



**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  
April 20, 2022**

The meeting was called to order at by Daniel Ronan, Chairman, at the Tewksbury Town Hall at 7:00 p.m. In attendance was Evan Walsh, Vice-Chairman, Patrick Holland, Dennis Sheehan, and Steve Gove.

**Approval of Meeting Minutes – December 15, 2021 and January 5, 2022**

**MOTION:** Mr. Holland made the motion to approve the December 15, 2021 meeting minutes; seconded by Mr. Sheehan and the motion carried 5-0.

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

**A) Request for Determination of Applicability, Jason Chiesa, 110 Prospect Hill Drive, Assessor's Map 52, Lot 39**

Present was Jason Chiesa, applicant.

Mr. Fontaine explained that this project is for the installation of an inground pool, patio, wall, and also pushing back the fence. Mr. Fontaine noted that based off his field measurements, the pool is proposed to be approximately 80 feet from the wetlands at its closest point, and the fence will be pushed back approximately 13 feet, which is currently approximately 62 feet from the wetland line. Mr. Fontaine recommended the following conditions should the Commission issue a Negative Determination of Applicability:

- installing erosion and sediment controls around the area of construction to prevent any loose soil during construction from flowing towards the wetlands, and coordinate with Mr. Fontaine to inspect the erosion controls prior to work beginning,
- Dewatering (as applicable); any water arising from dewatering shall be discharged at least 50 feet from the wetland line and as far away as practicable and shall not be discharged into a catch basin. The dewatering shall be filtered through an appropriately sized filter bag before being discharged.

- All excess soil should be removed off site and temporary stockpile should be securely covered whenever not in use.

Mr. Walsh asked if the shed is existing, and Mr. Chiesa confirmed this.

Mr. Fontaine asked what the design of the fence is, and Mr. Chiesa noted that it will be the same material as the current fence.

**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, Jason Chiesa, 110 Prospect Hill Drive, Assessor's Map 52, Lot 39, reference shall be made the Conditions 1-4; seconded by Mr. Sheehan and the motion unanimously carried 5-0.**

Mr. Ronan recused himself and left the room. Mr. Walsh conducted the meeting.

**B) Request for Determination of Applicability, John Cogswell, 189 Vale Street, Assessor Map 112, Lot 27**

Present was John Cogswell, applicant.

Mr. Cogswell explained that he is proposing to construct a deck onto the front of the existing residential structure. Mr. Cogswell noted that the deck would be approximately 173 square feet, or approximately 34.5 feet long and 5 feet deep. Mr. Cogswell referenced the aerial views provided and noted that the existing house structure and preexisting deck are closer to a stream water resource on the west side of the property, and the proposed deck would be approximately 60 feet from the mean annual high watermark of the streambank. Mr. Cogswell explained that in walking the property with Mr. Fontaine, they identified some invasive species that they would like to remove and clean up as part of this project, as well as some other debris. Mr. Cogswell noted that the entire property sits within the 200-foot buffer zone of the of the riverfront area and approximately 98% of the property is within 100 feet. As a result, the entire 173 square feet is included in the riverfront zone. Mr. Cogswell noted that the actual change of degraded area is approximately .14% of the property as they are taking out impervious surfaces such as the paved walkway and an existing concrete front stoop. The remaining area is pre-existing flower bed which is partly maintained and partly unmaintained.

Mr. Fontaine noted that the proposed porch is approximately 60 feet away from the closest resource area, which is bank and mean annual high water of a perennial stream. Mr. Fontaine explained that part of this is whether the Commission would consider a porch as an accessory structure and noted that based on the town's bylaw, decks are considered exempt, however, decks are not really further defined in the bylaw, and this is a roofed structure. Mr. Fontaine explained that if it is considered a deck of sorts, it would be considered an exempt activity under the bylaw and under the WPA. Mr. Fontaine

noted that, based off the calculations that the applicant has presented, it complies with all the applicable performance standards under the Wetland Protection Act.

