

Conservation Commission

One Liberty Lane
Norfolk, MA 02056
November 13, 2019
7:00 P.M.

Commission Members	Other
David Turi, Chairman ----- Present	Janet DeLonga – Agent ----- Present
Jim Wilson – Clerk ----- Absent	Amy Brady–Administrative Assistant ---- Present
Alexandra Fraher – Member ----- Present	
Alex Weisheit – Member ----- Absent	
Fred Laberge – Member ----- Present	
Allen Phinney – Member ----- Present	
VACANT – Member ----- VACANT	

The duly posted meeting of the Norfolk Conservation Commission convened at 7:00 P.M. in Room 124 at the Norfolk Town Hall. Mr. Turi opened the meeting and announced that the meeting was being audio- and videotaped.

PUBLIC HEARINGS:

10 Kingsbury Rd, Request for Determination

Present was Katherine Robbert; Ms. DeLonga referred to some photographs she had taken and distributed to members

Ms. Robbert said they are looking to repair the existing deck, replacing some boards and squaring it off; they do not use the stairs. They will apply for a building permit after they have gone through ConCom; when the contractor starts work, barriers will be put up so no materials fall into Kingsbury Pond (hay bales and orange “snow fencing” were suggested.)

Mr. Phinney made a motion to issue a Negative #3 Determination; Mr. Laberge seconded the motion; the vote on the motion was unanimous.

358 Main St, NOI #240-620

Present was Jim Susi, United Consultants, Inc. (UCI); Plans presented were entitled “Septic System Design, 358 Main Street, Norfolk, MA,” prepared by UCI, dated 8/8/19, rev. through 10/16/19.

Mr. Susi said that, upon Ms. DeLonga’s suggestion, they were able to move the proposed construction, so that it will not be in any resource area. They are therefore requesting to withdraw the application without prejudice. Erosion controls will still be used.

Ms. Fraher made a motion to withdraw the Notice of Intent for 358 Main Street without prejudice; Mr. Phinney seconded the motion; the vote on the motion was unanimous.

*****With time remaining to commence the next hearing, the Commission turned to other agenda items*****

MINUTES:

September 25, 2019 - The vote for 39 Mirror Lake Ave. will be changed from “unanimous” to “4-0-1, with Ms. Fraher abstaining.”

Ms. Fraher made a motion to accept the minutes of September 25, 2019; Mr. Laberge seconded the motion; the vote on the motion was unanimous.

October 9, 2019 - *Mr. Laberge made a motion to accept the minutes of October 9, 2019; Ms. Fraher seconded the motion; the vote on the motion was unanimous.*

CORRESPONDENCE:

Callahan Pond Draw down Report 10/8/19 – Mr. Turi read the report

15 Lincoln Rd, Comments to Planning Board – The Conservation Agent’s comments to the Planning Board was discussed. Ms. DeLonga noted that it may be coming in for the next Conservation meeting.

ACTION ITEMS:

Ratify Emergency Certification Form – Mr. Turi said Ms. DeLonga gave authorization for Stony Brook to install Beaver Deceivers (JANET – HELP ME OUT WITH THE WORDING HERE!) on an emergency basis. The form now needs to be ratified.

Mr. Laberge made a motion to issue the Emergency Certification Form for Mass Audubon; Ms. Fraher seconded the motion;

William Ashton, Commonwealth of Mass Supervisor for Bristol Blake Reservation (Mass Audubon, Stony Brook) said the solution is working, with good water flow over the top; he said it is great to be able to demonstrate positive, responsible and legal beaver controls at a high profile site.

the vote on the motion was unanimous.

Action Items will be continued after Public Hearings continue

PUBLIC HEARINGS: (cont’d)

19 Fredrickson Rd, Request for Determination of Applicability (cont’d from 10/9/19)

Present was Jenny Cunningham. Ms. Cunningham presented a copy of a plot plan of her property, which she labeled “Pool Plan, 19 Fredrickson Rd, Norfolk” and gave an overview of the request, which is to put a pool where there is currently garden and lawn; Ms. DeLonga has been to the site. The fence, which must be installed for safety, will be place near, but not on, the buffer zone line, and the pool will be moved over as necessary to accommodate that.

Mr. Phinney made a motion to issue a Negative #3 Determination; Ms. Fraher seconded the motion; the vote on the motion was unanimous.

With time remaining to commence the next hearing, the Commission again turned to other agenda items

OLD BUSINESS:

Discuss Eagle Scout Project – Ms. DeLonga referred to a Release of Liability form which was discussed at a recent Department Head Meeting, and should be filled out by volunteers, contractors, etc. working on town property, such as Sam Woodward. Ms. Brady will forward the form to Sam and other affected organizations.

