

**Conservation Commission  
Meeting Minutes  
Tuesday, May 26, 2015**

On May 26, 2015, the Conservation Commission held a meeting at 7:00 PM at the Lakeville Town Office Conference Room. The meeting was called to order by Chairman Robert Bouchard at 7:01 PM. Members present: Robert Bouchard, Joseph Chamberlain, Linda Grubb, Hugh Rogers, Jr., Martha Schroeder, Sarah Kulakovich, Associate Member (enter 7:10 PM) and Nancy Yeatts, Conservation Agent. Members absent (not with prior notice): Derek Maksy, and (with prior notice) Ryan Trahan. Christine Weston, Recording Secretary *was not present* due to meeting scheduling conflicts. LakeCAM was recording the meeting.

**7:00 PM**

**ANRAD**

**18 Lakeside Avenue/David Horton (cont'd from 5-12-15)**

Chairman Bouchard noted that the notice had already been read into the record at the previous meeting. Alan Sideman, of Site Design Engineering was present representing the Horton family. Regarding the outstanding issue of abutter notification all but one was verified as delivered. Chairman Bouchard asked about the mailing receipt. It had not come back. Ms. Yeatts stated that it was stamped as unclaimed, the notice was sent to Cassaboom. The listing is complete though. Pictures were submitted that documented the stream as intermittent. The pictures had been taken on four (4) consecutive days. Chairman Bouchard stated that the area is dramatically dry from what it had been. Member Grubb stated that the pictures are not of the steep side of the ravine. Ms. Yeatts explained to the abutters and everyone present that the bottom line is that any proposed project will have to come back before the Commission since most of the area is within the buffer zone. The Commission has jurisdiction within 100 feet. The abutters will all be notified again. The Conservation Commission may see about certifying the vernal pools when there is an NOI before them. If, there are any problems that may arise to the abutters, having the sign-in sheet will be helpful to show that they had attended the meetings to express their concerns. The abutters should keep an eye in the paper for any filings. The Commission has hearings the second Tuesday of the month. The public is invited to check the postings on the board out front of the Town Office Building or an ad in the New Bedford paper.

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

**VOTED: To accept the ANRAD for 18 Lakeside Ave, filed by David Horton, as presented to the Conservation Commission, the operating plan is dated 4-14-15.  
Unanimous in favor.**

**NOI**

**19 & 22 Beechtree Drive – John Lens (cont'd from 5-12-15)**

Chairman Bouchard noted that the notice for hearing had already been read into the record at the previous meeting. Ms. Yeatts stated that she had been emailed the plan when she had called the applicant to request it; however, it had not been provided to the Commission the standard ten (10) days prior to the meeting that is required for the Commission to review the plans.

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

**VOTED: To accept the plan dated 5-11-15 for review.**

**In favor 4, Against 1 (Member Grubb)**

*John Pink, Azor Land Sciences, Dan Cosby, Representative of Dartmouth Pools, applicants Jon Lens and Brandon Richard, Mr. Reposo, Builder were present for the discussion along with members of Association Beach and abutters. Mr. Pink spoke about the proposed fill and the existing fill. Member Grubb stated that the plan arrived the Thursday before a holiday weekend and this needs to be reflected in the minutes. It is a standard operating procedure to have items presented ten (10) or more days prior to a meeting to allow for sufficient time to review. Mr. Pink stated that it had been conveyed to him about the 25 foot no touch buffer policy of the Commission and he had gotten together with Mr. Lens to make changes to the plans. The pool has been moved, so nothing is being proposed in that area now, and the fill will be removed. There will be more compensatory than had taken place before. The pool is sliding forward to the right. There will be retaining walls to the left side, around the front and around the right. The fill can be taken out down below the flood elevation.*

