

CONSERVATION COMMISSION

Town of GREENFIELD, MASSACHUSETTS
114 Main Street, Greenfield MA 01301

413-772-1551
413-772-1309 (fax)



GREENFIELD CONSERVATION COMMISSION
Minutes of November 8, 2011
7:00 p.m. Greenfield Planning Department
114 Main Street

The meeting was called to order by chair, Alex Haro at 7:05 p.m. with the following members:

PRESENT: Alex Haro, Chair
Timothy Mosher, Vice-chair
Tom DeHoyos
Steve Walk
ABSENT: Dee Letourneau
ALSO PRESENT: Laura DiNardo, Conservation Agent, Mark Stinson, DEP, and members of the Public.

Approval of Minutes: Approval of Meeting Minutes from October 11, 2011 and October 25, 2011.

MOTION: Moved by Mosher, seconded by DeHoyos, and voted 3-0, with one abstention, to approve the minutes from October 11, 2011.

Walk was absent from the October 11, 2011 meeting.

MOTION: Moved by Walk, seconded by DeHoyos, and voted 3-0, with one abstention, to approve the minutes from October 25, 2011 with Mosher's correction.

Mosher corrected one typo on page 3 of the October 25, 2011 minutes

Haro was absent from the October 25, 2011 meeting.

Public Meetings/Hearings:

None

Other Business:

Peter LaBarbera representing Lenny Week – 312 Adams Road, discussion regarding pond (originally submitted RDA for dam repair/bank restoration in 2008)

LaBarbera introduced himself and gave a brief history of the project/location. Lenny Weeks called LaBarbera in 2005-2006 when he received the violation for dredging his pond. At that time, LaBarbera put together a plan/application but due to financial restraints and family issues, the matter was disregarded until now. One of the major questions is what the extent of the violation was, specifically what is buffer and what is resource area.

LaBarbera explains the layout of Week's two properties. At this point they are looking to turn the pond into a fire pond to enhance its use while remediate the violation. The plan would propose excavation of the artificial sediments (washed in materials). He explained this is a very expensive and time-consuming project and he would like some guidance or suggestions from the Commission prior to submission.

Haro stated a fire pond might be out of our jurisdiction, distinction of the property use is up to the property owner, not the Commission. There is no special accommodation for the property owner's decision to make his pond a fire pond. If the Fire Department (FD) came to the Commission and stated it was needed, that would be different. The major issue remains, presence of past violation. The Commission would need to see a plan but it would need to include remediation of the initial violation.

Walk expressed concern about the frogs and wildlife. Any work would need to be done a certain time of year. Commission allowed Lenny to repair the dam and he did the opposite, which is concerning when approving future projects.

Haro asked if the dam was fixed. LaBarbera stated no, in order to fix the dam the pond must be dredged.

DeHoyos asked is there were before pictures from 2006. LaBarbera stated possibly but he did not have any with him. Haro stated that pictures would be good to see. The Commission would like the site to be restored with the possibility of additional plantings.

DeHoyos asked if the property was delineated and approved by Commission. LaBarbera stated that he did the delineation but it was not approved by Commission or locked for 3 years. When doing the delineation LaBarbera looked at the extension of dredged spoil and what the soil morphology was under dredged spoil. Originally, he flagged pond as open water body and marked BVW. Soil under dredged spoil showed no hydrologic soils. The wetland resource area associated strictly with open water was only the open water you see.

Stinson stated that the east and northeast side of the pond is an extensive wetland/resource area.

DeHoyos expressed concern about the wetlands on the east side being destroyed around the time of the Enforcement Order. LaBarbera stated historically this area must have been altered but prior to Lenny's ownership.

LaBarbera recapped that the north side was possibly a Resource Area, the west side has spoils in the buffer area, and the east side was altered historically. In terms of remediating the past violation, spoils of west side would be removed per violation/401 water quality standards.

Walk would like to see remediation and then we would like to see the proposed plans but it is up to the applicant to meet the performance standards.

DeHoyos asked if a hydrant or pump house was going into this area. LaBarbera briefly explained the dry-hydrant process.

Haro stated the Commission, and Stinson stated DEP, would need written documentation from the FD stating that the fire pond is in some way essential. LaBarbera stated that the FD would not write a letter that it is essential; they can't use the word 'essential' because that would be implying they were providing inadequate service.

Stinson stated he has never seen a dry hydrant system were there is a municipal hydrant. LaBarbera stated that the closest town hydrant is 600 feet away.

Mosher expressed concern that there is no real plan and no real delineation. If the town feels that another hydrant is necessary they would put a new hydrant in. Conservation seed mix was not planted like originally planned. This time the project needs to be done right.

