



**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 8, 2023**

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

Approval of Meeting Minutes – July 13, 2022

MOTION: Mr. Holland made the motion to approve the July 13, 2022 meeting minutes; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

- A) Continue to the next meeting, Public Hearing, Notice of Intent; John G. Crowe Associates, Inc. of Bedford, NH on behalf of Raytheon Technologies, Inc. of Andover, MA; 100 Apple Hill Drive, Tewksbury, MA, Assessor Map 38, Lot 2. DEP File # not yet assigned.

MOTION: Mr. Holland made the motion to continue to the next meeting, Public Hearing, Notice of Intent; John G. Crowe Associates, Inc. of Bedford, NH on behalf of Raytheon Technologies, Inc. of Andover, MA; 100 Apple Hill Drive, Tewksbury, MA, Assessor Map 38, Lot 2. DEP File # not yet assigned, seconded by Mr. Sheehan and the motion unanimously carried 5-0.

- B) Public Hearing, Request for determination of Applicability; Tewksbury Department of Public Works; Astle Street, Lumber Lane, Pike Street, School Street, Bell Road, and Water Street.

Present was Arthur Markos with the Tewksbury Department of Public Works.

Mr. Fontaine explained that this is a straightforward project that includes no expansion of existing roads. It is just road maintenance. Mr. Fontaine added that if the commission was to order a negative determination of applicability, they may do so under these following recommendations. Recommendation one, installing and maintaining erosion and sediment controls which include the proper installation of an entrenched silt fence or straw waddle around the area of construction to prevent the deposition of sediment from construction activities into nearby wetland resources. Sediment controls shall remain in

place until all areas of disturbed loose soil and other erodible materials have been stabilized at the site. Number two, catch basins within Conservation Commission jurisdictional areas are to be filled with silt sacs and sediment controls. The silt sacs are to be installed prior to any construction activity within a Conservation Commission jurisdictional area.

Mr. Markos stated that he has no issues with that, and they use silt sacs at all catch basins as part of all their storm water initiatives.

Mr. Ronan opened the hearing to the public and Ralph Bliss, at 249 Astle Street came forward. He had a question regarding water run-off and elevation. Mr. Bliss asked if milling was going to be taking place, as he lives on a very low elevation point on Astle Street, adjacent to where the pipeline comes through. He has a berm at the end of his driveway to prevent water run-off from spilling into his yard.

Mr. Markos explained that they will be taking out 2-inches of material, and replacing it with 2-inches of material, and if there is any berm at that point, they try to maintain it. If they were to disturb it or crack it at any point, they would replace it. They do their best to prevent issues with driveways.

Laura Tetrault, at 80 Water Street and 0 Oak Street, also stepped forward to ask about her berm as well. Mr. Markos explained again that they do not want to disturb the driveways if they do not have to, however if needed they would come back and replace the driveway apron. It is all part of the process. Ms. Tetrault also voiced her concern about the water draining onto her lawn. She rather it remains drained into her woods, and Mr. Markos reassured her they would try not to alter the drainage. Mr. Markos added that the work is to start next month.

Ms. Tetrault asked if there are plans to re-pave Oak Street, and Mr. Markos informed her that Oak Street is not on their list at this time.

No one else came forward with questions or comments regarding this item.

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

MOTION: Mr. Holland made the motion to issue a Negative Determination of Applicability; Tewksbury Department of Public Works; Astle Street, Lumber Lane, Pike Street, School Street, Bell Road, and Water Street, seconded by Mr. Sheehan and the motion unanimously carried 5-0.

C) Request for Certificate of Compliance; Richard Dugas of Ducom Electric, Tewksbury, MA; 1695 Shawsheen Street, Assessor Map 113, Lot 22. DEP File #305-840

Present was Rick Dugas of Ducom Electric.

Mr. Dugas explained that he is looking for a certificate of compliance. He had Mr. Fontaine come out for a site visit to verify that nothing had been disturbed since permitted. This order of conditions is 15 years old, and they are looking to transfer ownership.

Mr. Fontaine explained that this is a request for a certificate of compliance with the option of the commission considering this an invalid order as there is no work that has been done on the property, as well as an expired order of conditions. During his site visit, Mr. Fontaine explained that he tried to visit all parts of the site, and he found many vegetative spots with nothing developed. Mr. Fontaine stated that he included the site plans in the meeting material, which was supposed to be a commercial building, however from what he can tell the site is still undisturbed.

Mr. Fontaine explained that the commission can issue the certificate of compliance which would consider it an invalid order of conditions. Mr. Ronan asked for further clarification and Mr. Fontaine explained that the Commission can issue a partial, complete, or invalid. In the event of an invalid order such as this, it means that the work was permitted but never executed but is still needed in order to clear the title.

