



**TOWN OF TEWKSBURY
CONSERVATION COMMISSION
1009 Main Street
Tewksbury, MA 01876**

Daniel Ronan, Chairman
Evan Walsh, Vice-Chairman
Patrick Holland
Dennis Sheehan
Steve Gove

**Meeting Minutes
March 2, 2022**

The meeting was called to order at by Daniel Ronan, Chairman, at 6:30 p.m. at the Tewksbury Town Hall. In attendance were Evan Walsh, Vice-Chairman, Patrick Holland, Dennis Sheehan, and Steve Gove.

Approval of Meeting Minutes – October 20, 2021, November 2, 2021 and January 19, 2022

There were no meeting minutes presented for approval.

A) Request for Determination of Applicability, Stephen Connors, 130 John Street, Assessor Map 58, Lot 155

Present was Stephen Connors of 130 John Street.

Mr. Ronan asked if this request is to connect to town sewer and Mr. Connors confirmed this.

Mr. Fontaine noted that he conducted a site visit and explained that the project involves the abandonment of two septic tanks, one in the rear of the property and one in the front. At its closest the septic tank is approximately 58 feet from wetlands. Mr. Fontaine explained that, should the Commission issue a Negative Determination, he recommends installing erosion and sediment controls around the area of construction and notifying him prior to any construction occurring.

Mr. Ronan asked if the septic tanks are in use and Mr. Connors confirmed this.

Mr. Holland asked if the septic tanks will be crushed and filled in and Mr. Connors confirmed this.

Mr. Ronan opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Holland made the motion to close the public hearing; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

MOTION: Mr. Holland made the motion to for a Negative Determination, erosion and sediment controls shall be installed and inspected by the Conservation Agent prior to construction beginning; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

B) Request for Determination of Applicability, Tewksbury, Massachusetts, Department of Public Works, Cayuga Road, Livingston Street, Miles Road, Oxford Road, Royal Crest Circle, Starr Avenue

Present was Arthur Marcos, Project Manager, Town of Tewksbury Public Works Engineering Division.

Mr. Marcos noted that the Wetland Protection Act does not require they file for this project, however, the town bylaw does. Mr. Marcos explained that this project is part of the annual roadway paving program where Chapter 90 funds are used to repave and resurface roadways in town. It has been determined that there are wetlands in these particular locations. Mr. Marcos noted that they are not expanding the roadways and are only replacing what is currently there.

Mr. Holland asked if the drainage issue on Miles Road will be corrected, and Mr. Marcos explained that there are drainage improvements proposed at most of the locations. Mr. Holland noted that there is also an easement that runs through a resident's yard in this area.

Mr. Fontaine explained that his only comments are to install erosion and sediment controls as stated, either silt fence, straw waddle, or silt sacks, in the catch basins so that there is no sedimentation of nearby wetland resource areas.

Mr. Ronan opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Holland made the motion to close the public hearing; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

MOTION: Mr. Holland made the motion for a Negative Determination, Tewksbury, Massachusetts, Department of Public Works, Cayuga Road, Livingston Street, Miles Road, Oxford Road, Royal Crest Circle, Starr Avenue; seconded by Mr. Walsh and the motion unanimously carried 5-0.

C) Notice of Intent, Rui & Delia Grilo, 90 Pinnacle Street, Assessor Map 77, Lot 24, DEP #305-1153

Present was Thor Ackerly and Rui Grilo, applicant, and Isaac Grilo.