Haro stated the Wetlands Protection Act is their primary responsibility and the Commission needs to see remediation and documentation.

DeHoyos asked how long Lenny has been the property owner. LaBarbera stated that he has owned the land with the pond for around five (5) years.

Stinson asked where the sediment is coming from. LaBarbera stated it is coming from town drainage, catch basins. Stinson asked if there is an easement with the town. LaBarbera stated no, they have been to the site with Sandra, DPW, but in order to mitigate the ongoing inflow of sediment the DPW needs to religiously clean the basins. Haro stated that the town has a responsibility and that the Commission can help encourage the DPW to make this priority.

Stinson asked how the pond was fed. LaBarbera stated the pond has a bedrock bottom, inflow from the catch basins, Lenny's property, and the road. Stinson asked if dam was fixed. LaBarbera stated no, it is leaking. Stinson asked what the status of the approved work is. The Commission stated they gave Lenny permission to do some work, and then he started dredging, possibly became frustrated, and stopped all work

Stinson stated that this might be civil issue between town and Lenny.

Stinson presented aerial photos from 1997-2009 aerial photos.

Stinson stated that when a Notice of Intent is submitted, it is submitted given existing conditions. Therefore, what was once considered open water might be considered BVW. If it were considered BVW then a minimum 1:1 replacement would be required.

LaBarbera asked if converting BVW to a fire pond would be considered a limited project per the Wetlands Protection Act. Stinson stated that they would still need to replicate. LaBarbera stated his understanding of limited projects is that they replace what they can but it can be waived. If the Commission doesn't require replication, DEP will require applicant to replicate under the Clean Waters Act. Limited projects state that replication can be waived by Commission. Per 314 CMR 9, if Wetlands Protection Act doesn't require replication then the Clean Waters Act will but at this time we don't know the delineation.

Haro suggested a possibly site visit as soon as possible before another snowstorm either that or wait until next spring. LaBarbera stated the only place to replicate is to expand the BVW on the north side but they might encounter a buried town drainage structure and possibly replicate on the west side.

Haro stated the Commission would like to see delineation and would like to see plan to remediate violation. It is hard to go much further until that is determined.

LaBarbera stated remediation of the violation consists of removal of the spoils; from a landowners perspective he would rather do all work together (fire pond and remediation). Stinson stated that there are two separate issues; you have the original violation and proposed work and you can't assume any project will be approved.

Mosher stated that if the hydrants now are considered adequate per DPW standards then why should the Commission give permission to create a fire pond.

Haro ends discussion stating that the Commission is willing to work with Lenny and they have given him plenty of time to work on a solution but there is a current violation that the Commission needs remediated and waiting another three or four years will only create more problems in the future. Regardless of money constraints, the applicant needs to follow all regulations for the Town of Greenfields Wetlands Protection Ordinance and the Wetlands Protection Act.

Correspondence:

DiNardo notified the Commission that Cersosimo Industries contacted the Commission regarding the Knotweed control at the former Mackin Site (145 Gill).

DiNardo presented RDA submitted by DOT in April 2009 regarding the ITS rotary project. Haro introduced project to Stinson. They removed trees without the Commission permission and DOT was supposed to submit a planting plan. DiNardo presented a cutting plan submitted in 2010. Stinson asked what they put in the RDA originally regarding the cutting and restoration. DiNardo read a section of the RDA. Haro stated he has never seen the cutting plan.

Stinson stated that in 2009 Mass DOT submitted RDAs to multiple towns along I91 and worked with DEP on project. Stinson asked if an Enforcement Order was issued. Haro stated no, the work was already done. Stinson suggested off site mitigation. Haro requests that DiNardo drafts a letter to Mass DOT.

Monitoring:

Enforcement Updates:

Haro updated the Commission on the Mr. Kalinowski mulch pile violation. Pictures have been sent to DEP of the flooding and the pile smoking. People in town are upset. The Commission gave this issue to DEP. The Commission discussed the current status of the violation and a future approach.

Stinson stated that DEP has the option to turn the case over to the Attorney General's office.

Haro mentioned that the Magic Fuels site (488 Bernardston) has problems with the silt fence that need to be remediated. DiNardo and Haro will check the site on Thursday.

Site Visits: None

Next Meeting: Tuesday, November 22, 2011 @ 7 PM, 114 Main Street, Planning Department Meeting Room. Mosher will be absent.

Adjournment:

MOTION: Moved by Walk, seconded by DeHoyos, and voted 4-0 to adjourn the meeting at 8:42 p.m.

Respectfully Submitted,

Laura DiNardo
Conservation Agent

Alex Haro
Chair