It was the consensus of the Commission that the proposed structure is a deck and Mr. Fontaine noted that it would then be considered an exempt activity.

Mr. Cogswell noted that during the site walk with Mr. Fontaine they identified some sedimentation and erosion controls that could be implemented as part of the project. Mr. Fontaine recommended straw waddles along the upper part of the stream bank, as well straw waddle along the the edge of the pre-existing driveway between the stream and driveway, which would be inspected by Mr. Fontaine prior to any work beginning.

Mr. Walsh 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 4-0.**

**MOTION: Mr. Holland made the motion for a Negative Determination, John Cogswell, 189 Vale Street, Assessor Map 112, Lot 27, erosion and sedimentation controls shall be installed and inspect by the Conservation Agent prior to any work beginning, coordinate with the Conservation Agent on the removal of invasive special along the side of the bank; seconded by Mr. Sheehan and the motion carried 4-0.**

Mr. Ronan returned.

**C) Request for Determination of Applicability, Brian & Kristin Harris, 45 Leighton Lane, Assessor Map 79, Lot 55**

Present was Brian Harris, applicant.

Mr. Harris explained that he is proposing to replace the existing deck on the back of his home. Mr. Harris noted that the project would consist of replacing the deck flooring and railing system and putting in new stairs.

Mr. Fontaine noted that this project is straightforward and explained that there are no previous records for the deck, which is approximately 49 feet from a nearby resource areas. Mr. Fontaine explained that if the Commission were to issue a Negative Determination, he recommends erosion and sentiment controls be installed around the area of construction to be inspected by himself prior to work beginning.

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, Brian & Kristin Harris, 45 Leighton Lane, Assessor Map 79, Lot 55; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

**D) Request for Determination of Applicability, Jamie Trinidad, 185 South Street, Assessor Map 94, Lot 319**

It was noted that this matter will be continued due to abutter notification issues.

**MOTION:** Mr. Holland made the motion to continue Request for Determination of Applicability, Jamie Trinidad, 185 South Street, Assessor Map 94, Lot 319; seconded by Mr. Sheehan and the motion unanimously carried 4-0.

**E) Request for Determination of Applicability, George & Lisa Brangiforte, 334 South Street, Assessor Map 95, Lot 157**

Present was George and Lisa Brangiforte, applicants.

Ms. Brangiforte explained that they would like to construct a 24x14 four season room with a 14x16 open deck. Ms. Brangiforte noted that four season room is within 75 feet of the neighbor's wetlands.

Mr. Fontaine explained that he visited the site and noted that the closest point he measured to a wetland is 72 feet. Mr. Fontaine explained that if the Commission were to issue a Negative Determination, he would recommend the erosion and sediment controls be installed and inspected by himself prior to any construction beginning.

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 of Applicability, Request for Determination of Applicability, George & Lisa Brangiforte, 334 South Street, Assessor Map 95, Lot 157, 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.

**F) Request for Certificate of Compliance, AJM Development, LLC on behalf of Arnie Martel, 15 Starbird Avenue, Assessor Map 58, Lot 169**

It was noted that this matter will be tabled to the end of the agenda as there was no representative present.

- G) **Notice of Intent, Jonathan Niro of Beta Group, Inc. on behalf of Tewksbury DPW, Fiske Street & Andover Street, Rights-of-Way, DEP File #305-1160**

It was noted that this matter will be continue to the next meeting.

**MOTION: Mr. Holland made the motion to continue Notice of Intent, Jonathan Niro of Beta Group, Inc. on behalf of Tewksbury DPW, Fiske Street & Andover Street, Rights-of-Way, DEP File #305-1160 to May 11, 2022 at 6:30 p.m.; seconded by Mr. Sheehan and the motion unanimously carried 5-0.**

- H) **Notice of Intent, Matt Hamor on behalf of Richard Hupper, 60 Highland View Road, Assessor Map 23, Lot 53, DEP #305-1155**

It was noted that this matter will be continued to the next meeting.

