

## Minutes of the Taunton Conservation Commission December 12, 2016

Present: Chair Steven Turner, Vice Chair Neil Kelly, Commissioners Debra Botellio, Marla Isaac, Ernest Enos, Luis Freitas, and Richard Enos.

Motion to approve the minutes of October and November, DB, second MI, so voted.

### Continued Violation

- 1. 165R Hart Street** Mr. Telsi property owner is present for the meeting. He states that the plan is still the same, clean up the area, do tie in for the two abutters, Greenburg and Rego. Telsi said he recently went to meet with the bank to get funding but they will not release the money while the TCC has a cease and desist on the property. He also stated he was originally getting funds to just connect those two but city wants whole street done. He needs the ok from the TCC, release of cease and desist and then he can go back to the bank to get the money released and begin work again. As soon as the city allows work to begin, he will start. ST permit to put pipes in? Telsi said yes he has easement. ST was told he did not have an easement but did the work anyway. ST once he reaches the street is that it? Telsi said no up to street and then left and right, up to Hart Street. Only going to tie in the two abutters stated above, rest of street will need to pull permits and hire someone if they want to tie in. LF said last meeting and the one before Mr. Telsi was a no-show. ST one was a Jewish holiday but the second one he didn't even email MR until 6:04 and would never have made it. LF said he was out with ST and the neighbors to walk the area. Why are we talking money and bonds, Telsi should have just cleaned up and done it right the first time. LF told him he should not have even done this, would he want this next to his home? LF stated Telsi put in sewer pipe with nobody watching, did it while Tony Abreau was away, not properly done, not inspected, DPW should have been notified and present. LF is not ready to do away with any fines tonight, he wants them to continue and speak with city solicitor about putting a lien on the property so Telsi can't sell it. ST spoke to Telsi, said he seems like a nice man but his word means nothing. He has been untrustworthy. Telsi now needs to prove himself. ST would also like the brook behind the abutters cleaned out, its dammed up. ST asked MR her thoughts on lifting the cease and desist? It work s for her, they can vote to lift it somewhat and Telsi can work with neighbors and on the brook. DB stated she is not ready to remove the fines. ST freeze them, not get rid of them. ST hold fines where they are, address them later, lift cease and desist so Telsi can work with the bank to get the funds, work on brook and with the abutters. ST finish Briarwood and then come back to

TCC to discuss the actual property at 165R. Motion to open to public input, DB, second LF, so voted. Mr. Rego just wants his yard back to normal. Loam and seed it and put it back the way it was. Mr. Greenburg wants to know if everything is ok or needs to be dug up and done again/ Telsi said the city needs to run a camera through the pipe to inspect it, he spoke with Tony Abreau from the DPW and Veola will come out to do this. Mrs. Greenburg states there is no easement. LF asked has anyone spoke with Tony or Freddie from DPW? MR yes and they stated that no permits have been pulled. MR no permits have been signed by the DPW, but this is the original issue with this property-work being done with no permits. LF easement needed to legally enter. ST everything documented, easement officially done, both abutters notified of what is going on, record it where it needs to be recorded and get MR a copy. Motion to lift the cease and desist on property, freeze fines as of today (12/12/16), no work to be done except for the brook on 165R Hart, Telsi give MR copies of easements and permits when they are ready, notify MR of any work including the brook and on Briarwood, easement to be done by meeting on February 13, 2017, MI, second NK, vote taken 4-3 it passes. DB, MI, and LF against.

### **Partial Certificate of Compliance**

- 1. 565/569 Winthrop Street, Lopes/NER, (PCOC), SE73-2483** Field report states that this project was for the expansion of a construction and demolition debris processing building, expansion of a repair garage, reconfiguration of an existing detention basin, and installation of sewer lines within a 200 foot riverfront area and a 100 hundred foot buffer zone of a wetland system. Also included was a 7,564 square foot replication area (2:1) in the northeast portion of the site. All work on the building, detention basin, and sewer lines has been completed in significant compliance to the order of conditions issued on 1/12/12. The wetland replication requires monitoring for the 2017 and 2018 growing seasons. MR inspected the replication area as well as the construction of the buildings and basin on 11/9/16 and found the replication area to be growing well with significant wetland species. MR recommends that the TCC approve this request and issue a Partial COC for this filing. Motion to approve, DB, second MI, so voted.

