



**TOWN OF WILMINGTON  
121 GLEN ROAD  
WILMINGTON, MA 01887**

PLANNING & CONSERVATION  
DEPARTMENT

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**CONSERVATION COMMISSION MINUTES**  
November 4, 2015

Don Pearson, acting Chair, called the meeting to order at 7:00 p.m. Laurie Finne, Vincent Licciardi, and Michael McInnis were present. Sharon Kelley-Parella, Julie Flynn and Charles Rooney III were absent. Winifred McGowan, Assistant Director of Planning & Conservation, was also present.

**PUBLIC MEETING - REQUEST FOR A DETERMINATION OF APPLICABILITY – 99  
MARION STREET - MAP 4 PARCELS 5B & 10**

Documents: Martinson Plan dated 10/23/2015 revised 11/2/2015

Present in Interest: Leigh J. Martinson, owner

L. Martinson explained that he purchased the lot next to his. He presented a plan to remove the existing concrete foundation and scrap metal from the lot. He plans to remove trees around the foundation and up to his lawn and extend the lawn. In order to do this he needs to create a path to bring the necessary equipment to the area. In the future he would like to put in a small barn or storage building where the foundation is now. He agreed to use erosion controls during portions of this project. If the building is not constructed within three years of issuing this Determination the applicant will need to file for another wetland permit.

Upon motion duly made and seconded it was

VOTED: To issue a negative Determination of Applicability for 99 Marion Street –  
Map 4 Parcels 5B & 10

**PUBLIC HEARING - NOTICE OF INTENT - 336 CHESTNUT STREET - MAP 13  
PARCEL 2B - DEP FILE #344-1321**

Documents: Proposed Subsurface Septic Disposal System dated 9/17/2015

Present in Interest: Luke J. Roy, LJR Engineering  
Carmine & Rosetta Lavino, owners  
Steven Wright, contractor

L. Roy presented a plan to construct an addition to the rear of the existing house. He had the wetland resource areas delineated. There is an intermittent stream that opens up to a pond to the north of the site. The existing home is on the western side of the stream. Where the 34' by 45' addition will be at the rear of the existing dwelling there is an enclosed porch, deck, and lawn. The new leaching system is outside of the 100-foot buffer zone and Zone 2 Wellhead Protection Area. The existing septic system will still be used for the existing home although the tank will be changed. The gutter downspouts

drain into stormwater infiltrators. The existing stormwater infiltrators are not shown on the plan and may interfere with the proposed design. There was a brief discussion regarding the location of those infiltrators and the construction challenges those could potentially cause once found. S. Wright said he will contact the Conservation office if he needs to make changes to the plans once these infiltrators are found. There was discussion about providing a wider natural area than the row of small trees and shrubs planted along the stream channel, about 5 feet from the wetland line. While the owner preferred to leave as it is, he agreed to not mow and to allow another 5 feet to grow back to create a 10' wide band of natural vegetation.

Upon motion duly made and seconded it was

VOTED: To close the public hearing for 336 Chestnut Street – Map 13 Parcel 2B

VOTED: To issue an Order of Conditions for 336 Chestnut Street – Map 13 Parcel 2B

**EMERGENCY CERTIFICATION – LUBBERS BROOK BEAVER DAM – OFF REVERE AVENUE - MAP 10 PARCEL 5A**

The Town of Billerica is proposing to install a leveler pipe in a beaver dam in Lubbers Brook between Revere Avenue and Sarafina's Way. The Board of Health has issued an Emergency Beaver or Muskrat Permit.

Upon motion duly made and seconded it was

Voted: To issue an Emergency Certification for Lubbers Brook – Map 10 Parcel 5A

**OTHER BUSINESS**

**CERTIFICATE OF COMPLIANCE - 6301 POULIOT PLACE - MAP 106 PARCEL 101 - DEP FILE #344-475**

Documents: As-Built Plan revised 10/30/2015

Upon motion duly made and seconded it was

VOTED: To issue a partial Certificate of Compliance for 6301 Pouliot Place – Map 106 Parcel 101 – DEP File #344-475

**CERTIFICATE OF COMPLIANCE - 205 SALEM STREET - MAP 81 PARCEL 3 - DEP FILE #344-1283**

W. McGowan stated that the as-built plan is missing the deck and other specified items.

Upon motion duly made and seconded it was

VOTED: To table the Request for a Certificate of Compliance for 205 Salem Street – Map 81 Parcel 3 – DEP File #344-1283

**AGENT UPDATE - 3 HAROLD AVENUE - MAP 23 PARCEL 101**

Present in Interest: Doug Lees, Land Engineering & Environmental Services, Inc.  
Cortney Constantino, owner's spouse  
Lisa Finn, J. Mulkerin Realty