Ms. Yeatts stated that on the original project application Mr. Richard had signed and agreed to not do any work inside the 25 feet no touch zone. The project increases compensatory storage. Looking at the addendum the fill will now be removed. The ratio for Compensatory Storage is 3 to 1. Though the new flood zone maps have not been approved, the Commission will be adhering to those proposed regulations. Essentially, the entire lot was in 57' elevation when the original house was there. Member Maksy had asked where the fill was originally. Member Maksy stated that the foundation was put in two feet higher, which is probably good with the new flood plan. Ms. Yeatts stated that calculations are needed and the engineer did not stamp the plan. Where are the calculations? Member Chamberlain asked if it was 600 cubic feet more. Mr. Pink responded that it was. He also showed where the plan had been stamped by an engineer. Member Schroeder asked if the Commission is being asked to approve fill that was not supposed to be put there, or that is there now. Mr. Pink stated that he is talking about the fill that is there now. Member Schroeder said that if all that is getting removed, is what is there what was supposed to be. Mr. Pink stated that Mr. Richard agreed not to do anything within 25 feet. Also, the house would have been in the 57 elevation at one time. Everything has been taken out of the 25 feet and beyond. Member Schroeder stated that that was not her question. She asked, when was the fill that is going to be removed put down? Is the contractor removing fill that was originally approved to be put there or not originally supposed to be there? Mr. Pink responded that what is there now is not what was originally approved. Member Schroeder stated that if all that is getting removed is what was not supposed to be there originally, then the Commission is not getting anything in return. Mr. Pink stated that it will have the 3 to 1 ratio. He added that he didn't understand about the fill, it was just going to be grass, and it was not a flood zone at the time. Member Schroeder stated that back then the 57 was not the flood zone and though they put in fill that was not supposed to be there then, now it is okay? In reality we all know it is not legally, we are talking two different angles now. Ms. Yeatts stated that July 17<sup>th</sup> is the state's date for the upcoming flood elevations to take place. It will be going before town meeting and it is not thought that they are going to deny what the state is requiring. Mr. Pink stated that the applicant can go for an allowance. Ms. Yeatts stated that she is not in the mood for allowances

and explained why. While doing a site visit recently, it was seen that a large new dock was put in without a Chapter 91 license. As the Conservation Agent she could have issued an Enforcement Order right away, but did not. The Agent did try to determine if there had been a dock there before and there was no pre-existing Chapter 91 license. Member Rogers stated that there was a dock there before. Ms. Yeatts stated that the owners previously then did not have a Chapter 91 license either. The Agent explained that she had also received threatening phone calls from both the owners. The Agent then read her report;

*While doing a site visit on May 13<sup>th</sup> to see if the grass was growing, I discovered that a new dock had been put in, apparently without a Chapter 91 License. I have had very unpleasant and threatening phone conversations with both Mr. Lens and Mr. Richard. This project has been very troublesome since the beginning. The Commission will have to vote to review the new plan, because even though we received it on Thursday, it has not been 10 days. Upon reading the regulations (10.57:2(a) I believe we are within our authority to require an engineer to provide the calculations for compensatory flood storage. We also have a letter from an abutter that will be read into the record because he was unable to attend. At this point I feel that there are so many issues involved with this project we should not just approve it as is. We could:*

- 1) Deny the project and let the DEP decide the outcome*
- 2) Continue the hearing and require a peer review*
- 3) Continue and require the applicant to file for a Chapter 91 License.*

Ms. Yeatts stated that the Commission is within its authority to have an engineer provide/review the calculations that we have. A letter will also be read into the record from a neighbor/abutter. Since people have been threatening it does not seem that this should be approved as is. Member Chamberlain stated that the applicant will still have to apply for a Chapter 91 License. Member Grubb asked who installed the dock. Member Rogers stated that he will have to reclus himself.

Mr. Lens stated that he was not able to attend the past meeting due to his work schedule. *“My family would have a better life on the pond than where we are today. I spoke with Ms. Yeatts on the phone and found out that she had to cancel last meeting and I asked her to tell me everything that would be needed for the next meeting and that I would have it for the next meeting. Ms. Yeatts said that she was not comfortable with what has been done on the property with the land and the pool. I have lived in Lakeville 15 plus years and have 3 kids in the school system. I currently live across from Assawompsett. I wanted to know what was remaining or missing. I was told that with the amount of land, the pool did not seem warranted. I told her my son has a severe disability and swimming is therapeutic to him. We have had two pools while living in the Town of Lakeville and we are moving to the lake so that he can enjoy swimming on the pond and in the lake. The pool is a must for my family and we must have a pool. Ms. Yeatts said that she did not care about that, she cares about the conservation of the land. I got very upset and said that I then have a difference of opinion. I have not broken one law and I have tried to do everything accountable to do of what is fair for it to pass. I will stand by my family every day of the week.”*

