

**Conservation Commission Meeting Minutes
January 9, 2013**

Members Present: Louis A. Napoli, Chairman, Joseph W. Lynch, Jr., Vice Chairman, Deborah A. Feltovic, John T. Mabon, Albert P. Manzi, Jr. (arrived 7:25 p.m.) Sean F. McDonough (arrived 7:15 p.m.) Douglas W. Saal.

Staff Members Present: Jennifer A. Hughes, Conservation Administrator, Donna M. Wedge, Conservation Secretary.

Pledge of Allegiance

Meeting came to Order at: 7:05 PM Quorum Present.

Approval of Minutes of 11/28/12 & 11/14/12

- A motion to accept the meeting minutes of 11/28/12 & 11/14/12 as drafted and reviewed made by Ms. Feltovic, seconded by Mr. Lynch.
- Vote unanimous.

Public Hearings: 7:06 PM.

Notice of Intent (NOI)

**242-1577, 72 Great Pond Road (Lot B) (TLD) (Sullivan Engineering Group, LLC)
(cont. from 12/12/12)**

- Administrator states that this was an administrative continuance and recommends closing and issuing a decision within 21 days.
- A motion to close the public hearing and issue a decision within 21 days is made by Ms. Feltovic, seconded by Mr. Mabon.
- Vote unanimous.

**242-1578, 1193 Great Pond Road (Zaref) (Sanborn Head Associates) (cont. from
12/12/12) (Request to cont. to 2/13/13)**

- Administrator states that the review letter from Eggleston Environmental was emailed to the Conservation Commission.
- The applicant submitted an email requesting a continuance to the 2/13/13 meeting.
- A motion to grant the request for a continuance to the February 13, 2013 meeting is made by Ms. Feltovic, seconded by Mr. Mabon.
- Vote unanimous.
- ***Document:***
 - *E/Mail from Prince Lobel Tye, LLP requesting a continuance to February 13, 2013 meeting dated 1/8/13.*

**242-1580, 1018 Osgood Street (JFJ Holding, LLC) (MHF Design Consultants, Inc.)
(cont. from 12/12/12)**

- Mr. Napoli recuses himself as an abutter and leaves the meeting.
- Administrator states that a new plan and stormwater report were received.
- Mr. Gross states that the revised plan shows a reduction in pavement including fewer parking spaces (formerly 25, now 17). He reviews the property and the project. Watershed drainage is reviewed.
- Mr. Mabon states that high groundwater conditions must be addressed to Ms. Eggleston's satisfaction Mr. Mabon asks about fill. Mr. Gross states that some areas will be brought up and others taken down.
- Mr. Gross states that a retaining wall will be constructed to keep the project out of the 25' No-Disturbance Zone.
- Mr. Mabon asks about the O&M Plan and containment for spills onsite.
- Ms. Feltovic asks about the status of the Watershed Special Permit.
- Mr. Gross explains that it has been applied for but there was a mistake by the Tribune and the public hearing was not advertised. It will be heard on February 5.
- Mr. Lynch expresses concern about snow storage and removal and asks applicant to address. Mr. Lynch then asks about the status of the curb cut application to the state.
- Mr. Gross states MassDOT has commented on the curb cut permit and requested that circulation be one way.
- Mr. McDonough asks about the fencing proposal.
- Mr. Gross states there will be fencing all the way around the site with screening to the abutting strip mall.
- Mr. Gross requests a continuance to the next meeting.
- A motion to grant the request for a continuance to January 23, 2013 meeting made by Ms. Feltovic, seconded by Mr. McDonough.
- Vote unanimous.
- *Documents:*
 - *Application Checklist-Notice of Intent*
 - *WPA Form 3-Notice of Intent and associated documents*
 - *Wetland Delineation Memo dated 3/27/12*
 - *Wetland Drainage Confirmation Memo*
 - *Attachment B Site Photos.*
 - *Wetland Determination Data Form-North central and Northeast Region dated 3/14/2012.*
 - *Memorandum from Epsilon Associates, Inc. dated 9/15/2012.*
 - *Certified List of Abutter's dated 11/15/12.*
 - *Stormwater Management Report dated 10/19/12*
 - *Proposed Site Development Plans dated 10/19/12, revised 12/5/12*
 - *Stormwater Review Letter from Eggleston Environmental dated 1/7/13*

**242-1576, 95 Thistle Road (Lot 28) (Sullivan) (Norse Environmental Services, Inc.)
(cont. from 12/12/12)**

- The applicant, William Sullivan, of 95 Thistle Road is present.

