

**Conservation Commission  
Meeting Minutes  
Tuesday, April 28, 2015**

On April 28, 2015, the Conservation Commission held a meeting at 7:00 PM at the Lakeville Town Office Building. The meeting was called to order by Chairman Robert Bouchard at 7:00 PM. Members present: Robert Bouchard, Joseph Chamberlain, Linda Grubb, Hugh Rogers, Jr., Martha Schroeder, Derek Maksy, Ryan Trahan, Sarah Kulakovich, Associate Member and Nancy Yeatts, Conservation Agent. Members absent: There were no members absent this evening. Also: Christine Weston, Recording Secretary. LakeCAM was recording the meeting.

Abutters, Applicants and interested citizens also in attendance: David Horton, Renee Horton, Lynne Hoadly, Leanne Beckman, Wayne Hoadly, Nichole Hayes – Goddard Consulting,, Janice Hartigan, Judy Cossaboom, Robert Cossaboom, Eric Hartigan, Stephen Nashawaty, Tom Hardman – Engineer, Anthony Podesh, Debra Smith, Dan Cosby – Dartmouth Pools, Tony Raposo, Brandon Richard, Kurt Frawley.

**7:00 PM ANRAD**

**18 Lakeside Avenue/David Horton**

(This hearing originally began 2-10-15 and has been continued from that date to 3-10, 3-24, 4-14, 4-28)

Chairman Bouchard noted that the notice had been read into the record at the February 10<sup>th</sup> Conservation Commission meeting. Ms. Yeatts explained that this meeting started in February and has been continued several times and inadvertently the green Return Receipt cards had not been collected. The applicant said that copies were emailed to us. We have the Abutter Notification list and the abutters are here and saying that they did not receive notification. People within 100 feet of the property were to be notified.

Ms. Yeatts explained that the Conservation Commission has jurisdiction within 100 feet of the wetlands as shown on the maps presented of the property. We are here to verify that the resource areas are correctly identified. If any work were to be done in the future, the owners have to come back to us to file an NOI. Then there would be a hearing scheduled and the abutters would be notified. If we said no on the NOI, then they could appeal to DEP. If we said yes then we would provide the conditions on how the work would be done.

Chairman Bouchard asked to hear from the applicant.

Thomas Hardman representing the applicants the Horton family took the floor. He and a Professional Wetland Scientist, Nichole Hayes, went out and flagged the wetlands. Then, Ms. Yeatts and Ms. Hayes went out to verify the flags. They made changes to some of the flags. There is no work proposed at this time on the property. The ANRAD is only to delineate the wetlands in order for the family to see what their options are. The drainage ditch/stream was discussed at the last meeting, and additional members of the Commission have gone to view the property. Chairman Bouchard asked Ms. Yeatts to state what she saw when she walked the property. Ms. Yeatts stated that she had only moved four flags, and they were not significant at all. Chairman Bouchard stated that he went out to the property along with a number of commissioners. Member Maksy stated that Ms. Yeatts had showed him what flags she moved and it seemed reasonable. Member Grubb questioned if the pond on the left side of the property