W. McGowan noted that there were still structures in the inner 100-foot Riverfront Area that were to be removed per Enforcement Orders. She said that it appeared that fill remained in the floodplain where the flattened area dropped in a slope that appeared to be steeper than the slope shown on earlier plans and in 2008 when the owners bought the parcel. D. Lees passed out photos taken of the property earlier that day and an as-built of the property. He stated that there is a federal benchmark nearby that he used. He said he reviewed the topographic data from Town's 2000 topo maps and could not match it with current elevations. This grading would have him remove 1 foot of fill from the street to restore it to the map contours in 2000. He overlaid the 1969 topography. He used a combination of the information available and matched it as much as he could. He said the owner did what he could with the slope, removing fill while trying not to damage mature trees in that area. The shed and an outer retaining wall were removed. D. Lees stated the grade where a retaining wall is located is level with the neighboring property. If they remove the retaining wall then they will need to do something to stabilize the neighbor's property. C. Constantino said she had gone to the building department recently with all of her plans and received a building permit. A week later she was told the permit was rescinded. She thought that she could leave the retaining wall in the area of the shed since she had received a building permit. She said she put the wall in because the soil was eroding down the slope. She feels this would not be stable if the wall is removed. She said she had done what was discussed at the September meeting. She said she did not read the Enforcement Order. There was a discussion about what was discussed at the September meeting and what was in the Enforcement Orders, and about stabilizing slopes without retaining walls. The Commission reviewed the requirements of the last two Enforcement Order and checked the September minutes. The Enforcement Order stated that if the Building Department allows the unpermitted shed to remain, then the shed and its wall could stay, otherwise the shed, associated wall, and fill needed to be removed. The Building Inspector did not allow this shed, therefore the wall should be removed as well. There was discussion on whether more fill needed to be removed and whether the flood storage volume had been restored. D. Lees believed it had been restored, based on the hybrid information he used. M. McInnis explained why he felt the flood capacity had been restored.

C. Constantino said she would like to keep the wall so new owners could put a small shed in this area. After her family bought the house, she said they replaced a small shed with the much larger shed. She asked why the Commission would have allowed it, if the Building Inspector approved of it, but were making her remove it. D. Pearson explained that they had tried to compromise. The shed was within the inner 100-foot Riverfront Area (about 15 feet from wetlands). The wetland regulations indicate that there should be a 100-foot wide area of undisturbed vegetation next to the river, among other things, for work to be considered to have no adverse impact on the resource areas. C. Constantino said the house is currently for sale and they purchased a new home and are carrying two mortgages. She said she lost two buyers because this is unresolved. She felt that this will never be resolved, no matter what she does. She wanted to know why Winifred was targeting her. She said the building department told her that the conservation department came and told them to take the permit away. W. McGowan replied that she did not talk to the building department about rescinding the shed permit, but heard indirectly that the Inspector's decision was not based on a plan showing the replacement shed. She thought the Director of the department had talked to the Building Inspector about his decision. The Commissioners indicated that new owners would not be allowed to put a shed in that location. The Commission suggested she remove the entire retaining wall that is perpendicular to the house, but at minimum the part of the wall within 100 feet of the river and adjust the grades to remove the

vertical drop left when the wall is removed. C. Constantino responded that she already seeded the area and does not want to rip it apart. This would be another significant cost and would require grading, new hydro seed, and a new as-built. She doesn't think it is fair to make her spend more money after all that she has done. D. Pearson stated that all the Enforcement Orders require her to move things out of the inner 100 feet of the Riverfront Area. The Commission said that is what is specified in the Enforcement Orders, not just what she recalled from the meeting. C. Constantino left the meeting before the discussion was over. A new Enforcement Order will be issued to cover the outstanding work and will supersede the prior Enforcement Orders. The owners will be required to remove the structures, including a sandbox, within the inner 100-foot Riverfront Area, adjust the grade, and seed.

Upon motion duly made and seconded it was

VOTED: To issue an Enforcement Order for 3 Harold Avenue - Map 23 Parcel 101

**AGENT UPDATE - 114 WEST STREET - MAP 71 PARCELS 7, 8 - DEP #344-1068**

W. McGowan stated that she received a draft as-built and is waiting for the engineer to provide the volume calculations and confirm the slopes.

**AGENT UPDATE - 5 HOPKINS STREET - MAP 22 PARCEL 10D - DEP FILE #344-1315**

In response to a violation notice issued for clearing a long band of trees and shrubs that was to remain as woods, the applicant's consultant sent a list of 4 trees to be planted, but no plan. He was asked to show the restoration planting on the plan, but has not, nor had the cleared area been replanted.

**AGENT UPDATE - 250 MIDDLESEX AVENUE - MAP 65 PARCEL 6**

The property manager was in the process of filling a swimming pool next to the wetlands to create lawn. The pile of fill spilled into the wetlands. He said the fill would be removed from the slope and wetlands by the end of that day and he said he would file for a wetland permit by this meeting, but has not. A violation letter will be sent.

**MINUTES - October 7, 2015 and October 21, 2015**

Upon motion duly made and seconded it was

VOTED: To approve the minutes for October 7, 2015


There were not enough Commissioners present who also attended October 21, to vote.

**ADJOURN**

There being no additional business to come before the Conservation Commission, it was

VOTED: To adjourn the meeting at 9:35 pm.

Respectfully submitted,



Elizabeth Lawrenson

Senior Clerk