### **Certificate of Compliance**

- 1. Hoover Street (Lot 6), Leite, (COC), SE73-2039** Field report states that this filing was for the construction of a single family home on Lot #6 but was never built. No work was

started and the order of conditions has expired. MR recommends that the TCC issue a COC to close out the filing. Motion to approve, DB, second NK, so voted.

### **Extension**

- 1. Westcoat Drive (110-124), Taunton Municipal Airport Commission, (EXT), SE73-2565** Field report states that this project is for the construction of two hangar buildings, related apron and taxiway, vehicular access drive, stormwater management BMPs, and a wetland replication area construction. The proposed area is in the eastern section of the airport at the end of the existing taxiway and along the northern edge of the current taxiway. The taxiway and apron, access drive, detention basins, and replication have all been constructed. The construction on the hangars has not started as funding has not been completed. The applicant is requesting a three year Extension to allow for any additional delays in the construction process. MR recommends that the TCC approve this request and issue a three year extension to the order of conditions, valid 12/11/19. Motion to approve the extension, DB, second NK, so voted. Amendment to field report, apron is not done.

### **Amendment**

- 1. Hamlen Street (77-331), Nadeau, (NOI), SE73-2670** Field report states that this filing is for the proposed 300 foot extension of Hamlen Street. This work will included a 24 foot pavement width and wetland crossing affecting 3,600 square feet of wetland. The applicant is proposing a 7,250 foot replication area to replace the lost wetland area. The wetland was originally flagged by Walter Hewitson and an ORAD was issued on 6/16/10. The flags were refreshed by Scott Faria on 9/1/16. MR reviewed the flags and recommends approval of the lines as follows:

- Flag Series 4 to 20 along an intermittent stream across from Series B;
- Flag Series B, B1 to B5 along the BVW closest to Hamlen Street;
- Flag Series A, A1 to A3, A7 to A11 at the rear of the site; and
- Flags 1 & 2, A5, A6, A13 to A16, and B7 to B8 for reference purposes only

This project received an order of conditions denying the project because the project did not meet the following concerns of the Act: flood control, prevention of pollution, protection of wildlife habitat, and protection of groundwater supply. The applicant has

revised the plan and requested an amendment to the order of conditions. This is a legitimate request even though the order of conditions was a denial according to DEP. The applicant now proposes to cross the existing wetland and keep the connection via an open box culvert instead of the 2 12' pipes originally proposed. This modification meets the standard and allows wildlife to freely cross under the road. It will also eliminate the possibility of flooding at the opening of the crossing. The design reduces wetland filling by 17% but leaves the proposed replication area unchanged, thus creating a greater than 2:1 ratio. A catchbasin at the end of Hamlen Street will intercept rainwater and channel it to the bioretention area, thus treating the runoff and mitigating for flood control. Two wildlife enhancement areas will also be created which will be planted with berry producing species and will also act as buffers along the 25 foot WPZs at both the north and south borders of the wetland. The following aspects of the filing will remain the same:

- The slope on the east side will be rip-rapped for stability. A bioretention basin will be created at the northwest portion of the new proposed road (across from #6 Hamlen Street) and will capture stormwater picked up by the two new catchbasins within the roadway. Utilities will be placed under the new roadway and a detention basin is proposed at the end of the new roadway to capture stormwater from the remaining length of the road. The City Engineer says that the roadway plan seems to be a good one from his perspective.

- a 2:1 replication area will be located to the west and south of the proposed new roadway and will abut the unlettered wetland series from flags 16-20. A wetland scientist will be present through the entire process to monitor and supervise the replication. A wetland replication plan is included in the filing. The applicant will also be creating wildlife features such as brush piles, logs and woody debris, and flat stones within the replication area to enhance habitat. Monitoring reports will be sent to the TCC in December of the first two growing seasons per the plan.