Chairman Bouchard explained that the issue is not whether or not Mr. Lens can have a pool, it is where it is proposed that is problematic. Mr. Lens responded that he knew that and that is why the pool had been moved. *“I paid \$1000 for fill, I tried to hydro seed and now I have to take that up, I am not a bad guy, I am a family man that lives in Lakeville that pays my share of taxes. All I am asking is to be treated fairly, take your opinions aside about building, an addition or a*

pool.” Ms. Yeatts stated that she felt that she was being attacked. Mr. Lens said that Ms. Yeatts had raised something in a letter and he is defending his family. Ms. Yeatts explained that it is her report. When Mr. Lens told the Agent his whole story, about his children, etc., it was stated that it is not relevant to the matter, it is the resource area that the Conservation Commission is trying to protect. The family issues are not relevant to the protection of the resources which is the Conservation Commission’s job. Chairman Bouchard added that it is not that the family matters are not important. Mr. Lens stated that he is not trying to do anything wrong. Chairman Bouchard stated that unfortunately the site has some history and it is the property that the Conservation Commission has to protect. If there were mistakes done in the past then the Conservation Commission has to correct them and that is simply what the Commission is trying to do. Mr. Lens stated that the mistakes were not his fault. He added that he would be more than willing to help the Chairman and the team to correct any mistakes on the property. He added that he is not trying to do anything illegal or hurt wildlife. He is just trying to move and to live on the pond. Member Schroeder stated, to emphasize, “you did not do anything wrong”, but the previous owner did not follow the conditions that were set forth and Mr. Lens bought the property without a full Certificate of Compliance issued. Mr. Lens did end up buying a property with an outstanding Order of Conditions (OOC). Member Grubb stated that the OOC goes with the property, not the owner. Mr. Lens stated that he and Mr. Pink are trying to do what they can to fix that. Ms. Yeatts stated that some things are not fixable. Member Chamberlain asked about the dock. Mr. Lens responded that he will take it out, he did not know about the Chapter 91 License. Member Chamberlain stated that he did not have to take it, he just has to file after the fact. Member Grubb stated that when she had a water heater replaced she had to get a permit to do that. The idea of not thinking you did not have to have a permit to do anything is ridiculous. There was not a dock there when I was there. Mr. Lens stated that it was taken out in the winter. Member Chamberlain asked the Agent if there had been a Chapter 91 License. Ms. Yeatts responded that there had not been, she had done some research. Mr. Richard, also told me, that if I brought it up he would go after everyone else on the pond who did not have a Chapter 91 License. That is the other threatening part. Member Grubb noted that, that would be a good thing to do. Mr. Richard stated that it seems like this is really focusing on minute things. Chairman Bouchard stated that he would disagree, not getting a permit where required is not minute. Mr. Richard stated, “but taking the dock out and removing fill”. Ms. Yeatts stated that there are pages of conditions not done. Mr. Richard stated that he didn’t know what the pages are. “You told me to loam and seed when I came into the office”. Ms. Yeatts explained that, that is since we are moving forward. Mr. Richard, “now you need loam and seed, you keep adding... we cannot get a straight answer, it is a completely different story when I come to the meeting from what is said in the office. Put in jute and loam and seed, now I have to take it out to remove the fill to the exact first notice of intent”. Chairman Bouchard noted that the fill is a different activity. Mr. Richard is offering to take it out. Mr. Pink stated that Ms. Yeatts said Mr. Richard agreed not to go beyond the 25’ no touch buffer. Mr. Lens’s proposal now has nothing up to 25 feet, but the whole lot has been touched right up to the grass. The whole area has been disturbed right up to the beach. Mr. Richard stated that he was glad that they were going to take out fill to give it less of a slope; it is really what should not have been brought in. Member Schroeder did bring it up the first meeting about the fill and I am glad that they have shown what they are going to do about that. Member Schroeder stated that she still feels that if they did not follow the OOC that there should be a consequence, things were deliberately done, now they want to bow out of it. But the consequence will not fall on the right person. I want to hear you

