

**CONSERVATION COMMISSION MEETING
AMESBURY CITY HALL AUDITORIUM
62 FRIEND STREET
July 7, 2014**

MEETING CALLED TO ORDER AT 6:35 PM.

Present: Steve Langlois, Alan Corey, Kinsey Boehl, Suzanne Egan.

Absent: Michael Bik.

Also present: John Lopez, Agent; Paul Bibaud, Recording Secretary.

MINUTES: 6-2-14 Motion by Kinsey Boehl to accept as presented. Motion was seconded by Alan Corey. Vote was unanimous.

ADMINISTRATIVE:

50 Merrimac Street (Boudrow) Conceptual Phase Review

John Lopez: This is in reference to a pending Notice of Intent. The applicant is here to provide a very brief overview and to request a conceptual phase review. We're introducing the project tonight

Robert Rodier, architect working with Laurie and Rick Boudrow: John Lopez suggested we do a quick introduction to the project before moving on to peer review hiring of a consultant to work with us. The elevation at 50 Merrimack Street is about 42 and drops down to an existing plateau 12 feet lower. Then it drops again 30 feet to the river. We're dealing with a 42 foot drop from the street to the river. There is an existing house there. Our intent is to use the footprint of the existing cottage. Structurally, we'll probably take it down to the foundation, for structural reasons. We'll use the footprint and then put on new footprint. The closest point to the river in this new design for added footprint is 75 feet, so we are within the 100 foot setback from the river. All of this takes place on the secondary plateau which exists there. We are proposing to maybe level off that plateau a bit, by maybe a foot or two, take some of the fill from the foundation and try to level off that plateau out. From the edge of the plateau all the way to the river, we're proposing no change except for a planting that would be agreeable by Conservation Commission. We're going to be starting to work with a landscape architect. We're working with Millennium Engineering as the basic engineer on the site. It will be a two story house in the front towards the street, and then it drops down one full story to that plateau, so it ends up being a three story house with an attic. That's the story. We're developing floor plans right now, with elevations. We'd like to proceed with all due diligence. I can answer any specific questions now.

Alan Corey: Is the house in the flood plain?

Robert Rodier: It is not. The flood plain from even where we are proposing where we are putting the new footprint drops down about 20 feet from that point to the point where the flood plain exists. So the plain, horizontal distance, is about 30 feet from the last point of the house, but in an elevation point of view, it is like 20 feet further down the bank. It is an extremely steep site.

Kinsey Boehl: Where is the 200 foot buffer zone?

Robert Rodier: That is across the street. The hundred foot buffer zone actually cuts through the existing cottage. We're really between a rock and a hard place.

John Lopez: I met with the representative and the property owners about 2 weeks ago, to discuss some of the relevant issues that they should be cognizant of. At the time, I also pointed out that Conservation Commission has had success when applicants have volunteered requesting a conceptual phase pre-NOI review to identify any issues which may be non-compliant with regs and performance standards and to identify any outstanding issues.

The intent is that if a NOI is submitted, that information can be incorporated into the NOI on said plan and proposed project, but does not negate the possibility of the commission during the NOI process. They were quite receptive to that, so they are here tonight to see if Conservation Commission would be interested in doing the conceptual phase. We suggested Mill River as the consultant, and the property owner has no issues with that. I have not contacted Mill River yet to solicit a proposal.

Robert Rodier: I have not contacted Mill River yet either. I was waiting for this meeting to take place. I can contact them this week.

John Lopez: Procedurally, if the Conservation Commission does this as you have done in the past it would be like any other peer review. The applicant would submit the necessary funds to cover the conceptual phase review. The applicant is under no obligation to ever submit an NOI. There is no need to continue the hearing because it is not a hearing. But I think it would be worthwhile and much would be gained from it. A conceptual phase would be just administrative and it would be pursuant to the wetlands protection act, the Amesbury Wetlands Ordinance, and Mass. Storm Water Standards. Again, it is not something as detailed as a NOI plan, but it'll provide valuable information

Steve Langlois: How far back is the furthest point of the new construction from the existing cottage footprint?

Robert Rodier: The existing cottage footprint from the front of the house is 42 feet. The new footprint will be about 18 feet.

Motion by Kinsey Boehl to support and to select Mill River as consultants for the conceptual phase. Motion was seconded by Alan Corey. Vote was unanimous.

BRIEFING: Battis Farm Management – Rob Desmarais, DPW Director

John Lopez: This comes at the request of a commissioner concerning the management of Battis Farm.

Robert Desmarais, director of DPW: John asked me to give you a brief overview of what we do at Battis Farm. Battis Farm was acquired by the town, given to the Conservation Commission around 1987. The town has used that as land application for water treatment sludge since that time. It started as a pilot program with the state. We now have a regular permit. We take the treatment residuals from the water treatment plant and spread them over the fields and use it as fertilizer for the hay and various crops that the farmer grows there. That is the extent of it. I don't know what the specific concerns might be.

John Lopez: I think some of the specific concerns were the sludge material, its origins, etc. The other issue would be the mowing and if it impacts or conflicts with ground nesting, unfledged birds.

Rob Desmarais: I don't know anything about the birds, at this point. To my knowledge, no study has been done on this particular property. The property has been managed the same for the last several years. We changed farmers about 3-4 years ago. Before that, it was maintained by the same farmer for over 20 years. We've been doing haying and farming there for 25 years, so there is not a lot different going on now than there was before.

Steve Langlois: When you bring that sludge, is that periodically at different times throughout the year, or is it at one certain time during the year that you bring it?

Rob Desmarais: That is what changed since the water treatment plant upgrade. The sludge is now classified as a Type 1 sludge, which is the most benign type of sludge. There is no danger with human contact or anything, and since our process changed, we no longer use lagoons to settle the sludge out at the water treatment plant, clean them out once or twice a year, and haul it all at once. Now we dump once a week a pile of sludge on the fields.

Kinsey Boehl: Is that tested for heavy metals and that type of stuff?

Rob Desmarais: Yes.

Steve Langlois: I haven't been up at the farm for a while, but when you dump it, isn't it towards the field that is closest to the gardens?

Rob Desmarais: No. We have a sort of central area where we store all the sludge. Then as the farmer needs it, he spreads it over the fields as he turns the crop. So a couple times a year, he spreads it.

Steve Langlois: OK, so John, did you request Rob to come before us?

John Lopez: No, it was Commissioner Egan expressed an interest in having Mr. Desmarais appear before us specifically to address some issues relating to mowing, time of mowing, and why Battis Farm was mowed last week, and what the contractual obligations are...things of that nature. Commissioner Egan is not yet here tonight.

Kinsey Boehl: So there is a management plan for the upkeep of the property?

Rob Desmarais: We have a management plan for the compliance with our permit, for land application of sludge, yes.

Steve Langlois: Woodsom Farm has a plan, supposedly, as well as Battis Farm. Are they both on the same plan?

John Lopez: They are on different plans, and the plans are being followed. I assume the Conservation Commission approved the plan

Rob Desmarais: They have at several points in time, over the last 25 years. I don't know when it was last approved. We changed the application 4-5 years ago, and that was probably the last time I was before you for that.

Kinsey Boehl: Is there a term on the contract of the plan?

Rob Desmarais: The latest permit we got was in 2012. That permit has no deadline. Because this is a Type 1 sludge, and they re-classified it, so there is no renewal of the permit.

Steve Langlois: I think for any of us to address any issues that come up with Battis Farm, we probably should see what the plan is. Ex: when do you cut, etc.

John Lopez: I can get a copy of the plan to you.

Rob Desmarais: There is no farm management plan. I can give you copies of the permit right now, if you'd like, or give them to John.

Steve Langlois: The sludge issue seems, I mean, its type one. But the birds have been a bit of a problem over the years, because of mismanagement of cutting hay. We want to make sure we're on top of that. So I don't know if that exists.

Rob Desmarais: To my knowledge, there is no management plan for the time we cut the hay.

John Lopez: I'm also unaware of how intense the ground nesting bird activity is at Battis Farm this time of year. I know Woodsom is a primary nesting habitat. It is actually fairly protected during the nesting season. I'm not sure about Battis Farm.

Kinsey Boehl: I don't know what Commissioner Egan's issues were, but in her absence, shouldn't we table it until some other time?

Steve Langlois: Maybe we should have another meeting and see what this plan is and compare it?

John Lopez: I'll forward information to the Conservation Commission for you to read over.

Steve Langlois: The Woodsom Farm plan is based around bobolink fledglings, etc. I'm sure it's the same birds that are over on Battis Farm. So maybe you can just kind of fit them together. Other than that, we'll have John fill us in on what the plan actually is.

John Lopez: Ok.

Thank you, Rob.

Bruce Georgian, 19 Unicorn Circle, re: Battis Farm: I want to voice my concerns over the dumping of sludge. We should watch out for creeping use of Battis. The sludge used to be just dumped in little piles here and there, once in a while, and spread out periodically. Since the water treatment upgrade, I understand there is a lot more sludge. Now it is more of a commercial industrial type thing. There's been a little bit of road improvement, some clearing, there is a centralized storage area. It's not real bad, but I'm concerned about creep. Just be aware that it doesn't turn into much more and a general usage place for various town things. It's really all about the sludge. Just watch where it goes. Secondly, with regard to the birds, it seems like it is becoming different. It used to be different crops, like corn one year, etc. Different farmers did different things. I don't know if it is hay now or what, but there are some birds there. There are bobolinks. It would be ideal to not mow it before July 20, August 1.

Steve Langlois: We'll look at the management plan.

Superseding ORAD – 157 Congress Street (DEP)

John Lopez: This is just to brief the commission and inform them that an appeal that the Conservation Commission approved a wetlands delineation for 157 Congress Street on Feb. 12, 2014. An abutter issued an appeal. DEP elected to entertain the appeal. A site visit was conducted on Mar 7, 2014. Present was myself, commissions consultant, conservation commissioner, commissioner Corey, the applicant's representative, applicant's counsel, and the representative from DEP. Subsequent to that site visit, DEP issued a ruling upholding the Conservation Commission's determination that the wetlands line is appropriate. No further action on the commission is necessary. This is just intended to brief Conservation Commission.

Commissioner Egan arrives at the meeting.

Pre-Screening Conference – 68 Lake Attitash Road (Office of Appeals/Dispute Resolution)

John Lopez: This is in reference to an appeal on a superseding negative determination of applicability. In October, Conservation Commission issued a negative determination pursuant to a request to install a fence at 68 Lake Attitash. That determination was appealed and DEP issued a ruling upholding that determination, hence the superseding negative determination of applicability. That determination is being appealed by an abutter. A pre-screening conference hearing was scheduled for July 2. I understand that did not take place due to a scheduling conflict with the involved parties. I haven't received any official word from DEP as to when it will be rescheduled. The Conservation Commission was forwarded an invitation to this. Commissioners are invited to participate as the commission is a party to proceedings. When I hear of the announced date for the rescheduling, I will forward you all the data, and you are always free to attend.

