

**AMESBURY CONSERVATION COMMISSION
MONDAY, FEBRUARY 3, 2014
CITY HALL AUDITORIUM
62 FRIEND STREET**

Meeting called to order at 6:35 P.M.

Present: Steve Langlois (Chair), Michael Bik, Kinsey Boehl, Alan Corey.

Absent: Suzanne Egan.

Also Present: John Lopez, Agent, Paul Bibaud, Recording Secretary.

MINUTES: January 6, 2014 - Motion by Michael Bik to approve as presented. Motion was seconded by Kinsey Boehl. Vote was unanimous.

ADMINISTRATIVE:

RCoC #002-1065 22 Old Merrill St. (Toth)

Continued to March 3 meeting.

RCoC #002-1064 24 Old Merrill St. (Legare) Withdrawn.

60 Merrimac St. (Hatter's Point)

Letter to Applicant in support of Test Soil Borings.

John Lopez summarized. This is in support of a letter which the commission has dated 1-28-14, to Mr. Charles Ware III, Meridian Associates, from myself, John Lopez. This is in reference to a request received by the Conservation Commission from Meridian Associates and Mr. Ware, dated 1-27-14, requesting permission to conduct a small number of soil borings on site at 60 Merrimac Street. After review of the proposed borings, I felt the work was minor and of short term duration, only lasting only a few hours, and my letter of Jan. 28 was in support of it, granting permission to conduct the testing pursuant to the proposed plan that he submitted. I also requested that he secure a letter from the property owner to himself, granting permission to access the property. That was done. A letter from Tiger Property Services dated Jan. 28, 2014. This is brought to the Conservation Commission's attention merely as an administrative item. No further action is required.

42 Birchmeadow

John Lopez: This is in support of a request for the Conservation Commission not to issue a waiver but to see how receptive the Conservation Commission is in entertaining a waiver pursuant to Section 21.7 of the Amesbury Wetlands Regulations concerning a setback to the 35 foot buffer zone. Basically, it's three and a half feet involved in the waiver. Once the applicant submits a NOI, per our regulations they will have to submit a waiver request form specifically identifying the section of the regulations and requesting the waiver on, and why the request is being made. The applicant understands that. I would suggest to the applicant to really consider this waiver and to come up with a really nice mitigation to propose perhaps landscaping or something to provide the Conservation Commission with a level of comfort.

**Mr. Paulson representing the applicant.
Board agrees to allow the project to go forward.**

NEW BUSINESS: NONE.

CONTINUED BUSINESS:

**NOI # 002 1088 – 12 Old Merrill St. (Toth)
Continued to March 3 meeting.**

**NOI #002-1087 – 19 Evans and 21R Evans Place- (Saba)
Continued to March 3 meeting.**

**NOI #002-1089 – 98E South Hampton Rd. (Cracknell)
Continued to March 3 meeting.**

**ANRAD – 56 and 58 South Hampton Rd. (Couillard)
Continued to March 3 meeting**

**RDA – 35 Water St., 40 Water St. 17 Chestnut St.
(Remediation of Amesbury Former MGP temporary construction access and staging area)
(Boston Gas Company DBA National Grid. Continued to March 3 meeting.**

**NOI #002-1079 – 39 Water St. 33 Oakland St. Amesbury
(former MGP Phase IV Remedy Implementation)
(Boston Gas Co. DBA National Grid)
Continued to March 3 meeting.**

**NOI #002-1090 27 – 31 Water St. Realignment and the
Lower Millyard Redevelopment Project (Gray)
Continued to March 3 meeting.**

**NOI #002-xxxx Heritage Park (Gray)
Continued to March 3 meeting.**

ANRAD – 157 Congress St. (Cormier)

John Lopez: This is an abbreviated notice of resource area delineation on approx. a 15 acre sized lot. At a previous meeting, the Conservation Commission approved a proposal from their consultant BSC to conduct a confirmation of the wetland line. That confirmation did occur. The applicant's representative as well as the Conservation Commission's representative is here tonight to brief the Conservation Commission on their findings. The Conservation Commission is also in receipt of the BSC report, their findings on the wetland delineation dated February 3, 2104. Ms. Jillian Davies from BSC is here to provide elaboration on her report and answer any questions.

