

**.Amesbury Conservation Commission**  
**January 7, 2013**  
**Amesbury City Hall**

In attendance: Michael Bik, Jack Tremblay and Madeleine Howard, Acting Chairman, Conservation Commissioners, Conservation Agent John Lopez, and Secretary, Susan Yeames

The Acting Chairman called the meeting to order at 6:35.

**MINUTES**

November 19, 2012. Commissioner Bik makes a motion to accept the minutes from the 11/19/2012 meeting. Commissioner Tremblay seconds the motion. All in favor.

December 17, 2012. The acceptance of the December minutes is put off until the next meeting.

**ADMINISTRATIVE**

**Lake Attitash Association Briefing**

Peter Doran speaks representing the Association stating that the NOI requires that the Association give an update of their progress. A report has been submitted by ACT. The initial inspection was April 12, 2012 with the first application of herbicide on April 15, 2012 with the booster applied on May 12, 2012. The treatment is a success with the eradication of the Milfoil. There is no guarantee that it will not reappear this year or the next. It may need harvesting or blanketing. They will put together a plan for further treatments for the City Engineer and the Conservation Commission. The auxiliary plans could include divers harvesting any new growth or the use of light block blanketing. They would like to have any auxiliary plans approved by April. Lakeside residents will be notified of any new plans. They are very pleased with the results and there is no reason for a second booster. Notification will be sent to the Conservation Agent and the City Engineer of any plans going forward.

**Coastal Trails Coalition Liaison** – Commissioner Howard volunteers to be the Coastal Trails Coalition Liaison, but due to a lack of a quorum, a vote will need to wait until a future meeting.

**#002-0988 Request for a Certificate of Completion – Spring Hill/Timber Lane (Wojcicki)**

The applicant has asked for a continuance. The Agent held a site visit and confirms that the storm water management system is working properly but because of the bad weather it cannot be determined if it is working correctly. All issues will be addressed at the February meeting.

Commissioner Bik makes a motion to continue the hearing until the February 4<sup>th</sup> meeting. Commissioner Tremblay seconds the motion. All in favor.

### **#002-0764 Request for a Certificate of Compliance – Woodsom Farm (Kezer)**

The Conservation Agent states that a letter has been received from the DEP requesting a Certificate of Completion for playing fields to be constructed at Woodsum Farm. This request is pursuant to a DEP Superseding Order of Conditions. The work was never completed and the Commission will respond that the work was never started.

### **#002-0209 Request for a Certificate of Compliance – 19 Macy Street**

An Order of Conditions was issued in 1985 but the work was never done. The Agent suggests that the Commission issue a Certificate of Completion for DEQE/DEP #002-0209 and close the hearing.

Commissioner Tremblay moves to issue a Certificate of Completion for #002-0207 19 Macy Street. Commissioner Bik seconds the motion. All in favor.

Commissioner Tremblay moves to close the hearing. Commissioner Bik seconds the motion. All in favor.

### **#002-0196 Request for a Certificate of Compliance – 19 Macy Street**

The project consists of the construction of a single story building of 5760 sq. ft. for an auto parts store. The work has been done in compliance with the Order of Conditions with no outstanding issues.

Commissioner Bik moves to issue a Certificate of Completion for #002-0196 19 Macy Street. Commissioner Tremblay seconds the motion. All in favor.

### **NOI 22 Merrimac Street – Mammola**

The project is to demolish an existing garage structure and replace it within the same footprint but 1 sq. ft. smaller. The project is located within the 100' riparian zone. The erosion control as planned is fine. There is no problem with the nearness to the water. Work will be done by hand with minimal disruption. DEP and National Heritage feel that it poses no impact to the environment. The agent makes the following points in his memo.

- Minimal excavation planned
- Debris would be contained in a dumpster near the street and away from the river and removed weekly
- Erosion control is adequate

Commissioner Tremblay would like to have the plan resubmitted showing the flood plain. Commissioner Bik moves to issue an Order of Conditions that will include the points outlined in the Commission Agents memo. Commissioner Tremblay seconds the motion. All in favor. Commissioner Tremblay moves to close the hearing. Commissioner Bik seconds the motion. All in favor.