Prior to any work on the site, the name of the wetland scientist overseeing the replication are must be submitted to the Conservation office. A construction plan should also be submitted to the office. The roadway construction, including the filling of a portion of the BVW in order to access property, is allowed under 310 CMR 10.53 (3)(t) with the provision that it minimize adverse impacts to the resource areas. MR recommends that the TCC approve the Amendment to this project and issue a positive Amended order of conditions to include the attached special conditions. MI would like it on the record that she spoke with Atty. Manganello in the summer of 2016 regarding something unrelated to this hearing and just wanted it disclosed. She did not hire him or pay him for any legal services. Present Atty. Manganello, Scott Faria, and Yvonne Nadeau. MI questions how they will make sure the critters will go through the culvert? There is an existing wall there with flared ends and it will sort of direct them through. Any nesting areas there?

None were seen, not right type of soil. Nothing endangered. RE asked who is responsible for the forebay if it floods or fills? Homeowner is responsible for the detention basin maintenance. DB could that be put on the deed? It is understood that whoever buys it is responsible but it could also be put on the deed and then they can be held accountable, it can be enforced, and also could be added to the order of conditions. Abutter William Andrade spoke. He said this is a continuous ecosystem, there is a spring, wetlands, a 12" pipe, etc. One yard floods to a pond when it gets very wet. He is concerned about more water and about the wildlife out there. Mr. Andrade would also like to be notified regarding the order of conditions. MR told him to send a letter to the Conservation Office with that request in writing. DB asked how many trees will be cut? Atty. Manganello said we are only here to discuss the roadway at this point. They would have to come back with a whole new proposal for any site work. She asked Mr. Andrade how many he thought. Atty. Manganello stated even if it is approved here tonight they still have to go before Planning Board. And any potential development will be back before TCC. Motion to deny project, due to flood control and protection of wildlife habitat, DB, second MI, vote taken in favor 2 (MI, DB) and against 3 (NK, RE, EE) motion fails. NK feels they have addressed the TCC's previous issues with the project. Motion to approve, NK, second EE, vote taken 3-2, in favor NK, RE, against DB, MI, EE motion passes. Abutter Mr. Andrade asked for a flood plan? See how this will affect the neighbors. Faria feels they have addressed that already. MR stated it won't make it better but they cannot make it any worse. Motion to approve the project as presented with conditions 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 14, 19, 21, 25, 26, 27, 28, 29, 30, 31, and 32, NK, second RE, vote taken 4-3 motion passes Against EE, DB, MI and In Favor NK, LF, RE, and ST.

### **Continued Public Hearing**

- 1. 110 County Street, ACOE, (NOI), SE73-2676** Field report states that this filing was continued in order to give DEP time to review the filing and meet at the site to see if they require a water quality certification. On 11/15/16, MR met with Bernadete DeBlander and Gary Makuch from DEP, Shane Stauffer, wetlands specialist, and representatives from ACOE and the construction company. The 4 wetlands located in the front lawn were determined to not be wetlands and a wetland replication will not be required. DEP said that the ORAD will need to be amended and MR has enclosed the Amended ORAD documents to be signed. The ACOE is still in the application process for the water quality certification and the final permit determination should also be submitted for the file. The ACOE will not be required to do any replications, therefore MR recommends that this filing be closed and an order of conditions be issued to include the attached special conditions. Motion to approve with conditions 1,2, 3, 4, 5, 6, 7, 8, 8, 17, 19, 20, 25, 26, and 27, DB, second MI, so voted.