Bill Manual, from Wetlands and Land Management: I flag wetlands. I walked the site with Ms. Davies, and she has prepared some letter responses. We've had some back and forth and

we're in agreement now of the extent of the wetland resource out there. It is a 15 acre parcel at 157 Congress Street and is a vacant piece of land...no structures on it. The only development are some gravel roads that traverse the site. It appears that the site at some point had been mined for gravel and topsoil stripped in some locations. There are various wetland resource areas on the site. There are two certified vernal pools, the Back River at the back of the property, and there is riverfront area associated with that. The area adjacent to the Back River is designated as a Zone A, which is bordering land subject to flooding on the appropriate flood insurance rate maps. There is no base flood elevation established by those rate maps, there is just a shading that indicates there is an area that is bordering land subject to flooding. Also there is what is called "lands subject to flooding or inundation by ground or surface water." We've also addressed that as well.

Mr. Manual went into detailed description of the areas of the site.

Fairly level, gently sloping and a moderate dip towards the rear until it drops off to the Back River. There is a stream with vegetated wetlands on either side of the intermittent stream. Two hundred feet off of the mean annual high water line is the extent of river front area. The FEMA bordering land subject to flooding, they will be referenced and that area subject to flooding is confined directly adjacent to the Back River. There are areas of ponding that are within vegetated wetlands. But none of these extended outside of the flagged bordering vegetated wetlands.

Any areas subject to flooding from ground or surface water are confined within the limits of the border vegetated wetland. I'd like for you to confirm the limits of the resource areas that I show here on the plan, I'd like you to confirm that there are no estimated habitat or priority habitat as evidenced by the natural heritage maps that I submitted. I'd like you to recognize that there are two certified vernal pools on the site. I'd like you to confirm the extent of river front, based on my mean annual high water. I'd like you to confirm that the local ordinance land subject to flooding or inundation are contained within all the resource areas.

Jillian Davies, BSC Group Consultant for the Conservation Commission on this project: I worked with Bill Manual to review these boundaries and his summary is correct. It accurately reflects our investigations on the site and what is in my reports. There were two vernal pools, three bordering vegetated wetland areas, and with regard to the areas subject to ground or surface water flooding, I think all those areas are contained within the wetland flagging. So there are areas that have staining on the ground and you can see that they do receive flooding, but they are within areas that are marked on the map. Also, a question was brought up about "are there any wetland areas that at the front of the property?" We walked that area carefully, to look for any such areas that would meet the very specific criteria in the wetlands protection act regulations, and the Amesbury Ordinance. We did not see any areas that met that criteria. Typically we look for is you look for areas with a predominance of wetland vegetation. There were a couple of depressional areas that appeared to have about 50% of the wetland vegetation. In those areas, you then take the investigation further and do soils investigations and also look for evidence of staining on the surface or indicators of hydrology, a little intermittent stream channel going through. If you find either soils that meet the criteria for hydric soils or evidence of hydrology on the ground surface, then that area meets the criteria as a regulated wetland area. When we looked at the soils for the areas that seemed to have about 50% wetland vegetation, the soils did not meet the criteria for hydric soils, and we also didn't see the staining on the surface. So those couple of areas did not get included in the flagging. It was also brought to our attention that there was a delineation on the site back in 1998-1999, and I've looked at that sketch map of the

wetlands there, and even though that is an out-of-date wetlands delineation that could not be considered accurate now due to age, it is reassuring to see that that delineation is approximately the same as what we have here. They flagged no areas that we have not flagged. With regard to the endangered species, the applicant has provided the natural heritage maps that do indicate an absence of designated rare and endangered species habitat on the property, other than the certified vernal pools. So you can confirm that they have provided that documentation from natural heritage. What an ANRAD process doesn't do is if somebody says that there's been an observation of endangered species on the property. This is not the process for determining that sort of denovo decision about whether that species is there and how far their habitat extends. That process, for determining where the boundaries of an endangered species habitat might be, goes through the natural heritage and endangered species program, which is a separate program that would need to go through them. It can be confirmed. They provided the natural heritage maps, but those maps show only the certified vernal pools.