## **RDA – 60 Pleasant Valley Road – Corey**

Mr. Noel Otchman represents the owner. The project is a minor modification to an existing structure to install flood vents in the foundation of the house and replace an existing deck. There is an existing Order of Conditions for the installation of a septic system and the Agent suggests that the hearing be continued until the February 4<sup>th</sup> meeting so that the applicant can apply for a Certificate of Compliance for the outstanding Order of Conditions. There is an issue concerning the height off of the ground of the proposed deck and whether there can be access to the system as it is located under the proposed deck. Mr. Otchman states that the lower part of the deck can be unbolted for access if necessary. Mr. Corey, property owner, is okay with the dismantling of the deck if necessary. It should not be necessary as the proposed height will be 3 to 4' off the ground. The Commission would like to see a detailed plan showing the height of the deck along with a dismantling plan if that process should become necessary. The entire property is within the jurisdiction although the house is upland. The work will be 2.5' above flood level.

Commissioner Tremblay moves to continue the RDA to the February 4<sup>th</sup> meeting and requests an existing conditions plan of the entire site and with measurements from the ground to the deck. He also asks for letters concerning the leach field. Commissioner Bik seconds the motion. All in favor.

## **Enforcement Order/Cease and Desist DEP #002-1005 – 100-108 Whitehall Road**

A Cease and Desist Order is in force due to noncompliance with the Order of Conditions. A detention basin has not been constructed resulting in significant erosion into Lake Gardner after the rainstorm of 12/27/2012. A site visit was conducted by the Conservation Agent and the Town Engineer. There does not seem to be an environmental monitor working with the applicant to review the work and report to the Conservation Commission. It was understood that Cammett Engineering was to be the monitor but there isn't a contract in effect. A Cease and Desist Order was issued and an environmental monitor has been retained. Funding for the payment of an environmental monitor is asked for from the property owner. Dan Feeney from Beals and Thomas submitted a report dated 1/4/2013 after viewing the site. The site showed significant erosion after the storm of 12/27/2012 impacting approximately 109,000 sq. ft. of Lake Gardner because of dereliction to follow the approved Order of Conditions.

The bottom line is that the situation is now being monitored, is being stabilized and is under control. The Agent suggests options such as fines or remediation as mitigation for the erosion damage. There isn't any way to clean up the sediment that flowed into Lake Gardner but it wouldn't have happened if an Environmental Monitor had been retained as approved in the Order of Conditions.

Matt Gagnon, Owner, states that he asked Mr. Ford of Cammett Engineering if it was okay to fill out the forms required by the Commission and he was given the forms to do that. They were filled out. The owner was trying to save some money.

Beals and Thomas will be monitoring the property during construction and after starting tomorrow.

The Enforcement Order and the Cease and Desist will remain in effect and the hearing will be continued to February 4 when Beals and Thomas will report on the status of the property. They will provide a directive as to the continuation of work.

The Conservation Commission does not endorse self-monitoring.

### **DEP #002-1041 Main & Macy CVS Project - Request for a partial Certificate of Completion**

Michael Seekamp represents the owners. He is asking the Commission to issue a partial Certificate of Compliance so that they can get an Occupancy Permit rather than having to wait the two growing seasons. The construction project has been monitored regularly by BSC. Jillian Davies from BSC Group states that the planting plan is good as well as the location of the replacement plants. There was a little sediment that went into the BVW but there is a plan to remediate the sediment. All identified issues have been addressed. BSC will continue to monitor for the required two growing seasons until the final Certificate of Compliance. A signed contract from Mr. Seekamp and the applicants will be necessary. This has been a good working relationship all around and the Agent feels comfortable suggesting the Commission issue a partial Certificate of Compliance.