## Public Hearing

- 1. Hoover Street (Lot 5), Malloch/Malloch Construction, (NOI), SE73-2679** Field report states that this filing is for the construction of a single family home with driveway, deck, utilities, and associated grading, within the 100 foot buffer of a BVW. The wetland line was approved under DEP file number SE73-2620. This site is located on the east side of Hoover Street and southwest of the approved construction of homes on Pinehurst Street. A siltation barrier is depicted 40 feet from the wetland and will be the limit of work. The closest point of the house will be 66 feet from the wetland while grading will be 65 feet away. The washout and dewatering areas will be outside the 100 foot buffer zone. Roof runoff will be directed to drywells. The work as proposed will not negatively impact the neighboring properties or the adjacent wetland, therefore MR recommends that the TCC approve this project and issue an order of conditions to include the attached special conditions. Karen Patenaude present for the applicant. Motion to approve with conditions 1, 2, 3, 4, 5, 8, 9, 17, 19, 21, 23, 24, 25, 26, and 27, MI, second DB, so voted.
- 2. 124 Tremont Street, Saxonis, (NOI), SE73-2683** Field report states that this filing is for the construction of a single family home with driveway, deck, utilities, and associated grading. The wetland and bank of Cobb Brook were delineated by Wetland Strategies in 2014 and extended by Earth Services Corp. on 10/28/16. MR inspected the site today, 12/8, and is in agreement with the flagging. Most of the flagging, especially ESC1-ESC6 follows along the bank of Cobb Brook, while there is a small area of wetland between the top of bank flagging (TOB) and wetland flagging (WFA series). MR recommends that the TCC approve the flagging, TOB 1-TOB3, WFA1-WFA6, and ESC1-ESC6. This property was in existence prior to the Rivers Protection Act and the **“...issuing authority shall allow the construction of a single family house, a septic system if no sewer is available, and a driveway, on a lot recorded before August 7, 1996, where the size or shape of the lot within the riverfront area prevents the construction from meeting the requirements of 310 CMR 10.58(4)(d)1. Or 2. [(d) No Significant Adverse Impact. The work, including proposed mitigation measures, must have no significant adverse impact on the riverfront area to protect the interests identified in M. G. L. c. 131, 40. 1. Within 200 foot riverfront areas, the issuing authority may allow the alteration of up to 5000 square feet or 10% of the riverfront area within the lot, whichever is greater, on a lot recorded on or before 10/6/97 or lots recorded after 10/6/97 subject to the restrictions of 310 CMR 10.58(4)(c)2.b.vi., or up to 10% of the riverfront area within a lot recorded after 10/6/97, provided that: a. At a minimum, a 100 foot wide area of undisturbed vegetation is provided. This area shall extend from mean annual high-water along the river unless another location would better protect the interests identified in M. G. L. c. 131 40. If there is not a 100 foot wide corridor of natural vegetation.], provided that the lot can be developed for such purposes under the applicable provisions of other**

**municipal or state law” (CMR 310 10.58(4)(d)3.a.)** The work proposed above can be allowed as stated above. Siltation barriers are depicted and are considered the limit of work. The dewatering and concrete washout areas are outside the inner riparian zone and work on the new house will be at least 35 feet from the brook. The razing of the old shed will be 25 feet away. MR recommends that the TCC approve this project and issue an order of conditions to include the attached special conditions. Karen Patenaude. Motion to approve with conditions 1, 2, 3, 4, 5, 8, 19, 21, 24, 25, 26, and 27, DB, second NK, so voted.

3. **Lot 6 Woodbine Street, Coute/Aspen Property Holdings, LLC, (NOI), SE73-2681**  
Field report states that this filing is for the proposed construction of a single family home with driveway, utilities, and associated grading within the 100 foot buffer zone of a BVW. The ILSF to the west of the cul-de-sac was approved and an ORAD issued (DEP # SE73-2654) on 5/18/16. The BVW to the south of the existing skating rink is depicted on the plan and is accurate although no flags are present. The entire project is within NHESP habitat and the applicant has worked with NHESP to develop a Conservation Restriction which is essential for the project to move forward. NHESP has determined that “... *this project, as currently proposed, will result in a Take of Eastern Spadefoot Toad. The proposed project will result in the disruption of feeding, burrowing, breeding, and migratory behaviors of this species, as well as the permanent loss of early successional and upland forested habitats.*” They continue “[p]rojects resulting in a Take of state-listed species may only be permitted if they meet the standards for issuance of a Conservation & Management Permit (CMP) (321 CMR 10.23). In order for a project to be considered for CMP, the project proponent must (1) avoid and minimize impacts to state-listed species to the greatest extent practical, (2) demonstrate that an insignificant portion of the local population will be impacted or that no viable alternative exists, and (3) develop and implement a conservation plan that provides a long term net benefit to the conservation of the local population of the impacted species.” This lot is a portion of the existing skating rink which will be razed prior to construction of Lots 6, 7, and 8. The proposed 34’ x 28’ dwelling (952 sq. ft.) will be 91 feet from the BVW while grading falls within 60 feet of the wetland. The construction meets Zoning setback requirements. The home will be serviced by City water and sewer. Erosion control will be set along the rear of the property and shall be considered the limit of work. Roof runoff will be directed to a Cultec recharger heavy duty chamber (dry well). The work as depicted can be approved under the WPA and Endangered Species Act as long as conditions required by NHESP are followed. The applicant will be addressing the TCC regarding the Conservation Restriction at the end of this hearing. MR recommends that the TCC approve this project and issue an order of conditions with the attached special conditions. Present Nick Dufrene and Chris Coute. 11 acres to this parcel, requesting conservation restriction on 8. Motion to approve with conditions 1, 2, 3, 4, 5, 10, 16, 17,