Steve Langlois: Just to reiterate what Mr. Lopez said, that the endangered species that could be in the vernal pools would have to be documented or said yes or no in the notice of intent?

Jillian Davies: Correct, and the Notice Of Intent, it would be good to get in touch with natural heritage and find out more about the species in the vernal pools, but right now, those are certified vernal pools. There is no work proposed, there is no impact proposed, so there are no decisions about how that area is going to be treated.

Michael Bik: We won't even have to worry about that until the NOI is in place.

Jillian Davies: Correct. Right now, this is just boundaries. So what we're saying is that I agree with the boundaries of these certified vernal pools as shown on the map. There is not really any discussion about what species lives there or not.

Arline Ferguson, abutter on 19 Back River Road: I'm the spokesperson for many of the abutters. The first question: John, did you give out those letters?

John Lopez: I did, yes. They are in receipt of the river letter as well as the sketch.

Arline Ferguson: Back to 1999, when this issue was on the table the last time: when Mary Rimmer submitted a report on January 8, two days later, Mark Anderson (one of the abutters) wrote a letter to Conservation Commission questioning it, based on some soil samples that were done in 1981. There was never a response to that. The issue is on this front part that we're talking about. His feeling was that these areas did have soil samples that were conducive to the underground or surface flooding. They're saying you didn't see any signs of this time. We're still under the impression that because of the problems dating back to the 1970s, with extreme surface water here at seasonal times of the year, which matches that type of soil that there is soil that is not conducive to building on this area. Soil sample, Mary suggested, they didn't take any at that point, but the majority of that buildable area, the owner was given permission to dump dirt there. So instead of the 900 cubic yards he was dumping, he dumped about 2300 cubic yards before he petitioned the town to have him stop, which basically probably is covered up most of the soil. We now question whether you can even get an accurate soil sample in that area, because so much foreign dirt has been placed there. As far as we know, that property has never passed a perk test in its existence. This is the fifth time that a builder has asked to build on that property. We have reason to question what's been happening, especially on that front part of the property. Re: vernal pools: when I sent in the certification for all the maps that we drew, we were only concerned with the vernal pools on the back, so we didn't even look at this front part, as there were no vernal pools. So the maps that Mary was using that she was basing her stuff on were only connected with where the vernal pools were. At that time, I didn't know that we had to file

for the endangered species, so I will start that process now, because we do have photos, so that will be in the works. Another question: in Mary Rimmer's report, she does suggest that all of these wetland areas are inter-connected by streams. Certainly, when you take the swale, which comes off of Congress, runs all along the side of the property, the culvert isn't even shown that goes under the property here, and there is considerable water in all of these areas. We've had a drought for the past 18 months, and even the U.S. government says it is a severe drought area right now. The walk through, if you weren't seeing soil samples, would be understandable. There shouldn't have been any standing water.

Two questions I had that someone with surveying experience: there are these numbers that says things like 55 x 5 on the bottom of this map, what do those mean?

Steve Langlois: I think that our consultant and/or the owner's representative are to answer these questions.

Arline Ferguson: Is there any significance on the maps?

Bill Manual, Wetlands and Land Management: Those numbers spot elevations, because the topography is so flat out there, those elevations fall between two contour lines, so it is an indication of an elevation.

Arline Ferguson: The main concerns that are lacking on the report / maps that were sent out were 1. the water lines which go all along this part of the property aren't listed. 2. the culvert isn't on there. 3. Kerry Trainor is actually 20 Back River Road. The house is shown there, but its never listed on any of these maps as an abutter. That needs to be corrected.

Jillian Davies: Our assessment here is based on the current existing conditions. We looked at the top, maybe 20 inches depending on how far we could get down, which is the standard procedure. I'd not heard that there was the potential for fill here. If there is fill on a site, you want to know whether it is legal fill or not legal, and the date that the fill was put in, whether it proceeded certain wetland regulations. 1981 was the last soil sample taken?

We didn't find a more recent soil sample. Soil samples from 1981 are very old and wouldn't necessarily reflect current conditions. Wetland delineations are only considered valid for 3 years because things change. Hydrology changes, weather patterns change, surrounding land use changes. So it wouldn't be considered reliable if older than three years. Under ordinary circumstances, we can't go by soil samples that are that old. You can look at them as interesting information, but the wetlands protection act regulations didn't include soils as a factor for delineating wetlands until the 1990s. So if there were samples taken in 1981, we don't know what they were looking at or they wouldn't have necessarily related to the criteria that have been determined as necessary to show something is a wetland. Without actually seeing a data sheet from them, I can't express an opinion either way as to what they mean.