Conservation Restriction for The Enclave – Mr. Turi said that although this was discussed at a previous meeting, Natural Heritage requires an official vote of the Commission

Ms. Fraher made a motion to accept the Conservation Restriction for The Enclave; Mr. Laberge seconded the motion; the vote on the motion was unanimous.

PUBLIC HEARINGS: (cont'd)

12 Lakeshore Drive, NOI #240-621

Present was Joyce Hastings, GLM Engineering. Plans presented were entitled “Proposed Sewage Disposal System, 12 Lake Shore Drive, Norfolk ,MA,” prepared by GLM Engineering, dated 9/4/19.

Ms. Hastings reviewed the plan, detailing the locations of Populatic Pond and the 100’ buffer zone. Failed cesspool will be replaced with new septic; two leaching trenches and the septic tank to be located in front, outside of buffer zone. Because there is a 20’ foot elevation change from the house to the new septic area, the old cesspool, which is within the buffer zone, will be replaced with a grinder pump tied into the house, and connected to a force main out to the front area. Ms. Hastings referred to a new plan (rev. through 10/23/19) which was not received by the Commission in time for this hearing, noting where the erosion controls and work areas will be located. Everything will be stabilized, loamed and seeded upon completion. Ms. DeLonga noted that new flood plain elevations need to be added to the new plan. Ms. Hastings said they have been updated on the new plan, and provided a hard copy to show the Commission. No elevations are being changed. It was noted that things have been shifted per the Board of Health (BOH); they have one more meeting with BOH.

Ms. Fraher made a motion to continue the hearing to 12/11/19, at 7:00 P.M.; Mr. Phinney seconded the motion; the vote on the motion was unanimous.

With time remaining to commence the next hearing, the Commission again turned to other agenda items

ACTION ITEMS: (cont'd)

Mr. Turi announced that the 10 Old Populatic Road Order of Conditions is expiring, and the applicant has asked for an extension.

Ms. Fraher made a motion to extend the Order of Conditions for 3 years; Mr. Phinney seconded the motion; the vote on the motion was unanimous.

PUBLIC HEARINGS: (cont'd)

360 Main Street, ANRAD #240-622

Present was Scott Jordan, EcoTec, Inc; Joe Meisner, applicant; Plans presented were entitled “Abbreviated Notice of Resource Area Delineation (ANRAD) for 360 Main Street in Norfolk, MA,” prepared by Allen Engineering & Associates, Inc., dated 10/29/19.

Mr. Jordan indicated Lot 1, 360 Main Street on the plan, part of a larger (6 acre) parcel which his company had delineated a year or two ago. An A Series BVW was delineated on the western portion of Lot 1, associated with Mill River. It had become unsafe to delineate the mean high water line for the lake, so the project engineer was asked to use aerials to locate the channels and delineated the 200' riverfront area off of the extrapolated information. The flood plain is also delineated. Mr. Jordan said the manmade channel does not have a riverfront area; old mills have special benefits. On the state form, Ms. DeLonga can note "Mill River as shown on the plan" for the riverfront area; Mr. Jordan will have the engineer double check the elevations, since FEMA shows 136, and he thought it was a Zone A, with no elevation requirement. Ms. DeLonga noted that there is a 100' buffer zone off the flood plain; also inland restricted

Ms. Laberge made a motion to continue the hearing to 12/11/19, at 7:05 P.M.; Mr. Fraher seconded the motion; the vote on the motion was unanimous.

OLD BUSINESS: (cont'd)

Discuss status of 144 Seekonk St.

Mr. Turi said that a lot of information has been heard from each side, and the Committee is ready to proceed with a resolution to conclude this case with the Conservation Commission. He pointed out the resource areas delineated on the plan as a result of the ANRAD filing, and said the ZBA referred it to ConCom after being told by others there might be additional resource areas. There are several holes that have been dug for groundwater/wastewater testing; Mr. Turi said several holes do not have data written on the plan. Mr. O'Harte said the numbers are not in sequence, but the data is complete. Mr. Turi said Area #3 is not an issue. Area #1 could be an isolated area or a vernal pool; the ConCom area would request that area not be touched, so that it could be further investigated next Spring. In Area #2, Mr. Turi said discussion of "fill" is off the table, and needs no further discussion, but ConCom would like to further address the potential stream next Spring. Mr. Turi asked for the client's response to these recommendations.

Mr. O'Harte addressed Area #1, saying that Mr. Garner's report recommended further investigation of that area. That has been done, and the data submitted; the testing was witnessed by Tetra Tech on behalf of the town; no mottling, no water was found, only sand; the holes were backfilled per DigSafe regulations, and the area no longer exists as the original "Area #1" discussed in Mr. Garner's report. There was originally a hole there because they were looking for ledge (which was found at 88") and he was not able to backfill it at that time, due to the Cease & Desist order issued by the Building Department in August 2017. Atty. Agostino suggested that the pooling found by Mr. Garner in this area in February 2018 was simply a result of the hole not being filled.