Nipun Jain, Amesbury Town Planner, has drafted a partial Certificate of Compliance that would allow for an Occupancy Permit not pursuant to outstanding issues still to be met. The partial Certificate will include a time frame for outstanding issues. The Town Planner states that the applicants have met 90% of the Order of Conditions and the project is complete in terms of erosion and environmental controls. There can be a sign off on the storm water system. He recommends the issuance of a partial Certificate of Compliance with the requirement that all permits be signed off for a final Certificate of Compliance. All work done to date is in compliance.

Commissioner Tremblay moves to issue a partial Certificate of Compliance with the addition of the addendum provided by the Town Planner. Commissioner Bik seconds the motion. All in favor.

### **DEP #002-1005 Enforcement Order – Cease and Desist – 206 Lions Mouth Road**

There is a Cease and Desist Order in place relevant to wetlands work. The applicant originally had BSC as their environmental monitor. The applicant came before the Commission and asked for a change to another monitor. An Elizabeth Street abutter has come forward claiming that the property is leeching sediment into his pond. This situation needs to be rectified. The Agent suggests that the Commission identify their own monitor and take control of the situation. Funds will also have to be set aside by the applicant to pay for the Commissions monitor and provide for a plan going forward.

The applicant says that during the rain storm of 12/27/2012 they tried to prevent the erosion but it got out of control. The property is in control at this time according to Ms. Vasquez, Mr.

Coulliard's environmental monitor. The original BSC contract expired in the fall of 2011 and Mr. Coulliard at that time hired his own environmental monitor. She has been making biweekly site visits and has been submitting reports listing her visits.

After the December storm sediment got into the wetland area and they took action pumping the water and the sediment out. They initiated erosion control processes and currently the site is stable and the pond has been pumped for more room for overflow. They feel that the next step would be to remove the fine sediment and put down sand and gravel.

Mr. Coulliard states that all foundations, driveways and streets are complete but until the lawns are stabilized it is difficult to keep the silt out of the pond.

Mr. Chip Lynch an abutter from Elizabeth Street shows pictures from 2011 showing sediment in the pond on his property and also in the great swamp. He contends that the rain events were not unexpected and there should have been better control processes in place. There have been four times in the last year where silt has made its way into his pond and he is very frustrated. Other than the Mother's Day flood there were no other issues with his pond until Mr. Coulliard's development started. He doesn't want to have to use litigation to relieve the issues.

Mr. Coulliard states that once the landscaping is in place this problem will stop. They have pumped the pond installed silt socks and hay bales to keep in the constructed wetlands. The sediment needs to be scraped out of the pond then reconstructed and revegetated.

The Agent feels that a third party should be called in for another explanation. The Conservation Commission should assign their own environmental monitor to work with Mr. Coulliard's consultant and the Enforcement Order should be amended to have the applicant hire a third party environmental monitor to confirm the status of the property. The third party consultant would be responsible for confirming the status of the property, will need to draft a cost estimate and contract, review the new plan, consult a wildlife expert, review the new plan, review other compliance issues and conduct an assessment on whether the silt and water are flowing onto the property on Elizabeth Street.

Gillian Davies of BSC has worked with the applicant before and states that the applicant has issues with BSC and previous work went unpaid and had to be paid by the Town.

Mr. Lynch does not care who the environmental monitor is as long as they are not advocates for the developer and will be impartial.

The Conservation Agent suggests that a third party environmental monitor be hired immediately. They will draft a contract and the estimated cost will be approximately \$5,000 to \$10,000. The applicant asks that he has the opportunity to review the contract before it is signed. The Conservation Commission has requested that BSC be the third party environmental consultant.

Commissioner Tremblay moves to continue the hearing to the February 4<sup>th</sup> meeting and amend the Enforcement Order to hire BSC as the Commission's environmental monitor immediately and have them draft a contract to include the issues outlined above. The applicant will need to

submit \$1,000 by Friday. The Conservation Commission will receive a progress report at the February meeting and the abutter will be notified what the contract outlines. Commissioner Bik seconds the motion. All in favor.

Commissioner Bik makes a motion to adjourn at 9:00

Commissioner Tremblay seconds the motion. All in favor.