**MOTION: Mr. Holland made the motion to continue Notice of Intent, Matt Hamor on behalf of Richard Hupper, 60 Highland View Road, Assessor Map 23, Lot 53, DEP #305-1155 to May 11, 2022 at 6:30 p.m.; seconded by Mr. Sheehan and the motion unanimously carried 5-0.**

- I) **Notice of Intent, Civil Design Consultants, Inc. on behalf of Arnie Martel, Frasier Lane Paving, DEP #305-1157**

It was noted that this matter will be continued to the next meeting.

**MOTION: Mr. Holland made the motion to continue Notice of Intent, Civil Design Consultants, Inc. on behalf of Arnie Martel, Frasier Lane Paving, DEP #305-1157 to May 11, 2022 at 6:30 p.m.; seconded by Mr. Sheehan and the motion unanimously carried 5-0.**

- J) **Violation Notice – Tewksbury Department of Public Works, 999 Whipple Road, Assessor Map 30, Lot 26**

Present was Brian Gilbert, Director of public works.

Mr. Gilbert explained that on April 11, 2022, the DPW received a violation notice from Joe Fontaine, Tewksbury Conservation Agent, for violation of the Wetlands Protection Act and the Towns Wetlands Protection Bylaw. Specifically, the DPW intruded into the 100-foot buffer altering approximately 2,500 square feet of lands under the Commission's jurisdiction off Pond Street and behind the DPW yard. Mr. Gilbert referenced the survey provided and noted that the disturbance within the 100-foot buffer

is the 2,500 (highlighted in green), and another 3,560 square feet (highlighted in blue) is under consideration and was not flagged originally as wetlands. Mr. Gilbert noted that the property was surveyed in 2019 and wetlands were added in 2020 or 2021 and explained that he inspected the site with Mr. Fontaine and Steve Sears of David Ross Associates yesterday. Mr. Gilbert explained that Mr. Sears inspected the areas where Mr. Fontaine found hydric soils to see if they met the definition of wetlands and Mr. Sears did not feel that these locations fall within the definition and has provided Mr. Fontaine with a letter stating as such. Mr. Fontaine noted that he, nor the Commission, has received this letter.

Mr. Gilbert noted that at this time they have installed silt fence on the southern side of the of the disturbance and explained that the purpose of the disturbance was not intended to be an access for the DPW onto Pond Street. The intent was to expand the lay down area in the area where it was outside that 100-foot buffer, and between that and the boundary of the DPW. Mr. Gilbert explained that even if they had stayed out of the wetlands, the process taken was wrong and they should not have been out there. Mr. Gilbert noted that going forward they will have greater communication with stakeholders, being the neighbors and Conservation Commission and Agent. In addition, moving forward, any projects outside the normal maintenance and routines of the department will be reviewed by the town engineer or Mr. Gilbert, and any questions concerning wetlands we will brought to Mr. Fontaine and the Commission's attention.

Mr. Walsh referenced violation number one which states to develop a restoration plan and asked if Mr. Gilbert is stating that they are not developing a restoration plan because they do not believe that there are wetlands. Mr. Gilbert explained that there is a portion that is clearly wetlands, which is the 2,500 square feet, and noted that they have drafted a plan to spread a humic loom in this area as well as spray it with a meadow type grass. Mr. Gilbert explained that if the area being questioned is determined to be wetlands, they will provide a plan, and if not, they will leave it as is. Mr. Gilbert noted that a third-party reviewer may have to brought in if it goes beyond the 2,500 square feet.

Mr. Holland noted that he visited this site and there is a lot of trash such as old washing machines, etc. that should be cleaned up. Discussion took place on the illegal dumping that occurs. Mr. Gilbert confirmed the trash will also be cleaned up.