ENFORCEMENT ORDER – 12 Spindletree Road (Bonia)

John Lopez: You have received a copy of the Enforcement Order. This is in reference to a complaint that I followed up on for fill. The applicant was instructed to stabilize the area. It was suggested that that he contact and retain the services of an environmental consultant, and he has. The site is stabilized. What we're looking for tonight is to ratify the Enforcement Order, which I drafted. There is a new copy of that enforcement order has been presented to you. There have been some changes to it. So I ask you to read it.

Michael Seekamp, Seekamp Environmental Consulting, here tonight to represent the applicant who is also here, Mr. Bonia: As soon as Mr. Bonia got word that his backyard activities were subject to regulation by the commission, he immediately put in erosion control in the form of straw bales and silt fence. He assures me that the limit of fill was at the limit of his lawn prior to his doing the work. It's a sloped property, so he was trying to create a better backyard for his children. Unfortunately, some of the material that he put in the backyard eroded and went down into the bordering vegetated wetland behind the property. I put out a series of wetland flags to denote the limit of what I could determine was the edge of wetlands. It appears that the fill is raked fairly close to the edge of the wetlands. I did find that in one area it looked like maybe it was a little bit over (the fill material, not the eroded material) may be in wetland. It just came to my attention that when the house was built, there was some wetland filling permitted on that site, so that may explain why we are right at the edge of the wetland. It may be that the backyard actually had previously been filled. What we are proposing to do to restore and correct the situation is to by hand remove the silt from the wetland, and immediately put loam, seed and a mesh covering the entire sloped area, to prevent any further erosion. Then on the flat area, we would loam, seed and mulch it to prevent erosion. Also, a problem was a diversion of a downspout off to the side of the property. We propose to direct the downspouts into drywells on the property.

John Lopez: It's my understanding that there was a covenant on this whole subdivision. The property owner was not to remove any trees beyond where. We have pictometry photographs here, dating back to 2006, so the Conservation Commission can see the extent of fill. The subdivision was also subject to a 401 Army Corps. certification. So, were any trees removed to facilitate the fill?

Mr. Bonia, owner / applicant: When we bought the house, about 2 years after owning the house we had the severe ice storm. There were several trees that had fallen directly in the front of the house, one hitting the deck. We had to cut that tree down for the safety of the children. Over the years, we've lost some stuff. When I bought the property, the backyard grass went right up to the edge of where I have that fill now. But it is an extreme slope with several stumps. My intent was to only take the existing lawn and not extend it further. But there was further tree cover there, some had broken down in the past. Two trees that fell on the deck had to be cut down. To address the erosion section, what happened was, because of the extreme slope from the street down my driveway to my garage, there was an existing storm drain on the very steep slope that was installed when the house was built. It looks like a normal street storm drain. The water goes into that. Unfortunately, at the top of the driveway, they neglected to put any type of berm to keep any street water from coming in. So the street water rips down that steep slope, and it took all the existing landscaping that was to the left side as you face the house. It would fill up the storm drain with sediment, dirt, mulch, and whatever else I had there. So occasionally, I'd have to go through, get inside the thing and clean it out. The piping that drains out of that drains through a 45 into a swale between myself and my neighbors house. The pipe they used, not very

high quality, had compressed and completely clogged it. It is fed by one downspout on the left side of the garage and another downspout that goes into the driveway. When it clogged several times, it floods out my garage, causing significant damage. For the time being, until we could rectify it, I had a sump pump in there to get the water out, going to the exact same location where it drained already. This drain water started to drain water drained down the side of the house and created some of the cracks you saw. On the right side of the house, they used the same black pipe that crushed, and all the gutters on that side of the house go into the ground. The existing thing that they set up that they did on the house, did essentially the same as it did on the side of the house. So left and right sides of the house, the water is coming off my house, off the street, running down my yard, and causing drainage problems. Mr. Seekamp is proposing that we put the drains into the ground, go to a drywell system, so it is able to flow out naturally. So we continue to do everything Mr. Lopez has suggested we do. I have a crew on standby to hand pull all that silt out of the wetland. I have an excavation company ready to dig the drywells. This is an unexpected cost, so we're doing quite a bit to raise the funds. That's it in a nutshell.

Kinsey Boehl: How much of the fill is inside the jurisdictional area from the bordering vegetated wetlands?

Mike Seekamp: In the wetland itself and in the buffer zone? In square footage, I would say probably 1200 square feet in the buffer zone.

Steve Langlois: Where the land takes a dip down into the woods, what is going to be done to support that wedge of fill?

Mike Seekamp: We'll use a biodegradable mesh, but it will last for at least two growing seasons. It has big enough spaces so the slope stabilization mix can come up through it and when rain hits it, it gets dispersed before it hits the soil, so you don't get those little explosions that knock the particles loose. On the flat part up on top, we'll just mulch that with the loam and seed. That'll do the same thing. The mesh gets pinned into the slope and can't move, and eventually degrades and becomes part of the soil. No plastic will be in it at all.

John Lopez: Is it similar to what was used at CVS? (Mike Seekamp=yes).

Steve Langlois: OK, this is an enforcement order and Mr. Seekamp as a professional, since this is an administrative item, how do we put into the language that we want Mr. Seekamp to give it the ok after it's done?

John Lopez: First of all, we would give the ok after its done. But before you is a revised enforcement order which takes that into account.

Suzanne Egan: Do we have anything that has been submitted to us that gives us some sort of verification that what you proposed will actually cure the problem? Also, are you planning to do any planting in the area?

Mike Seekamp: In the area where the silt is, in my experience, the skunk cabbage is coming up right through this silt. So we will remove the silt as carefully as possible. I'll supervise that activity. The areas that are then left bare, we will spread a broad spectrum wet meadow mix. But we don't plan to do any mitigation plantings. No trees or shrubs are being affected by the silt, just some herbaceous material.

Suzanne Egan: So the drainage is going to resolve all the runoff issues?

Mike Seekamp: It should, yes. The drywells will have a level spreader on the outlets, so that in case of them filling up, they will be dissipated rather than form any gullies, so it will eliminate the gullies.

Steve Langlois: The big part of this problem was not this gentleman's fault. It was done years ago by whoever put in the fill. For him to stabilize it, that's a good thing. So I'm good with this.

John Lopez: So what you have before you is a modified enforcement order, in this case an administrative approach to solving a problem. What you have is an appendix that simply states the facts of my site visit and I will sign the final copy. It was reviewed by DEP just to make sure I was doing things right. DEP suggested and they have been incorporated into this in that the extent of the wetland has to be determined, to verify if any of the fill has covered a wetland on that slope. So you have to determine that. The other outstanding issue is the fill. When I visited Mr. Bonia, he assured me that the fill was clean, but I'd like some certification that it is clean. Also, we need something in writing, a narrative plan from you, as well as a site plan. Enforcement Orders require a narrative plan and site plan. The original enforcement order dated was stipulated July 1. That has come and gone. This says July 1, also come and gone. But maybe if you can provide us with a date where you'll have this?

Mike Seekamp: We can do that.

John Lopez: So I would ask the Conservation Commission to vote to ratify this enforcement order and Mr. Seekamp and I will work on it from there.

Motion was made by Suzanne Egan that the Conservation Commission ratifies the enforcement order. Motion was seconded by Alan Corey. Vote was unanimous.

Request to Address Commission – 47 Haverhill Road (Terry)

John Lopez: This is in reference to a two requests for Certificate of Compliance for 47 Haverhill Road and the abutting parcel. This is in support of an order of conditions which was issued in the 1980s. Upon the as-built plan being submitted, it was determined that a substantial structure was relocated, not in a site that was authorized. The question is what to do. A meeting was held last week with me, Commissioner Egan, Mr. Ford representing the applicant or the property owner (Miss Terry), DPW director Rob Desmarais, as well as the property owner's counsel to figure out the best way to handle this. Mr. Ford is here tonight. The commission is in receipt of a memo dated July 7, 2014 to me, subject: 47 Haverhill Road, concerning infrastructure improvements totaling \$16K in lieu of a fine for an unauthorized deviation to the approved Order of Conditions. It is itemized to include two catch basins, vegetated swale, drain pipe, and 4 tree plantings. This is presented for discussion, but we were trying to come up with an amicable solution to this problem in order to solve it in a timely fashion. The property owner would like to sell it, but can't do so without their certificates of compliance. An enforcement order with a fine would slow things down. The stipulation here is that these infrastructure improvements would be made relevant to the hydrological unit or the watershed of the great swamp, where the violation has occurred. With that, I'll turn it over to the applicant's representative.

Fred Ford, Cammett Engineering: Also with me tonight is Priscilla Terry, property owner. Our dilemma is this: the building got built prior to Mrs. Terry buying the property. It was built back in 1985. The building position was changed fairly significantly for whatever reason. They a Purchase and Sale agreement on the property ready to sell it. During the title search, there were two outstanding orders of conditions that came up and they wish to get those cleared and move on. We're in agreement with Mr. Desmarais' estimate for storm water improvements. At this time, barring discussion from the Conservation Commission, we request to get these certificates of compliance released on the property.

Steve Langlois: Seems like there is quite a bit of work that has to be done. It's not a short number and this is going to make this property up to snuff?

John Lopez: No, it wouldn't. In this agreement, we're saying that violations occurred, you can't deconstruct the building or warehouse and move it. So this would be for mitigation purposes.

Suzanne Egan: So they estimated the cost it would take to do all that work on the property, and are saying this is the cost it would be if you did the work necessary, therefore, you'll pay it as mitigation for the City of Amesbury. Do we have the narrative in the certificate, the request? Was it sent to us in an e-mail?

John Lopez: I didn't receive a request for certificate of compliance, other than the original ones, which were submitted.

Fred Ford: You told me to hand deliver them to Joni on last Wednesday, which we did.

John Lopez: OK, she's on vacation, so let's assume they are up there.

Suzanne Egan: Can you tell us what they say? It is my understanding that you were going to submit an amended request for certificate of compliance with an attachment to it that has the narrative. (Mr. Ford = yes).

John Lopez: So we're primarily concerned with 47. The second request for certificate of compliance is approvable, as Mr. Ford said, since no work was ever done, so they just checked off the fact that the work was never done.

