

**Conservation Commission Minutes
January 26, 2017**

Attendees:

Present: Marilyn MacDonald, Vice-Chair, Harry Bailey, Member; Melissa Desjardins, Member; Robert Mello, Member; and Matthew Stoddard, Member

Absent: Tina Bianco-Leo, Associate Member; Mariah Jennings-Rampsi, Associate Member, and Dick Monteith, Chairman

Conservation Commission – Old Business

Notice of Intent – 30 Colonial Drive – SE116-1397

Ms. Marilyn MacDonald, Vice-Chair, opened the continued hearing and reviewed and read an letter dated January 26, 2017 from Lawrence P. Silva, P.E., Silva Engineering Associates, PC. It stated the following:

"As a result of the discussion that occurred during the previous public hearing and at the site walk last Friday January 20, 2017, I contacted the DEP to get guidance on how to proceed. This letter is a summary of my discussion with Gary Makuch of the Southeast Regional District in Lakeville. I explained to him the details of our situation with Lot 8, and he indicated that the line can be utilized as shown on the new NOI plan if the first approved design and OOC is closed out prior to the issuance of a new OOC. Since the subdivision roadway OOC was already closed out, the line shown for Lot 8 will be the only one open. Alternatively, in his opinion, a new notice of intent was not necessary and the Commission could have handled it as an amended order. We also discussed a recent court case that dealt with a subdivision where a Certificate of Compliance was issued and the court determined that the line was still good for three years. That decision has no bearing on this issue, Gary said, because it only stipulated the life of the line still carried past the compliance if it benefited the owner. In that case a new NOI could be presented with a different line if they wanted."

Mr. Azu Etoniru stated that he followed up with Brenda Harper, from DEP to ensure that the Commission was following the correct procedures, and she referred him to Dan Gilmore. Mr. Etoniru stated that when he spoke with Mr. Dan Gilmore and explained the situation, Mr. Gilmore referenced a case on the Cape, and told him that a resource boundary can be established through a RDA, an NOI, or an ANRAD. An Abbreviated Notice of Resource Area Delineation is filed to get a determination to fix the wetland line for three years, which would allow them time to prepare a NOI for a specific project. Mr. Etoniru said, "For example, in the year 2016, an Order of Resource Area Delineation is issued, it is valid for three years. Then an Order of Conditions is issued for a project in 2018 – that automatically extends that line for three years, from 2018 – so the new life of that wetline, because it is approved as part of the project, will be from 2018 through 2021." In respect of this fact, Mr. Dan Gilmore stated that even if you issue a Certificate of Compliance, that order and the conditions thereof are still valid for three years, especially the wetland boundary. A new boundary resource line cannot be determined if a Certificate of Compliance is issued for a Notice of Intent, until the end of the three year period. Mr. Etoniru stated that based on this conversation with Dan Gilmore, and based on the information presented by Mr. Silva regarding his conversation with Mr. Gary Makuch, there is an obvious conflict of opinion on the proper procedures. Mr. Etoniru will follow up with both Mr. Gilmore and Mr. Gary Makuch to get clarification.

Mr. Harry Bailey, Member, motioned to continue the hearing to February 9, 2017 at 7pm in the Municipal Office Building. Mr. Robert Mello, Member, seconded the motion. VOTE: All in favor, none opposed.

ANRAD – Lyman Place

For the record, Mr. Harry Bailey recused himself from participating and acting on this Notice of Intent filing; however, based on the Rule of Necessity; he was present for quorum purposes only. Ms. Marilyn MacDonald, Vice-Chair, opened the continued hearing and informed the applicant that due to the weather not all Commission members had an opportunity to do a site walk. Mr. Azu Etoniru stated that the Commission will require more time, it is an involved site and the Commission will require additional time.

Ms. Melissa Desjardins, Commissioner, motioned to continue the hearing until February 9, 2017 pending a site walk. Mr. Harry Bailey, Member, seconded the motion. All in favor, none opposed.

Notice of Intent – 785 Elm Street – SE116-1397

Ms. Marilyn MacDonald, Vice-Chair, opened the continued hearing and reviewed and read an letter dated January 26, 2017 from Rebecca Baptista, Silva Engineering Associates, PC. It stated the following:

“Silva Engineering Associates (SEA) respectfully requests that the Public hearing for the above referenced project be continued until your February 9th meeting date. This will allow sufficient time for the DEP to provide guidance on the project. If you have any questions please feel free to contact me at the office.”

Mr. Robert Mello, Member, motioned to continue the hearing to February 9, 2017 at 7pm in the Municipal Office Building. Mr. Harry Bailey, Member, seconded the motion. VOTE: All in favor, none opposed.

