

Holliston Conservation Commission

APPROVED Meeting Minutes
Town Hall . Meeting Room #014

December 9, 2014
7:30 PM

Present: Allen Rutberg, Chair; Ann Marie Pilch, Vice-Chair, Chris Bajdek, Jim McGrath, David Schroder, Rebecca Weissman, Commissioners

Charles Katuska, Conservation Agent
Sheri O'Brien, Conservation Assistant

Absent: Shaw Lively, Commissioner

Allen Rutberg, Chair, opened the meeting at 7:31 PM.

General Business

Request for Certificate of Compliance for DEP File #185-712- "0" Brook Street - Browning-Ferris Industries (BFI), Inc.

An As-Built plan has been received with a certification from the engineer that the vernal pool restoration project has been completed in compliance with the Order of Conditions. No more reporting is required under the Wetlands Protection Act. The applicant still has two years of monitoring responsibilities with the ACOE's permits. The Agent visited the site; it is completely stabilized and has met all the performance standards.

Ms. Pilch arrived at 7:35 PM.

Mr. Bajdek made a motion to issue a Certificate of Compliance for DEP File #185-712- "0" Brook Street. Ms. Weissman seconded the motion. Ms. Pilch abstained. The motion passed. (5-0-1)

Notice of Violation: 194 Lowland Street - M. Brumber and J. & B. DiCarlo

Attorney Christopher Malcolm was present to represent Mr. Brumber and the DiCarlos. Michael Brumber was also present. Judy and Barbara DiCarlo are the current trustees/owners, Lowland Associates, of the property at 194 Lowland Street and were not present as they are currently living in Florida. Per Mr. Malcom, the operator, Michael Brumber, has been directed by Mr. DiCarlo to level the land. A composting facility is operating there now and Mr. Brumber has a General Permit Certification from DEP/Bureau of Waste Prevention/Solid Waste Program for the composting operation. This permit was a self-certification that asserts that all conditions are as stated by Mr. Brumber.

Mr. Malcolm presented a plan (Site Plan of Land - Lowland Street, Holliston, MA - Sheet 3 of 9, Existing Conditions, dated 1/23/12) from a 2012 Notice of Intent for DEP File #185-724, which was submitted by Geoffrey Zeamer for an industrial building. The NOI was withdrawn for that project and no Order of Conditions was ever issued. Discussion ensued regarding where the 100-foot buffer zone was located. Mr. Malcolm claims that it is

located approximately where a 100' buffer is located along the tree-line and that there are 200' riverfront area markers on the property. He believes that the Notice of Violation (NoV) was improperly issued and would like to address the four observations in the NoV.

Observations made by the Agent on November 24 & 25, 2014 and Mr. Malcolm's responses include:

- 1) Placement of substantial quantities of fill materials along the Lowland Street frontage in the buffer zone. Mr. Malcolm disagreed and believes that the fill is not in the buffer zone.
- 2) Placement of a substantial quantity of asphalt roadway millings within Riverfront Area associated with Bogastow Brook. Mr. Malcolm believes that his client has not altered the Riverfront Area and is; therefore, not in violation of the Wetlands Protection Act.
- 3) Placement of several (3-5) portable waste containers (dumpsters) within Riverfront Areas. Mr. Malcolm claims that these dumpsters are not there. This may be true today, because the dumpsters seem to have been moved in direct contravention to the NoV.
- 4) Operation and storage of construction equipment within 100' buffer zones onsite.

These observations were substantiated with photographic evidence.

It was explained to Mr. Malcolm that placing dumpsters and construction equipment, and moving the piles of material around the property in areas that are subject to the Commission's jurisdiction requires that an application be submitted to the Commission. Mr. Malcolm objected, saying that he did not believe that moving the piles around the property was considered removing, filling, dredging, or altering. He felt that because the Holliston Sand and Gravel pit had been located there for 50 years that it was okay to continue to use it as a sand and gravel operation. However, it was pointed out by the Commission that it is not a sand and gravel operation now; it is being used as a composting facility.

The Commission explained that the main issue at hand seems to be about a disagreement about the facts of what is located where on the property. The only way to clear up the disagreement is to visit the site, as all photographs and observations have been made from the street. The Commission asked Mr. Malcolm to consult with the owners and operator to seek permission for the Agent and Commissioners to visit the site.

In addition, it was brought to Mr. Malcolm's attention that in the minutes from a Board of Health (BoH) meeting on January 23, 2014, the BoH recommended that Mr. Brumber contact both the Conservation Commission and the Building Department regarding the operation of this composting facility. Mr. Malcolm was not aware of these BoH minutes. No communication was ever received by the Conservation Commission regarding the composting facility operation. The Commission felt that if an application for the composting facility had been properly filed with the ConCom, there wouldn't have been a need to issue a Notice of Violation.