Suzanne Egan: And you received the estimate from the DPW director? (Fred Ford: yes). That amount was \$16K. So I think in order for us to agree to do this, we had talked about having that certificate of compliance amended to include that figure, and that this certificate of compliance payment of \$16K into an account for that purpose would be withheld would be conditioned for that.

John Lopez: We would need a memo from counsel documenting all of this.

Suzanne Egan: Right. Since we don't have that, I mean, we could do it as part of the record, and then come back and either submit it after the fact or delegate the authority to John Lopez to make sure that it is in compliance.

Fred Ford: To clarify, the money is going into a separate fund for the DPW to use for storm water improvements where they feel necessary.

Suzanne Egan: So they had an order of conditions however many years ago, the building was built someplace other than what is shown on the order of conditions, so when they came back for the certificate of compliance, there was the option of saying that we can't give you a certificate of compliance because you haven't complied with the original Order of Conditions, therefore the Conservation Commission could say that you have to issue or submit a new Order of Intent to show what you are going to do or did do, and how that impacts the land within the Conservation Commission's jurisdiction. But the other way we looked at doing this is to have the same sort of affect, as to say that this is the cost to the applicant of putting in all of those storm water drainage systems and wetlands structures that would take care of all the jurisdictional issues, and say that we can use that within the city to do work that will protect the wetlands, but nothing on this particular site will be mitigated. So storm water drainage culverts, all related to the hydrological unit and the great swamp. So the only thing that we were doing was looking to do it so we can issue a certificate of compliance, but it could be conditioned upon the payment of that money which goes to DPW director to do that work. So that is the mitigation, as opposed to filing a new Notice of Condition.

It's the same as a fine, so if you do something in violation of the wetlands ordinance bylaw, the Conservation Commission can subject the applicant to a fine of \$300 a day for each day there is a violation. And that obviously, going back to 1985, is a lot of money.

Steve Langlois: So now the property gets sold, and a new owner comes in. What happens to them?

Suzanne Egan: What they are doing now is requesting a certificate of compliance from Conservation Commission and we'll issue that certificate of compliance, that gets recorded as an amended one showing the as-built plan as existing. We're looking at the \$16K essentially as a penalty. In order for this property to be sold as it is pending currently, this money is a way to get the building up to current standards in order to sell, but no work will be done.

Fred Ford: At the time the building was built, it was compliant with all the wetlands protection act. All the work was in the buffer zone, there was no wetland being filled. There was a couple catch basins being proposed to pick up the runoff from the parking lot and driveway. Ione catch basin was put in. It catches probably 95% of the driveway and parking lot. So to meet current regulations, it would be next to impossible. This is 30 years later. Things have changed. So the owner is ...

Steve Langlois: I can understand the owner's side of this with the \$16K. What I don't understand is the next property owner. The land is built out. There is no room for anything more.

Alan Corey: So before we can issue a certificate of compliance, this \$16K has to be put in an account for DPW, specifically designated for that work.

John Lopez: So what is the mechanism for doing that?

Fred Ford: I believe Rob said he would check with the new town accountant (CFO), that they would set up a specific account, and once done, we can take care of it.

John Lopez: So what do we need in writing, if anything?

Suzanne Egan: We can do it one of two ways: Conservation Commission would need something from the applicant, stating that as a part of the mitigation that the \$16K check would be issued and it would be condition of the issuance of the certificate of compliance. It would be designated for this project only.

Fred Ford: You can vote on the certificate of compliance tonight, subject to receiving that document.

Suzanne Egan: We can vote on the conditional certificate of compliance.

John Lopez: Pending the receipt of the \$16K as stipulated on July 7, 2014. That would be the condition. This would be pursuant to 47 Haverhill Road. The other address, Fred, is 56 Haverhill Road, I believe? Or it was just for that piece of land with no real address there. These would be improvements to the great swamp and mitigation should be pursuant to the impacted water body.

Kinsey Boehl: Is there accountability on the funding that it is actually used for the great swamp?

Suzanne Egan: That is why it will be a separate account that can only be used for this.

Motion was made by Suzanne Egan that a certificate of compliance is issued for 47 Haverhill Road, on the condition that \$16K is deposited into a separate account earmarked on the basis of the DPQW director's memo to John Lopez dated July 7, 2014. Motion was seconded by Alan Corey. Vote was unanimous.

Motion was made on the abutting parcel (that holds the easement that no work was ever done on) to issue a certificate of compliance by Kinsey Boehl. Motion was seconded by Alan Corey. Vote was unanimous.

ENFORCEMENT ORDER - 20 Woodwell Circle (Tonks)

John Lopez: This comes through a complaint received for an un-permitted and unauthorized dock at 20 Woodwell Circle. The genesis of this issue dates back to about a year ago, when the current property owner was exploring options. He contacted me and asked if a dock was permissible at the site. At the time, I said yes, but that he'd have to go through the wetlands permitting process, but unless there were extenuating circumstances, you have every right to

request a dock, pursuant to state and local regulations. I guess he forgot over time about the permitting part, so he put in his dock...un-permitted and unauthorized. I contacted him, he understands the issue, and he has submitted a draft notice of intent. It's not an enforcement order, actually, it is actually complying and the best rule of thumb is to take the least level of enforcement when opportunity presents itself. The enforcement order would require a notice of intent. He has submitted a draft notice of intent, which was forwarded to the Conservation Commission via e-mail. I think that this project is, considering the dock is as installed is permissible, meeting the requirements and the performance standards of the local regulations, which are more stringent than the state. So I think this issue is being rectified. We can anticipate a notice of intent from the property owner for the August 4 meeting.

EXPEDITED REVIEW PROCESS – DRAFT (EGAN)

Request to continue by Commissioner Suzanne Egan to the next meeting. Granted.

CONTINUED BUSINESS:

RCoC #002-1071 159 Kimball Road (Teheren)

Continued.

NOI #-02-1097 68 Lake Attitash Road (Hallessey)

Michael Seekamp, Seekamp Environmental, representing Ellen Hallessey for the removal of some trees that are overhanging her house at 68 Lake Attitash Road and for landscaping work. We have the existing conditions plan here prepared by Jeff at Northland Survey Services. Most of the developed property is within the 100 foot buffer zone to the bank of Lake Attitash. At the last meeting, it was requested that I answer questions you had and to clarify some things. I submitted an addendum to the project narrative which you all should have received, dated June 18. You also requested the landscaping plan, which was prepared by Mountain Top Landscape Company. We propose to remove 2- 16 inch oaks and 2- 30 inch oaks in orange on the plan. Also, we're planning some enhancements to the slope. Those are labeled on the plan as to where they will go. They are very similar to what I proposed in the original project narrative, but we enhanced it with a few more plantings of native shrubs.

John Lopez: Could you provide us with the distance from the lake these trees are that are flagged for possible removal?

Mike Seekamp: I would say it would be about 30 feet or 25 feet to the first two trees, and 30 or maybe 50 to this one. Part of the problem on the site now is erosion. We propose a trench drain surrounding the house. Most of what is causing erosion into the lake is roof runoff, so we also propose that for #70 Lake Attitash Road, but that agenda item comes up later tonight. We plan to mitigate the erosion problems by planting turf grass, shrubs near the slope to the lake, and the existing stone wall will be rebuilt. The existing stone fireplace will be retained as is.

John Lopez: I received a letter from Keegan Worland, Attorneys at Law, dated July 2, 2014 on behalf of an abutter, with some comments. Could you walk us through this letter and provide a response?

Michael Seekamp: With regard to 25 and 50 feet of the shore, if it was an area that had never been touched before, I could see why the Conservation Commission would want to restrict anything. There is a 25 foot no disturb zone. But this is someone's backyard that goes down to the lake. I think it'd be reasonable to allow people to protect their property when trees become

big and old, these trees do hang over the house and they deserve the right to address that problem. They are within the jurisdictional buffer zone.

John Lopez: Could you respond to the comment about the state wetland protection act, limits work within 50 feet of a resource area.

Mike Seekamp: There are no restrictions. There are some things that are exempt if you are more than 50 feet (for a limited project). The 100 feet under state law is jurisdictional buffer zone, so if you are working 100 feet of a wetlands resource area, you need a permit, but it isn't a restriction. The concerns about shading on the bank or shallow water, but this is on the north side of the lake, so the sun comes from the south and the trees that are along the edge of the lake are remaining, and these are up slope and away from the lake, so we don't think that is an issue regarding shading of the lake itself. They would shade the house as opposed to the lake. There was also a comment that this tree also shades a neighbor's house, but I know of nothing that requires you to provide shade for a neighbor. But these trees are a danger. Someday, these trees will come down. I wouldn't want them hanging over my home.

Steve Langlois: Could you address the stumps, Mr. Seekamp?

Mike Seekamp: We're not going to take the stumps out. We want to minimize the disturbance to the ground. So the oak will remain in the ground and eventually decompose and become part of the soil.

John Lopez: I'd like to hear from those commissioners who attended the site visit, their impressions.

Steve Langlois: Well, Suzanne and I went out. We talked a lot about how to improve the site. Mr. Seekamp and the owners were open minded about the improvement of the roofing. He also incorporated the gutters for the next door neighbor. I looked at those trees from several angles, one definitely has a problem. We agreed that the tree on the top side of the house between the two properties, there was a sapling that grew into a tree. No one would build that close to that tree. I question why it was that close to the one in the front, too. Everybody complains about erosion, but don't cut the trees down. Well, if grass doesn't grow, you have erosion. So if you want a natural carpet, it's grass. There is a safety issue here, and a possible erosion issue here, and both owners are trying to take care of it. My opinion is that this proposal tonight is better than the one on the night of the site visit.

Suzanne Egan: I think the trees are very close to the property, but I'd actually like to hear from anybody that is for or against the project before I weigh in on it.

John Lopez: I received a phone call from a Luke Guttardauro from 73 Lake Attitash Road. I assume he was calling to voice his support for the Notice of Intent at 79 Lake Attitash Road, but I forgot to ask him. He was trying to make the meeting. He just wanted to lend his support in favor of the plan.

Len Bearse, 70 Lake Attitash Road, abutter: I am in favor of taking care of these trees and pose a risk to the property. On the north end, the wind blows the hardest.