was spring fed. She believes that the pond is where this stream originates and it is not believed that it is labeled correctly on the map. It was a perennial stream and it is believed that it still is. There are trenches freshly dug where the water was flowing to bypass the larger pond, this appears to be peculiar. Ms. Yeatts stated that her and Member Maksy saw that also. Member Grubb stated that the gully where the stream goes is quite deep. It is not understand how it is being deemed an intermittent stream. It may not be Tammatt Brook where Bedford Street is, but it does not appear that the maps are at all accurate. There seems to be a perennial stream flowing from this pond. Chairman Bouchard stated that when he walked the site he had several observations. He did not go all the way to the property line to see where the brook becomes the perennial stream but he did see the southern end. It may have been naturally occurring before, but right now it is not natural and all three (3) ponds are in different elevations and that would be interesting to find out. The East side is much lower than the other two. The northern one is very large and Member Bouchard did not see its connection with the other two. David and Renee Horton (family) stated that it is spring and that is why the ponds are full. Mr. Hardman stated that they did not have any topographical plans. Chairman Bouchard, asked the family if it their observation that the ponds will be dry at the end of summer? The Family responded that when it gets to the culvert it flows and then no more can go through since then it will evaporate. Their cellar has been flooded since April and that will continue until the higher pond evaporates and that is traditionally June or July. Then, it is wet in the fall depending on the rains prior to the winter. Almost all the property is jurisdictional. Ms. Yeatts mentioned the other areas. Member Maksy stated that they are indeed wetlands. The Family noticed Mr. Pink in the hallway and stated that he was the person who was hired to survey it and maybe he can say if it is dry or wet. The Wetlands Scientist, Nichole Hayes, delineated the property. During that time the channels were dry and it was easier to do that, she can attest that it was dry. The Applicants have provided the watershed analysis that proves that the stream channels are intermittent and not perennial. The only other option is to do the four (4) days of photo documentation to show it dry and to do this out of the wet season. We can ask the surveyor also. That is the information before you tonight. Member Schroeder stated that even though the house is outside of the buffer zone, that area will get flooded, so the hydrological connection is still there. Debra Smith, 16 Lakeside Ave: "We were never spoken to and we should have been. The water runs all the time in that drainage ditch. We have found it is a vernal pool in several locations and we do not feel that is any less important. It is valuable to be saved and there are a lot of species in that area that are threatened. Wood frogs, lady slippers, spotted salamanders, box turtles, leopard frogs and we encourage you to come back out and visit. Ms. Yeatts noted that actually all three ponds are listed as potential vernal pools. Mr. Hardman, agreed, but added that they are not listed with Natural Heritage for species. Member Grubb told the neighbors that it is their responsibility to document what they see and send it to Natural Heritage. Member Schroeder added that though those species are not endangered yet, eventually they might be. Ms. Smith read and submitted a letter into the record;

*To the Conservation Commission,*

*We moved to Lakeville in 2001 because of its rustic charm and the appeal of living in a town which not only valued its intrinsic beauty but also recognized the need of conserving the surrounding environment. Too many other towns were experiencing too fast of growth and Lakeville was a home that offered us the lifestyle we desired-one where we could experience nature in its unspoiled setting.*

*The rural character and fragile habitat of the ecology in Lakeville is not conducive to development of this land particularly a long road/driveway through the sensitive environment which include several vernal pond, a running stream and wetlands. We have seen rare and endangered species that rely on the vernal*

*pools, such as wood frogs, box turtles and lady slippers in the woods. The impact on the land would be devastating to the variety of life that lives in his delicate ecosystem.*

*We love the wildlife-it's what makes the 3 hour round trip into the city each day worthwhile. In the spring we hear the Peepers and watch the Wood ducks nest in hollow trees along the ponds. There is a deer herd who we've identified and names that lives among the holly trees. Over the years we've documented changes-once numerous, both the red and grey fox population have been hard hit by the coyotes, skunks and opossums have similarly shrunk in number, the New England cottontail has been replaced with the Eastern cottontail. Other species have increased in number-a mating marsh hawk pair regularly make stops for the mourning dove buffet at our bird feeders. Owls answer our calls, tree frogs sing us to sleep...*

*Once developed there is no way to return this land to its pristine condition-we urge the board to be diligent in its examination of this request. Thank you for your consideration.*

*Debra Smith/Anthony Podesta.*

Renee Horton stated that she wants to remind everyone that the family is here to just flag the wetlands. Member Maksy asked who the abutters are that are here. Member Grubb stated that Scott Goddard stated at the last meeting that the stream becomes perennial right at the property line. Member Grubb further stated that she is uncomfortable saying that this is intermittent all the way to the property line. It would not change the buffer zone but would acknowledge that it is a perennial stream. It is a pretty wetland and there are no springs that would increase the flow of the stream, at this point and I believe that it is coming from the ponds. The area we were at was quite deep. Chairman Bouchard stated that the Commission does not have the luxury to wait to see how far the brook comes or if things dry up. Member Schroeder noted that the parts declared as a perennial stream would fall under the Rivers Act which then gives jurisdiction of 200 feet, the first 100 feet the Commission is very protective of, the rest is "iffy" of what you can do with it. So, it would add another 100 feet on each side. Mr. Hardman stated that as Member Maksy said it would still be jurisdiction, but the standards are very different and we would rather not have any river on the property. Member Chamberlain stated that the Commission needs to deal with the question of abutters and suggested a sign in sheet. Ms. Yeatts noted that the Commission can approve pending receipt of abutter notification. Mr. Hardman stated that the weather has cooperated with us and the brook/stream ditch is significantly lower, so let us continue to the May 12 meeting then we will see what going on in the field.

