

# MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING

**July 11, 2006**

## **Present**

JK: Jeffery Kablik, Chairperson  
CH: Cynthia Hanna, Vice Chair  
JZ: Jeanne Zarba  
FZ: Frank Zarba

RS: Robert Sherburne  
LG: Lucy Gertz  
HJ: Henry Jungmann

LC: Lori Capone, Director  
GC: Gloria Clancy, Clerk

**7:00 Meeting opened** by Jeffrey Kablik, Chairperson.

**7:02 Whispering Pines Estates – 39 Lakeview Avenue – Notice of Intent:** (Map 25, Parcel 13, Lot 0) (Continued from 11/8/05, 12/13/05, 1/10, 2/14, 3/28, 4/25, & 6/13/06) Proposed residential townhouses, roadway, roadway crossing of an intermittent stream, drainage, grading, and associated utilities within the buffer zone. Also, removal of existing septic system, associated grading and construction of a water pump station within the buffer zone. LC commented that Mr. Cricones has requested a month continuance as his engineer is still revising the plan per Holmberg & Howe's comments.

**JK: Motion** to continue the hearing to August 8, 2006 at 7:02.

**HJ: 2<sup>nd</sup>**

**Unanimous (7-0)**

## **Other Business:**

- ❖ Jason Lederer from DEP NERO introduced himself to inform the Commission of the Circuit Rider Program and outreach services available to Commission members.

**7:20 R & F Landholding LLC – Whitetail Estates – Off of Althea Drive. – Notice of Intent:** (Map 33, Parcel 20) (Continued from 3/14, 3/28, 4/25, & 6/13/06) Construction of a roadway, drainage system, and two single-family dwellings with septic systems. Work on the roadway, utilities and one driveway is proposed in the buffer zone. Ted Douchette of Polaris Engineering represented the applicant who was also present. All issues have been addressed. Howe has requested the following conditions be placed in the Order of Conditions: 1.) A bench mark should be installed within the project site prior to the issuance of the Order of Conditions; 2.) If any excavation for underground utilities within Althea Avenue is required, the contractor shall notify the Conservation Commission and shall install additional erosion controls along both sides of Althea Avenue. The locations for the erosion controls are to be determined by the Commission; 3.) The roof drain infiltration chamber installation and system bottom be inspected and certified by the Project Engineer; 4.) The Project Engineer to inspect and certify the installation of the RCPs to assure the backfill material, compactions, and construction workmanships conform to the Mass. Highway Department standards. LC requested a post-and-rail fence be installed to permanently delineate the No Disturb zone. Fred McCarthy offered to put conservation markers on stakes instead of a post and rail fence. It was agreed that a post and rail fence shall be installed on Lot 2 along the 30-foot no disturb zone from the detention pond area to the edge of the disturbed area adjacent to the no disturb zone and signs shall be installed on 4 x 4 cedar posts along the 30-foot no disturb area, every 40 feet, from the edge of the post and rail fence to the property line. JK requested that any changes made to the project shall requiring notifying the Conservation Office in writing within 5 business days of commencement of work. JK opened the discussion up to abutters. Melissa Demauro of 21 Willowdale Road suggested blueberry bushes be installed.

**HJ: Motion** to close the hearing

**RS: 2<sup>nd</sup>**

**Unanimous**

**HJ: Motion** to issue an OOC permitting the project per plan dated June 26, 2006 and discussion.

**JK: 2<sup>nd</sup>**

**Unanimous 7-0**

**7:30 Jorge Gabriel: 20 Jasper Lane – Notice of Intent:** (Map 25, Parcel 159) After-the-fact tree clearing within the buffer zone.

**HJ: Motion** to waive the reading of the abutters list

**FZ: 2<sup>nd</sup>**

**Unanimous 7-0**

**HJ: Motion** to waive the reading of the Legal Notice

**FZ: 2<sup>nd</sup>**

**Unanimous 7-0**

Mr. Gabriel was present to address the Commission. Mr. Gabriel explained that he was unaware that this work required a permit but has now been educated. LC stated that some work has been done within 30 feet of the wetland and said the applicant has agreed to restore this area. The rest of the area will be stabilized with grass. LC will provide Mr. Gabriel with a list of native species to choose from. JK asked for members comments and then abutters. Melissa Demauro of 21 Willowdale Road suggested that the contractors should have to sign off on a copy of the Commission's rules. Robert Hanek of 20 Makos Street requested the Commission fine the homeowner.