Attorney Barry Fogel, representing Deb Dow, abutter at 66 Lake Attitash Road: We submitted this letter on July 2 on her behalf. I want to clarify. The reference to the state buffer zone regulation there are limitations and restrictions of various kinds, some activities for storm water, for example, you can't put structures in there. Other activities within 50 feet get special treatment. So I wasn't suggesting or intending to suggest that something prohibited, but just to make it clear that DEP views the inner 50 feet as having a higher level of attention than the outer 50 feet. My client's main concern is that the Conservation Commission should set a consistent standard for tree cutting or trimming, and that your bias should be to require trimming where

feasible, unless a tree is diseased or presenting some imminent danger. We've read through letters that were submitted with the Notice Of intent, and there is no indication that there is any disease or imminent danger other than proximity of course. So Ms. Dow believes the commission should require an approach to be followed of trimming branches that might extend over the house, or trimming the crown, if feasible, rather than removing them, particularly for the 2 16 inch trees. In the memo from Mayer, they suggested that those trees were having limited growth because of the others. So if the crowns were trimmed on these larger trees, they may show expansion. These 2 in particular are within 25 feet of the lake. That is the viewpoint of the abutter to the east. Second issue is for erosion control, I see no detail on these trench drains and what they will do, how they will be installed...I think there is only one sentence reference proposal. I don't know if Conservation Commission expects to see any greater detail, and I'm not clear on whether the gutters and downspouts will be directed into that, and whether they are intended to provide any infiltration for roof runoff, rather than for the drip line. I'd like clarification on that.

Michael Seekamp: I'd point out that the idea for the trench drains was proposed by members of the Conservation Commission, and we wholeheartedly embraced that idea. It's a simple concept along the drip line, with no downspouts that I know of on these two properties. What happens is you create a shallow trench and you fill it with pebbles / stones. When rain comes, it goes down into there first and it doesn't hit soil that would loosen up and flow down towards the lake. It also retains some, providing some infiltration, and is pretty extensive going around the entire house. We think it's a good idea and we think it'll help mitigate the erosion problem, but along with the lawn that is going to be established there, we feel we can eliminate any silt and sediment going into the lake.

Kinsey Boehl: What about the stone wall that is going to be repaired? Is that done by hand?

Michael Seekamp: There will be a machine in there to remove some of the stones. We're going to have erosion control during this project. The landscaper told me it isn't feasible to do it all by hand. There will be a small Bobcat-type vehicle for some of it. That wall is 20-25 feet of slope from the lake. It will be rebuilt in the same place it exists now.

John Lopez: Standard Order of Conditions language restricts the refueling of power equipment within 50 or 75 feet of the resource, in this case the lake. If the commission approves this trench work, one condition would be that the applicant submits a maintenance plan for this drainage for review and approval. That maintenance plan would be entered into the Orders of Conditions as an exhibit and carry through with the property in perpetuity.

Barry Fogel: I don't think you have detail for yet and anything that would indicate that the trench drains would accommodate that kind of flow. My client indicates to me that the gutters currently direct water to the eastern side of the property, and there is erosion occurring mostly on that side. It is also sort of unspecified as to where the boundary would be between loam and seed, and sod or turf which is proposed and being brought in. On the site visit, you saw where the ground is bare. It might behoove the Conservation Commission to insure that the turf or sod is put in along that side of the property where the fence is, rather than anticipating the loam and seed will survive and be successful. Where the applicant has proposed some combination of ...

Kinsey Boehl: The current proposal does say "sod will be used to re-vegetate the area between the two sections of swaddles above the contour.

Steve Langlois: I think if the area on the plan with sod was colored in, it would make it clear where it is going. You'd prefer to have it on the side where the fence is.

Barry Fogel: I think it would benefit the commission to know where the line is between where loam will be brought in and seeded, and where the sod or turf will be installed.

Kinsey Boehl: It does say above the contour area 104, so the applicant is saying on their application is, from contour 104.

Mike Seekamp: Any areas that are bare below contour 104 we intended to use sod. Anything above 104, which is farther away from the lake, we plan on using seed and loam. I think you should specify that the soil needs to be stabilized next to the fence, and leave it up to the landscaper to decide how best to do that.

Alan Corey: Is there a problem now with the water going onto the property at 68?

Barry Fogel: That's what I was told. I can let Ms. Dow come up and speak for herself.

Alan Corey: So it's a pre-existing condition that is already there that Mr. Seekamp is trying to make better.

Barry Fogel: No, my understanding is that it is a condition that has been made worse by the installation of the fence, which was a necessity, but my understanding is that it has not improved, it has gotten worse. So it is a way to repair that issue. So in summary, I urge the commission to take into account that there is no information about these presenting any danger, any of these trees presenting any imminent danger, and that you should require control of the trees and not removal. Thank you.

Steve Langlois: OK, once again the issues are trees and erosion. You can't have both. If you don't have trees, you're going to have erosion. But also, if you have erosion, it's because the trees aren't letting anything grow there. John, you had made a suggestion that the commission would have to hire another arborist to come in? Somebody impartial?

John Lopez: This comes through discussion with DEP, and I forwarded DEP's comments to the commission via e-mail. Their reviewer questioned why the need to remove all of the trees. In consulting with my contact consultant for the northeast region, she informed me that because the applicant submitted documented evidence from an arborist that the trees are diseased, if Conservation Commission elected to allow only a few trees to be removed and not others, the Conservation Commission would have to come up with its own data set and retain its own arborist. Anything short of that would be arbitrary and capricious in that you're not providing scientific data to counteract the arborist's opinion.

Alan Corey: Question for commissioners Langlois and Egan: you were there. It looks like if you tried to trim those trees, there'd be nothing left but straight trunks.

Steve Langlois: Correct, they are too mature.

Suzanne Egan: The lot is overwhelmed by these amazingly large trees, and so is the house. It seems to me that to actually use that lot, those trees need to be removed. It's as though the house was set down right next to these trees.

Steve Langlois: You're right, Alan, the type of trimming needed, they'd die. Such extensive trimming would kill them. So where at the point where we are looking for the issuance of an Order of Conditions, approving the work as proposed, or denies the work for various reasons. I also heard a few comments tonight: trench drain plans to be submitted as a condition, and also be reflected on the as-built plans once the property owner submits a request for a certificate of compliance once the work is done. But I think a trench drain plan is reasonable. I'd like to see that. Also, I would like a operations and maintenance plan for the drainage trenches. If maintenance was included and made a perpetual condition that would ensure that the drainage corridor is appropriately maintained and functioning.

Steve Langlois: Also, look at trying to prevent any gutters. Maybe if the front had a downspout that hit the ground, but went right into the trench.

Mike Seekamp: What we'll probably do is eliminate any outflow from any gutters on this side of the property, but still keep them in the front, make sure it doesn't cause erosion on this side.

John Lopez: So I think a detailed plan is appropriate. We can condition it, if Conservation Commission approves the work as proposed. But I want Conservation Commission to stipulate a date for the plan to be submitted, an O+M plan for the drainage, and the plan for the trench drain should be submitted. Something like 2 weeks. Mr. Seekamp, it should be noted that there is a 21 day appeal period where no work can begin until after that period expires. I will issue the permit later, if Conservation Commission approves.

Barry Fogel: On the issue that Mr. Lopez raised, I don't see anything in the letter from the arborist about disease. I think the record needs to be clear that there is nothing in there about any disease of these trees. Secondly, I think Conservation Commission, if you are going to approve this, that you have every right to stage it. If you authorize removal or trimming of these two trees near the house, you could wait and see how that affects the condition of these other two trees. They don't all have to be removed at once. If you want to ensure that tree removal doesn't become a habit on this lake or elsewhere that you might want to impose some kind of reasonable conditions on whatever authorization you give.

John Lopez: Do you have a suggestion as to a reasonable condition?

Barry Fogel: Yes. Deny any removal. The next step is: allow trimming. Next: if you're going to allow removal, limit it to those two near the house.

John Lopez: Counsel may be right. It's been a long time since I read the letter from the arborist.

Kinsey Boehl: The language used by the arborist was "weakened root system on several trees on the property." This is from Mayer Tree Services, dated with the application with the Notice of Intent.

Steve Langlois: You have the information you want to add to your Order of Conditions, correct? If you are happy with what the draft would look like, John?

John Lopez: Yes: more details on drainage that can be conditioned, by date certain that Conservation Commission determines, and the applicant's representative shall submit an O+M plan for the drainage trenches by a date certain.

Motion was made by Suzanne Egan to issue an Order of Conditions conditioned upon the applicant submitting details on the trench drainage system, as well as an O+M plan, to be submitted within 2 weeks of the date of this meeting. Motion was seconded by Kinsey Boehl. Vote was unanimous.

Motion to close the public hearing by Kinsey Boehl NOI #002- 1097 68 Lake Attitash Road. Motion was seconded by Alan Corey. All in favor. Public Hearing is closed.

RDA 173 Kimball Road (Kurtz)

Shirley Maynard and her husband James Baldwin, here for Dan Kurtz. We are his neighbor at 171 Kimball Road. Some of the trees that were requested were right on the line that affects our property. Dan could not attend tonight. You should have a letter signed by him that we could represent him today. You asked for additional information. We provided it in the packet that you should have. There is a certified arborist that sent his letter, showing some of the dead trees and their condition. He has them all tagged. I tried to circle the tagged trees on the pictures. We also show the pine trees atop the hill in the picture of the steep hill and pines on top.

The roots are coming out, as shown in the previous application last month; large rocks come tumbling down that hill into our driveway. That is a big concern. We have a lot of periwinkle on half of the hill, the part that goes towards the street. I notice now that we've been losing some and we're about to lose more if we don't get those roots that are coming out more and more, as evidenced by a few of the pine trees down by the street and between the power lines. The trees are right along the line on that hill, and Dan Kurtz had some in his yard. They were on the last 2 pages. On page 7, the 2 trees on the top left, where they are split and the middle is hollow. They can't take down just one part of those two trees that are paired together.

Steve Langlois: A good thing to do is to put some kind of marking on the trees that you want to cut.

Shirley Maynard: They are marked. On the first page of pictures after the arborist letter, I circled 3 trees that are tagged. Those are the ones on his property and leaning along the power lines... these are all in the new submittal.

Kinsey Boehl: We don't have enough information. The info packets just came to us.

James Baldwin, husband: All the trees are on Dan Kurtz property. These trees went from knee high when our two homes (Kurtz and ours) were built to towering pines now that are a growing threat. We're trying to do is a pre-emptive strike. Get them out of there before they cause damage. We will rebuild the area once they are taken out. The trees involved are only on that section between the two properties. We're not talking any others. They are all marked. There are 3 oaks and a dead elm tree (so that's four in the back) and the 3 pine trees around the power lines. Also one large oak just adjacent to these pines in the lines, making it a total of 8 trees. Mainly it is the pine trees.

