

CONSERVATION COMMISSION
781-982-2100

Minutes
August 26, 2014
Buckley Room
7:00 p.m.

Members Present: Russ Forsythe, Mike Noonan, Bill Stone, Jerry Kelliher, Kathy Creighton, Denis Bergin
Absent: Joe Feeney

7:00 p.m. No update on Open Space. Reports have been sent for review to other committees and boards.

275 Chestnut Street. Received an email from Elliott Paturzo on Mr. Vo's behalf requesting to come to the next meeting on 9/9/2014. They are meeting this week and will be able to give an update on the project. Mike – they have blocked off entrance that was supposed to be used. Letter to be sent – The Commission has noted that the driveway is not in accordance with the Order of Conditions. The rocks are to be moved from the driveway that he is supposed to be using. Motion to move this to September 9th made by Mike, seconded by Jerry, unanimous.

1066 Washington Street – Continued hearing, NOI, David Aylward, to re-establish swales to correct drainage problem in backyard. Motion to open the hearing made by Jerry, seconded by Bill, unanimous. DEP # still hasn't been issued. Mr. & Mrs. Aylward – it would cost \$5,000 for engineered stamped plans to fix his backyard which they can't afford; where do they go from here? DEP wanted an engineer's plan. The sketch they provided was not sufficient. They spread loam out no further than his lawn was. Facing the house, the left swale is clean, with cattails in it. They have stopped everything. Mike suggested he talk with Seoane and see what can be worked out; come back to board after that. Call him and see what they can do to make it right. Seoane had said he would help him clean the swales. They need to agree on where the water will flow. Kathy – DEP's issue is for engineered plans. Mike - can they put backyard back into original condition? Denis - do they need to divert the water? Mr. Aylward - two swales were supposed to handle water before Seoane did work. Since then, there is more water than pipes or his backyard can handle. More water has been pushed towards the Aylwards. Previous board had gone out and said there were no wetlands. Town has come and checked out pipes. They have tried to clean out swales, but it just slid back in again. Over the years, it has sunk and gotten wetter. When they first moved in, the area shown on the map was pretty high ground. The house next door was built in the spring; it's within 50' of wetlands. Why weren't they flagged, and why weren't haybales put next door? Mr. Aylward didn't have any indication that there were wetlands there. Denis – was his solution to put more soil where the water was coming in? Yes – to bring his grade back up. Kathy – board had talked about having him clean out the swales on either side. The water that normally flowed in those channels isn't moving. The house to right is 2'-3' higher. Board had hoped a hand-drawn plan from the home owner would suffice. Denis – maybe the best suggestion would be to contact Seoane. Mike - get together with Seoane and come up with viable plan and come back to board. Mr. Aylward wanted it to go around and into pipes which it did before. Kathy - suggested they withdraw the NOI. Mike – just call DEP and tell them they are leaving the land as is, it's too expensive. Kathy – then they could resubmit with new filing. Board wants to work with them. Denis – suggested they keep it open so they don't have to file again.

Motion to continue to September 23, 2014 made by Mike, seconded by Denis, unanimous.

7:15 p.m. **Request for Determination, 1212 Bedford Street, Vincent D'Andrea**, for the removal of existing sand/gravel and loam piles located on the northwesterly portion of the site; the installation of a fence on top of the existing jersey barriers; and the installation of a gate across the rear of the site. The removal of the stockpiled material will prevent runoff from the site onto the abutting property and adjacent wetland and the installation of the fence and gate will prevent unauthorized access. Motion to open the hearing made by Denis, seconded by Jerry, unanimous.

Vinnie D'Andrea - drain pipe is on plan to go into pond and drains into Route 18. Kathy - didn't agree with delineation and that the wetland in back of Lot 2 is a wetland and not a depression. Plan doesn't show any haybales or siltation fence. It isn't clear that he hasn't filled some of the wetlands extending on to his property or not. There are no test pits or borings. Board had originally asked for NOI, not an RDA. Denis - first question is, is it under jurisdiction of WPA. Vinnie - didn't think wetlands were on his property - they were on McPhail property. Denis - questioned the puddle that he saw that is actually a river. Vinnie - when the pipe clogged, water ran all the way down into the depression. Denis - questioned plan. Vinnie - Norman Clapp did original plan; Brooke Monroe added to it. A delineation report was not submitted with the filing. Denis - question is, does this fall under WPA; are the boundaries of the resource areas accurately delineated. Kathy - no. Neighbors' property isn't delineated. Denis - Is work depicted subject to WPA - moving earth may or may not be, but putting the drain pipe definitely is. Vinnie has a signed easement agreement with Mr. McPhail.