Mr. Ackerly noted that this is an existing single family house lot and explained that the applicant is proposing to construct a second floor addition off the rear of the home, as

well as a garage along the side of the home within the existing paved driveway, expand the pavement towards the westerly side of the property, and resurface the existing driveway within the same footprint. Mr. Ackerly noted that they have gone back and forth with DEP quite a bit as there was a recent change in how they interpreted the riverfront performance standards. Mr. Ackerly explained that typically on a project where there is an existing single-family home with portions of the property that are degraded by paved areas, buildings, and part of it is lawn or landscaped areas, they would use both the performance standards for 1058.4 and combine that with work within the degraded areas. This allows for 10% alteration of the non-degraded areas on the lot and to alter the degraded areas as you please. Mr. Ackerly explained that DEP has said that on lots that are already developed, they would like to see the performance standards outlined and the degraded riverfront area section met, and they are saying they are allowed 10% of alteration due to the existing disturbance. Mr. Ackerly noted that they fall well below the 10% at 3.1% total and explained that the driveway is resurfacing in the same footprint and considered an exempt activity under the Wetlands Protection Act. Mr. Ackerly explained that one of the performance standards in 1058.5, work integrated riverfront area, requires improvement of the existing conditions, as well as the function and value of the resource areas. As a result, the applicant is providing a 1,180 square foot mitigation area, which is proposed just alongside the driveway. Mr. Ackerly explained that they tried to align the mitigation area with the bordering land subject to flooding and to incorporate the mitigation area to be as close to the existing edge of disturbed area. Mr. Ackerly noted that the entire mitigation area is entirely within lawn and explained that they will monitor the mitigation area for two years and remove any invasive species by hand and ensure that there is a 75% survival rate for the new plantings.

Mr. Walsh asked if there are still outstanding issues with DEP and Mr. Ackerly noted that DEP has stated they are satisfied.

Mr. Fontaine noted that, as stated, they did have discussions with Mass DEP to ensure they were complying with the correct WPA citations. Mr. Fontaine explained that they were able to come to the conclusion with DEP as far as the amount of mitigation being provided being adequate. Mr. Fontaine noted that as stated, some of the items are not incorporated as far as alterations to riverfront. For example, the patio underneath the rear addition and the paved driveway. If the Commission were to issue an order of conditions for the project, Mr. Fontaine suggested the following:

- installing erosion and sediment controls as per the approved site plan, which shall include a properly entrenched silt fence directly adjacent to a stake straw waddle,
- appropriate erosion and sediment controls shall be implemented around areas of construction and soil disturbance in a manner that prevents the deposition of sediment from construction activities into nearby wetland resource areas.
- Any soil or asphalt stockpiling shall not be located closer to the river than the erosions controls are marked on the site plan.
- Prior to any construction activity commencing, erosion and sediment controls shall be installed by the applicant, or an agent of the applicant, and then inspected and approved by the Conservation Agent.

- The implementation of the planting plan shall be the first construction activity for the property, aside from installing erosion and sediment controls, so it is not forgotten about later on.
- The areas subject to the planting plan as outlined on the most recent site plan for the project shall achieve at least 75% vegetative growth within two growing seasons from when the planting plan is first implemented. Once the planting plan has been submitted, annual monitoring reports shall be submitted to the Conservation Agent and should summarize activities conducted to date relative to the planting plan and what additional monitoring activities may be needed in order to achieve at least 75% vegetative growth. If sufficient vegetative growth is not achieved over the first two growing seasons from the planting plan was first implemented, additional planting efforts shall continue, in addition with the requirement to submit annual monitoring reports until 75% vegetative growth or greater is achieved. A certificate of compliance shall not be issued until all work related to implementing the planting plan is achieved. The planting plan must be overseen by a qualified scientist. Coordinate with the conservation agent when the planting plan is anticipated.
- The Certificate of Compliance issued for this project shall include an ongoing condition which prohibits further alteration to the project area subject to the planting plan in perpetuity except as being required to maintain the area and its mitigating condition.

Mr. Ronan opened the hearing to the public.