say you are sorry. Mr. Richard, "if it is an apology I would be more than happy to write the board a letter and I don't mind doing that". Ms. Yeatts stated that if the Commission denies the request then it goes to DEP, they will do the calculations, the lot coverage, the pool and the dock. Member Chamberlain asked if one of the elements of the Chapter 91 License is that it has to be free passage? Member Rogers responded that it is, along the shoreline. Mr. Lens stated that people need to be informed how to do it. Member Rogers stated that it is what has been approved by the DEP, that style. Mr. Richard stated, "3 curbstones on the side". Ms. Yeatts stated that Member Grubb had question of percent coverage. Member Grubb asked if the shed is going or staying since there are no measurements on it and she had tried to do the calculations herself. Mr. Richard responded that it is staying, it is on blocks and part of the coverage. Ms. Yeatts suggested a peer review at the very least, or the matter going to the DEP. Mr. Richard, "I did nothing wrong, I will appeal if I have to appeal it, I have done everything you have said". Ms. Yeatts stated that it has not been listed where the roof drains are going. Mr. Pink showed Ms. Yeatts something on the plans. Ms. Yeatts stated that there are 4 black pipes coming off and only 2 roof drains are shown. Member Grubb stated that she believed that there was an erosion problem that is why the applicant is being asked about the stabilizing. And the Commission had asked to have the jute put down. Ms. Yeatts stated that on her site visit she did not see any grass growing there. Member Grubb stated that the Commission did not ask the applicant to do anything that should not have been done. Mr. Richard explained that the erosion was when the plow came down and pushed the snow, it pulled out a 30' chunk of grass, it was not from the property. Ms. Yeatts stated that that is not known since the area has been all built up. Member Grubb pointed out that it was still eroding. Member Chamberlain asked Mr. Cosby about the pool. Mr. Cosby stated that there is no issue to put the pool in new area. Maybe, compromise on other side, 50' no build. Member Chamberlain asked where the equipment and filtration was for the pool. Mr. Cosby showed him and stated that it is a no purging cartridge filter. The pool will have an insulated cover on the top, it will stay filled during the winter. Member Chamberlain stated that he would like to get this resolved tonight and not have it get kicked down the road to other agencies. Chairman Bouchard stated that as last resort it goes to DEP, but if possible, the Commission should come to an agreement here ourselves. Chairman Bouchard read the letter into the record from Steve Nashwaty;

*We would first like to say "Thank You" for reading this letter on our behalf as we unfortunately cannot be there for this meeting in person.*

*We are residents of 3 Pinecrest Drive. Huckleberry Shores, Lakeville. Myself, Stephen Nashwaty and my wife Beth. We have resided there for 12 years.*

*We are very concerned about the proposed garage plans to be built on the lot next to our driveway. That is also home to a septic system. We were under the impression that this was an unbuildable lot??*

*As I said previously stated we have lived here for 12 years. We have started our family. We feel deceived by the "approved" house that was built at 22 Beechtree Drive. Which was suppose to have been a "2 level prefabricated home." This house is much bigger and higher then we were ever informed of. Now, making our view of the lake minuscule. Add in this proposed 25x26 garage right next to our driveway and our view of Long Pond from our home, disappears.*

*We do not feel this is anyway fair. We have not been properly informed of any of the goings on, on the "lot" directly next to our house. We have never received notice of any kind of this proposed garage. Thankfully, another neighbor in our community informed us. This is a small community and the*

*goings on have gotten out of hand.*

*My family has lived down here since 1955. Please help us, maintain the SMALL community It had always been. Just because we are not lakefront property doesn't mean we don't deserve a view of the lake. Not of someone's garage. We hope that you seriously consider our concerns and try to see this from "our point of view."*

*To have this giant garage built right next to our house would be a giant disappointment. What will become of this? Additional living and bathroom space?? Things are way out of proportion and it only seems to be getting worse.*

*Thank you again for reading his letter and voicing our concerns. We welcome any members of the board to come up to our home and have a look around anytime.*