Steve Langlois: This is where we're at. This is an ANRAD. All we're asking these people to do is to locate the wetlands. Just locate them. We're not telling them where to build a house or put a street or anything. We are here to recognize the wetlands. We have to vote on whether we accept the ANRAD or we don't. We've had a professional represent the owner, and we've hired a reputable consultant to represent the city of Amesbury, and that is the only evidence and criteria we can go by when we make a vote.

It's a long process. Mr. Cormier will have to do a NOI, show where the houses are going, he's going to put a foundation in the ground, I'm sure he wants to put it on solid ground, he can't do otherwise. So tonight we decide to accept or reject this ANRAD delineations of Mr. Manual and our consultant, Jillian Davies.

Motion by Kinsey Boehl to accept the wetlands line as modified pursuant to the ANRAD plan dated “Revised Dec. 31, 2013” and we will issue an Order of Resource Area Delineations pursuant to that plan.

Tim Juszowski (sp.) 4 Back River Road: I wanted to note the map not mentioning the culvert and also these unnarrated sheets that will discuss the culvert that is not on the map. The culvert does flow into the wetlands. That’s all.

Steve Langlois: Could one of the consultants come up and tell us why the culvert wasn’t mentioned or not on the map.

Bill Manual: The culvert is not on the map. The culvert is there in the field. It allows water to pass from the C series and anything upgrading in the watershed into the intermittent stream and down into the B series.

Steve Langlois: Does it have anything to do with the functionality of the existing wetland?

Bill Manual: If that culvert were not there, I’m assuming there would be more water back up to the properties on Back River Road, to a certain point, because there is a Woods Road which the culvert goes under. So in an extreme event, any water would back up to the height of the Woods Road and flow over it. The culvert right now plays a role in maintaining a specific water level within that wetland.

Steve Langlois: So without the corrugated metal culvert, the wetland could be larger?

Bill Manual: Yes.

Steve Langlois: Would it be up to the developer to do something about this culvert, or just let it be?

Bill Manual: I’m going out on a limb here, but when you do a development plan, you have to model the watershed, and the watershed modeling would take into account this culvert, because the culvert regulates how much water goes through there in a certain year of storms. At the end of the project design, you have to mimic or improve the conditions that are there today...the amount of surface water, the peak rates, the infiltration rates... you have to mimic that with that culvert being in place. It is all factored in. There may be a better design later on where that culvert is taken out and that the Woods Road is graded so it doesn’t hold back any water.

Back to the motion on the floor: Regarding the plan showing conservation resource boundaries at 157 Congress St. in Amesbury, MA, sheet one of three, two of three, and three of three, and that is Revised Dec. 31, 2013.

Motion was seconded Alan Corey. Vote was unanimous.

NOI # 002-1086 75 Whitehall Road (Cynewski)

Michael Seekamp, Seekamp Environmental Consulting:

With me tonight is Mr. Cynewski, the applicant. As you may recall back in January, we presented this project to tear down an existing dwelling and to build a larger dwelling, and there were a number of items (3) that the Conservation Commission had brought up that were concerns. Storm water runoff from the increased impervious is an issue. So in addition to the dry well which we originally proposed for the roof top runoff, we’re also proposing a French drain around the driveway to infiltrate additional storm water runoff. Then the question of the increase of impervious surface in the buffer zone. That brought up the issue of whether or not there was a buffer zone to land subject to flooding, as well as a buffer zone to wetlands. While it is fairly unusual for a bylaw to contain a buffer zone, it appears Amesbury’s Wetlands Ordinance does have that. What I did was I asked the engineer to include the information in both scenarios, so you have an idea. I colored it in on this plan. I outlined the existing impervious in red. I outlined

the proposed impervious in yellow. So there is a little strip here that is within the buffer zone to the wetlands, which is the blue line. The site now doesn't have any infiltration or any best management practices for infiltrating storm water. So this actually will be improving the drainage characteristics of the site. There were also concerns about what we do to improve the site for wildlife, and to perhaps add some shrubs. So we are adding 10 hybrid blueberry bushes and two river birch, to be planted on the site as it is being developed. Since there is no vegetation anywhere, we feel that where we select to do it will be an advantage and improvement. We've added the details of the French drain, the existing details for the dry wells.