- Administrator states the applicant has prepared a plan that addresses existing violations on the site.
- Mr. Sullivan distributes materials to the commission. He then gives a history of the patio, walls, planting and driveway work that was done on the property without permits. He proposes to remove the paved driveway extension and resurface with porous pavers. The area is needed for turning. He would also like to keep the basketball hoop area.
- Mr. Sullivan discusses the letter from Corliss which states that the fire pit area was constructed in porous gravel and that 35 native plantings were added.
- Mr. Mabon asks about the location of the 25' No-disturb Zone.
- Mr. Lynch states he disagrees with some of the statements made in the Corliss letter but states the mitigation could be permissible. Mr. Lynch states the violation and the pool are two different issues.
- Mr. McDonough states the 25' No-Disturb Zone should be reestablished.
- Mr. Manzi states additional plantings would be needed and that in order to permit the applicant would need to pay the triple filing fee for an after the fact filing.
- More discussion about the location of walls and the 25' No-Disturb Zone.
- Mr. Lynch states that the patio area is no longer maintained lawn, is pervious and is an area that does not require fertilizer or watering.
- Mr. Sullivan states the planting area is in green on the plan.
- The commission discusses that it would like to see a plan with the 25' No-Disturb Zone completely revegetated.
- Mr. Saal agrees and states it should all be done under the current filing.
- The commission discusses a new filing for mitigation work or to add to existing pool filing.
- The commission recommends the applicant pay the applicable fees under the existing filing, and submit a new plan showing all mitigation.
- A motion to grant the request for a continuance to February 13, 2013 meeting to act on the above recommendation made by Mr. Lynch, seconded by Ms. Feltovic.
- Vote unanimous.
- *Documents:*
 - *Letter from Corliss Landscape and Irrigation submitted at the meeting dated 1/9/13*
 - *Photos of Patio and Fire pit and expansion of driveway and swing set area from William Sullivan*
 - *Conservation As-Built Plan by New England Engineering Services dated 4/5/06 with hand edits*

242-1559, 40 Sugarcane Lane (LaGrasse) (Hancock Associates) (cont. from 12/12/12)

- Greg Hochmuth of Hancock Associates states that this is the third public hearing on the matter. He reviews the history and the alternatives.
- Mr. Hochmuth states that the applicant has received a waiver from zoning board to locate the shed within 20-feet of the side property boundary. Mr. Hochmuth also states that the as-built plan shows a 38' No-Construction Zone. He then reviews the proposed shed location.

- Mr. Mabon asks about the history of the 38' No-Construction. Mr. Hochmuth reviews the history of the site as he knows it from his previous employment with Neve-Morin.
- Mr. Mabon asks if they play area will remain. Mr. Hochmuth states the applicant would remove and revegetate when his grandchildren, who live with him, are a bit older.
- The administrator states that the commission asked the applicant to put the shed beyond the 50' No-Disturb Zone to the vernal pool at the last public hearing.
- Mr. Hochmuth states this will require slope work and tree removal.
- Mr. Manzi and Mr. Lynch discuss the COC history and the signatures on the COC document.
- Mr. Hochmuth states the ZBA variance allows the applicant to put the shed as close as 12' to the side lot line.
- Mr. McDonough asks how the violation became known. Mr. Hochmuth summarizes.
- Mr. McDonough asks about the change in the delineation.
- Mr. Saal asks about the need for a shed based on the very large garage already on the site.
- More discussion on the history of the site.
- Discussion of trees that would need to be removed.
- Mr. Lynch and Mr. Napoli discuss how the grading could be reduced.
- Mr. McDonough states a waiver would still be needed.
- Mr. Hochmuth states a waiver request was submitted with the initial application.
- Several commissioners state they will consider the shed if it is located outside the 50' No-Disturb and if there is additional mitigation.
- Mr. McDonough states the shed should meet the 75' No-Build setback.
- The administrator states there is a garden area where mitigation could occur.
- Mr. Hochmuth requests a continuance to the next meeting.
- A motion to grant a continuance to January 23, 2013 made by Ms. Feltovic, seconded by Mr. Lynch.
- Vote unanimous.
- *Documents:*
 - *Letter from Hancock Associates dated 12/19/12*
 - *Notice of intent Plan dated 12/19/12*