Regarding Area #2, Ms. DeLonga believes there could be a seasonal stream feeding into the approved resource area. Mr. O'Harte pointed to the test holes around Area #2, and said those test holes were witnessed by the town's representative, whom he said did not believe them to be an area of concern. Mr. O'Harte said the area there flows uphill. Atty. Hill showed the area on the Andrews Survey & Engineering plan how the land seems to go downhill; Atty. Agostino said when you follow what the BETA report called a hydraulic gradient, there are areas where it appears to try to move uphill; he said there is no definite channel mentioned in the BETA report. Atty. Agostino said that when DEP flagged the additional Isolated Vegetated Wetland (IVW) they would have also flagged a stream if they believed there was one there. Atty. Hill disagreed, and said the stream indicated by Mr. Gardner began above the newly-flagged IVW, and that BETA corroborated the same, but did not say one way or the other if there was a definite channel, only mentioned a hydraulic gradient.

Dr. Rockwood said on the bottom of page 3 of the BETA indicates they clearly know a channel is necessary for there to be a stream. He pointed to the horse trail, and where it curves up hill. He said there is a berm there; water builds up behind it and overtops it and sheet flows down towards the wetlands, but there is no definite channel in that location, or between the IVW and the delineated BVW.

Lorraine Sweeney, 14 Stop River Road, said that Denise Childs, Section Chief for DEP Central Office said there was a 10-15' separation between the BVW and the IVW, and the IVW was non-jurisdictional under the state. Mr. Turi said without anything in writing, or Ms. Childs being here, that it was hearsay. Ms. Sweeney asked if the Commission would be having BETA respond to Dr. Rockwood's letter, or if the neighbors would be allowed to provide feedback. Ms. Sweeney provided a letter signed by neighbors, and said they had made arrangements for a drone to fly over after the first snow storm, and they would submit that information to the Commission.

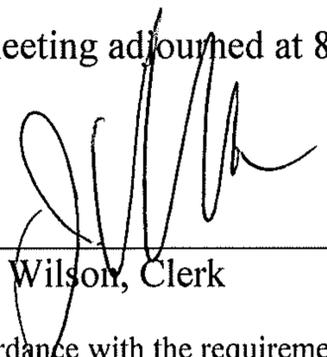
Atty. Agostino said that they thought, after reading the BETA report, the Commission would vote to close proceedings. He asked the Commission to confirm the original ORAD as determinative on this site; he also wanted a vote that there is no stream, jurisdictional or otherwise. Ms. DeLonga clarified that only BVW delineation was requested. Atty. Hill and Ms. DeLonga indicated on the ANRAD, where only BVW delineation, under state regulations, was requested. Atty. Agostino said it was "sloppy work," but the fee was paid to cover local regulations as well, even though it was not specifically requested on the ANRAD.

Mr. Turi said the Commission would not go into Executive Session; they would discuss it now, but no further questions would be taken. Ms. Fraher said that in her opinion, Area #1, based on what was presented tonight, did not require further investigation; Mr. Laberge concurred, and he also feels that Area #3 is not an issue. Mr. Phinney also agreed on those two areas, saying he would like to see Area #2. Atty. Agostino noted a point of order that Area #2, is that which was circled on the map by Mr. Garner, and not the suspected stream downgradient from there. Mr. Laberge and Ms. Fraher said they did not feel that Area #2 was wetlands. Ms. Fraher said she understands the inclination to want to see it, but feels they have heard sufficient information to make a judgement; Mr. Phinney agreed. Ms. Fraher said she feels that any ongoing concerns the Commission may have would be better brought forward to the Zoning Board of Appeals, rather than the developer continuing to appear before the Commission. Commissioners agreed that there is not enough evidence at this time to determine the existence of an intermittent stream. Ms. DeLonga said she would like to see the area when water is likely to be flowing, such as in April. Mr. Laberge said that Mr. Garner's report raised issues that warranted further investigation, and the BETA report has cleared up many of those issues. The other Commissioners agreed. Atty. Hill agreed that no ruling needed to be made on the possible intermittent stream at this time; there is no ANRAD before the Commission regarding that. The questions before the Commission right now pertain to whether there was a violation under the WPA in terms of filling. The ZBA is currently hearing the 40B proposal on this property, and their Wetland consultant, Marta Nover of BETA Engineering, will address the question of whether there is a stream on the property.

Mr. Fraher made a motion to close the investigation for 144 Seekonk Street, upon finding no wetland violations at the site; Mr. Laberge seconded the motion; the vote on the motion was unanimous.

Mr. Fraher made a motion to adjourn the meeting; Mr. Phinney seconded the motion; the vote on the motion was unanimous.

The meeting adjourned at 8:55 P.M.



James Wilson, 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.