the exact location of the wetland resources are not confirmed. He noted that the two previous plans presented to the Commission depicted different house locations on the site. Mr. Ray stated that he visited the site and was shocked to see that the culvert crossing was covered with steel plates and the truck delivered the housing materials over this access. Mr. Weddleton stated

that the foundation should not have been constructed until the wetland resources were checked. He stated that the Applicant is the responsible party in this matter. He stated that the building permit should never have been signed. He stated that no further work is to be done until the wetland lines have been confirmed and surveyed by a licensed surveyor and shown on a plan. A cease and desist will be issued. Mr. Ray noted that someone else made the decision to cover the culvert with steel plates and to cross it and the location of the house was changed three or four times. Mr. Ray stated that he thought that he had approval to construct the foundation. Mr. Weddleton stated that the only approval he had was to stockpile the house material outside of the buffer resources at the very rear of the lot until the wetland resources were confirmed. Mr. Ray stated that he was under the impression from Glossa Engineering and Landmark Engineering that he could use the access way on this lot. Mrs. Terrio stated that the applicant was given clear direction from the Commission from the very start of the public hearing. Mrs. Lauria noted that the applicant is responsible for every person that steps on his property. The members agreed that no further work should be undertaken on the lot.

The Bylaw Regulations allow review of wetland flagging after May 15th. There will be no commission meeting on May 13th due to Town Meeting.

Mrs. Terrio made the motion to issue a cease and desist for the property at 47 Seekonk Street. Mr. Crafton seconded the motion. The vote on the motion was unanimous.

Mrs. Terrio made the motion to continue the public hearing to May 27, 2015 at 7:30 PM. Mr. Crafton seconded the motion. The vote on the motion was unanimous.

8:00PM - **47 Leland Road - #240-562** Jim Susi from United Consultants was present. The Applicant was not present. Mr. Weddleton recommended that the Applicant file a Notice of Intent for wetland restoration behind the property conducted by the Applicant so that the Commission can move forward with the septic repair and hopefully the State will come forward with a response about the apparent filling and disturbance to that area. He stated that the Commission would like to hire their wetland consultant, Wetland Strategies, to review the entire project. He asked Mr. Susi if he would want the Commission to seek out three bids for the review. Mr. Susi stated that he would accept Wetland Strategies as the reviewer. The Notice of Intent hearing for the restoration will be held on April 8th if received in time for advertising.

Mr. Susi questioned if the Commission wants all fill to be removed that is shown within the high water level of Kingsbury Pond as shown on the land court plant. He questioned if he could rebuild the retaining wall outside of the historic water line. Mr. Weddleton stated that the applicant could request that in his NOI. He noted that there should be nothing but wetland vegetation within the area filled and disturbed.

Mr. Susi was instructed to stop by the Commission's office and speak to the Agent. The historic high water line is at elevation 139 feet. The applicant may have filled in Land Subject to Flooding as well.

Mrs. Terrio made the motion to continue the public hearing to April 8, 2015 at 7:30PM. Mr. Crafton seconded the motion. The vote on the motion was unanimous.

ACTION ITEMS:

Mr. Weddleton noted that the Planning Board is still not releasing any more lots within the **Fox Run Open Space Subdivision**. He stated that some neighbors are upset about having a retention basin in their back yards. The Applicant is looking at other areas to site a detention basin. Mr. Weddleton noted that the Enforcement Order will not be removed.

OLD BUSINESS:

Mr. Weddleton noted that the DPW Director, Bob McGhee, will be contacting a contractor to re-assess the collapsed pipe that feeds the Town Pond. The DPW will repair/replace the pipe for a nominal cost. It is not known if the Recreation Commission voted to re-open this matter.

8:15 PM - **111 Cleveland Street – DEP/NCC #240-566.** The Applicants, Jane and Paul Newton, were present. *Mrs. Terrio made the motion to close the public hearing. Mr. Touhey seconded the motion. The vote on the motion was unanimous.* The draft Order of Conditions for **111 Cleveland Street** was reviewed by the Commission. *Mrs. Terrio made the motion to approve the Order of Conditions as drafted. Mr. Touhey seconded the motion. The vote on the motion was 3-0-1.* Mrs. Lauria abstained. The members signed the Orders.

NEW BUSINESS:

Mr. James Gursha, a resident of 143 Seekonk Street, was in the audience this evening to inform the Commission that he would like to do some volunteer work for the Commission. Mr. Gursha presented copies of his resume to the Commission. He noted that he is able to read site plans and is willing to learn other aspects related to the duties of the Commission. The office will send a copy of the Bylaw Regulations to Mr. Gursha.

The Commission reviewed draft revisions to the **Wetland Bylaw Regulations** related to the fee schedule for **ANRAD filings** and a revised definition for “**Quorum**”. Ms. DeLonga proposed that the ANRAD fees be more in line with the State fees.

Ms. DeLonga also noted that 14 sets of plans are required to be prepared for a Request for Determination (RDA) and seven copies of the filing to be sent via certified mail to certain boards and committees. That would make the applicant prepare 21 copies. Ms. DeLonga noted that some Applicants submit the 14 sets of the application and they also send out copies to other boards and committees by certified mail. She felt that the certified mailing is more for Notices of Intent. A change in the Wetlands Bylaw would require a Town Meeting vote however. Mrs. Terrio recommended that the requirement for 14 sets of plans be changed in the Regulations so that only 9 copies are required to be submitted. It was noted however, that the Conservation office forwards the applications internally to other boards and committees and requests comments by a specific date prior to the hearing. If an application was just sent certified mail to other boards and committees a date for the hearing would not be apparent and no date would be issued as to when they should respond with their comments. *Mr. Touhey made the motion to revise the fee schedule for ANRAD filings to be more in line with the State fees and to re-format the fee schedule. Mrs. Terrio seconded the motion. The vote on the motion was unanimous.*

The Commission reviewed the definition of “Quorum” in the Regulations. The definition will be further defined to be more in line with a recent Superior Court decision that addresses a quorum for a municipal board and to further define what constitutes a “Quorum” for a vote.

PUBLIC HEARING:

8:40 PM – **Warren/Maple Street – Pulte Homes hearing** – The applicant had requested via e-mail correspondence that the hearing be continued to April. *Mrs. Terrio made the motion to continue the public hearing to April 8, 2015 at 7:45 PM. Mr. Touhey seconded the motion. The vote on the motion was unanimous.*

There will be no meeting on **March 25, 2015** as Mr. Crafton, Mr. Touhey and possibly Mrs. Lauria will not be present.

The Commission discussed starting their meetings at 7:00 PM instead of 7:30 PM. The public hearings would commence at 7:30 PM, however. General business could be discussed and completed prior to the public hearings. The Commission agreed to the change in the meeting time. This will be posted on the web site.

Mrs. Terrio made the motion to close the meeting at 8:45 PM. Mr. Touhey seconded the motion. The vote on the motion was unanimous.

The next scheduled meeting will be **April 8, 2015.**

A handwritten signature in black ink, appearing to read 'Patrick Touhey', written over a horizontal line.

Patrick Touhey, Clerk

In accordance with the requirements of G.L. 30A § 22 approval of these minutes by the Board constitutes its certification of the date, time and place of the meeting, the members present and absent, the matters discussed, and the action taken by the Board with regard to those matters (if any). Any other information contained in these minutes is included for context only. Notes memorializing deliberation or discussion of any matter are in the summary form and may include inaccuracies or omissions. Where proof of the content of a statement is required, a tape recording or transcript should be consulted, if available.