General Business: 8:25 PM

242-1231, COC Request, North Andover Town Commons (Massachusetts Electric Company) (cont. from 12/12/12)

- Administrator states the applicant requests a continuance to January 23, 2013.
- A motion to grant the request to continue to January 23, 2013 made by Ms. Feltovic, seconded by Mr. Lynch.
- Vote unanimous.
- *Document:*
 - *E/Mail from Coneco Engineers & Scientist requesting a continuance to January 23, 2013 dated 1/9/13.*

Violation Discussions

44 & 50 Woodlea Road

- Michael O'Connor of 44 Woodlea Road and Susan L. Caffrey of 50 Woodlea Road are present.
- The administrator sent letters informing both parties of the violations noticed at the time of the COC request by the Woodlea Subdivision developer. Both owners spoke with the administrator prior to the meeting tonight.
- The Administrator presents photos of the violations on both sites and historic aerial photos.

44 Woodlea Road:

- The homeowner states the fence was only installed to keep children in the yard. Only work done beyond fence was to clean up brush that was dumped there by others.
- The commission asks that wetland markers be put on the fence.
- The commission discusses the location of the fence in relation to the drainage easement. The owner may need to move the fence at some point in the future.
- The owner will clean up the remaining brush and no further work will be done beyond the fence.
- The administrator will write a new letter summarizing this for the owner.

50 Woodlea:

- Mr. Manzi states the previous owner is on the hook for the violation and that the deck should be removed.
- Mr. Lynch discusses requiring a compliance inspection in the order of conditions to be done at every sale.
- Mr. Saal states the owner should remove the deck or file after the fact.
- Mr. Napoli does not want the owner to bear the burden of this.
- Mr. Lynch wants to motivate the situation not to penalize the current owner but the person responsible. States doing nothing is a slippery slope.
- Mr. Saal states an EO is appropriate because no permits. Owner should be required to file an NOI to keep or remove.
- Mr. Manzi says lot should be brought into compliance and that the issue should be brought to the closing attorney.
- Mr. Napoli agrees
- Mr. McDonough acknowledges that everyone feels bad about this and suggests the owner have 1 year to bring the site into compliance.
- Mr. Lynch makes a motion to issue an Enforcement Order to #50 Woodlea citing that the lot is not in compliance with the OOC and COC and that the owner has one year to bring the site into compliance. Doug seconds the Motion.
- Vote unanimous.
- *Documents:*
 - *Photos dated 11/27/12 44 & 50 Woodlea Road*
 - *Aerial Photos dated 1/8/13*

Enforcement Oder

20 Anvil Circle (cont. from 12/12/12).

- Mr. McDonough recuses himself.
- Mr. Manzi informs the Commission that Atty Manzi is his cousin but he has no financial interest and can remain impartial.
- Ms. Basbanes presents the plan.
- Mr. Manzi states the fence would have to be to the 25-foot No-Disturbance zone. The posts on the existing fence could be cut.
- Mr. Lynch asks about the fill brought on to the site.
- The commission discusses tree removal and asks that larger caliper trees be part of mitigation of the 25' No-Disturb Zone.
- The Commission is concerned the contractors drove over the septic system but the pipe shown in photos is for a stormwater recharge system.
- A motion to grant a request to continue to January 23, 2013 meeting made by Mr. Manzi, seconded by Mr. Lynch.
- Vote unanimous.
- *Documents:*
 - *Letter from Heidi Gaffney 20 Anvil Circle Timeline dated 1/9/13*
 - *Letter from Basbanes Wetland Consulting dated 12/6/2012*
 - *Locus Map*
 - *DEP Bordering Vegetated Wetland Delineation Field Data Form*
 - *Existing Conditions Plan dated 12/5/2012*

Decision

242-1577, 72 Great Pond Road (Lot B)

- The administrator reviews the draft Order of Conditions.
- The Commission discusses adding a new perpetual condition to help cut down on houses selling with potential violations. The Commission decides not to add this condition now but work out the language for approval in the coming months.
- The Commission accepts Order of Conditions as drafted.
- A motion to grant to accept the Order of Conditions as drafted made by Mr. McDonough, seconded by Mr. Lynch.
- Vote unanimous.

A motion to adjourn the meeting at: 9:45 PM made by Mr. Lynch, seconded by Ms. Feltovic.

Vote unanimous.