Mr. Fontaine noted that the wetlands were delineated in 2020-2021 and explained that the area in question he identified hydric soils where if you see this the tree removal detailed below the blue here the site plan that's provided and also to the southwest. Based on that and what I saw I thought it could have the potential to be a wetland in two different isolated areas. As a result, a separate consultant came out and confirmed that it was also hydric soil but didn't think that it had the vegetation or hydrology to be consistent with the definition of a wetland. Just received that letter today and has not yet been provided to the Commission, however, there is a difference of opinion, but does not change the nature of the work. Mr. Fontaine explained that as restoration plan goes it is a decently sized area and would prefer to defer to someone who better knows how to restore the area as he is not sure how much topsoil was taken off and it is a pretty sandy site. Commission should decide if a third-party consultant should be brought in. It was

the consensus of the Commission that a restoration plan should be provided and if the Commission is not satisfied, a third party will then be brought in.

**K) Violation Notice – Tewksbury Community Development, 255 Livingston Street, Assessor Map 86, Lot 40**

Present was Vinnie Bonomo, Director of Grounds and Facilities.

Mr. Bonomo explained that on April 11, 2022 he was issued a violation notice from Mr. Fontaine for unpermitted alterations at 255 Livingston Street for putting riprap in as an erosion control in an area of wetlands. Mr. Bonomo explained that he installed the riprap as the area where they put the new drainage system kept washing away the bank. In talking with the contractor, they figured putting in a little riprap to keep the banking back was the right thing as it is the best thing for the area. Mr. Bonomo explained that he would like to try to leave the riprap in place as it has helped the situation. Mr. Bonomo noted that this is the 100-year flood plain and not a wetland and if removed the area will continue to erode.

It was the consensus of the Commission members that this is an improvement to the area and necessary.

Mr. Fontaine explained that just because it looks good visually, it still needs to be addressed from a regulatory perspective.

It was recommended to table this matter to allow Mr. Fontaine time to research whether this can be done as a substantial change and be left as is.

**I) Request for Certificate of Compliance, AJM Development, LLC on behalf of Arnie Martel, 15 Starbird Avenue, Assessor Map 58, Lot 169**

Present was Dick Cuoco of Woodland Design.

Mr. Cuoco explained that Mr. Fontaine visited the site and that they had removed some debris at his request. Mr. Cuoco noted that in speaking with Mr. Fontaine today, there are a couple other little areas that he would like to see addressed. Mr. Cuoco noted that, unfortunately, many people are currently on vacation, and explained that when the Engineer returns on Monday they will see what we can do to address the issues that Mr. Fontaine brought up today.

Mr. Cuoco noted that he wanted to discuss the original Order of Conditions, which states that the open space should be deeded over to the Town through the Conservation Commission, with the Commission. Mr. Cuoco explained that the deed must be drafted by an attorney and their attorney is also on vacation, however, he wanted to see if the Commission is willing to take the land first, and then they will have the attorney draft the paperwork when she returns. Mr. Cuoco explained that they do have a pending sale for one of the lots and noted that they will file for a separate partial release for that lot as by

the time this goes through the Select Board, Town council reviews it, etc. it could take longer.

Mr. Fontaine noted that he visited the site and explained that there are two conditions for the Order: picking up trash in the wetland area and deeding over the open space. Mr. Fontaine explained that at the time he visited the site there was still some trash, however, Mr. Martel had his guys pick up whatever they could and today it looks really good. Mr. Fontaine explained that the open space must be deeded to the town in order for the applicant to actually be compliant with the order. As a result, if there is a lot that is pending sale, then a partial certificate of compliance would be satisfactory for just that one lot.

It was noted that this matter will be continued to the next meeting.

**MOTION: Mr. Holland made the motion to continue Request for Certificate of Compliance, AJM Development LLC on behalf of Arnie Martel, 15 Starbird Ave, Assessor Map 58, Lot 169, to May 11, 2022, at 6:30 p.m.; seconded by Mr. Sheehan and the motion unanimously carried 5-0.**

## **Old Business**

There were no items discussed.