Michael Lambiaso of 30 Lynnes Way came forward. Mr. Lambiaso noted that his home is located directly opposite this project and that he has some concerns. Mr. Lambiaso asked if anyone will be living at 90 Pinnacle Street and Mr. Grilo confirmed this. Mr. Lambiaso asked if this will be a permanent residence and Mr. Grilo confirmed this. Mr. Lambiaso asked if the property will be rented out and Mr. Grilo noted that it will not be. Mr. Lambiaso asked if there will be a business located at this property. Mr. Ronan explained that the questions being asked must pertain to conservation matters. Mr. Lambiaso asked if another hearing will be held to address these matters. Mr. Fontaine explained that this hearing pertains strictly to the wetlands and noted that to his knowledge there are no other public hearings scheduled on this matter. Mr. Lambiaso noted that it appears that the proposed erosion control location will not be on their property. Mr. Fontaine noted that there is a very small section that appears to go into the 100-foot buffer and explained that these are temporary measures during construction.

MOTION: Mr. Holland made the motion to close the public hearing; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

MOTION: Mr. Holland made the motion to approve Notice of Intent, Rui & Delia Grilo, 90 Pinnacle Street, Assessor Map 77, Lot 24, DEP #305-1153, standard Order of Conditions 1-5 and 9-19 and Special Conditions A-D; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

D) Notice of Intent, Civil Design Consultants, Inc. of Andover, Massachusetts on behalf of Yvon Cormier, Vale Street, Assessor Map 112, Lots 23, 87, 88, 89, 90, 91, 92, 93, and 94. DEP #305-1154

It was noted that the applicant has requested to continue this matter to the next meeting.

MOTION: Mr. Holland made the motion to continue Notice of Intent, Civil Design Consultants, Inc. of Andover, Massachusetts on behalf of Yvon Cormier, Vale Street, Assessor Map 112, Lots 23, 87, 88, 89, 90, 91, 92, 93, and 94. DEP #305-1154; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

E) Request for Determination of Applicability, Civil Design Consultants, Inc., of Andover, MA on behalf of Trull Brook Golf Course, Inc., 160 and 170 River Road, Assessor Map 27, Lots 12 & 14, respectively.

Present was Mira Cousins of Civil Design Consultants, and Roy Trull of Trull Brook Golf Course.

Ms. Cousins explained that they are requesting a Determination of Applicability for the project located at the Trull Brook Golf Course. The site is located in the R40 zoning district, and the combined area of both 160 and 170 River Road is approximately 127 acres. Ms. Cousins explained that the project consists of construction of a new driveway alignment to access a proposed 200 space parking lot, as well as reconfigure the existing parking lot drainage facilities, utilities, and landscaping, and a storm water management system to mitigate the impacts of the entire project. Ms. Cousins noted that she walked the site with Mr. Fontaine and Norse Environmental in December, 2021 and an off-site isolated wetland was located across River Road on the property at 197 River Rd. Ms. Cousins explained that the associated 100-foot wetland buffer zone crosses onto the project area at the existing parking lot and the local 50 foot and 25 foot buffer zones do not cross onto the property. The work proposed within the 100-foot buffer zone includes the reconfiguration of the existing parking lot to bring it into compliance. Ms. Cousins noted that the proposed work will result in a decrease of approximately 710 square feet of impervious area within the 100-foot buffer zone.

Mr. Fontaine confirmed a site walk took place in December, 2021 and noted that there is that one catch basin which appears to connect to a drainage system on River Road and does not discharge into this wetland, however, having the silt sack in the catch basin as proposed will help. Mr. Fontaine noted that he does not see any issues with this project and recommended the following conditions: installing erosion and sediment controls as per the approved site plan; which shall include a properly entrenched silt fence and/or staked straw waddles in addition to the installation of the silt sacks, the erosion and sediment controls shall be installed around areas of construction and soil disturbance as to prevent the deposition sediment from construction activities into nearby wetland resource areas. Prior to any construction activity commencing the following must be completed: erosion and sediment controls shall be installed by the applicant, or an agent

of the applicant, in accordance with special condition #1 and inspected by the Conservation Agent prior to construction beginning.

Mr. Ronan opened the hearing to the public.