MOTION: Mr. Holland made the motion to Approve the Certificate of Compliance; Richard Dugas of Ducom Electric, Tewksbury, MA; 1695 Shawsheen Street, Assessor Map 113, Lot 22. DEP File #305-840, seconded by Mr. Sheehan and the motion unanimously carried 5-0.

D) Request for Certificate of Compliance; Dalton & Finegold, LLP of Andover, MA; 219 River Road, Assessor Map 27 Lot 17. DEP File #305-833

Present was Hooshmand Afshar from Taj Engineering, LLC.

Mr. Afshar presented documentation on the as built. He went into detail regarding the reason for the order of conditions, which was the distance the property was to the road. The south-western corner of the building, that was previously outside the 25-foot buffer zone is now inside the 25-foot buffer zone. The previous building that was there was already located within the buffer zone when the order of conditions was issued. The fence in the back of the yard is 6-feet tall and acts as a barrier to separate the lawn from the resource area, which is a good thing. The previous shed in the backyard was removed and the patio foundation is pervious.

Mr. Ronan asked if the shed was a temporary structure, and Mr. Afshar confirmed yes, because it does not have a foundation. Mr. Afshar stated he does not intend on removing it.

Mr. Holland commented that he was surprised the original plan was approved back in 2007. Mr. Afshar added that they never asked for the certificate of compliance, so this is inconvenient for the current owner as nothing can be done, as there is something outstanding on the property.

Mr. Fontaine added that there are slight changes in the dimensions of the property now vs. the original. Also, it is further away from the wetlands. The driveway footprint overall looks different. Mr. Holland verbalized that it looks as though someone in the past was making substantial changes without coming before the board.

Mr. Fontaine noted that a letter of substantial compliance was submitted from a professional land surveyor which specifies the original plan as well as satisfying the order of conditions of supplying an as built. Therefore, he has no issues.

MOTION: Mr. Holland made the motion to Approve the Certificate of Compliance; Dalton & Finegold, LLP of Andover, MA; 219 River Road, Assessor Map 27 Lot 17. DEP File #305-833, seconded by Mr. Sheehan and the motion unanimously carried 5-0.

Mr. Afshar commented that often clients come to him with instances similar to this, and they get upset because they cannot move forward before resolving the issues. Mr. Ronan explained that likewise, they can only grant partial orders many times, and everything is on a case-by-case basis.

E) Minor Modification; Woodland Design of Tewksbury, MA; 40 Longmeadow Road, Assessor Map 26, Lot 124; DEP File # 305-1159

Present was Dick Hugo from Woodland Design.

Mr. Hugo explained that there was confusion between the original owner and the buyer of the property, so they hired a professional to come in. They put in all the silt fences at 12-inches and 9-inches. The larger silt socks were going to be around the resource area which is all staked in. They are proposing to back up where the larger waddles were supposed to be adjacent to the impact areas, and behind it they plan to have hay bales for extra protection. They also plan to provide weekly reports and weekly inspections on this.

Mr. Ronan asked the commission if they had any questions, and Mr. Walsh and Mr. Sheehan stated they had none. Mr. Fontaine explained that he did a site visit and noticed the size of the sediment controls. He said he does not have a lot of time to visit sites during the construction phases, so he is fine with the over precautionary measures. Mr. Fontaine added the 12-inch silts are good for long term protection and stated that he would even extend that throughout the property as proposed, especially with the areas that have soil stockpiles. Other alternatives can also be done to reinforce what is already there.

Mr. Hugo commented that he thinks what is being done is fine because they have a 10-month buildout at best, and they will not have any deterioration. They are hoping to be finished by next September. Mr. Hugo went on to explain that is why they plan on inspecting it every week, to make sure there is nothing damaged. They are able to do the 12-inch when they get to the stockpile areas because those are put in once all the trees are cut as they aren't in place. Mr. Fontaine asked if he is open to putting the hay bales in the soil stockpile areas and Mr. Hugo replied that they can put the 18-inch there because it will be at the bottom of the slope area.

Mr. Ronan voiced that he is concerned about the difference in size of straw waddles at 20-30 feet long and a 3-foot-long bale of hay. Mr. Ronan asked if they believed there would be any issues with them coming apart and creating gaps. Mr. Hugo stated that he does not see that happening as the hay bales are much taller and staked in just as the waddles are. Mr. Fontaine asked if installing a silt fence behind a straw waddle works well. Mr. Gove said that he has worked on many sites with just a 9-inch, and they are very sufficient.

Mr. Walsh asked if Mr. Hugo could update the site plan to reflect the 12-inch silt socks around the stockpile area.

Mr. Fontaine explicitly reviewed what the commission was looking to approve: 12-inch silt socks all around the stockpile area. 9-inch can stay for the rest except what is outlined in blue on the plan in front of them. Where the blue is, there will be hay bales behind the silt fence.