*sincerely,*

*Stephen Nashawaty*

*Beth Nashawaty*

Wayne Hodely, 2 Beech Street asked if the garage lot is a buildable lot, since it is a leaching field for the house. The lot was purchased by two previous owners before Mr. Richard, they put in the leaching field to have it be more salable and sold it to Mr. Richard. So is it a buildable lot? Chairman Bouchard responded that it is not within the Commission's jurisdiction. That is something for the Building Inspector and Board of Health, it is not within the 100' buffer zone, it does not directly impact the resource area. Member Grubb stated the Building Commissioner has approved this, so there will be no meeting. Mr. Pink stated that he didn't think he (Mr. Darling) has seen the plan. He has not signed off on it. The Commission will be notified if there is another public meeting. Chairman Bouchard stated that the addition is part of the new application. Mr. Pink stated that there should be at least one more public hearing. Chairman Bouchard asked about the 3 season room since it was not discussed in detail. Ms. Yeatts mentioned that it had been discussed about it being on posts, not a foundation. Mr. Pink stated that it is above the patio and will be held up with columns. Ms. Yeatts asked about the addition. Mr. Lens stated that he would prefer a foundation, but if the Commission doesn't want that, he will make conditions to do other. Member Chamberlain asked if the existing building has the large crawl space for heating, etc. Mr. Lens responded that it does, but he cannot stand up in it, it is for access to the water. Member Chamberlain asked if it had a full foundation. Mr. Reposa stated that it is 4 feet high, for the air handler for the hot air system. Chairman Bouchard asked if in the patio surrounding the pool, were there any drains there and below? Mr. Cosby responded that there were pervious pavers. Below is just drainage out to the basins. Ms. Yeatts asked if the Commission made a decision on the foundation of the addition? Member Chamberlain responded that it is not a full foundation. Mr. Hodely stated that he has a question about the room on the side the house, it was built unlike what it was to be proposed to be and now is this going to be allowed for a house that was not to be built as it is, extending upwards? Ms. Yeatts asked if they went to the ZBA? Mr. Pink responded that originally it had. But, they are going by what the Building Commissioner, Mr. Darling says since it is further away. Mr. Richard stated that it would not be more non conforming. Ms. Yeatts stated that it is in the same footprint so it is not more non conforming. Mr. Richard stated that with the dimensions of the property, Mr. Darling suggested that if it is kept the same size, kept off the property line, to move it over 21 feet. Ms. Yeatts stated that the addition though, is more non conforming than the original is. Member Schroeder asked what percentage is the lot coverage? The septic system should be

included in the footage. Chairman Bouchard stated that at a minimum, the Commission needs to require a Chapter 91 License and have the applicant finish any outstanding work from the previous NOI. Ms. Yeatts stated that that is everything but the house itself and that other side; it all will transfer over to the new OOC. Member Grubb asked if there is anything the Commission can do; with all that is going on, on this lot and will be going on since it is a small lot. Ms. Yeatts stated that it is 24% coverage. Member Grubb suggested going before the ZBA and let them know too much is going on lots and it will not be allowed anymore. Mr. Pink stated that it is restricted by a Title V., they cannot add more bedrooms. Ms. Yeatts stated that there is a bathroom in the garage, and the addition has plenty of places to put people. Member Schroeder asked if it is a one story garage? Ms. Yeatts stated that it is not in the Commission's jurisdiction. Member Chamberlain stated that is why the abutters wrote the letter, but there is nothing legal for the Commission to do about that. Chairman Bouchard asked for a motion which would include, closing out any work items, removing fill, minor work in the 25', but then will be made better with loam and seed. Ms. Yeatts stated that the Commission has required other applicants to use columns posts. Chairman Bouchard asked the builder if he had any serious objections. Mr. Reposa responded that he will have to switch the heating. The heat for the rest of house is in place for the first and second floors, it is propane heat. There will be a tank on the side on a concrete pad. Ms. Yeatts asked if it was included in the coverage. Mr. Pink responded that it was. Chairman Bouchard suggested to deal with the foundation issue. Mr. Reposa stated that if that is a sticking point, he will rid of it to move it along. The entrance to the area is higher than the basement floor. Without a foundation there is no proper way to heat the entire duct work and then there is the energy stretch code. Mr. Pink stated that the addition was in the area that was originally where the fill was and it was allowed to go right through the retaining wall and they could do a little compensatory storage. It is a 2 to 1 slope from the house. Member Chamberlain stated that whether or not it sits on tiers of 4 feet into the ground it still has the same coverage. Ms. Yeatts stated that it is still 24% coverage but it needs places for the rain to go to with rain or a flood. We have even had people hand dig the posts. Member Chamberlain stated that you really have to get down into the ground to get climate control. Ms. Yeatts asked if that is a condition. Mr. Lens stated that he would prefer a foundation, it will be less costly to heat and it is not thought that it has an impact to environment since a retaining wall is being built, but if it is detrimental to property or land fine. "but I am trying to do what I can, I will help, will have drainage spouts, etc". Ms. Yeatts stated that it is her job to remind the Commission of what they have done before. Chairman Bouchard stated that it is still case by case. Ms. Yeatts stated that she is just trying to determine how to write the OOC. Member Chamberlain asked if this has been applied for? Mr. Reposa stated that he has had discussions with Mr. Darling, that is why it is shaped the way it is, it is not rubber stamped but the size he will be fine with, since nothing changes with square footage. He would prefer a foundation too since they are so concerned about energy and the stretch code that the town adopted. It is miserable framing an addition off of piers. Chairman Bouchard stated that he will defer to the Building Commissioner on this if that is his preference. Overall, it is a difficult site. Mistakes made in the past makes it that much harder and the onerous is not to make them more or get in deeper. Ms. Yeatts stated that the as built also came back totally different than what was conditioned, how do we prevent that? Any changes need to come back for approval. Mr. Lens, "I not trying to hurt anyone". Ms. Yeatts stated that Mr. Lens bought a piece of property that was compromised already. Mr. Lens, "I am a tax paying citizen". Ms. Yeatts stated that everyone is, this is about the property. Mr. Lens, "this will cost me a lot more to build a wall, around it". Member Chamberlain asked if the Agent