Michelle Maggie of 20 Yorkie Way came forward. Ms. Maggie noted that she lives across the street and explained that both her and her two neighbors currently have water issues due to River Road. Ms. Maggie explained that River Road was resurfaced, and a berm was put in to try to deter the water from going into their basements. Ms. Maggie noted that she cannot visualize what is going on and what the plan is for building on the other side of the “tennis plaza thing”. Ms. Maggie explained that she needs more information to be able to ask valuable questions and that she would like to know more about what the intent is and what the plan is for what the changes are. Ms. Maggie noted that she does not have a problem with the project right now and asked how she finds out this information. Mr. Fontaine suggested Ms. Maggie contact him for the information she is seeking and explained that the Commission’s jurisdiction is just the wetlands.

It was noted that the Planning Board’s hearing on this matter will be held on March 14, 2022.

Ms. Maggie expressed concerns with the elevated parking lot increasing water onto their properties. Mr. Fontaine explained that while stormwater can fall within the Commission’s jurisdiction, in this case it does not as all of the water is being captured in a catch basin and not a wetland. Mr. Fontaine explained that if the project is approved by the Conservation Commission there is a 10-day appeal period that begins the day after the permit is issued. Mr. Fontaine noted that it appears these concerns fall within the Planning Board’s jurisdiction. Ms. Maggie noted that she would like to look at the plans. Mr. Fontaine explained that the project results in net decrease of impervious area.

Ms. Cousins noted that they would be happy to speak with the abutter after the meeting.

Mr. Ronan opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Holland made the motion to close the public hearing; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

MOTION: Mr. Holland made the motion to for a Negative Determination Civil Design Consultants, Inc., of Andover, MA on behalf of Trull Brook Golf Course, Inc., 160 and 170 River Road, Assessor Map 27, Lots 12 & 14, respectively, erosion and sediment controls to be installed and inspected by the Conservation Agent prior to construction beginning; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

F) Abbreviated Notice of Resource Area Delineation, Norse Environmental Service of Tyngsboro, MA on behalf of O’Brine Homes, Inc., Foster Lane, Assessor Map 24, Lot 25, DEP #305-1156

Mr. Sheehan recused himself and left the room.

Present was Kevin O’Brine of O’Brine Homes.

Mr. O’Brine noted that Maureen Herald of Norse Environmental could not attend tonight’s meeting, however, it is his understanding that it has been agreed that a consultant would review the project.

Mr. Fontaine confirmed this and explained that the Commission will need to approve whether a third part consultant should be hired.

Mr. Ronan opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Holland made the motion to continue Abbreviated Notice of Resource Area Delineation, Norse Environmental Service of Tyngsboro, MA on behalf of O’Brine Homes, Inc., Foster Lane, Assessor Map 24, Lot 25, DEP #305-1156 pending review by the Town’s Consultant, to March 23, 2022 at 6:30 p.m.; seconded by Mr. Walsh and the motion unanimously carried 4-0.

Mr. Sheehan returned.

Old Business

Wetland Markers

Mr. Walsh noted that he has provided a quick mockup design of the wetland markers and explained that the Commission can modify the design. Discussion took place on the cost associated with the medallions and how it would impact applicants, and if the markers should be mounted on posts. Mr. Holland noted that he would like to have the flexibility to have the markers with or without the mounts. It was the consensus that mounting requirements will be determined at the Commission’s discretion. Mr. Holland suggested researching the cost of the markers as far as the impacts on the applicant as well as the town and bulk costs.

New Business

Keolis Yearly Operating Plan

Mr. Fontaine explained that he has received the Keolis yearly operating plan (YOP) which describes their activities for vegetation management throughout the year. The YOP and the Vegetation management plan are regulated under 333 CMR 11. The Conservation Commission has 45 days from the date of notification to respond with any comments. Does not see any issues

with the site plans provided. Mr. Ronan noted that this also came before the Commission under the previous Agent and there were some issues as it runs through so many towns.

Administrators Report

Pool Discussion

Mr. Fontaine noted that he would like to discuss above ground pools with the Commission as there have been some situations where some residents have been unable to install a pool due to proximately to a wetland and are not supposed to be within 50 feet. Mr. Fontaine asked if in the past the Commission has made any exceptions for above ground pools. Mr. Holland confirmed this and noted that there may have been instances in the past where exceptions were also made for an in-ground pool.

