

**Conservation Commission
Meeting Minutes
Tuesday, April 14, 2015**

On April 14, 2015, the Conservation Commission held a meeting at 7:00 PM at the Lakeville Public Library – Conference Room. The meeting was called to order by Chairman Robert Bouchard at 7:00 PM. Members present: Robert Bouchard, Joseph Chamberlain, Linda Grubb, Derek Maksy, Martha Schroeder and Nancy Yeatts, Conservation Agent. Members absent: Sarah Kulakovich, Ryan Trahan and Hugh Rogers, Jr., with prior notice. Also: Christine Weston, Recording Secretary. LakeCAM *was not* recording the meeting.

7:00 PM ANRAD18 Lakeside Avenue/David Horton cont'd from 2-10, 3-10 and 3-24-15

Scott Goddard of Goddard Consulting, LLC, was present with Tom Hardman from Site Design Engineering, LLC and they distributed a new plan.

A motion was made by Member Chamberlain; seconded by Member Grubb and it was:

VOTED: To accept the revised plan, which, though was not presented 10 days ahead of time had been signed in the field with the Conservation Agent and Nichole Hayes and was then provided as revised.

Unanimous in favor

Mr. Goddard stated that the Conservation Agent had walked the site with Ms. Hayes on Wednesday April 8, 2015. During the site walk changes were made to approximately 3-4 flags. Also during the site walk Ms. Yeatts expressed some concerns about the stream that runs through the property, Tamett Brook. Since then some further review of the USGS data maps has been done for further verification of the stream and whether it is intermittent or perennial. Some family members that used to live on the property for 30-40 years have attended the meeting to add their testimony that the stream has been more often dry than not.

Ms. Yeatts provided her report to the Commission. It was noted that all the flagging was in good condition and two soil borings were done to view the soils. A total of four flags were moved four feet upland from one of the pond areas. It appears from the DEP website that two of the ponds are potential vernal pools. The big question is the stream. On the USGS Topo it is labeled Tamett Brook. Because it is labeled it should be considered perennial. The consultant from Goddard will present their findings and contend that it is intermittent. Ms. Yeatts stated that it appears that there are three options;

1. Approve the ANRAD
2. Deny the ANRAD and then it will be on DEP to make the decision
3. Request a second opinion under MGL Chapter 44 subsection 53G

Scott Goddard provided his view on the maps that they provided. He stated that basically the stream is not depicted at all but for one far eastern section of the property. It does not show if it is intermittent or perennial. Two family members, who have lived there for decades are present this evening and they can give oral testimony tonight that it is more often than not that the stream does not have water. It is only during high spring and late winter that there may be some water

running, and this winter due to the high amount of snowstorms there is water. Mr. Hardman stated that the original filing from February shows Tamett Brook easterly of the property.

Member Grubb stated that she has a map that shows the stream flowing through the pond then heading north, however, she has not been on the property. The stream has been recorded in town history as part of Vigers and the History of Lakeville which mentions Tamett Brook. All the USGS maps show the brook clearly. However, it is not known if there is a spring there. Member Grubb stated that it seems that more information is needed before a decision can be made.

Member Maksy stated that he had visited the site today (April 14, 2015) with the Conservation Agent. The question is; where does the stream start? Mr. Goddard noted that the only section of Tamett Brook labeled is the Brown driveway going west 100 feet and that is where originates according to the map. We also have the testimony of those present that it goes dry for months at a time, even years. Mr. Goddard stated that he would like to enter the testimony of the former/owners of the property.

David Horton, 49 years old of Lakeville: "I remember a brook when I was a child and I would play in it during the spring and then by July it was dried up and gone. There were years the brook did not run, then there might be a wet fall or early spring and it would be running". Chairman Bouchard asked about storm events? Mr. Horton responded that they would take place about this time now and typically end sometime in July, but this year it may be a bit longer since there had been more snow fall. Chairman Bouchard asked if there were any records to show if it was man made? Mr. Horton responded that he did not think so. Michael Horton, younger brother, also of Lakeville, who used to live there also stated that there were years where there would be no water at all and other years there was water and we played with boats in it. Months at a time it would be dry and even years at a time it would be dry.

Mr. Goddard suggested that the area be observed in a few months.