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

**VOTED: To continue the meeting until May 12, 2015 at 7 pm at the Lakeville Library.  
Unanimous in favor.**

## **COC**

## **19 & 22 Beechtree Drive (original filing)**

Chairman Bouchard explained that the notice of the hearing was read into the record at the last meeting. John Pink of Azor Land Sciences was present with Dan Cosby of Dartmouth Pools and the builder. Mr. Pink had new plans to provide the Commission.

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

**VOTED: To view the updated plans for 22 Beechtree Drive.  
Unanimous in favor**

Ms. Yeatts stated that she spoke with Liz Kouloheras, DEP Wetlands and Waterways, this morning. Ms. Kouloheras has recommended that the Commission give a partial COC on the first NOI filing (SE192-672) since the house has been built and for the Commission to be specific about what further work needs to be done. If and when an OOC is issued for the new NOI (SE192-725), the remaining work can be added and then a full COC can be issued for the initial filing. Discussion took place about alternatives and the positives and negatives of proceeding in various directions. Ms. Yeatts explained that the Commission has been provided a plan from Mr. Richard what he was supposed to do as from last meeting. Member Schroeder noted that Mr. Richard has done some things that were not on the original NOI, and still has not stabilized the area with Loam and seed. Also, it is not known of the extent of the fill. Member Chamberlain stated that it is outside the flood zone so it does not matter. Chairman Bouchard suggested that the Commission follow the advice of DEP and give a partial OOC on the work that has been done. The siltation barrier has been reinstalled, and the jute has been laid down and it is staked. Mr. Richards provided photos.

Member Trahan stated that he visited the site before the meeting this evening and didn't see any issues. Abutters were present this evening to observe what took place. They want to protect the abutting beach (Association Beach) since their family has been the caretaker of it for over 50 years. Where the stockade fence is, that fence is tipping. Originally, there were wetlands on both sides of the fence, now it is only on one side of the fence (The Association's side). There is a lot more water on the Association Beach side than there was years ago. All the people that do not have beach front property, use that beach. Lynn Hoadly, 2 Pine Crest, showed the area on the map and said it dries up sometimes by July, but before that it is real squishy, and the water has come way up to back of it. The field is also wet until July. Member Schroeder stated that that is the concern, that it is dry up to the fence and wet on the other side. When you proceed to fill it, it may not be a flood zone, but it will impact how the water will flow onto a neighbor's property. Ms. Yeatts mentioned that the flood plan maps change on July 16. Town Meeting will take place in June and they will accept the new flood plain maps. Mr. Nashawaty, 3 Pinecrest Drive, asked about the garage and stated that his driveway is right there. Member Grubb asked what the advantage was of having a partial OOC? Chairman Bouchard explained that it allows for the work to continue. Member Maksy stated that there are different owners now. Member Schroeder stated that the Commission does have a problem with what has been done. Member Grubb stated that he added more fill than what was originally agreed to and the house has been built much larger than what we were led to believe it was and though the footprint has not changed there is a whole lot more going on on this lot than we approved originally. It was not thought that the house was to sit up so high, it was to sit on a slab and now it has a good sized crawl space underneath. Member Schroeder stated that she has a problem with the higher elevation since then they need the fill for the grading so that the house does not look like it is popping up of the ground. Mr. Cosby stated that the pool will push the fill out of the way. Member Schroeder stated that the pool is fill itself. Member Grubb stated that her concern is the fill that has already taken place on the site and the building is more of a structure than what we were led to believe. It may be only in the footprint but one day we will have to look at the impact of the large living spaces we are adding to these sites. Chairman Bouchard stated that if there are no further comments it might be advisable to discuss the proposed work and what the proposed conflicts might be since they will all be related and impact one another. Member Schroeder stated that the original owner did this and now is just going to step away

from it. Member Chamberlain explained that the conditions go with the new owner so buyer beware. Mr. Richard, 38 Old Main Street, (previous owner) stated that he had spoken to someone at DEP who told him that he could leave both the original NOI and the new NOI open. Member Maksy stated that having two (2) NOI's open may contradict themselves. The cleanest way to move forward is to close the initial one and then proceed to the next one and include the items outstanding from the initial NOI. Ms. Yeatts stated that she had spoken with Ms. Kouloheras at DEP who said to do the partial. Mr. Richard stated that he thought that the only condition he had remaining was to loam, seed and stabilize. He is present since he gave his word to the buyer that he would complete the initial NOI.

