

**Town of Lakeville  
Conservation Commission  
Tuesday, May 24, 2016  
7:00 PM – Lakeville Town Office Building**

On May 24, 2016, the Conservation Commission held a meeting at 7:00 PM at the Lakeville Town Office Building. The meeting was called to order by Chairman Bouchard at 7 PM. Members present: Robert Bouchard, John LeBlanc, Joseph Chamberlain, Peter DeFusco, Mark Knox, Derek Maksy, and Martha Schroeder, Katherine Goodrow-Robinson, Associate and Sarah Kulakovich, Associate, Nancy Yeatts, Conservation Agent and Christine Weston, Recording Secretary. LakeCAM was recording the meeting.

**7:00 PM**

**NOI – 1 Lakeville Business Park Drive - Poillucci**

Chairman Bouchard read the legal notice into the record. *Marcus Phinney was present for the discussion along with Robert Poillucci, applicant.*

**Upon a motion made by Member LeBlanc; seconded by Member Knox it was:**

**VOTED: To accept the new plans as presented.**

**Unanimous in favor**

Mr. Phinney provided an update regarding the project. He had met the Conservation Agent on the site to review the flags and only a few were moved. The flagging had been done in April and was done primarily based on topography. There was shallow ground water, hydric soils and plants. Crushed stone will be added to expand the impervious surface. The lot is 5.2 acres. The closest point of the structure to the wetlands is approximately 32 feet. The roof runoff will be captured by infiltration trenches. The garage and driveway represent less than a 2% increase in impervious coverage.

Ms. Yeatts spoke on her report. The project is a garage addition. The soils on the site have been disturbed previously. Three (3) flags were moved during the site visit towards the wetlands since the soil borings were the same as the flagged area, and there was still about ten (10) feet to undisturbed wetland soils. All the Conservation Commissions Standard Special Conditions should apply to the project.

Member Maksy asked what the intent for the garage was. Mr. Phinney responded that it is for expansion of the same business, to provide additional space.

Member Schroeder asked what is stored in the garage. Mr. Poillucci responded that he stores items to keep out of the weather such as; lawnmowers, a bobcat, boat, a jet skis, truck, etc.

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

**VOTED: To approve and issue an OOC with the Conservation Commissions  
Standard Special Conditions.**

**Unanimous in favor**

### **Ratify Enforcement Order – 149 Staples Shore Road - Bernardo**

Ms. Yeatts asked that the Conservation Commission vote to ratify the Enforcement Order.

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

**VOTED: To ratify the Enforcement Order for 149 Staples Shore Road.  
Unanimous in favor**

*Nelson Bernardo was present representing Kevin Bernardo who was also present. On May 12<sup>th</sup> a call had been received about the breeching of the silt fence during the installation of the well. All well drilling was stopped and Mr. Bernardo was required to submit a Restoration Plan. A Restoration plan was presented by Mr. K. Bernardo. There were four (4) steps proposed with additional details to each step and there were also plans attached and photos.*

1. Using only hand tools, remove drill cuttings that have breached the silt fence along the beach.
2. Remove existing silt fence as needed to access material trapped behind it.
3. Add supplementary silt fence and straw wattle behind the existing and repaired silt fence straw wattle assembly.
4. Remove well drilling cuttings from areas on the landward side of silt fence.

The secondary silt fence will be left in place for the duration of the project. The Conservation Commission office will be contacted once the clean-up is complete for an inspection. Then, the well drilling may continue.

Ms. Yeatts mentioned that the original OOC, page 9, specifies that a licensed dewatering truck will be onsite as deemed necessary. This condition still applies. The Agent is to be notified when the work will be done. It is necessary to know where the “gray” matter will be going as it comes up from the well. Mr. N.Bernardo again responded that they will rely on the well installer, and the material will not be discharged on site.

Member LeBlanc asked if there had been any material in the water. Ms. Yeatts responded that there had been, however it has dissipated. The City of Taunton had a person from their water department at the site and also someone from DEP. Member LeBlanc stated that the silt fence will be right along the water. Mr. N.Bernardo stated that it will be tricky to fit it in, and it will not be in the water. It will be installed first. Member Maksy stated that it should be there in the event of rain. Ms. Yeatts stated that she proceeded as the DEP directed.

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

**VOTED: To approve the restoration plan as presented for 149 Staples Shore Road with the Conservation Commissions Standard Special Conditions; and that there be a licensed dewatering truck on site to pump the water; there is not to be any discharge of water on the site; and the Conservation Agent will be called when the truck is on site.  
Unanimous in favor**

### **Partial COC for 14 Hitching Post Road**

Ms. Yeatts explained that the original OOC was for the subdivision for the Settlement for Gene Bartlett at 12 Settler's Drive. The request is for the release of former lot #37, now 14 Hitching Post Road. There are no drainage structures or easements of any kind associated with this lot.