Denis - this is an RDA; board asked for NOI in the Enforcement Order. Soil had been brought in where there was either a river or a puddle. The neighbors complained they got more water. A barrier was put up to protect the wetlands and more fill was brought in. Now the soil is up to the top of the barriers. Vinnie - it is now at the elevation of Matt McPhail's property. Mike - since the barriers were put up, they stopped any flow that might have gone into that pond. The natural flow of the water is being stopped in the Reeds property because of the jersey barriers. Vinnie - the board had asked him to put a pipe in, and he couldn't because he would have to get an easement from Matt McPhail. He was under an order from the State to stop using the pond to drain. There had been an RDA on Mr. McPhail's property.

Kathy - is frustrated with what is here; it is no quite what was needed. In Area Description in RDA, "A bordering vegetated wetland exists off the west-northwesterly side of the site, on, and to the rear of, the abutting property (n/f Reed). The board doesn't have the botanist's report with her drawing of where the wetland is. Denis - there is the idea that the water would be draining to that pond and this would go under Route 18. This is not a perfect fit, but anything that helps the neighbors... Denis - future construction will trigger a NOI. The board had wanted to know how much soil had been brought in. Vinnie - he had submitted a soil report. The soil will be taken off the site. Suggested opening it to the floor.

Brian Reed, 26 Highland Road - there should be NOI because the maps showed there were wetlands on his property and Mr. D'Andrea's property. The reason it's not wetlands anymore is that it was filled in. There is 5' more dirt there. Denis - asked if he thought the pipe would help. Brian - it may help alleviate the problem, but it doesn't change the fact that he had a stone wall in his backyard and now he has jersey barriers and 5' of dirt. Mr. D'Andrea did this without authorization, without an NOI, without permits. Mike - right now he has the RDA to remove all the soil, put the pipe in, then he will have to come back with a NOI. Brian - Mr. D'Andrea only wants to remove the piles of dirt; he doesn't want to put the dirt level and remove jersey barriers back to the level it was before. He only wants to remove the piles. Mike - the board understands that. Brian - they were here last month and talking about going back to what it was; apparently they didn't go that route. Are jersey barriers acceptable for residential property for retaining walls? The water is not coming off his property (Mr. Reed's), it's coming off of everyone's

property. Showed picture from state showing area to be wetlands. He felt if board allows Mr. D'Andrea to have this RDA, the work stop order is gone, he can do whatever he wants; he already did it, and there is no consequence. Denis – Mr. D'Andrea's property is commercial. Brian – his property is residential, and he had a stone wall that looked decent, now he has jersey barriers in his backyard. Denis – there will be a building there soon. Kathy – if it went through Zoning and Planning if there had been construction, there would be an appropriate buffer – either trees or fence. Brian – if the board lets him go, he will do whatever he wants again. Denis – the Reeds have property that floods. Vinnie – it only flooded once because the pipe clogged at Matt McPhail's. Brian – would like to see the removal of the dirt and jersey barriers and putting it back to where it was before he started, then starting over again. If Mr. D'Andrea wants to bring in dirt, he needs to fill out an NOI and come to the board with engineered plan and do it properly. Kathy – it has been filled in and the pond is smaller than it was when she moved here. She felt it was a combination of 1200 and 1212 Bedford Street. She would like to see the pipe installed to alleviate the short term problem; she is concerned with the longer term issue that there are wetlands there that haven't been protected.

William Vongbandith, 77 Highland Road – re 2 Harvard Street. Kathy explained this hearing is just about 1212 Bedford Street.

Denis – wanted to know what Vinnie's goal was, to raise up the level of the land to construct a building? Vinnie – yes. Denis asked Mr. Reed what he wants. Brian – wants to have a retaining wall, not a jersey barrier, wants the stone wall put back where it was. Vinnie – he had property surveyed, and the stone wall was a little higher than it should be to put the jersey barriers on. He stockpiled stones on the barrier side so you don't see the barriers. He has painted the jersey barriers on the other side green and hasn't had complaints in 15 years about the jersey barriers. Vinnie had talked to him about it, and he had no comments at the time. Kathy – Mr. Reed didn't have any decision making powers. Didn't see the jersey barriers as a long term solution to hold up the soil. It needs to be sloped and graded or retaining wall. She is concerned about the possibility of the dirt slipping into the wetlands. She didn't like jersey barriers as the barrier between two properties.