Steve Langlois: If you could make it clear about the pine trees and explain clearly with pictures for next time that gives us enough info to make a decision and make a motion. Give that info to John Lopez. We can come out and take a look at them, too, if you can't mark them. We just need to know what pines trees you're cutting down. Then we can meet again at the next meeting here in August.

Motion was made by Suzanne Langlois to continue this hearing until the next meeting, and ask the applicant to submit photos showing all of the trees that they want to cut down. Motion was seconded by Kinsey Boehl. Vote was unanimous.

NOI #002-1087 19 and 21R Evans place (Saba)

John Lopez: The applicant is here, as well as Conservation Commission's consultants, both for wetlands and for storm water, to brief the Conservation Commission. Also, it should be noted that we don't accept things that are handed out at the hearing. We the Conservation Commission have not received any plans pursuant to Conservation Commission. The PLB, which made several changes which do affect jurisdictional resources, but we have not received any official plans for Conservation Commission. So legally, our plan of record is still the original plan.

Ben Osgood, applicant's engineer: We've been working with the PLB, and through the process, have converted to a cluster design. We submitted the definitive cluster plans to the PLB on the 30th last week. I sent copies of those plans to Dominic and Jillian of BSC Group, peer reviewers, so they could see what we're doing. I'm following through with the final drainage calculations and report, with all the technical specifications to meet the storm water management act. I wanted to let Conservation Commission know what we are doing, because it does impact the resource area greatly in that it is a huge improvement. So instead of doing it as a subdivision with 20K square foot lots, we've left the road about where it was designed before, but we've

made it a 22 foot wide pavement instead of a 24, you have a 40 foot right-of-way instead of a 50. We have sidewalks on one side. We've reduced the size of the lots down to anywhere from 12 to 15 or 16K square feet instead of the 20K. The frontages are now around 100 feet on most of them. The end result is we've compressed the development into the open field areas and are now able to preserve some important aspects that we think are worth preserving, that being the view corridor coming up towards the meadow. We expanded the amount of open space around the wetlands. All the homes are located outside of the buffer zone. There are some lawn areas that go into the area, between 50 and 100. We propose when we get close to the 50, we propose landscaping as a buffer. We've eliminated the Cul-de-sac up here. It is now a hammerhead turn-around. That eliminates a lot of grading and buffer zone disturbance that we had in that area. This all came about in the last couple weeks. As soon as we have everything completed, we'll get it to Jillian, and hopefully work through the review process with her, and we can have an approvable project. I spoke to Jillian and she said this is definitely an improvement. I just wanted to update Conservation Commission. We will have revised plans in within a day or two for Conservation Commission for the next meeting. The PLB we've already submitted to them.

Jillian Davies, BSC Group, Wetlands and Soil Scientist: I've been reviewing this project. I saw a draft version of this, but haven't seen the final version yet or corresponding text. Just on a preliminary look, it appears to be a substantial improvement over the prior design. They have really pulled back from most of the buffer zone; they removed in particular the house from over here which allows this wetland to remain connected, in terms of a natural system to the larger wetlands. They have also pulled back all around, so I am viewing this very favorably and will be glad to see the final plans.

John Lopez: I believe we have some abutters wishing to speak, but I also have a **change order for the BSC contract dated July 3, 2014, for a change to the existing contract for the peer review.** This is for an additional \$3100. I'm assuming the applicant is aware of this?

Ben Osgood: This is the first I hear of it, but apparently the team was aware.

John Lopez: If the Conservation Commission has no questions for Jillian or Mr. Osgood, we can proceed, but also, I would like the Conservation Commission to vote to approve this change order.

Dale Forbes, abutter at 17 Evans Place: Our only concern is primarily the retention pond here, the potential for insects, rodents, and trash, which the town would have to maintain, is my understanding. Also, this is nice having this empty up here, but I don't know who would own this property and maintain it. Primarily, the concern is the retention pond. I think it's likely, given several homes there, that they'll probably be a bus stop here too, so there is concern with respect for children playing in there. That's all.

Ben Osgood, engineer: I think he raised those concerns before, and we have a detention pond here. It's going to now be a wet detention pond that will convert to a constructed wetland, to be a more natural environment. We will try to promote that abutters take care of these areas and police them. We put up a guard rail along the back of the sidewalk because review comments had concerns about pushing snow into that area, so we put in the guardrail which will also keep people out of there. We did have a sidewalk in front of that area, but we decided to put that on the other side of the road. If there are kids waiting for a bus, it'll probably happen on the other side of the road from there. I suspect the developer will do landscaping along there to create a nice entranceway, so it looks good. As far as rodents and having it be a detraction; I don't think that will happen. As a constructed wetland, it'll be more of a habitat and attract good wildlife.

John Lopez: I think the fox will take care of any rodents. For the abutters edification, a nice example of a constructed wetland can be seen at 206 Lions Mouth Road, now referred to as Quimby Lane. We're getting away from detention basins and retention basins, moving now towards constructed wetlands to serve as part of the storm water management system. So if you go there, you'll see Egrets and herons, etc. I think you'll be pleased with it.

Ben Osgood: We also spread out our retention areas. We did have buried chambers in stone, but instead are running downspouts into just small depressions that can be landscaped. It's a more natural infiltration system vs. the constructed, hardscape type infiltration system. We are moving more towards an LID system than what we had as a true engineering system.

Kevin Saba, developer: I want to answer the two questions that weren't answered. One question was who is going to maintain the field that we're using to create the view corridor. The answer to that is the same folks who own it now. That will be conveyed to them. So they will maintain it as they always have. The second question had to do with trash. We see this piece of land as being a terrific resource to the town, so what we want to do is raise people's consciousness. People aren't out there all the time, but when they do go there, we want to encourage them to create a take in-take out campaign. If you take it in, you take it out. Keep it clean by asking people to pick up after themselves. Those are 2 of the ways we are looking to handle the questions that you raised.

Nick Cracknell, 13 Pickard St., a late arrival to this design team: Ben covered most of what we wanted to say tonight. I've only been on this project for 3 weeks. I've been looking at this alternative approach with this design team and Nipun. It is a cluster design. This is a special permit before the PLB. They have a 12 lot conventional subdivision that has been in front of the PLB and Conservation Commission for this property. As a resident, the 12 lot conventional subdivision is not what I or the PLB want to see happen here. The subdivision being looked at in contrast to this one has a much bigger impact and footprint, more impervious surface, a waiverless subdivision which has a 24 foot wide roadway with granite curbing, two sidewalks and cobra head lights, something that probably hasn't been built in this town for 30 years, but it meets the cookbook of the town in terms of how you design a road within a 50 foot right-of-way. That is what is in front of the community as the default setting as this project moves through the process. I think latently perhaps, we've come to an agreement between the community, PLB and hopefully the Conservation Commission to look at a cluster design to lighten that footprint, reduce the impact, both by using low impact development drainage, but also getting rid of the cobra head lights, having one sidewalk on one side, which is more than enough on Point Shore, which has very distinct historic character, and focusing through that special permit on the house design. These first 2-3 houses coming up from Evans Place for most of us this is very important as to how this is going to read in a neighborhood that is largely 250 years old. Having that roadway reduced to 20-22 feet, getting it narrower is important. We're working with public safety officials. One sidewalk, a hammerhead instead of a cul-de-sac, a shorter roadway, these are all waivers being brought before the PLB and being advocated by the PLB and staff, consistent with what the town has been approving for the last 25 years. The main goals for us with this, straight out of the town's master plan and zoning ordinance, are to minimize the impact, meeting the footprint, and preserving the community character, looking at the primary and secondary resources that are not required under conventional subdivision but are required under the cluster, to not just look at the stuff that typically can't be developed, like flood plains and wetlands, but to look at the buffer zones that with performance standards can be worked within, and look

At these open meadows and scenic views as you pass this property. As Kevin pointed out, it is intended that this piece of open space would be deeded to the homestead property that abuts it. I think this is a positive step, especially moving away from conventional drainage systems.

Hopefully you support it.

Christine Cressey, 21 Evans Place, abutter: I am wondering how open parcel E will be? Are you cutting those trees out, or what is going to happen there?

Ben Osgood: It's a buffer zone. It will remain undisturbed.

Christine Cressey: How will people access that trail? Where will they park? What will they do?

Ben Osgood: It's meant more for resident use rather than to invite the public over there and make a new trail head. We're not providing any parking. We don't want to make it that attractive. It'll be more for resident use.

Alan Corey: I'd like to make a **motion** to approve the BSC change order for a second round of reviews. Motion was seconded by Suzanne Egan. All in favor.

Alan Corey: I make a **motion** to continue this to our August meeting on the fourth.

Motion was seconded by Suzanne Egan. Vote was All in favor.

NOI #002-1095 56-58 South Hampton Road (Couillard)

John Lopez: The applicant is here, and the commission's consultant, Miss Davies, is here for wetlands, and Dominic Rinaldi for storm water management. They are here to provide the commission with a brief update and status. First will be the applicant's update, then BSC consultants.

Phil Christianson, Christianson and Sergei in Haverhill, Ma., representing the applicant,

Buzz Couillard: One thing we didn't go over last meeting was the location of this subdivision with respect to other properties around there and with respect to the entire parcel. Suzanne Egan was concerned about where this was with relation to the full property. (a map for the entire parcel was shown, with the subdivision in one area of it). This is a cluster project with the open space is contiguous with open space that the town already owns. We've gotten comments from BSC and responded to those. We tried to adjust the plan in ways that she has suggested. That has been submitted back to BSC for their review and comments to get back to us so we can finalize the plan. We changed the culvert design under the crossing; we have added a sidewalk to the crossing of the wetland. Block walls and stone dust shoulder is shown here, which is a sidewalk as well, so people can walk through the subdivision. So we have enough flow across the entire wetlands, we provide a series of 8 culverts under the roadway that will allow water to flow unobstructed through this causeway. That's a brief summary. We've redone drainage calculations, which have to be reviewed by BSC. We changed somewhat the storm water management within the subdivision. All drainage now will be on the surface, with infiltration ponds. Once the changes are reviewed and comments received from BSC, we'll finalize the plans and give you a new full set of plans.