**HJ: Motion** to close the hearing

**RS: 2<sup>nd</sup>**

**Unanimous 7-0**

**HJ: Motion** to issue an OOC including restoration of the 30-foot No Disturb zone with 2" caliper trees and shrubs to be determined by LC.

**JZ: 2<sup>nd</sup>**

**Unanimous 7-0**

**7:45(7:55) Thomas Campbell: 434 Dunstable Road – Notice of Intent:** (Map 15, Parcel 61)

(Continued from 6/27/06) Proposed 30' x 32' addition and 10'x10' deck within the 100' buffer zone.

LC stated the applicant has requested another continuance due to the plans not being ready.

**JZ: Motion** to continue the hearing to July 25, 2006 at 7:02.

**LG: 2<sup>nd</sup>**

**Unanimous 7-0**

**8:00 Richard Bergskaug: 68 Mascuppic Trail - Notice of Intent:** (Map 32B, Parcel 30) ) (Continued from 5/9, 6/13, & 6/27/06) Demolition of an existing and construction of a new single family dwelling within the floodplain and buffer zone. Mr. Bergskaug was not in attendance. LC said we were awaiting DEP's comments which were: Original foundation must be removed and original grade restored. New footprint cannot be larger than original; otherwise compensatory storage must be provided on site. Time period between removing original foundation and building new one must be within a reasonable time span, otherwise compensatory storage may be required. LC stated the project meets these requirements.

**HJ: Motion** to close the hearing

**RS: 2<sup>nd</sup>**

**Unanimous 7-0**

**HJ: Motion** to issue an OOC per plan and discussion

**JZ: 2<sup>nd</sup>**

**Motion Carried 6-0 (JK abstained)**

**Other Business:**

❖ **HJ: Motion** to approve the minutes of May 9, 2006

**LG: 2<sup>nd</sup>**

**Motion Carried 4-3 (FZ, JZ, and JK abstained)**

❖ **JZ: Motion** to approved the minutes of June 27, 2006

**HJ: 2<sup>nd</sup>**

**Motion Carried 5-2 (LG and FZ abstained)**

**8:05 Boston & Maine Corporation – B & M Rights of Way – Request for Determination of**

**Applicability:** (Continued from 5/9, 6/13 & 6/27/06) Verification of sensitive areas. LC stated that the tracks still are not marked.

**JZ: Motion** to continue the hearing to August 8, 2006 at 7:20

**LG: 2<sup>nd</sup>**

**Unanimous 7-0**

**Other Business:**

❖ Mr. Maciel is requesting an insignificant change for 265 Pawtucket Blvd. HJ recused himself from this matter. LC presented a revised plan that was submitted to resolve the drainage issue on the property. LC recommended the Commission require an Amendment. The members agreed.

**8:10 Frederick Macleod - 2 Nevada Road – Notice of Intent:** (Map 2, Parcel 160) (Continued from

6/13 & 6/27/06) Proposed 28'x28' garage and associated grading and utilities within the buffer zone.

LC stated that the applicant has hired a consultant to do the alternatives analysis who has recommended the Commission close and deny the application as the proposed location is not a good location for the garage and the applicant will refile with the Commission.

**HJ: Motion** to close the hearing

**JZ 2<sup>nd</sup>**

**Unanimous 7-0**

**HJ: Motion** to deny the project under the Wetlands Protection Act due to the fact that the applicant failed to submit an Alternative Analysis. The project is further denied under the Tyngsborough Wetlands Protection Act because the project also is in violation of the Commission's Regulations.

**JZ: 2<sup>nd</sup>**

**Unanimous 7-0**

**8:20 Michael Kourkoulakos – 1 DeMauro Drive - Notice of Intent:** (Map 27, Parcel 37A, Lot 2)

After the Fact filing for removal of trees. Work within the buffer zone. LG recused herself from this hearing as she is an abutter.