**A motion was made by Member Maksy; seconded by Member Trahan it was:**

**VOTED: To issue a partial Certificate of Compliance for 19 & 22 Beechtree since the house has already been built. The area highlighted on the map dated 4-1-15 will continue to be stabilized with jute and haybales. It is to be noted that this partial COC is not accepting nor denying the fill work that has been done. Unanimous in favor.**

## **NOI**

## **19 & 22 Beechtree Drive – John Lens**

Chairman Bouchard asked for the applicant's representative to speak on the NOI. Additional plans were handed out. Mr. Pink explained that there were four (4) items on the project. An addition, a three (3) season room, a swimming pool and a garage in a separate area. The entire project is to be within the buffer zone, with the exception of the garage which will be located across the street on their other lot. He then provided more maps about the fill and what was done. Mr. Cosby, Pool Representative, and Mr. Reposo who would be constructing it. Ms. Yeatts asked about the second floor deck, which was on the original filing. But it has not been done. There is a one story addition. Member Grubb stated that with the 2011 site plan and the box that gives the footprint and proposed living areas, when the as built was provided, those figures were dropped off. So there is no mention of percentage of coverage, size of building or living space. Mr. Pink stated that that information went to the zoning board. Member Grubb stated that the Commission worries about coverage on a lot and this is a small lot. She asked to see the information. On a lot like this, the more stories you add, the more living space and the more impact you have on the lot, it had been a three (3) bedroom house. Mr. Pink stated that there can only be three (3) bedrooms due to the size of the septic system. Member Grubb stated that they are building a garage and there is also a garage for cars. She would like to see the figures for the living area and footprint. Mr. Pink stated that he had to keep it under 25% impervious coverage per the Building Inspector. Member Maksy stated that they can provide the information for the next meeting. Member Maksy and Ms. Yeatts both asked that they show the fill from day one, what was approved from before and what for now. Member Chamberlain asked if there is a D-box on the other side of the proposed garage, the uphill side. Mr. Pink stated that he wanted to put a bathroom in the garage. A concerned neighbor (Mr. Nashawaty), was worried since his well is less than 100 feet away. Mr. Pink explained that it only has to be 50 feet. The leaching field though is up near the road. Member Schroeder asked if the BOH specifies the number of bathrooms. Member Maksy explained that it is the number of bedrooms not bathrooms. Ms. Yeatts stated that Title V prohibits that, you can have 5 or 6 bathrooms, but