Jillian Davies, BSC, wetland and soil scientist: We took a look at the June 27 letter from Christianson and Sergei and the plans that came with it. A couple of impressions: there are a number of items that in the letter, the response had been that this will be done in the future, so there is a commitment to do them. But we can't finish our review until the actual documentation has been provided. Some outstanding issues are: the mitigation hasn't been fully worked out. We do have one mitigation area proposed, but it doesn't meet the 2:1, it is actually 1.23: 1 as a ratio. The plan has been to work out the additional mitigation with the town. So we'd need to see a discussion as to exactly what that is. The handout you just got is nice because it helps people see

the value of the land that they're donating. It's more valuable because it is connected to a large area of existing protected open space. I think the Conservation Commission needs to discuss with the applicant what you would like to see for the full mitigation package, then that needs to be documented fully and documented for review. There are a number of other odds and ends, like they have committed to requesting the waivers that they need, but they haven't done that yet. So those things need to be filled in. Another significant issue is, when we met before, we requested seeing an alternative design that would have one larger opening that would allow a flow to move within it, and that would not have a concrete bottom to it, so that the natural processes could develop as they will. The risk with having so many smaller culverts is that some flow could selectively go into a fewer number of them while others would then collect sediment and get blocked. It would be nice if they'd develop the other design alternative to, and then provide the pros and cons of the two. I know DEP had also requested that larger opening also. There are some other smaller items, you may not need to have those discussed now, such as the site plan shows that they've pulled their limit of work out of the 25 foot buffer zone for lots 5 + 6, and they also said that it was pulled out for lot 18 and open space. That's a good commitment; they just need for the plan to be slid out a little more. Right now, the limit of work is still within the 25 foot buffer zone. Another thing is, whatever design they do, and Dominic would be the reviewer for this, there should be no change in the flow calculations from existing conditions to post conditions. In some of the discussions, they had been talking about alleviating downstream flooding by retaining more of the water upstream. But that can create flooding in the upstream wetlands and deprive downstream wetlands of water. The goal should be no change in that flow. As we discussed, we were just going to come and discuss this here tonight, it is not documented yet. They may have more material they want to submit before the next round of reviews. There are so many items that are open and still needing to be provided. It makes the most sense for the complete package to be presented and then to write a letter to that, because a lot of the response right now would be "please provide..."

Suzanne Egan: Have you drafted anything that shows everything that is missing?

Jillian Davies: No.

Suzanne Egan: It would be helpful if we had a list of everything that is missing. My concern is that it will get lost.

Jillian Davies: I can do that. I may need to do additional change orders for an expanded number of reviews and things, but if that is what you need, we can do that.

John Lopez: It would be useful if you and Dominic did get together and put this into a concise memo to the commission, and CC the applicant.

Dominic Rinaldi, BSC: On May 23, I provided a letter to the PLB under our PLB contract. I had done a full engineering and storm water management review. I provided a copy of that letter to Mr. Lopez and the commission. At this date, I haven't gotten a formal response from the applicant yet. We've had some discussions and I've seen what they submitted in response to Jillian's comments, which has some of the information I was looking for. Primarily, on the storm water management side, there wasn't anything that was a deal breaker. It was documentation and some minor issues with their original calculations. I know they are in the process of getting that response back to me. Once I have that, I will go over it again and provide any updated information, request anything else that may be outstanding, and provide that in an updated letter to the PLB and Conservation Commission.

Steve Langlois: I guess we have to depend on you to get that information from the applicant and pass it along to us. You are the engineer on this, I guess my question about the bridge would be, how far is the road to the surface below, approximately?

Phil Christianson: It varies, but it is 4 to 6 feet.

Steve Langlois: And is there a discussion about an alternate bridge plan?

Phil Christianson: Well, we don't want a bridge, because DPW doesn't want to maintain it. We'll call it a crossing. Our original plan had a larger culvert in the middle and one of the difficulties is balancing. You have to have studied the 2, 10, 25 and 100 year storms, and do calculations to show you don't exceed existing peak flows with existing peak flows. In doing that, part of it was a comment from Jillian about having a uniform flow through the wetland, which is why we changed to this. In discussions heard this evening, her input is that she'd to see some larger culverts. So I'll probably go back and put maybe three larger culverts in there. These are about 5 ½ feet across by 3 feet high, and there are eight of them. Maybe it'll be three or four of them and ten feet across, but I'll have to redo that, for the crossing over the wetland. It's not a stream. Initially, we did an ANRAD on the project, and it was determined there was no stream there. There are a couple intermittent streams close by, but none in this direction. So it's a matter of putting in a hydraulic connection between the wetland and downstream, we are working with DPW. We're not trying to retain water on site to lessen the problems that they have downstream, but they do have some wetland restoration work to do downstream, and there was a discussion early on in this project to assist them in that and provide money for that. In return, rather than have a 2:1 here, down like 1.1 or 1.2 to 1, something like that. No details are worked out yet. Also, all the things Jillian just said was lacking in the plan and what she questioned is in the letter that is to the board, so I don't know if it's necessary for her to repeat all that, but the letter that I responded to lists all of those items that you were looking for. You should have that on file.

Suzanne Egan: So you responded to it. Do you think your response is complete? Did you respond to everything that she asked for and submitted it or not?

Phil Christianson: I responded to the technical part of it. There are lots of things that have to be changed, i.e.: when I changed the storm water systems, I have to change the O+M plan for that...things like that. We'll follow up with that, if the concept is deemed a good concept. Once we agree on this, then I can go to the next step and get all of the details for the project worked out.

Jillian Davies: The choice of material for the sidewalk, why was that material chosen?

Phil Christianson: That was worked out with planning.

Jillian Davies: One concern would be that with winter, some stone dust would be pushed by the plows into the wetland. Is there was way to have something that isn't really particles like that? There's a potential impact there, as it is.

Phil Christianson: We'll look into that.

Suzanne Egan: You mentioned there is an issue with the storm water, as to whether or not it is going to be retained or kept in the same condition as before. Is that right?

Jillian Davies: Yes, just in some of the earlier discussions and now it may not be an issue now. It sounded like they were saying that downstream flooding would be reduced because more of the water would be retained up-gradient of the crossing. That is not consistent with what DEP likes to see.

Suzanne Egan: Has that issue been resolved, about retaining it?

Phil Christianson: We're not retaining any water. There is a difference between retaining and detaining water. We are using a series of culverts under the crossing; you do the hydraulic

calculations wanting to show that you reduced the peak flow downstream and not increase it. That is a requirement to the rules and of DEP. So it is impossible to say that I'm not going to increase the flow downstream, I'm going to decrease the flow downstream which is what DEP wants and not slow the water down while leaving the site. But the water doesn't get retained on site, it flows off eventually. It's just a matter of what that peak is, and when the water flows. It doesn't turn it into a lake; it always remains a marsh at most.

Suzanne Egan: So, Jillian, do you agree with the applicant's position?

Jillian Davies: I don't feel that the other alternative has been explored fully, or that there has been a real demonstration so far. There have been statements, but not a lot of demonstration from the wetlands side. Maybe Dominic can look at the calculations when he gets those. That may clarify some of this. It's hard because the information is preliminary. More info is forthcoming. The letter they sent has a list of outstanding items.

Suzanne Egan: If the list is accurate, I think the Conservation Commission could certainly use getting that letter. It would be helpful to get that list, since we are relying on you to see that the list gets completed.

Michael Seekamp: My brother Patrick could not be here tonight. He was the wetlands scientist on this project. But what we often see with those original lists is, Jillian could just put SATISFIED or NOT SATISFIED at each item on that letter dated June 16. I think there are 20 or so items. If she would do that and supply us all with a copy, then we'd all know what information might still be lacking.

John Lopez: The question then becomes: procedurally, the next meeting is August 4. Seems to me there is a significant amount of modification and review that needs to take place. The deadline is July 14. That is 7 days. Is it safe to assume that ...

Phil Christianson: We will have our revisions and comments in by the 14th.

John Lopez: What about our BSC group? Do you think you'd be able to complete a turn around and present your subsequent second review by the Aug. 4 meeting?

Jillian Davies: By Aug. 4, yes. Not by July 14.

Dominic Rinaldi: Easily, yes. It is three weeks time, so that is plenty.

John Lopez: Then I feel comfortable continuing this to Aug. 4.

Motion to continue this to the Aug. 4th meeting was made by Suzanne Egan. Motion was seconded by Alan Corey. Vote was unanimous.

NOI #002-11088 12 Old Merrill Street (Toth)

Continued

AMENDMENT TO ORDER OF CONDITIONS (Lake Attitash Association)

John Lopez: It has been submitted and the Commission has a copy of everything. This is about the rain garden. They want to see if this can serve as a model for other locations so that it would be a stipulation, not only for this property but for every property on Lake Attitash. But other than this small narrative, I don't know any more about it yet.

Steve Langlois: Well, I haven't read anything on this yet, so I'm not prepared to hear this.

John Lopez: The issue is that they are up against a grant deadline. There have been a series of missed deadlines going back to October. I haven't heard very much from the Association.

Suzanne Egan: Are we just giving approval for them to apply for the grant?

John Lopez: No, they have to have it done.

Steve Langlois: John, what are we supposed to do?

John Lopez: The Conservation Commission is being asked to propose an existing OoC on a property on 28 Birchmeadow Road for the proposed installation of a rain garden pursuant to the plans that have been submitted. There are a couple of issues with this: 1. there is no signature from the property owner authorizing this. She is here tonight. We would need something in writing, but that is easily addressed. 2. Perhaps the applicant could explain a little more about the construction of the rain garden, will machinery be needed in construction or by hand, what plantings are proposed for installation of the rain garden, but it is time sensitive.

Kinsey Boehl: What is the grant?

Applicant's rep Ron Klidenski, Board of Directors for the Lake Attitash Association, standing in for Todd Campbell who is away: The grant is a 319 state grant that was given to Lake Attitash Association in Amesbury and Merrimac about three years ago. The grant is about to expire, but there is money left in the grant to installing some rain gardens around the lake to mitigate infiltration of phosphorous and nitrogen into the lake. Also here is Linda Giunta, property owner at 28 Birchmeadow Road. What happened was, Lake Attitash Association (LAA) received the grant. We had the money to construct rain gardens. Linda has an ideal location to install rain gardens and it would solve some of the runoff problems for the lake and also for water crossing their property. So that is where the origin of the idea came from. LAA, with the grant funds, hired a consultant to actually design the rain garden plan before you.

Steve Langlois: So you need approval of Conservation Commission to go forward with this grant, John? I don't follow.

Ron Klidenski: It is my understanding that we need an amendment to the original OoC.

Linda Giunta: The original OoC that we had when we built our house runs out soon.

Suzanne Egan: Typically what we would have in order to be able to issue something on this would be something a lot more detailed than this plan. We've asked of all the previous applicants before us tonight is to get something much more detailed than this. We can't really see what it is, other than a very broad stroke.

Ron Klidenski: So you'd need a list of the plants to be planted...

Suzanne Egan: Something on the plan itself...a design. You said you had a professional do this for you? So if that was a certified landscape architect, then that would be helpful to produce, so we can see.

Linda Giunta: I didn't get the person's name. Todd is taking care of that.