felt that the Commission could condition this? Ms. Yeatts responded that it will take a while. Mr. Reposa stated that he can provide a foundation as built so that they do not have to wait until the structure is fully up. Ms. Yeatts explained that it is more the compensatory storage and that is hard to quantify, what is going out and what is coming in. Member Grubb asked if the Agent really wanted a peer review. Ms. Hoadly asked about how the dry well works. If you dig a foot it is water so how does a dry well work when it is all wet? Mr. Pink responded that it is up in the fill which is all sand; it is built up above and keeps it from running into the surface. Ms. Yeatts stated that all the conditions from the first OOC will be added to the new OOC. The standard before, during and after conditions. Grading, all of the Commission's standard conditions.

**A motion was made by Member Chamberlain;**

**To close the hearing and issue a positive Order of Conditions for which the proposed work may go forward. A Chapter 91 License will be applied for and proof of an application filed will be provided. All existing conditions under file SE192-672 continue. The plan of reference is dated 5-11-15, and the addendum with the same date. The removal of the additional fill will have the calculations provided of how much it is. There will be a preconstruction meeting before the project begins which is included in the conditions. If dewatering is needed it will be specified by the Agent.**

**There was no second to this motion, thus the motion was dropped.**

Chairman Bouchard asked if there was a motion to deny? Member Schroeder asked, if this goes to DEP what does it mean time wise, expense to the applicant. Chairman Bouchard stated that DEP does not do anything quickly. My guess is 6 months and there will be additional costs associated with it. Member Chamberlain stated that he would rather have an order of conditions issued by the local authority than conditions set by DEP. Ms. Yeatts stated that the Town would have to enforce DEP's conditions. Member Schroeder stated that if the shed or addition is eliminated, it might have a better chance to go forward. There is so much on this lot. Member Chamberlain stated that it is still legal coverage. Member Grubb stated that there are patios, walkways and fire pit. Ms. Yeatts pointed out that, that impervious coverage was not even on the plan. Member Chamberlain stated that he did not see the shed and addition as a big problem it is more what's in front of the house. Chairman Bouchard asked if there was a proposal to remove the patio/fire pit area, if not, it should be on the plan. Mr. Lens stated that it will all be grass. It is just blocks with grass. Chairman Bouchard stated that the Commission will make it a condition that it is to be removed. They are pavers. Mr. Lens stated that he will remove the shed. Member Chamberlain stated that, that is not necessary. Mr. Lens stated that he just wants to make a compromise. The house will sit and be an eye sore and I want to make it look pretty. Member Chamberlain stated that he will resubmit his original motion with the patio removed. Second by Member Schroeder.