John Lopez: The Conservation Commission is in receipt of a draft attachment to Order of Conditions, forwarded to the commission last week. It is our standard attachment to the Order of Conditions. I've spoken to the applicant and his representative, and the applicant is thrilled at the prospect of having Mr. Seekamp as his environmental monitor. Mr. Seekamp has done that before on similar projects. I have no issues with that, it is fine. I think all the requests made of the applicant have been met, and I have no further comments.

So with no comments or abutters, you would issue an Order of Conditions approving the work. It would be pursuant to that title, the revision date, and this is for DEP # 002-1086. The title of the plan is: Revised Site Plan for Notice of Intent, tax map 38, lot 11, 75 Whitehall Road, revision date January 10, 2014.

Motion by Kinsey Boehl to issue an Order of Conditions pursuant to the revised plans at 38-11, revised 1-10-14 for DEP #002-1086. Motion was seconded by Alan Corey. Vote was unanimous.

Motion to close the hearing was made by Michael Bik. Motion was seconded by Kinsey Boehl. Vote was unanimous.

John Lopez: Mr. Chairman, if you would please open both NOIs for 27-31 Water Street and for Heritage Park at the same time and we'll proceed.

NOI #002-1090 27-31 Water Street realignment and Lower Millyard Project (Gray)

NOI #002-XXXX Heritage Park (Gray)

John Lopez: As of today, DEP has not assigned a file number to the Heritage Park project. The significance of that is that we cannot legally approve the project unless we have a file number. The commission is in receipt of the Mill River Consulting peer review, dated 2-3-14. They have provided a few recommendations that they recommend could be included in the Order of Conditions, such as a draft landscape plan which has not yet been submitted. I recommend that the commission include a draft landscape plan to be submitted to the commission for review and approval. #1: I recommend that this plan be submitted at the pre-construction site visit or sooner. Recommendation #2: the plantings would be native, non-hybridized, location and other relevant characteristics would be provided, and #3: Mitigation: at the first hearing on this, Commissioner Boehl suggested that the applicant consider mitigation in terms of a river clean up. I think that is a good idea. I would incorporate recommendation number 3 into the Order of Conditions. The park portion of this, in my opinion and in Mill River's opinion, is pretty much ready to be approved. The Water Street realignment still has some outstanding issues that the Planning Board would like to address, such as storm water management. If there was a DEP file number assigned to this, I'd recommend ...

Steve Langlois: In the past, DEP has advised us to not let that hold us up from proceeding.

John Lopez: Correct, but that is only for their review and recommendations. The commission legally cannot approve something without a file number. So then the question is, how do we proceed? There is a short timeframe on this. The project has to be completed by June. On one hand, the commission can continue this to March 3, 2014. If the commission wants to entertain a special meeting sometime between now and then, for the purpose of entertaining the Order of Conditions for the park, then you could do that. If there is no DEP file number issued by then, then we'd cancel the meeting. You could do it at 9 A.M. some morning, because we only need tree commissioners. It would be very brief, just approving an Order of Conditions. But you have to continue to a date certain. It was recommended for Tuesday, February 11, 2014 at 9 A.M. I'd also ask that you direct me to draft a draft Order of Conditions to have at that meeting. At the same time, continue the hearing for the Water street realignment to the March 3 meeting, as requested by the applicant.

Motion to continue 27-31 Water Street realignment to March 3 was made by Michael Bik. Motion was seconded by Kinsey Boehl. Vote was unanimous.

Motion to continue this Heritage Park meeting to Tuesday, February 11, 2014 at 9 A.M. and have John Lopez draft up a draft was made by Michael Bik. Motion was seconded by Kinsey Boehl. Vote was unanimous.

Motion to close the meeting was made by Michael Bik. Motion was seconded by Kinsey Boehl. Vote was unanimous.

Meeting was adjourned at 7:50 P.M.