Steve Langlois: When is the deadline for this grant?

Linda Giunta: Not sure if it is September or October. It could be earlier. He just wanted to get this soon.

Steve Langlois: I believe rain gardens would help the lake a lot. I love to see people getting grants, it is a good thing. We don't want to stand in the way, but there are also things we need, right John? You'd probably have time to come back for one more meeting in order for us to move forward with this, correct?

Suzanne Egan: Isn't there a list of all the documentation needed on the town's website? If you go into Conservation Commission's page, there is a list of things you need to do in order to file an OoC. If you just comply with that, then we can review it in one meeting and you are done. But if we need something else that is missing, it drags it out for you.

John Lopez: So I think what Conservation Commission needs to see is to provide a planting plan, which I think you have from your OoC, or I can send it to you again. If one of you could contact me, we can establish what is needed. We're looking for native plants. I like to see more

data on the diversion of the storm water overflow back to the existing catch basin...how is that going to be done? Will you dig with a backhoe or just a shovel?

Just explain those things. Photographs are helpful. Get me a draft and I can work from there.

Suzanne Egan: What is the connection between the amended OoC and the grant? All we have before us is a request for an amended OoC.

Ron Klidenski: The grant is going to pay to construct the rain gardens on this property.

Suzanne Egan: What we have is something submitted by Todd Campbell. But if this is your property, we'd need your OoC for this work.

Alan Corey: And if we're amending an OoC, it would be nice to have the original OoC so we can see what it was.

Ron Klidenski: So we need to include the current OoC with our request for the amendment?

(John Lopez: correct). We'll see if we can fix that.

Motion was made by Kinsey Boehl to continue this to August 4. Motion was seconded by Alan Corey. All in favor.

RDA 35 Water St., 40 Water St., 17 Chestnut St. (remediation of Amesbury former MGP temporary construction access and staging area) (Boston Gas Co. DBA National Grid).

CONTINUED

NOI #002-11079 39 Water St., 33 Oakland St., Amesbury (Former MGP Phase IV Remedy Implementation) (Boston Gas co. DBA National Grid).

CONTINUED.

NEW BUSINESS:

NOI #002-11099 70 Lake Attitash Road (Bearse)

Michael Seekamp, Seekamp Environmental Consulting: Mr. Leonard Bearse is here with us. Originally this was to request the removal of these two trees, which are right on the property line or very close to it, with 68 Lake Attitash, which we dealt with earlier. It was felt that to make it a cleaner filing, that we would file a separate NOI using the same plans, because we have the same site plan that shows the subject trees, then at our site walk, Conservation Commission suggested that that property also should have the trench drain, which we fully agree with and Mr. Bearse also agreed with, to help mitigate some of the erosion problems. So on the landscape plan, we're showing those two trees, the white pine with the curly top, and this oak that also overhangs both properties. Then we show the trench drain here. That is the limit of the work being proposed on 70.

Ellen Hallissey, 68 Lake Attitash Road: Lenny and I share the area between the trees. When I moved in over a year ago, he was telling me how he tried to plant grass in that particular area where he wants the trees out, but it would just get washed away, and it also gets no sun there. So he and I are on the same page wanting to get these trees down and try to correct that erosion happening to our buildings. So I support this.

John Lopez: The phone call I received from a Mr. Luke Guttardauro, 73 Lake Attitash Road, expresses his support of this proposed project, also.

Steve Langlois: Obviously, even though this is two properties, two NOIs, it is going to be done as one project, or at the same time, anyway?

Michael Seekamp: Providing things work out with 68, the plan is to do all 6 trees at the same time.

John Lopez: Technically, the commission is voting to issue an OoC approving the work as proposed.

Motion was made by Suzanne Egan “so moved.” Motion was seconded by Kinsey Boehl. Vote was unanimous.

Motion to close the hearing for a NOI for #002-1099 was made by Kinsey Boehl. Motion was seconded by Alan Corey. All in favor.

Request for Certificate of Compliance 425 Main Street (Lightfoot)

Charlie Schissel, Attorney in Amesbury for the applicant, the Nash family who formerly owned 425 Main Street: The property was first constructed in 1975 by the Nash family. Prior to that, it was a vacant lot owned by the True family. Robert and Virginia Nash obtained an Order of Conditions in 1975 for the construction of the property but inadvertently failed to obtain a CoC. The property just sold, and it is our duty to provide a CoC to the new buyers. We’ve submitted the package for your approval. An as built plan was submitted after the fact, due to the fact that we were in a bind as to when the discovery of the OoC was made. From the time of that discovery to the sale of the property was very little time, so we didn’t have the chance to get the as-built plan done prior to the submission of the application. However, as you’ll see, it was by the grace of Mr. Lopez giving a little leeway there so we could get that in to you. The package you have has a flood zone survey done in there. We used that along with the as-built plan should give you enough to make a decision. Given that it is a 39 year old OoC, it is somewhat sparing in its nature, so there isn’t a lot of structure in there, it is more seat of the pants stuff, as it was back then. The question is whether or not we comply, but you can see with the as-built plan, the engineer submitted a letter that indicates we are in compliance on all points. To read the original plan: It basically all falls under item 11, paragraph 11: the work shall conform to the following described plans and additional conditions: the lowest floor level of the dwelling shall be above the elevation reached by a ten year flood plain, which it was at that time. That is shown on the as-built plan as well as the Certificate for Flood Insurance.

The furnace, water heater, circuit breaker, etc. will be above the 100 year flood zone level. Those are all shown in photographs. That is in compliance. The 1975 plan used was based off of the last issued flood plan maps from 1929. Present plans were issued much more recently, in 2012.

Things have changed, but as far as this application goes is, was it compliant at the time and is it still. I think the answer is yes.

11.3 : the applicant shall furnish the Conservation Commission with data substantiating the flood elevations. I believe that was all done.

11.4: the proposed retaining wall shall be no higher than the adjacent wall on the property of 421 Main Street. We’re in substantial compliance there.

11.5: the final design plans for the retaining wall shall meet the approval, and it is in the files so it must have met approval at that time, since no notes to the contrary exist.

Final grading of the lot shall be designed to prevent surface drainage onto abutter’s properties. No complaints have come up along the way over 39 years.

11.7: the quantity of the imported fill material excluding fill need for the retaining wall shall not exceed 200 cubic yards. Because there were no violations brought up at the time, I have to assume that it must’ve been compliant.

Alan Corey: I have the old plan in front of me here, and it goes from the water to the house, and I see a 9 foot elevation at the house. It looks like it is supposed to be a three foot elevation to the house, but it looks like it is a nine foot elevation.

Charlie Schissel: Yes. I can't explain why there may be a difference there, but again, we're talking about a 39 year old order, it is difficult to affirmatively establish one way or another. I understand your issue.

11.8: the owner of this property shall tie into the Main Street water and sewer line. That was long since done.

Those are the only orders that they had for specific conditions. Questions for me?

Eric Stotz, 11 Old Merrill Street: In my experience, there is about a 6 foot difference from the old mean high water elevations and the new mean high water elevations that used to be used on the river than there is now.

Charlie Schissel: Unfortunately, Ed Dixon the engineer is not here to explain this, but I suspect there are probably technical reasons for the difference there, but I don't know. It's a 39 year old matter that, as far as I can tell, there hasn't been any objection to over all this time.

John Lopez: One comment: I conducted a site visit on June 24 in support of the request for certificate of compliance, as required by law. One obvious thing was a relatively wide driveway in asphalt leading from the street pitched down to the backyard which is all asphalt. The asphalt goes right to the very edge of the river bank, all pitched down toward the river. So this is the opposite of best management practices. You essentially have storm water running down from the street right into the river. In addition, this is a FEMA flood zone, so why there is asphalt there, impervious material, it certainly would not be permitted today. Along with the city engineer, we conducted a review of aerial photography, which only goes back to 2001. That asphalt driveway was there in 2001. The as-builts identify the driveway as being there, but I find nothing on record which addresses landscaping. If a generation is 20 years, this is two generations ago, and it is surprising to see what little attention was paid to a lot of things we pay attention to today. It's appalling how water drains directly into the river. But I've not been able to identify any unauthorized alteration of the resource area. Be that as it may, I see no reason not to issue a Certificate of Compliance.

Motion was made by Kinsey Boehl to issue a Certificate of Compliance at 425 Main Street. Motion was seconded by Suzanne Egan. Vote was unanimous.

Request for Certificate of Compliance Route 110/Macy St. (Ma Electric DBA National Grid)

John Lopez: This is request for a Certificate of Compliance in support of the installation of electric poles with associated anchoring and stability issues being dealt with. All work has been completed and done in compliance with the order, as per review in a site visit.

Motion was made by Alan Corey to accept the Certificate of Compliance for Ma. Electric. Motion was seconded by Suzanne Egan. Vote was unanimous.

Request for Certificate of Compliance 39 Water St. (Essex Gas Co. DBA National Grid)

John Lopez: This is a request in support of a Certificate of Compliance for a number of test borings done in support of a larger mitigation project that is currently before this commission under continued business. Slight modification in that five test borings were approved, seven were conducted. I suggest the CoC be approved.

Suzanne Egan: So moved.

Kinsey Boehl: I second.

Vote was unanimous.

RDA #002-XXXX 11 Old Merrill Street (Stotz)

Eric Stotz, 11 Old Merrill Street: This is my RDA. I have two projects that I'm asking Determinations on. The first is the replacement of a failed utility line with a slight relocation but basically replacing a failed utility line that goes down to a dock on the river, that was the subject of an NOI a couple years ago. The second project is I have a big old Maple tree that keeps dropping limbs and branches. It is falling down in pieces. I want to take it down now, and I'll replace it with a new tree. I talked to Pam Merrill at DEP, who suggested I go this route for an RDA.

John Lopez: Could you explain to us how you plan to install the line, the conduit and all that.

Eric Stotz: For the utility line, I discovered that a trencher doesn't go deep enough for what I need. So I will use a tow-behind mini backhoe with a small trencher bucket that I can toe behind my garden tractor. I'll going to dig an 18 inch deep trench, put a conduit into it, then drag an electric line down through it. It should take two days. All this is being done in a maintained lawn area. I'll remove the sod and replace it once done with the same sod. The existing line is under there now, but it failed a couple years ago, so I disconnected it when it kept shorting out. The large maple tree is near the creek of the river. It's in the 100-200 foot river protection area. Its twin fell down 2 years ago which was just outside the 200 foot zone, due to ant damage. This tree is following the same scenario, so it is dangerous.