The Commission re-iterated that it is the use of the land that is in question. The Notice of Violation specified that the operations cease and desist; however, more activity has taken place since the Notice was issued.

The Commission will visit the site once Mr. Malcolm receives permission from the owners and operator. Mr. Malcolm asked that the %Existing Conditions+plan (dated 1/23/12) from DEP File # 185-724 be adopted as the current conditions plan. The Agent explained that the site and stockpiles are vastly different today than they are on this 2012 plan, so it could not be used as a current %Existing Conditions+plan.

Public Meetings & Hearings

Continued Public Hearing – Amendment to Order of Conditions for DEP File #185-677: 1014 Highland Street (Assessors Map 8.E, Block 1, Lot 8) proposal to revise the boundaries of the areas onsite subject to the Massachusetts Wetlands Protection Act and the Holliston Wetland Bylaw (Article XXX) . *Christopher Malcolm, Esq.* representing *Alan Stone*

Mr. Malcolm said that this property was soil tested last week when it was very wet and it did not completely perc. According to Mr. Malcolm, the expert soil tester and Scott Moles (BoH Director) both believe that the site will pass soil testing if it is tested at the proper time in the Spring or Summer. Mr. Stephen Lacause, an abutter to the property at 1028 Highland Street, is concerned that raising the property will affect the hydrology and water level on his property. It was pointed out that at this time, the applicant is just amending the wetland delineation for the Order of Conditions on file and some preliminary soil testing has been completed. The Commission does not have a plan to develop anything on the property at this time, but will duly note Mr. Lacause's concern.

Mr. Malcolm requested that the hearing be continued until the first meeting in June 2015.

Ms. Pilch made a motion to continue the hearing for the Amendment to Order of Conditions for DEP File #185-677: 1014 Highland Street to the Conservation Commission's first meeting in June 2015. Mr. McGrath seconded the motion. Unanimous. (6-0-0)

Continued Public Meeting – Request for Determination of Applicability D-535: 55 Whitney Street (Assessors Map 12, Block 4, Lot 5) Installation of outdoor features associated with a canine care and boarding facility . *Robert Weidknecht, Beals and Thomas, Inc.* representing *Arnold Johnson*.

Mr. Weidknecht presented an updated plan for the doggie day care. He addressed the three concerns that the Commission had at the last meeting.

First, he proposed that the two outdoor exercise areas within the 50' buffer zone be eliminated. These are the two areas closest to Whitney Street.

Second, they proposed that dog waste would be removed upon incident and this could be incorporated into the Planning Board's special permit.

Third, he suggested that a mulch or compost sock be installed around the exercise area so that any contaminated drainage would not run off into the wetlands.

Mr. Johnson explained that at any given time about 5 to 10 dogs would be at the facility, and the dogs would be rotated through the exercise pens.

Dr. Rutberg explained that any pathogens from a sick dog could potentially get into the resource areas. Therefore, keeping the run-off out of the water is of paramount importance.

Mr. Bajdek recommended that the existing fence be removed from around the two eliminated pens (within the 50' buffer zone), so that any new owner in the future cannot decide to hold dogs in that area. However, Mr. Johnson would like to change the front fence to make it a solid panel so that the dogs cannot see their owners when they come to pick them up. It was agreed that the solid panel could be put along the same line where the existing fence is located and the existing fence (on the Whitney Street side) will be removed.

A compost sock (not a mulch sock) will be added on the downgradient side of the exercise pens. The plan will be revised and brought back to the Commission's next meeting.

The applicant will be meeting with the Planning Board next week. Therefore, the Agent will get the Commission's conditions to the Planning Board for that meeting. The project is exempt from the NHESP review, because it is within an existing disturbed area and the area can be expanded upon up to 50%.

Mr. McGrath made a motion to continue the meeting for RFD #D-535: 55 Whitney Street to December 23, 2014. Ms. Weissman seconded the motion. Unanimous. (6-0-0)

****New Public Meeting – Request for Determination of Applicability D-538: 340 Woodland Street (Assessors Map 8A, Block 5, Lot 8) septic system replacement - Paul Saulnier, CIVILiized Solutions representing Marc Bourque**

Mr. Katuska read the legal notice published in the *MetroWest Daily News* on December 2, 2014.

Mr. Saulnier presented a plan dated November 24, 2014 for a replacement septic system between the office building and the railroad bed at 340 Woodland Street. All of the work will be between the 50' and 100' buffer zone lines with the closest point of the system being 64' from the bordering vegetated wetlands. No erosion controls will be necessary because the railroad bed acts as the erosion control. The owner is a landscaper and plans on storing fertilizers, etc. inside the building. The Commission asked for a condition prohibiting outside storage of fertilizers, pesticides, chemicals, etc.