Member Maksy asked how a brook starts? Mr. Hardman replied that when there is enough water in a water shed to support a stream. There are coordinates from the GIS stream stats which can be used to depict more accurately. Chairman Bouchard asked what was being used as the delineation to define the watershed? Mr. Goddard responded that it was the USGA maps. Member Chamberlain noted the vast differences of the maps that had been provided, one showing the stream going through the headwaters and then further up north, on the USGS map from about 1979. The other is more recent, an overlay of what you can see on the ground from the sky. Chairman Bouchard asked who had toured the site. Member Chamberlain, Ms. Yeatts and Member Maksy were able to tour it. Member Maksy stated that he did not see a source to feed it, so he does believe that it will dry up. Member Chamberlain asked if there other characteristics to use to see if something is intermittent like bank scouring? Ms. Yeatts responded, the watershed size. Member Chamberlain stated that the Conservation Commission has had to make these decisions before and undercutting of banks and scouring of the bottom is how to make a determination of perennial. Member Schroeder added that there are issues of soil types, and stream stats which are measurements over a period of time. Mr. Goddard stated that this is not perennial mapping since there has been the testimony of those present. It eventually becomes a perennial, downstream, but not on our site. Member Maksy asked Ms. Yeatts to go over her three (3) options again for further explanation. Member Maksy noted that it is not what it is, it is more where it is. A 4th option would be to observe it. Member Schroeder stated that her concern is that the headwaters are where this property is and it seems odd that the law is to protect a stream further down than at the head waters. Member Grubb stated that the DEP is

currently reviewing perennial streams across the state to determine if they are really perennial or intermittent. She suggested to contact DEP. Chairman Bouchard suggested a continuance since there are a few of the Commission members who have not been there and they would like to, and to also contact DEP to see if we are missing something or if they concur. Member Maksy stated that he would like to see Mr. Hardman's professional opinion of where he thinks it starts. Member Maksy asked if it was perennial would it hurt the applicant to put the additional buffer there? It would also be a good question for DEP to find out if testimony can be included. Member Chamberlain stated that he had an observation about it drying up. When Doug Mills was the Fire Chief and before water trucks got real big, there were water holes dug all around the town so that the pumper truck could pump out water if it was needed to extinguish a fire. The particular one in that area was abandoned since it wouldn't always have water.

A motion was made by Member Maksy; seconded by Member Chamberlain and it was:

**VOTED: To continue the hearing of 18 Lakeside Avenue to April 28th at the Lakeville Town Office Building at 7 PM.
Unanimous in favor.**

NOI (Notice of Intent)

323 Pond Lake – R Richards, J. Smith

Chairman Bouchard recused himself from this matter. Member Chamberlain read the notice of the hearing into the record.

Peter J. Lyons with Collins Engineering Group was present for the discussion. He explained that this is a septic repair. The new 1500 gallon tank and pump will be placed as far from the pond as possible. Since it all slopes down to the pond there will be erosion control on both sides. An offsite well service is being proposed, but it has not been approved by the BOH yet, the matter is going before them at their meeting next month.

Ms. Yeatts recommended approval since it will be an improvement to the system.

A motion was made by Member Maksy; seconded by Member Chamberlain and it was:

**VOTED: To approve the septic system upgrade at 323 Pond Lane pending Natural Heritage approval, BOH approval and all of the Conservation Special Standard conditions.
Unanimous in favor**

COC (Certificate of Compliance)

150 Rhode Island Road – Emery Orrall

Ms. Yeatts stated that she performed a site visit on Saturday, April 11, 2015. The field looks good, it is established. There is a nice meadow growing.

A motion was made by Member Chamberlain; seconded by Member Maksy and it was:

**VOTED: To issue a COC to Emery Orrall for 150 Rhode Island Road.
Unanimous in favor.**

Amended – OOC

Gateway Commons – Harding Street

Ms. Yeatts stated that she had charged \$200 for each of the amendments. It had been made clear to them at every single meeting by Member Grubb informing them that it was a street and not a road, and now they are making the correction. The registry would not allow them to record it since they had road and not street. Ms. Yeatts further stated that this is the second amendment to the filing due to the drainage ditch being the first one. They also needed an amended order from the Town of Middleborough.

A motion was made by Member Maksy; seconded by Member Chamberlain and it was:

**VOTED: To amend the OOC for Gateway Commons – Harding Street (609).
Unanimous in favor.**

A motion was made by Member Maksy; seconded by Member Chamberlain and it was:

**VOTED: To amend the OOC for Gateway Commons – Harding Street (706).
Unanimous in favor**

COC (Certificate of Compliance)

19 & 22 Beechtree Drive (original filing)

John Pink was present for the discussion with Dan Cosby of Dartmouth Pools. Ms. Yeatts stated that she had reviewed the matter with Mr. Pink, and called DEP today. Originally the plans stated that this was for a modular home on a slab foundation. That is not what is there. Ms. Yeatts showed the letter that came with original Notice of Intent and read it into the record. She explained that she was in a quandary, how does the Commission give a COC to something other than what is there, and now there is a new NOI, so she called DEP. They said that you cannot give a COC for work not conditioned. Also, the original order called for grading and grass to be growing which not happening. It was recommended that the house be included in the NOI that they are applying for, or the Commission would have to go back to them for enforcement orders and if that was done then DEP would want to be a part of it. It has also been questioned of the amount of fill and the additional fill that would be placed. And, what the compensation for that fill was, it would be an additional fee on the NOI for the additional work. However, that does not even go to the proposal that they have now of putting in a pool or the additional work they want to do.