Motion was made by Suzanne Egan to approve a negative determination for one maple tree to be monitored over two growing seasons and notify John Lopez is at the time the tree is surviving. Also to include a sign measuring 2 by 4 feet visible from the public way, reading ACC 002-11 and the sign shall be displayed during construction and planting.

Suzanne Egan: Maybe we should include as a condition that there has to be something submitted to the Conservation Commission under the same number, two years hence, to demonstrate that the tree has survived, and it will be in the property record. So when you come for a CoC, we don't have to wonder if the tree is there or not. We'll know it was planted. So that is included in this motion as a condition. An RDA doesn't require a CoC. Motion was seconded by Alan Corey. Vote was unanimous.

NOI #002-1096 127 Kimball Road (Scimone)

Fred Ford, Cammett Engineering, representing the applicant Scimone on this NOI

application: This property is at 127 Kimball Road on Lake Attitash. Currently, there is an existing house in this location, 30 by 50 footprint with a small deck off to the north side. There is a existing garage up near the street with a paved driveway coming into this area. From the driveway to the existing house is a concrete block walkway to the house. On the south side of the house is a concrete pad and an existing shed in this area. The applicant is looking to demolish the existing house and rebuild. Currently, this house sits on a concrete slab foundation. Due to poor soil conditions in this area., the house is settled from the front to the back by 15 inches inside the house. So based on owner discussions with the building inspector, and because of the poor soils to support a poured slab footing foundation, they propose a pile foundation to support the new house. The house from this corner to the lake is 28 feet. From this corner to the lake is 34 feet. There is an existing concrete retaining wall across the entire frontage here. The land from the lake to the house and around the house is basically flat, and then it rises up going towards the street. It is very flat with little topography from the middle of the lot to the lake. The proposal here is to build a new house, 35 feet back from the lake, meeting setback standards for houses on the lake on pile foundations. The plan calls for essentially the same size footprint, 30 by 50 foot

print, with a smaller deck off the north side of the house, and include a porous paver patio across the front of the house, adjacent to the deck, and replace the concrete walkway with a pervious paver walkway from the driveway down to the house. In order to reduce impervious cover on the lot, we're going to remove the existing concrete pad, but the shed will remain for storage. The limit of work is where we show this heavy black line, with silt sock erosion control. Beyond that, we're not doing any work. There is a nice large stand of mature trees between the house and the lake. Those all remain. Because of the openness of the lot as it sits now, there are no large trees that need to come out, just some landscape shrubs. In the end, we're reducing impervious cover on the lot by about 475 square feet. The 100 year flood plain is elevation 97, essentially along the front of the retaining wall that doesn't encroach on the property, so there is no flood plain on the property. We also have to do borings, to support the design of the foundation. So we'll get a boring rig in there to do that prior to demolishing the existing house. Under your bylaw, you have the ability to grant a setback to a resource area of 35 feet with an open pile foundation. The foundation we're proposing is a pile foundation but not a true open pile foundation. We are proposing the piles to be driven into the ground, then put concrete pile caps put onto every pile driven, then concrete grade beams on top of those to support the house. The owner is trying to not elevate this thing way up in the air. This is kind of a hybrid of that. They'll be able to keep the elevation of the house closer to the ground. We've included a waiver request in the packet under your local bylaw for that. I don't know whether that is valid for this situation or not. We wanted to include it for discussion purposes and see how the commission viewed that type scenario.

Steve Langlois: So in some ways, it's not a column or post or sauna tubes.

Fred Ford: We want to keep it to 5 feet elevation at the most. We won't have final dimensions until after the borings, which we couldn't do until we got your permission. So part of this application is to do the borings, then the geo-tech and the structural engineer can do the final design on the actual foundation which we'd provide to you for confirmation of what it is we proposed throughout the application.

Suzanne Egan: Why hasn't the house been moved back? It seems to me that from looking at the site plan that you could move it back.

Fred Ford: There is the sewer there to deal with, but the main reason is the poor quality of the soils. It gets worse. When they put in the sewer, they ran into a lot of boggy material. You get better soil as you get from the sewer easement to the lake, you get better soil to support what we'll need to support here. So putting the structure here will reduce the depth we've got to put piles into the ground. If you go into the peat and boggy material, you could be driving piles who knows how deep to hit something solid in there. We shifted the house slightly in order to conform with your setback bylaw.

Kinsey Boehl: FYI, we just got this material tonight. It's a lot of material to review in a couple minutes.

Fred Ford: Well, we submitted it a month ago, so...

Steve Langlois: We're here to deal with the conservation. It is all there. There won't be any plant species or anything like that going on.

John Lopez: So the way I understand this is, the commission will have to condition this if you approve this. The condition would be that the applicant would come back before Conservation Commission with the data acquired from the test borings with additional engineering plans for the exact location of the proposed structure. So I don't see what the net gain is by going this route. It is not expediting the project, but it is a way to do it.

Steve Langlois: So if this is going to be a brand new house on a new piece of property, would we go with the 35 feet or would we ask them to move it back? Just because something exists doesn't give it the right to go on into infinity if it doesn't exist after you knock it down.

Kinsey Boehl: In other projects, we've looked at things like infiltration systems.

Fred Ford: We're doing porous pavers on the walkway and on the patio. We're willing to put trenches under the drip edges of the roof. The owner also wants to build it here.

Steve Langlois: Well it is jurisdictional, and that is why we're here. I'll ask the commissioners, about this boring idea, what do you like about it? Would you like to see the house moved further back?

Kinsey Boehl: I would. I'd like to see if there is an opportunity to see if it can be pushed back, further than the 35 foot distance.

Alan Corey: My opinion is that he's meeting the requirements of the town, 35 feet to an open piling foundation. What we're asking for is something more than what our requirements are asking.

Steve Langlois: Well, that is the requirement, but it's still the 100 foot buffer. It's all jurisdictional. We could say no, and they could fight it. I'm not trying to be difficult, but there is so much room to move it back a bit.

Suzanne Egan: You don't have the dimensions for us? What we're looking for is the edge of the house to the easement.

Fred Ford: I think I said 30 feet.

Suzanne Egan: So 30 feet from the sewer, and it's a 100 foot buffer zone. So I think it is reasonable that part of your argument is the soils, so we need to see more information regarding the soils.

Steve Langlois: We wouldn't argue if the borings come back and it is proven that it has to go this close.

Suzanne Egan: I also think we need some ...

Nancy Scimone, property owner: Originally, I went to Mr. Nadeau and asked him to come look at the house because it has sunk 14 inches on the roadside. You want us to move the house back, but that is right into where the house has sunk 14 inches. Mr. Nadeau requested that we come to you about doing a new house, because he felt that this house was too unstable. It was not in my intention to build a new house. I just wanted to lift up the foundation and fix what I had. He requested that I come to you and build a new house. That is going to cost me much more money. So I'm trying to meet his needs as building inspector, trying to meet your needs by moving it back 35 feet, and I really don't want to go back into the bog more than I have to be. All the lakeside houses are in line with me. We have our easement in front of us to pass and repass. I'm not cutting down any trees. I'm tearing up cement and hot top to help the wetlands. I would like to not have to move further into the bog and would like to not have to move behind the other houses and obstruct my view.

Steve Langlois: The big difference here is that you know what your property looks like and we don't.

Nancy Scimone: Then come by and look at it. That'd be great.

Steve Langlois: We can do that.

Jeff Scimone, owner: If you had the chance to walk the site, you might see even without even seeing the borings, I think the confusing part that you are not understanding, because you've never seen the site, is that it is counter-intuitive. The closer you get to the lake on this lot, the harder the gravel is. That's why since 1974, the front of the house has not moved much, but the

back of the house has sunk 15 inches, because that is where the bad soil is. Behind that is similar lower bad soil that I don't believe it's a good idea to move into.

Alan Corey: We also have the opinion of the building inspector that the soil is so bad that the house has to be torn down and replaced, because it is sinking in the back area. Maybe we could get something in writing from him, too.

Jeff Scimone: It has sunk 15 inches over 30 feet, from lakeside glass to the street side glass. It is on a slab with a foundation, with a footing, a foundation and poured a slab, and it has sunk gradually to 15 inches, the majority of the sinking occurred in the first 10 to 20 years of its 40 year lifespan. We're trying to make it right, following all procedures.

Alan Corey: Does the engineer feel that the concrete pilings that you are putting in will stop that?

Jeff Scimone: That's the plan. We'll go as far as until they hit hard pan.

Nancy Scimone: Mr. Nadeau said he would approve pilings but no other foundation.

Jeff Scimone: We would go down as far as Cammett Engineering recommends, according to their structural engineers.

Suzanne Egan: When I look at this, I don't see anything in the documents submitted to us showing that this is a bog. There is nothing to show that the soils here are any different from the 30 foot area from the house to the easement is any different from the soils anywhere else.

Fred Ford: We're going by historic information from people that have described it. I think all I talked about was the fact that there are poor soil conditions.

Suzanne Egan: It's a good idea to get a site visit. I'd like to see a specific planting plan also.

John Lopez: At the last hearing concerning the demolition and replacing of a structure, it got more complicated than what was initially discussed. One commissioner suggested that as a blanket policy, any proposal abutting a lake should go to a peer review. I throw that out for your consideration.

Kinsey Boehl: So are you risking rebuilding a house that also might settle significantly?

Nancy Scimone: That's why we have the engineers to figure that out. Apparently, houses built in the same spots with pilings seem to be structurally sound after 20 years, right along that same strip of land.

Fred Ford: Once the borings are done, it gives the geo-tech engineer and the structural engineer the soil conditions. From those soil conditions they can design the piles as far as friction factor, etc. That'll give them the ability to design a house that shouldn't settle.

John Lopez: So based on the test borings and soil samples, you'd come back to Conservation Commission with facts on how this work.

(At 4 hours, 12 minutes and 27 seconds, the audio tape ran out of space and stopped recording).

Site visit was to be determined and coordinated via e-mail.

Motion by Kinsey Boehl to continue this hearing to August 4. Motion was seconded by Suzanne Egan. Vote was unanimous.

Request for Certificate of Compliance 60 Merrimack St. (Hatters Point Condominium Association)

Scott David represented the Association.

Charlie Weir from Marine Association.

Discussion ensued regarding the Hatter's Point Site. Mr. David's history at Hatter's point dates back to 1997. Further discussion and information was proven to be necessary. The meeting was continued to the August 4th meeting night.

Motion was made to close the hearing by Alan Corey. Motion was seconded by Kinsey Boehl. All in favor.

Motion to adjourn was made by Alan Corey. Motion was seconded by Kinsey Boehl. All in favor.

Meeting was adjourned at 11:23 PM.