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

**VOTED: To approve the partial COC for 14 Hitching Post Road.  
Unanimous in favor**

### **Report-Nancy Yeatts**

Ms. Yeatts stated that the Lebaron project is entering phase 3, which is a huge addition. There has not been a filing for it as of yet. The Wetland Scientist (Jennifer Silva; Outback Engineering) had asked the agent to attend a site visit to view the flags. The surveyor flagged the wetland line off of a 15 year old plan. Some of the flags were actually over the water since the wetlands have changed over the years and expanded. A few flags were moved. In another area, where the ponds are, the flags either could not be found or access was very difficult. The Wetland Scientist was asked to have the flags located and provide some kind of access for them to be reviewed. The Agent explained that she has already invested 2 ½ hours with the project from reviewing plans and performing a site visit. The Agent had spoken with Mr. Darling, Building Commissioner, about the flagging and the importance of getting it right. Because of the density of the proposed housing the impact to the resource area could be significant so it would be prudent to request a peer review and he agreed. It was also discussed that the 25 foot buffer was intended for projects like the LeBaron site that has pristine wetlands and soils that have not been previously disturbed. Also discussed was what type of fee should be charged since there are not any fees set up for this type of work. Member Maksy stated that the flags should be done correctly first. Member Chamberlain suggested that they be charged per foot of the subdivision road. He suggested that they start with an ANRAD. Ms. Yeatts noted that a significant amount of work is proposed in the 100' buffer zone. There were also conditions for phase 2 to that need to be verified including a deed restriction and a 100 foot buffer around the Town well site. This information has been provided to Mr. Don Foster of the Zoning Board of Appeals..Member Maksy stated that a letter could be sent to the ZBA explaining that not enough information has been provided to make a decision and the ZBA can hire an engineer. The ZBA is authorized to hire engineers for what they need. Ms. Yeatts stated that the ZBA is not the permitting authority for the wetland line and we also have the authority under G.L. Ch.44 ss 53G to request a peer review. Member Knox suggested a fee of \$100 for each home in the 100' buffer zone. Ms. Yeatts stated that Mr. Foster indicated that the ZBA would work with the Commission. The ANRAD is for approval of the wetland line only. Member Maksy stated that the fee for an ANRAD is per foot(\*note\* with \$100 minimum and \$1,000 maximum). Ms. Yeatts stated that they could start with an ANRAD. How many lots are in the buffer zone will be determined by the wetland line.

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

**VOTED: To ask for an ANRAD for LeBaron Residential LLC from the applicant.  
Unanimous in favor**

Member Schroeder stated that when the project first came before the Conservation Commission, there were a lot of promises that were made and it is not known of the extent of the legal commitment of what was to be done. Ms. Yeatts explained that she had looked up all the conditions and forwarded them to Mr. Foster. He said that the project has been continued and that there is plenty of time to make sure this is done right. Member Knox stated that the Commission should review the conditions at its next meeting.

### **Other Business**

#### **1. Wetland By-Law Review**

Member Schroeder provided an update to the Wetland By-Law Petition that will be on the upcoming Town Meeting Warrant on Monday, June 6, 2016.

#### **Why say yes to a wetlands protection bylaw:**

No disturbance in the first 25 feet next to a wetland: needed because of 1) crucial importance to most of our wildlife and 2) location of aquifer recharge especially at river and pond edges.

Buffer for Isolated Land Subject to Flooding: needed because ILSF is location of aquifer and groundwater recharge.

Protection for vernal pool as for any other wetland: needed because of value to wildlife including some dependent upon vernal pools.

#### **Response to concerns about a wetlands protection bylaw:**

Would take away owner's use of property:

Not true as minor activities are allowed and some activities, including pre-existing, are exempt.

#### **Government over-reach:**

Protection of our common wealth (air, water, wildlife, the stability of all the planet's ecological systems) requires consideration of cumulative impact of everyone's behavior's, consideration of cumulative impact of everyone's behavior's consideration which property owners focusing on their own projects may be unable or unwilling to take

#### **We already have the Wetlands Protection Act and the DEP:**

WPA says first 100 feet adjacent to a wetland constitute a buffer zone requiring a Conservation Commission ruling, but, as any project that removes vegetation or soil, changes the grades or paves closer than 25 feet is certainly going to impact the wetland, a bylaw that just says no to start with, will save a lot of posturing and pressuring. I a property cannot be developed without disturbing the 25-foot zone, it should be left along.

Vernal pools and ILSF are not protected by the WPA

DEP as a State agency is subject to limitations of the State budget (currently severe).

Appeals would go to the Superior Court rather than the DEP which could be costly:

Residents in towns with wetland bylaws do not find this to be burdensome. Very few cases end up before the Superior Court. Instead issues get resolved at hearings with a local board (the Conservation Commission) appointed by a locally elected board (Board of Selectmen), not by a State agency.

Fines are exorbitant:

Fines are allowed by the bylaw but are not mandated. They are a tool for local control to be used against the most recalcitrant offender.

**These are the opinions of the promoters of the Wetlands Protection Bylaw. It is up to you to decide and vote at Town Meeting June 6.**

Discussion then ensued regarding the proposed wetlands bylaw presenting both the positive and negatives as per opinion of the Commissioners.

2. Approve meeting minutes of February 11, February 24, June 10, and July 8, 2014, June 11 and December 10, 2013.

No meeting minutes were approved this evening. The Commissioners will review the outstanding minutes.

3. Pay Bills (if necessary)

Ms. Yeatts provided an invoice for signature for a wireless keyboard and mouse for the office in the amount of \$43. The Commissioners signed the invoice.

**Schedule next meeting.**

The next meeting was scheduled for Tuesday, June 14, 2016 at 7 PM at the Library on Precinct Street.

**Adjournment**

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

**VOTED: To adjourn the Conservation Commission meeting at 8:40 PM.  
Unanimous in favor**

ConComm5-24-16final