## **New Business**

### Discussion on Accessory Structures

Mr. Fontaine explained that many times consultants will show the home on a plan as a gray rectangle and then often times during construction they will add a deck, or some other accessory structure, that will be within the buffer zone. Mr. Holland noted that typically the accessory structures are also shown on the plans provided to the Commission and Mr. Fontaine explained that this applies for newer homes where the deck is added after the fact. It was the consensus of the Commission members that if the structure and encroachment is substantial, over the 10% allowed, it should come to the Commission.

Mr. Fontaine explained that if it is non-exempt activity he will bring it before the Commission.

### Clean Up

Mr. Fontaine provided the Commission with a sampling plan for a property on Shawsheen Street and noted that there are elevated levels of petroleum on this property and in the wetland. Mr. Fontaine noted that technically, this does fall as an exemption because it is a negligible activity that does not cause disturbance and is for assessment purposes, which is exempt under the bylaw and Wetland Protection Act. Mr. Fontaine noted that sediment samples were taken in the wetland, but that was only done via hand auger. Mr. Fontaine explained that his thought is if any excavation were to occur, it should come before the Commission.

## Administrators Report

There was no Administrators Report provided.

## 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 04.20.2022 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 19, 2022; March 2, 2022.

- A. [PUBLIC HEARING] Request for Determination of Applicability;** Jason Chiesa; 110 Prospect Hill Drive, Assessor Map 52 Lot 39
- WPA Form 1
  - Site Plans
  - Field Notes
  - Wetland Report
- B. [PUBLIC HEARING] Request for Determination of Applicability;** John Cogswell; 189 Vale Street, Assessor Map 112 Lot 27
- WPA Form 1
  - Site Plans
  - Field Notes
  - Comments Email – 3/21/22
- C. [PUBLIC HEARING] Request for Determination of Applicability;** Brian & Kristin Harris; 45 Leighton Lane, Assessor Map 79 Lot 55
- WPA Form 1

- Site Plans
  - Field Notes
- D. [PUBLIC HEARING] Request for Determination of Applicability;** Jamie Trinidad; 185 South Street, Assessor Map 94 Lot 319
- WPA Form 1
  - Site Plans
  - Comments Email – 4/12/22
  - Photo Log
- E. [PUBLIC HEARING] Request for Determination of Applicability;** George & Lisa Brangiforte; 334 South Street, Assessor Map 95 Lot 157
- WPA Form 1
  - Site Plans
  - Field Notes
  - Photo Log
- F. Request for Certificate of Compliance;** AJM Development, LLC on behalf of Arnie Martel; 15 Starbird Avenue, Assessor Map 58 Lot 169
- WPA Form 8A
  - Site Plans
  - OOC Materials
  - Deed Information
- G. [PUBLIC HEARING] Notice of Intent;** Jonathan Niro of Beta Group, Inc. on behalf of Tewksbury DPW; Fiske Street & Andover Street Rights-of-Way. DEP File # 305-1160. *(Continued to May 11, 2022)*
- H. [PUBLIC HEARING] Notice of Intent;** Matt Hamor on behalf of Richard Hupper; 60 Highland View Road, Assessor Map 23 Lot 53. DEP File # 305-1155 *(Continued to May 11, 2022)*
- I. [PUBLIC HEARING] Notice of Intent;** Civil Design Consultants, Inc. on behalf on Arnie Martel; Frasier Lane Paving. DEP File # 305-1157. *(Continued from April 6, 2022)*
- Application Package:
    - WPA Form 3

- Abutter Notification Information
  - Project Narrative
  - Site Plans
  - Field Data Forms
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- Review Comments & Responses
- J. Violation Notice** – Tewksbury Department of Public Works; 999 Whipple Road, Assessor Map 30 Lot 26.
- Violation Notice
  - Site Plans
  - Photo Log
- 
- K. Violation Notice** – Tewksbury Community Development; 255 Livingston Street, Assessor Map 86 Lot 40
- Violation Notice
  - Photo Log

**Old Business**  
**New Business**  
**Administrators Report**  
**Adjournment**