MOTION: Mr. Holland made the motion to Approve the Minor Modification, Woodland Design of Tewksbury, MA; 40 Longmeadow Road, Assessor Map 26, Lot 124; DEP File # 305-1159, seconded by Mr. Sheehan and the motion unanimously carried 5-0.

F) Violation Notice; Nikki Castrucci & Alex Oteri; 19 Bemis Circle, Assessor Map 108, Lot 21

Mr. Fontaine explained that he saw 10-12 soil stockpiles in the backyard next to the floodplain and river front area in the buffer zone of wetlands. These piles are staged in the backyard, and they are approximately 40-50 feet away from nearby wetlands and close to the floodplain, approximately 57 feet away from the rear of the dwelling. Mr. Fontaine met with the homeowner, and they discussed installing erosion and sediment controls around the area of the yard when the ground gets warmer as the weather warms up.

Mr. Sheehan asked what the intent of the stockpiles were, and Mr. Fontaine stated that the homeowners said it was to provide 6-8 inches of fill in his backyard, but not to expand the yard. Mr. Sheehan asked if this would affect the floodplain by changing the grades, and Mr. Fontaine noted that he is not sure of the exact location of the floodplain, so he cannot say. Mr. Fontaine explained that in photo 5, right at the fence line is his best estimate of where the 100-year floodplain is. If it is in the floodplain, he cannot determine how much specifically. The area is 40-50 feet away from the wetlands.

Mr. Ronan asked if it looks to Mr. Fontaine as though they are trying to better their yard, and Mr. Fontaine says yes according to ariel imagery. However, at least a permit is needed as this work is within the riverfront and within the buffer zone of the wetlands. It is clearly not just a lawn maintenance activity due to the amount of fill. Mr. Fontaine asked the commission what they would like to see to ensure compliance.

Mr. Holland and Mr. Walsh agreed they would like to see a Request for Determination of Applicability (RDA) or notice of intent because they are looking to accomplish something but are not being clear about it. Mr. Sheehan added that he would like to see a definitive on where 60-yards of dirt is going.

When speaking with the homeowner, Mr. Fontaine was informed that he could not make it tonight, but the March 22nd meeting seemed to work better for his schedule. Mr. Ronan said it seems as though they are leaning towards an RDA with a site plan but would like him to come and discuss the situation. Mr. Walsh said that he is most concerned about the floodplain at this point, as well as compensatory storage if there is going to be one, and Mr. Sheehan agreed.

Old Business, New Business & Admin Reports

None for discussion.

Adjournment

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

Approved: October 4, 2023

*List of Documents for the 3.8.2023 Meeting
Documents can be found in the Community Development Office*

- 06:30 P.M. Call Meeting to Order**
Approval of Minutes June 22, 2022; July 13, 2022; August 17, 2022; September 7, 2022; September 21, 2022; October 5, 2022; December 7, 2022; December 21, 2022; January 11, 2023; January 25, 2023; February 8, 2023.
- *7/13/22 Meeting Minutes*
 - *CAT Document*
- A. [PUBLIC HEARING] Notice of Intent;** John G. Crowe Associates, Inc. of Bedford, NH on behalf of Raytheon Technologies, Inc. of Andover, MA; 100 Apple Hill Drive, Tewksbury, MA, Assessor Map 38 Lot 2. DEP File # Not Yet Assigned.
- B. [PUBLIC HEARING] Request for Determination of Applicability;** Tewksbury Department of Public Works; Astle Street, Lumber Lane, Pike Street, School Street, Bell Road, and Water Street.
- *WPA Form 1 – RDA Application*
- C. Request for Certificate of Compliance;** Richard Dugas of Ducom Electric, Tewksbury, MA; 1695 Shawsheen Street, Assessor Map 113 Lot 22. DEP File # 305-840.
- *WPA Form 8A – RCOC Application*
 - *WPA Form 5 – OOC*
 - *Site Plans*
- D. Request for Certificate of Compliance;** Dalton & Finegold, LLP of Andover, MA; 219 River Road, Assessor Map 27 Lot 17. DEP File # 305-833.

- *WPA Form 8A – RCOC Application*
- *WPA Form 5 – OOC*
- *OOC Site Plan*
- *Survey*
- *Photos – 2/27/23*

E. Minor Modification; Woodland Design of Tewksbury MA; 40 Longmeadow Road, Assessor Map 26 Lot 124; DEP File # 305-1159.

- *Letter from Woodland Design – 2/21/23*
- *Photos – 2.21.23*

F. Violation Notice; Nikki Castrucci & Alex Oteri; 19 Bemis Circle, Assessor Map 108 Lot 21.

Old Business
New Business
Administrators Report
Adjournment