Mass Mosquito

Mr. Fontaine provided the Commission with project for 280 Rogers Street. There is a small intermittent stream on the site. Mr. Fontaine explained that he had originally visited the site as the resident had some flooding issues. There were areas in our backyard that were ponding, and flooding was not an emergency as it was not affecting anything. Has Mass Mosquito look at it to see if that falls within their jurisdiction and they seem to think that it does. The aerials provided from Mass Mosquito suggest that it may have been agricultural at some point, which gives them some level of jurisdiction to clean it out and alleviate some of the flooding. Mr. Fontaine noted that he is not sure why there is a "Part 2" as it does not really seem necessary, and they had only discussed 280 Rogers Street. Theoretically if this was approved it would be altering Part 2 also where they go in with a low-pressure vehicle to clear out the stream but to him that was not part of the issue. Mr. Fontaine feels that Mass Mosquito would like the Commission's input. Mr. Holland feels they would have to fill for the anything beyond 280 Rogers Street as would need the property owner's permission to access the stream on their properties.

Adjournment.

MOTION: Mr. Holland made the motion to adjourn; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

Approved: October 10, 2022

*List of Documents for the 03.02.2022 Meeting
Documents can be found in the Community Development Office*

06:30 P.M. Call Meeting to Order
Approval of Minutes; November 17, 2021; December 15, 2021; January 5, 2022; February 2, 2022;
February 16, 2022

A. **[PUBLIC HEARING] Request for Determination of Applicability;** Stephen Connors; 130 John Street, Assessor Map 58 Lot 155.

- WPA Form 1
- Site Plans
- Proposed Septic System Plan
- Sewer Lateral Sketch
- Field Notes
- Photo Log

B. **[PUBLIC HEARING] Request for Determination of Applicability;** Tewksbury, Massachusetts Department of Public Works; Cayuga Road, Livingston Street, Miles Road, Oxford Road, Royal Crest Circle, Starr Avenue.

- WPA Form 1
- Site Plans
- Abutters List

C. **[PUBLIC HEARING] Notice of Intent;** Rui & Delia Grilo, 90 Pinnacle Street, Assessor Map 77 Lot 24. DEP File # 305-1153.

- Application Package:
 - WPA Form 3 - Revised
 - Project Narrative - Revised
 - Site Plans
 - Field Data Forms
 - Abutter Notification Information
- Project Review & Comment Email – February 2022
- Revised Site Plan
- Photo Log

D. **[PUBLIC HEARING] Notice of Intent;** Civil Design Consultants, Inc. of Andover, Massachusetts on behalf of Yvon Cormier, Vale Street, Assessor Map 112 Lots 23, 87, 88, 89, 90, 91, 92, 93, 94. DEP File # 305-1154.

- Application Package:
 - WPA Form 3
 - Project Narrative
 - Site Plans
 - Field Data Forms
 - Abutter Notification Information
- Project Review & Comment Email – February 2022
- Revised Site Plan
- Photo Log

E. **[PUBLIC HEARING] Request for Determination of Applicability;** Civil Design Consultants, Inc. of Andover, Massachusetts on behalf of Trull Brook Golf Course, Inc.; 160 & 170 River

Road, Assessor Map 27, Lots 12 & 14, respectively.

- Application Package:
 - WPA Form 1
 - Project Narrative
 - Site Plans
 - Field Data Forms
 - Abutter Notification Information
- Field Notes

F. **[PUBLIC HEARING] Abbreviated Notice of Resource Area Delineation;** Norse Environmental Services of Tyngsborough, MA on behalf of O'Brien Homes Inc.; Foster Lane, Assessor Map 24 Lot 26. DEP File # 305-1156.

- Application Package:
 - WPA Form 4A
 - Abutter Notification Information
 - Project Narrative
 - Site Plans
 - Field Data Forms
- Review Comments & Responses

Old Business
New Business
Administrators Report
Adjournment