Ms. Pilch made a motion to issue the following Determinations for RFD #D-538: 340 Woodland Street:

Positive #2B Determination: the boundaries of the wetlands resource areas are NOT confirmed as accurate;

Positive #5 Determination: the work is subject to review by the Holliston Conservation Commission pursuant to the Holliston Wetlands Administration ByLaw (Article XXX); and

Negative #3 Determination: the work is within the Buffer Zone, but will not alter an Area subject to protection under the Act, therefore, the work does not require a Notice of Intent.

Conditions:

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- 1) There will be no stockpiling on site.
- 2) Project access will be via the driveway on the southwest side of the building as indicated on the record plan.
- 3) FERTILIZERS/PESTICIDES/HERBICIDES. Fertilizers utilized for landscaping and lawn care shall be low phosphate content, slow-release variety, and shall be used in moderation. Pesticides and herbicides shall not be used within 100 feet of the wetland resource area. This condition is intended to apply in perpetuity and will survive the expiration of this Determination of Applicability.
- 4) OUTDOOR STORAGE PROHIBITED. There shall be no out-of-doors storage, either in stockpile or containers, of landscaping fertilizers, pesticides, de-icing chemicals (e.g., sodium, potassium, and/or calcium chloride) or other environmental contaminants in the 100-foot buffer zone. This condition is intended to apply in perpetuity and will survive the expiration of this Determination of Applicability.

Mr. Bajdek seconded the motion. Unanimous. (6-0-0)

Continued Public Hearing – Notice of Intent for DEP File #185-781: Hopping Brook Road Extension (Assessors Map 1, Block 1, Lot 43 and Map 4, Block 6, Lots 15.1, 18, 32, 32.3, 33, and 52) proposed extension of the existing commercial roadway . Brian Butler/Oxbow Associates, Inc. representing Jon Deli-Priscolli/New Hopping Brook Trust.

The applicant made a written request to continue this hearing until to December 23, 2014.

Ms. Weissman made a motion to continue the hearing for DEP File #185-781: Hopping Brook Road Extension to December 23, 2014. Mr. McGrath seconded the motion. Unanimous. (6-0-0)

Continued Public Hearing – Notice of Intent for DEP File # 185-785: 58 Hopping Brook Road (Assessors Map 4, Block 6, Lot 10, 12.1 & 35.1, Select solar project driveway & commercial building, Robert Truax, GLM Engineering Consultants, Inc.. representing Ken Driscoll, 2016 Washington Street LLC

The applicant made a written request to continue this hearing until to December 23, 2014.

Mr. Weissman made a motion to continue the hearing for DEP File # 185-785: 58 Hopping Brook Road to December 23, 2014. Mr. McGrath seconded the motion. Unanimous. (6-0-0)

General Business Continued

Staffing and Office Hours Discussion

The Commission agreed to Mr. Katuska's request to change the office hours from Tuesday, Wednesday, and Friday to Tuesday, Wednesday, and Thursday.

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The Commission's involvement regarding site inspections and project management was discussed. Increased Commissioner involvement would require that they each receive their own copy of the project application file and plans. Electronic copies of the files could possibly be required from the applicants. It was suggested that this should be put in the new Bylaw Regulations that will be drafted in the near future. Individual Commissioners could be assigned to specific projects depending on their expertise.

Project Updates

Beaver Deceiver at Rail Trail on Hopping Brook

The new beaver deceiver installed on Hopping Brook is working well.

There is a new beaver dam that is causing Chicken Brook spur drainage to back up onto the Golf Course.

Associate Commissioner – Emily Kingston

Projects for the Commission's new Associate member were discussed. Ms. Kingston tried to do a site survey of the new property off of Meadowbrook Lane. Ms. Pilch has a trail map of this property that she can provide to assist Ms. Kingston. Mr. Katuska will hang the "No Hunting" signs on this property. Ms. Kingston will also help document the properties via the town's GIS system.

Brentwood

The Agent and Mr. Lively investigated the beaver flooding in the Brentwood Conservation Area. Last week, the Agent and Ms. O'Brien investigated the trail that runs from behind the landfill on Marshall Street down to the wetlands in Brentwood. Unfortunately, the faint trail did not go very far before it ended at wetlands that were flooded (presumably by beavers).

Review Mail

The mail was reviewed.

At 9:13 PM, Mr. Schroder made a motion to adjourn the meeting. Mr. Bajdek seconded the motion. Unanimous. (6-0-0)

The next Conservation Commission meeting will be on Tuesday, December 23, 2014.