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

**VOTED: To close the hearing and issue a positive Order of Conditions for which the proposed work may go forward. A Chapter 91 License will be applied for and proof of an application filed will be provided. All existing conditions under file SE192-672 continue. The plan of reference is dated 5-11-15, and the addendum with the same date. The removal of the additional fill will have the calculations provided of how much it is. There will be a preconstruction meeting before the project begins which is included in the conditions. If dewatering is needed it will be specified by the Agent. The patio will be removed.  
In favor 1, Against 2 (Member Grubb and Member Schroeder),  
Abstain 1 (Member Rogers)**

The motion failed. Mr. Lens asked what were his options were now? Ms. Yeatts stated that she will write up the denial and bring it to DEP. Mr. Lens asked what the real reason was for his denial? Member Grubb stated that it is far too much activity on a lot this size, though she has not been able to confirm that. It is a tiny tiny lot and it is troubling to me. Ms. Yeatts added that it is lot coverage, compensatory storage questions, etc. Member Grubb stated that every time the Commission turned around there was something else that was done that the Commission did not approve. Ms. Yeatts stated that the more that is put on the lot the less protection there is to Long Pond. The Commission needs to be sure that the calculations are correct and that the percentage of lot coverage is correct, the plan does not show the fire pit within the impervious. The whole lot is in the buffer zone. Mr. Lens, "what do I need to do, remove the shed, I can, I cannot remove the pool". Member Schroeder stated to remove the addition. Mr. Lens, "I am not breaking any DEP rules, I will do what I plan on doing, I have the right and I am going to drag you all through it and I am going to put it closer to the water. It may take some time but I am going to do what I want to do. I will change it up and you will not like it". "I will go to DEP". Ms. Yeatts explained that everyone will be part of the hearing. The 25 foot no touch was on the OOC from the beginning. Mr. Lens, "this is also denying my son, I did not do anything wrong". Chairman Bouchard stated that it is too much into such a small area. Even if the pool is moved into another area. Mr. Richard, "I personally thank the chair and some things we talked about since the first meeting, but if it was going to be denied why not just deny it then, everyone here that is saying no was saying no from the first meeting. If we had 20 more of these meetings it would have been denied, from the get go we dragged it on for no reason at all". Chairman Bouchard stated that the Commission went back and forth numerous time. There is not a full commission here this evening. Member Schroeder stated that the Commission cannot allow this much concentrated development along the shores of the pond. It will have an impact on wildlife and the way the water flows into the pond, polluting the pond. It is too much. We see that people want to do it more and more and the larger homes cover so much more of the small lot. Mr. Richard, "then DEP needs to change it". "DEP may be getting tired of it and if they keep seeing this they may ask what is the problem". Chairman Bouchard explained that it is not that black and white, a lot of times it comes down to opinion and they will give their opinion they may agree or they may not. Ms. Yeatts added that it is opinions that fall within the jurisdiction of the law which is the wetland protection act. Mr. Reposa asked for a copy of the existing conditions to finish the house as it exists. Ms. Yeatts will provide them to him tomorrow morning from her office. Ms. Yeatts further explained that DEP is committed with

compensatory storage, at the very least they will do those calculations. Member Grubb asked to keep a copy of the plan to work on calculations.

**RDA                                      6 Priscilla Drive – John & Renee LeBlanc (cont'd from 5-12-15)**

Chairman Bouchard read the notice of the hearing into the record for 6 Priscilla Drive.

**Upon a motion made by Member Chamberlain; second by Member Grubb it was:**

**VOTED: To open the hearing for 6 Priscilla Drive.**

**Unanimous in favor**

Ms. Yeatts stated that the leaching field for the septic system at 6 Priscilla Drive is back about 150 feet and the D box is 90 feet back. This was the emergency permit that was approved at last months meeting. It was approved over the phone since the septic system was running out of ground down to pond.

**Upon a motion made by Member Chamberlain; Second by Member Grubb it was:**

**VOTED: To close the hearing and approve the RDA for 6 Priscilla Drive to repair the septic system.**

**Unanimous in favor.**

**Nelson's Grove**

Ms. Yeatts stated that she had made a site visit to Nelson's Grove. The area looks fine, it is all stabilized, the As-Built has less impervious coverage than what was proposed. The file number is SE192-665.