**HJ: Motion** to waive the reading of the abutter's list

**RS: 2<sup>nd</sup>**

**Unanimous 6-0**

**HJ: Motion** to waive the reading of the Legal Notice

**FZ 2<sup>nd</sup>**

**Unanimous 6-0**

Mr. Kourkoulakos requested permission to present pictures of the area from his laptop. JK invited abutters to join the Commission to view the pictures. Mr. Kourkoulakos explained that this work was not supposed to be done but the tree cutter needed to cut an access road in adjacent to the wetland. The project was supposed to consist of cutting five trees outside the buffer zone that were near the pool and play area which he was in fear would fall on his family. LC showed pictures she took of the area. Melissa Demauro requested the Commission require the stumps to remain and require replanting as the remaining trees are now susceptible to the wind. JK requested the applicant clean up of slash by hand so that the Commission can accurately count the trees that have been removed. LC stated that no DEP number has been issued yet. JK asked if there were any more abutter comments. There were none.

**JZ : Motion** to continue the hearing to July 25, 2006 at 7:10

**FZ: 2<sup>nd</sup>**

**Unanimous 6-0**

**8:30(8:50) Edward Casey – 8 Joco Drive - Notice of Intent:** (Map 22, Parcel 40) Proposed 22' x 28' garage and family room addition within the buffer zone. JK recused himself from this hearing as he lives in the subdivision.

**JZ: Motion** to waive the reading of the abutters list

**FZ: 2<sup>nd</sup>**

**Unanimous 6-0**

**JZ: Motion** to waive the reading of the Legal Ad

**FZ: 2<sup>nd</sup>**

**Unanimous 6-0**

Bob Wironen of Built Environments LLC addressed the Commission. The homeowner was also present. The proposed structure is located 10 feet from the existing house and 58.5 feet from the edge of the wetlands with a paved area in front of the new garage proposed 36 feet from the wetland in an area that is presently lawn. The existing turnaround area for the driveway is located 29 feet from the wetland. HJ questioned whether the turnaround was to stay. The homeowner said they haven't made a decision. HJ commented that he would like to see the turnaround removed to mitigate for the additional impervious surface being introduced. CH asked for erosion controls. Mr. Wironen said they would be installed how and where the Commission would like. CH asked if there were any abutters present. There were none. LC commented that we are awaiting a DEP number for this project.

**JZ: Motion** to continue this hearing to July 25, 2006 at 7:15

**LG: 2<sup>nd</sup>**

**Unanimous 6-0**

#### **Other Business:**

❖ Connell Construction has requested an Extension for 21 Diaz Drive. The OOC expires in September and they feel the lot will be stabilized by next summer.

**HJ: Motion** to issue a one year Extension for 21 Diaz Drive

**LG: 2<sup>nd</sup>**

**Unanimous 7-0**

❖ Members signed the following DEP forms: OOC for 68 Mascuppic Trail, OOC for Whitetail Estates, and Denial for 104 Coburn Road

Minutes 7/11/06 continued

- ❖ CH said she will be absent for more than a few meetings and is unsure if she can fulfill the position of Vice Chair. LG nominated HJ. JZ 2<sup>nd</sup>. HJ accepted.
- ❖ LC reminder the members that still need to appoint someone to the Master Plan Implementation Committee.
- ❖ Mr. Harvey of 267 Pawtucket Blvd requested to approach the Commission. HJ recused himself. Mr. Harvey feels Mr. Maciel of 265 Pawtucket Blvd. should have a topography study of his property performed and a benchmark should be set on the property so that Mr. Harvey's engineer can verify the elevations. Mr. Harvey stated that Mr. Maciel did not install the silt fence along the property line as agreed to at the June 13<sup>th</sup> Conservation meeting. LC tried to talk to Mr. Maciel but was referred to his attorney who has not returned her phone calls.

**JZ: Motion** to adjourn

**FZ: 2<sup>nd</sup>**

**Unanimous 7-0**

Meeting adjourned at 9:30

Respectfully submitted by Lori Capone, Conservation Director