Mr. Pink stated that the original plan is the same. He did not know the effect of modular or not to the plans. Brandon Richard of 38 Old Main St. came forward, the previous owner. Member Chamberlain stated that it is not just the type of house, but the type of foundation as well. Mr. Richard explained that when he took this project on in 2012 he did not know what he would be building. He had obtained prices for a variety of options. He had spoken with the Building Commissioner, Nate Darling and the Conservation Commission about a slab and crawl space and if he would have to refile an NOI and he determined from the responses that he did not have to, otherwise he would have. Chairman Bouchard stated that the Commission would need to rule on a change in the type of foundation. Chairman Bouchard asked about the shed. Ms. Yeatts stated that the shed never came through conservation. Mr. Richard stated that the previous agent had issued him a piece of paper for the shed since there was an existing shed there

in 2005 and it is on blocks. Mr. Pink stated that the current owner, Mr. Lens, has said that he has no use for the shed. Member Maksy asked why this wasn't amended? Ms. Yeatts stated that this is not a small change, it is a major change. Member Schroeder asked to see the original NOI with the plans, and asked if the grading was the same that was approved? Ms. Yeatts showed pictures of the property and how the siltation barrier was not in place and the ground was washing out. The siltation barrier is to remain in place until the ground is stabilized. Discussion took place on what to do and how to address each of the matters. Member Schroeder expressed her concern of the flood plain being filled in; the calculations need to be provided. Mr. Pink stated that none of the work then or now is in the flood plain. What is the new elevation? Mr. Pink stated that currently the elevation is 54.5' and the anticipated is 57'. Chairman Bouchard suggested to allow the COC to remain open and start the hearing on the new NOI since the work is different for both. The new NOI is for a pool, addition, and a garage. The condition on the planting can be waived since there is to be more work done. The calculations of the fill that was brought in need to be provided and how that was compensated for. The hay bales need to be set back into place so that when it rains and when the water comes down the drain spouts it does not wash the soil out to the neighbors. The COC cannot be signed as completed until the work is done and agreed upon. The Conservation Agent will visit the site and take pictures to make sure that the hay bales have been put back into place so that erosion can be stabilized and controlled. Loam and seed need to be done to the side where work is not going to be done. An erosion control blanket such as jute should be set down.

A motion was made by Member Chamberlain; seconded by Member Maksy and it was:

**VOTED: To continue the COC request for 19 & 22 Beechtree Drive to April 28, 2015 at the Town Office Building at 7 PM. The applicant will stabilize the area, put the erosion control barrier back in place. Loaming and seeding will be done on the side that no further work is intended to be done, and stabilized with jute to prevent erosion and impact on neighbors property.
Unanimous in favor**

NOI

19 & 22 Beechtree Drive – John Lens

Chairman Bouchard read the notice into the record.

A motion was made by Member Maksy; seconded by Member Chamberlain and it was:

**VOTED: To continue the hearing for 19 & 22 Beechtree Drive to April 28, 2015 at the Town Office Building at 7 PM.
Unanimous in favor.**

Other Business

Ms. Yeatts stated that Mr. Steve McGuire would like to take down a live tree at 24 Hickory Lane due to the closeness of the tree to the home. Member Schroeder asked that the Commission require that another tree be planted at the property once the other tree is taken down.

A motion was made by Member Chamberlain; seconded by Member Schroeder and it was:

**VOTED: To allow the Conservation Agent to issue a Simplified (non emergency) Permit for the tree removal at 24 Hickory Lane and to require that another tree be planted once the first is taken down.
Unanimous in favor**

Old Business

Frank Sterrett of 6 Crest Drive was present to express some concerns he had for the proposed project for 7 Main Street. He drew a depiction of the area and where his house is located. He wanted to know about the vernal pool which is in the area and is certified and about the fact that his home and others in the area are on wells and since there is a filling station being proposed he had research and statistics providing evidence that fuel spills may be doing more harm than originally understood by contaminating hydrology. Ms. Yeatts stated that there are no regulations for protecting a vernal pool even if it is certified. The developer of the property has been asked to determine if there is any life in the vernal pool. It was thought that it had been cut off to any sources of water, however, some culverts have been seen. The proposed project is not in the buffer zone; therefore they are not required to come before the Conservation Commission.

New Business

A motion was made by Member Maksy; seconded by Member Chamberlain and it was:

**VOTED: To approve the March 24, 2015 Conservation Commission meeting minutes subject to Member Chamberlain's amendments.
Unanimous in favor**

Ms. Yeatts mentioned that another COC had come before her, however, she visited the site (71 Highland Road) and saw that they have not planted any grass. Mike Redlon was contacted about making sure that the proper work was accomplished.

Schedule next meeting

The next meeting was scheduled for Tuesday, April 28, 2015 at 7 PM at the Town Office Building.

Adjournment

Upon a motion made by Member Maksy; seconded by Member Chamberlain it was:

**VOTED: To adjourn the Conservation Commission meeting at 9:08 PM.
Unanimous in favor**

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