you cannot have more bedrooms at this location, because of a deed restriction. Mr. Reposo, builder stated that it is not his client's intent. He has three (3) kids and three bedrooms, the rest of the space will be for his cars and as a garage. Member Chamberlain asked if there any plans to replace the fence. Mr. Richard stated that he is sure that the owner will replace it. Chairman Bouchard asked if it was the intent to discuss the pool this evening. Mr. Pink responded that Mr. Cosby would. Mr. Cosby stated that when they do the pool they will do any dewatering as necessary. Member Maksy stated that the siltation fence should be extended back further to the shed area. Continue the line all the way to the corner of the shed. Mr. Pink stated that it is his understanding that the pool is straight up and so some fill can be pulled back. Member Trahan stated that he would like some high point measurements. Member Schroeder stated that it is a beautiful pool but does not think that it is located in the right place. Mr. Cosby explained that he had changed the design several times, locations, but then it would be tough for boat access, etc. Most of the pool will be in the filled area. They have to get a variance for having the pool closer than 20 feet to the house. Member Chamberlain asked what is underneath the second floor deck. Mr. Pink responded the patio for the swimming pool. Member Maksy asked if there would be fencing around the pool outside or contained in the pool area. Mr. Cosby responded that that is a variable point right now. Chairman Bouchard asked when they are going to the BOH. Mr. Cosby responded that they are waiting until they finish with Conservation. Chairman Bouchard stated that the Commission would like to hear from them (BOH). Member Chamberlain asked about pump for the pool. Mr. Cosby stated that it will be on Mr. Richard's side and open to the elements. It will be set on a pad. Member Maksy stated that the Commission needs to see where the pad is going to go on the plan. Mr. Pink stated that if the shed is a sticking point it would be taken down since the owner did not have any real use for it. Mr. Cosby stated that they will be installing a filter with backwash so nothing will be eliminated from the pool. Member Maksy also stated that this is a lot going on in a little area. Mr. Pink explained that right now 54.5 is the flood zone evaluation and this is based on 1988 data. Member Maksy stated that the map, block and lot need to be clarified. Ms. Yeatts asked that the Commission continue this to the May meeting so that she can figure out what conditions will carry over from the original Filing (SE192-672). Member Grubb stated that she has concerns of the 25 foot no touch buffer. Mr. Richard asked what that was. Chairman Bouchard explained that it is a policy that the Commission adopted to protect the area within 25' of a resource area. There are some times exceptions for such items as a dock or pre-existing structure. Member Chamberlain mentioned that this is a small lot where the Commission is allowing a lot of work, they need to keep as far back as they can from the water. Member Chamberlain and Member Grubb asked about the impervious coverage. Mr. Cosby stated that there is a cross section showing the elevation of the pool. Chairman Bouchard stated that the Commission also needs to know where the drainage is coming from off the roofs. Member Grubb stated that she is serious about protecting and enforcing the 25 foot no touch zone. Ms. Yeatts noted that pervious is preferred for the pool apron. Mr. Cosby agreed. Mr. Pink stated that they will be doing a little more landscaping with walls and vertical slopes. Chairman Bouchard asked that they extend the 25 foot no touch zone, where no development is to be, to 50 feet, and put in a stone wall, leave that area untouched, that would be a compromise. Also to terrace this area so that it will not have a negative impact. The elevations will help illustrate that. Mr. Pink clarified that the existing fill is noted as pink on the handout map and the yellow line depicts the proposed fill areas.

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

**VOTED: To continue the NOI for 19 & 22 Beechtree to May 12, 2015 at 7 pm at the library.  
Unanimous in favor.**

### **Other Business**

Ms. Yeatts spoke on the Emergency Permit that had taken place at 6 Priscilla Drive due to a septic system overflowing. An emergency permit had been issued to John & Renee LeBlanc of 6 Priscilla Drive on 4-21-15. Member Chamberlain had signed the permit on behalf of the Commission. Mr. Pink stated that on the permit it says that an NOI has to be filed; however, the work will all take place within essentially the same space as it presently is located. Ms. Yeatts noted that the location of it is 80 feet away and had originally thought that it was a lot closer than that. Mr. Pink explained that they did put conditions on the plan and there are hay bales already in place. He suggested possibly an RDA rather than an NOI. Ms. Yeatts agreed.

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

**VOTED: To ratify the Emergency Certification for 6 Priscilla Drive for John and Renee LeBlanc as issued on 4-21-15.  
Unanimous in favor**

The MassHousing Letter dated March 26, 2015 re: Water Street Crossing (Robert Poillucci) Massachusetts Housing Finance Agency was distributed. Mass Housing is currently reviewing the application for Site Approval as it was submitted by Water Street Crossing, LLC. The site approval process is offered to project sponsors who intend to apply for a comprehensive permit under Chapter 40B. MassHousing has been informed by Water Street Crossing, LLC that the Town of Lakeville has received a copy of the application and plans for Water Street Crossing. During the course of its review, MassHousing will conduct a site visit, which Local Boards may attend. If and when an application is submitted for a comprehensive permit, assistance is available to the Lakeville Zoning Board of Appeals to review the permit application. Member Grubb stated that the plan that was submitted to MassHousing has more detail than the one that was provided to the Conservation Commission. She then asked the Town Administrator to view a copy of those plans. The plans were provided and the Commission reviewed them. It was noted that the Commission was not notified of the site visit, April 8, 2015, so no one of the Commission attended.

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

**VOTED: To write letter to the Board of Selectmen to let them know that the Conservation Commission has issued an Order of Conditions for Water Street Crossing and to provide them with a copy of the OOC.  
Unanimous in favor.**

### **Old Business**

There was no old business presented for discussion.

### **New Business**

There was no new business presented for discussion

### **Schedule next meeting**

The next meeting was scheduled for Tuesday, May 12, 2015 at 7 PM at the Lakeville Library.

### **Adjournment**

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

**VOTED: To adjourn the Conservation Commission meeting at 8:55 PM.  
Unanimous in favor**

ConComm4-28-15final