**High Rock Harding Street**

Member Chamberlain noted that there had been a significant amount of man hours associated with High Rock Harding Street, not to mention all the Middleborough meetings that took place. Ms. Yeatts stated that they have dropped the whole project. Evidently, they were referring to it as the Market Basket site and now it is being referred to as Spillane's. MassDOT had them do the second filing for the turning lanes. They are withdrawing all projects. Member Grubb noted that if the nursery is to go in, they will not have the amount of traffic like a supermarket would. At least the streams are designated cold water habitat and that was part of the battle. Ms. Yeatts stated that the biggest thing with them is what they will be using in terms of chemicals and anything that may enter the Taunton River at Route 18. Member Schroeder stated that this property is bigger than what they presently have.

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

**VOTED: To issue a COC for SE192-609, SE192-706 and SE192-609 stating that no future work may commence without filing a new NOI and receiving a new Order of Conditions (OOC).  
Unanimous in favor**

Ms. Yeatts noted that the Commission had recently done an amendment to just change/correct their name and they never recorded it, since they are withdrawing the project it does not make a difference.

### **Other Business**

#### **Highland Road**

Member Chamberlain asked about the duplicate sheet which was already signed and expressed his concern over the fact that the signatures were now different. Ms. Yeatts explained that that was fine since a length of time had passed and it will not always be the same Board Members available. As long as the important part of the document is all exactly the same.

#### **Approve meeting minutes of 4-14-15 & 4-28-15**

No meeting minutes were approved this evening.

#### **Pay Bills**

Ms. Yeatts presented the bills and explained what they were for. The Commissioners signed the bills.

#### **Vigers, Cowboy house, Eagle Scout, etc.**

Ms. Kulakovich provided an update. Derek Kroning, an Eagle Scout had mapped out a preexisting trail that has been covered by fallen trees. He will only cut and move the trees that are already down and not any others. He has a detailed report that has to be approved by the Eagle Scout council, thus it is currently an unapproved project. Ms. Kulakovich has gone over the plans very, very carefully. The Eagle Scout showed every tree before he marked them and again, is only cutting fallen trees. He will not come before the Commission until the project is approved by the council. It will be nice for him to present the project.

#### **Fundraiser**

Ms. Kulakovich stated that she had organized a fundraiser on Memorial Day weekend. It was not the best of weekends for it to take place since many people already had other plans or were out of Town. It is hoped to do it again in July. The country club hosted it, an organized group did the games, a local singer sang. It was a great night and some donations were received.

#### **Meeting**

Ms. Kulakovich stated that she has a meeting with Nate Darling, Building Commissioner and Don Bissionnette, this Thursday, May 28, at 10 am at the Town Office building. An email will be sent to confirm it. Mr. Bissionnette has pulled papers and is hoping that he can work on the exterior and also the fence. The Eagle Scout, Derek, marked the trail with a GPS. We do not have a survey. There are no trespassing signs in place where the trail was walked. They are other people's signs. The trail is confidently well within the border and on the property.

### Eagle Walk

It was noted that June 20<sup>th</sup> is the scheduled date for Ms. Yeatts' Eagle Walk.

### Old Business

There was no old business presented for discussion.

### New Business

#### Letter from Middleborough-Lakeville Herring Fishery Commission

Ms. Yeatts explained that a letter had been received from the Herring Fisheries about considering a TOY (Time of Year) restriction for in-water work from March 15 through June 15 since it may otherwise impact the migration and spawning process and this would help protect diadromous fishes. Also, newly hatched herring fry migrate downstream during the fall and winter, with dates of migration dependent on weather and water levels. The restrictions would help minimize the impact on the fishery resources. Additionally, MGL Chapter 30, Section 95 prohibits disturbing, injuring, or obstructing the passage of river herring and other marine food fish. This is not a requirement, it is a request.

### Schedule next meeting

The next meeting was scheduled for Tuesday, June 9, 2015 at 7 PM in the Lakeville library.

### Adjournment

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

**VOTED: To adjourn the Conservation Commission meeting at 9 PM.**

**Unanimous in favor**

ConComm5-26-15final