18, 19, 21, 23, 25, 26, 27, and 28-record of conservation restriction included in the deed, DB, second NK so voted.

**4. Lot 7 Woodbine Street, Coute/Aspen Property Holdings, LLC, (NOI), SE73-2680**

Field report states that this filing is for the proposed construction of a single family home with driveway, utilities, and associated grading within the 100 foot buffer zone of a BVW. The ILSF to the west of the cul-de-sac was approved and an ORAD issued (DEP # SE73-2654) on 5/18/16. The BVW to the south of the existing skating rink is depicted on the plan and is accurate although no flags are present. The entire project is within NHESP habitat and the applicant has worked with NHESP to develop a Conservation Restriction which is essential for the project to move forward. NHESP has determined that “... *this project, as currently proposed, will result in a Take of Eastern Spadefoot Toad. The proposed project will result in the disruption of feeding, burrowing, breeding, and migratory behaviors of this species, as well as the permanent loss of early successional and upland forested habitats.*” They continue “[p]rojects resulting in a Take of state-listed species may only be permitted if they meet the standards for issuance of a Conservation & Management Permit (CMP) (321 CMR 10.23). In order for a project to be considered for CMP, the project proponent must (1) avoid and minimize impacts to state-listed species to the greatest extent practical, (2) demonstrate that an insignificant portion of the local population will be impacted or that no viable alternative exists, and (3) develop and implement a conservation plan that provides a long term net benefit to the conservation of the local population of the impacted species.” This lot is a portion of the existing skating rink which will be razed prior to construction of Lots 6, 7, and 8. The proposed 42’ x 30’ dwelling (1,260 sw. ft.) will be 73 feet from the BVW and the deck will be 68 feet away. Grading falls within 55 feet of the wetland. The construction meets Zoning setback requirements. The home will be serviced by City water and sewer. Erosion control will be set along the rear of the property and shall be considered the limit of work. Roof runoff will be directed to a Cultec recharger heavy duty chamber (dry well). The work as depicted can be approved under the WPA and Endangered Species Act as long as conditions required by NHESP are followed. The applicant will be addressing the TCC regarding the Conservation Restriction at the end of this hearing. MR recommends that the TCC approve this project and issue an order of conditions with the attached special conditions. Present Nick Dufrene and Chris Coute. Motion to approve with conditions 1, 2, 3, 4, 5, 10, 16, 17, 18, 19, 21, 23, 25, 26, 27, and 28-same as above, DB, second MI, so voted.

**5. Lot 8 Woodbine Street, Coute/Aspen Property Holdings, LLC, (NOI), SE73-2682**

Field report states that this filing is for the proposed construction of a single family home with driveway, utilities, and associated grading within the 100 foot buffer zone of a BVW. The ILSF to the west of the cul-de-sac was approved and an ORAD issued (DEP # SE73-2654) on 5/18/16. The BVW to the south of the existing skating rink is depicted on the plan and is accurate although no flags are present. The entire project is within