Request for Determination of Applicability – 15 White Pines Road

Ms. Marilyn MacDonald, Vice-Chair, opened the continued hearing and the Commission reviewed it's site walk findings. Mr. Robert Mello, Member, expressed his concerns regarding a shed near the 25' no touch area, as well as grass clippings inappropriately being stored in the no touch area; other than that he was fine with the proposed location. No other concerns were expressed by the Commission.

Mr. Azu Etoniru informed the Commission that he inspect the area, and advised Mr. Hunnewell to file the Request for Determination of Applicability. Mr. Etoniru stated that the existing shed sits on blocks, and moving it would do more harm than good to the wetlands. Mr. Etoniru staed that he recommended that a negative determination be issued, with the condition that a cartridge filter be used and no more grass clippings be placed in the wetlands.

The Commission reviewed all the material as presented and there were no further comments or concerns, and no abutters present for comments. Mr. Robert Mello, Member, motioned to close the hearing and issue a Negative Determination. Mr. Harry Bailey, Member, seconded the motion. VOTE: All in favor, none opposed.

Conservation Commission – New Business

No New Business

Conservation Commission Business

Review of Order of Conditions for 7 Autumn Circle, SE116-1396

The Commission reviewed the Order of Conditions DEP File Number SE116-1396 for 7 Autumn Circle, Map 63, Parcel 108-7 as presented. Mr. Robert Mello, Member, made a motion to issue the Certificate of Compliance. Mr. Harry Bailey, Member, seconded the motion. VOTE: All in favor, none opposed.

Review of Certificate of Compliance for 95 Flagg Street, Map 76, Parcel 97 – SE116-327

The Commission reviewed the Certificate of Compliance for DEP File Number SE116-327 for 95 Flagg Street, Map 76, Parcel 97 as presented. Mr. Robert Mello, Member, made a motion to issue the Certificate of Compliance. Mr. Harry Bailey, Member, seconded the motion. VOTE: All in favor, none opposed.

Review of Certificate of Compliance for 35 White Pines Road, Lot 7 – SE116-1121

The Commission reviewed the Certificate of Compliance for DEP File Number SE116-1121 for 35 White Pines Road, Lot 7, Map 97, Parcel 91 as presented. Mr. Robert Mello, Member, made a motion to issue the Certificate of Compliance. Mr. Harry Bailey, Member, seconded the motion. VOTE: All in favor, none opposed.

Homenook, 185 Harvest Lane

Mr. Azu Etoniru, Conservation Agent, brought to the Commission's attention that he received a call from a concerned citizen the open space being violated with ATVs and desecrating the whole area of the Homenook Subdivision. The subdivision's open space was approved for passive recreation only. Mr. Etoniru recommended to the Commission to issue a cease and desist. Mr. Harry Bailey, Member, made a motion to send a cease and desist letter to the Homenook Homeowners Association informing them that the responsible parties disallow the operation of ATVs in open space area or they will be fined.

MBTA Turbine Project – SE116-1332

Ms, Marilyn MacDonald, Vice-Chair, reviewed and read an letter dated January 9, 2017 from Jorge A. Briones, Jr., LEED AP BD+C, MBTA Project Manager, Massachusetts Bay Transportation Authority. It stated the following:

"As per our meeting this morning at the town offices, I am writing this letter requesting that the Order of Conditions requiring the use of PVC piping at the property limits adjacent to surrounding wetlands be waived. As you are aware, the project site is on MBTA property along the Middleboro/Lakeville Commuter Rail Line at Titicut Rd. next to the Bridgewater Facility. The Wetlands portion of the site is completely fenced off from the construction area with an existing chain link fence and soil erosion and wetlands protection measures are in place around the project perimeter. There is no development planned for this site as the MBTA uses it strictly as a yard to store materials for our rail system. If you have any questions, please do not hesitate to contact me at (617) 222-4323. Thank you in advance for your time and attention to this matter."

Mr. Azu Etoniru, Conservation Agent, recommended that the Commission waive the requirement for wetland markers, in consideration of the fact that the work is entirely fenced in, so the marker pipes are a mute point.

Mr. Harry Bailey, Member, made a motion to waive the requirement and amend the Order of Conditions Special Conditions to allow the completion of the work without installing the PVC Pipes. Mr. Robert Mello, Member, seconded the motion. VOTE: All in favor, none opposed.

Commissioner Melissa Desjardins made a motion to adjourn the regular meeting at 9:00pm. Commissioner Harry Bailey seconded the motion. VOTE: All in favor, none opposed. Chair Marilyn MacDonald closed the meeting. Next meeting will be on February 9, 2017 at 7:00pm in the Hearing Room located on the second floor of the Municipal Office Building, 66 Central Square, Bridgewater.

Respectfully submitted,



Jane K. Brown
Administrative Clerk