NHESP habitat and the applicant has worked with NHESP to develop a Conservation Restriction which is essential for the project to move forward. NHESP has determined that “... *this project, as currently proposed, will result in a Take of Eastern Spadefoot Toad. The proposed project will result in the disruption of feeding, burrowing, breeding, and migratory behaviors of this species, as well as the permanent loss of early successional and upland forested habitats.*” They continue “[p]rojects resulting in a Take of state-listed species may only be permitted if they meet the standards for issuance of a Conservation & Management Permit (CMP) (321 CMR 10.23). In order for a project to be considered for CMP, the project proponent must (1) avoid and minimize impacts to state-listed species to the greatest extent practical, (2) demonstrate that an insignificant portion of the local population will be impacted or that no viable alternative exists, and (3) develop and implement a conservation plan that provides a long term net benefit to the conservation of the local population of the impacted species.” This lot is a portion of the existing skating rink which will be razed prior to construction of Lots 6, 7, and 8. The proposed 42’ x 30’ dwelling (1,260 sq. ft.) will be 73 feet from the BVW and the deck will be 83 feet away. Grading falls within 75 feet of the wetland. The construction meets Zoning setback requirements. The home will be serviced by City water and sewer. Erosion control will be set along the rear of the property and shall be considered the limit of work. Roof runoff will be directed to a Cultec recharger heavy duty chamber (dry well). The work as depicted can be approved under the WPA and Endangered Species Act as long as conditions required by NHESP are followed. The applicant will be addressing the TCC regarding the Conservation Restriction at the end of this hearing. MR recommends that the TCC approve this project and issue an order of conditions with the attached special conditions. Present Nick Dufrene and Chris Coute. Motion to approve with conditions 1, 2, 3, 4, 5, 9, 16, 17, 18, 19, 21, 23, 25, 26, 27, and 28-same as above, DB, second MI, so voted.

6. **22 Vernon Street, Coute/Aspen Properties Dev., LLC, (NOI), SE73-2678** Field report states that this filing is for the razing of an existing single family home and detached garage and the construction of a duplex with two driveways, 4 parking spots, front porch, and two back decks. The wetlands were delineated by Earth Services Corp. on 10/12/16, using flags 1A-3A and 4-9, and make up the majority of the lot to the south and west of the proposed duplex. This lot was in existence prior to the city’s Conservation By-law. The lot is in a flood plain, elevation 30 associated with Cobb Brook. The site is not within NHESP habitat. According to zoning regulations, a duplex is allowed by right. The property will be on city water and sewer. The cellar floor will be at elevation 30.5, while the top of foundation will be at elevation 38.3 A siltation barrier is depicted at least 12 feet from the wetland and will be the limit of work. Proposed grading behind the duplex will be 15 feet from the wetland at the closest spot, while deck construction will fall within 32 feet of the wetland. Both the concrete washout area and dewatering area will be outside the 100 foot buffer zone. The existing house and garage are a combined

1,492 square feet while the proposed duplex will be 1,645 square feet. The proposed driveways will be within the existing property's driveways. Grading will raise the top of foundation eight feet above the mapped floodplain, and nine feet above the wetland elevation. The construction meets Zoning Regulations. All work will be within currently established lawn and structures. A single family home or a duplex are both allowed by the Zoning Ordinance. This Commission can either approve the applicant's request for a duplex or vote to approve the construction of a single family home. In the case of the duplex, a perpetual condition that a garage not be built should be attached to the deed. If the Commission approves the Applicant's request for a duplex, then MR recommends that the order of conditions be approved with the attached special conditions. In the case that the Commission denies the request for a duplex and recommends that a single family home be built, then MR recommends that this filing be continued and revised plans submitted. Karen Patenaude and Chris Coute present. DB how close to wetlands is existing house? About 43 feet. Now will be 42 feet, deck 32 feet. Currently this is an illegal two family, looking to get everything into compliance. Motion to approve the duplex with special conditions 1, 2, 3, 4, 5, 7, 8, 9, 10, 15, 16, 17, 18, 19, 21, 23, 24, 25, 26, 27, and 28-no garage, LF, second NK, so voted. Abutters: Daniel Faria 19 Vernon Street, just wants assurance it will only be a duplex or single family and nothing else. Chris Coute assured them of this. Nothing else is going on the property but a duplex. Juanita Gallagher Winthrop Street. Stated anything would be an improvement. Asked questions about ownership and reminded them of issues with Cobb Brook and that Myrtle Creeks runs by there.

### **Other Business**

- 1. Conservation Restriction on Woodbine Street.** Motion to approve, DB, second MI, so voted.
- 2. 2017 Meeting Schedule.**
- 3. Eagle Scout.** Noah Burke, MR did a certificate for him, presented 1/8/17 at the PACC.
- 4. DB people keep coming back so it needs to be stated that something is "denied with prejudice" to stop this from occurring.**

**Motion to adjourn, RE, second LF so voted. Meeting ended at 8:55pm.**