Mike – asked if Vinnie had put stone in for hydraulic protection. Yes. Mike- if it's installed properly and there is no compression that is going to blow it out... Vinnie – the other ones have been there for 15 years. Brian – before he put up the second set of jersey barriers, there wasn't a big puddle there. They never had water like that. It was after the jersey barriers were put up behind their property and 5' of dirt on the other side of the jersey barriers, filling up all the way over to the catch basin which is now half the size of what it was. The catch basin is half filled in. Mr. D'Andrea did the work, but the other neighbor knew all about it.

Denis – Mr. D'Andrea will be before the board again. Mike – can the board issue the determination, and then no other work can be done until he comes back with a NOI? Kathy – the board doesn't have to revoke the enforcement order; it can stay in place. They can make an adjustment to the enforcement order, but she didn't think he had met the full intent of the enforcement order. Kathy didn't want anything else filled in. Vinnie – had been before the previous commission several times, cleared it, with no issues, no wetlands. Kathy felt wetlands were up to the property on Lot 2, the Reeds' property. Normally there is a 10' buffer the board requires. Because the wetland goes up to the wall, it's funny it goes right to the property line, the wetland is right there. So much dirt has been placed there, you can't tell where the wetland ends. She didn't think it was the entire property that Mr. D'Andrea owns, but there had to have been wetlands on this property. Denis – had reviewed older files on 1212 Bedford Street and found plan done by Mr. Clapp, and that area was noted as a wetland. The Reeds are lucky they don't have water in their basement because they are surrounded by water. Vinnie – the pipe was clogged. He can cover the jersey barriers with large stones if Mr. Reed wants that.

Kathy asked about the fence – chain link. Denis – it is a commercial site. Mike – hadn't seen the plans by Mr. Clapp before that were showing wetlands between the Reeds' property and Route 18. Plan was in the Dwayne Johnson file. Denis – has read all the files. Vinnie – report called it isolated. Brian – it's an intermittent stream, and when it really rains, it becomes wetland. Board agreed.

Denis – there are loads of issues with this filing. The Reeds are here who have problem with flooding, and Mr. D'Andrea who wants to put in a pipe. It will require a NOI to construct the building, which would also look behind the site. Vinnie – building will be done in the front of the lot. Brian – he won't be filing unless he builds the structure within 100' of the wetlands. Denis – the whole idea is to try to work out what would be good. They could require replicated wetlands.

Mike – would like to close the meeting to the public. Kathy – as soon as there is no more information or questions from the applicant or the abutters. Denis – asked if they had something from the Reeds saying the drain pipe would work. Mike – they really want it to go back to original. Board has to make a decision.

Motion to close the hearing made by Mike, seconded by Jerry, unanimous. Discussion by board will come at the end of the meeting.

Ratify Enforcement Order on 5 Dale Street. Enforcement order was issued last week. Jerry went up after we had gotten a call from DEP. Property was in the process of getting cleaned up when he went there. He called Tena Davies, DEP, who said he should go back and give them enforcement order and have them put up haybales and not to do anything else. Denis was there also. Mr. Wells dropped off photo of haybales. Denis - behind site is wetlands. Silt fence has been put up. Kathy - this had come up about 15 years ago and was issued an enforcement order. Fill had been ordered by DEP to be removed. It looks like they have gone back a lot farther. She went on to DEP website to MassGIS – and where the haybales are, it looked like wetland had been filled in there. There is a business being run out of there and it is a residential area. DEP mapping had indicated a vernal pool back there, but not certified. Peter Wells is property owner - no filling has gone into wetlands. They were trying to compost leaves before. They removed it and had to get a certain slope. They haven't filled in anything. They are trying to clean property within the buffer zone because property is for sale. They put up the haybales. The house is empty right now.

Opened to floor for comments:

David Hall, 29 Dale Street - they were filling in today on right hand side of property by fence. Took photo before he came, behind piles of stone, behind house, behind pallets. There were bricks there that are being removed. Denis hadn't seen them today. It looked clear, but there looked like a mess behind the house. Mr. Wells – there are pallets behind the house. Mr. Wells - they haven't done anything; when they got the order, they put up haybales. Mr. Hall - submitted another picture of what had been removed after the enforcement order. Jerry - everyone left property when he delivered the enforcement order to Peter. Peter - there hasn't been removal after that order. Kathy suggested the board do a site walk for this and the NOI that had been filed.

Motion to ratify the enforcement order made by Denis, seconded by Mike, unanimous.

NOI, 5 Dale Street, Peter Wells, to construct two single family homes with site appurtenances within the 100 foot buffer zone of a bordering vegetated wetlands. Motion to open hearing made by Jerry, seconded by Mike, unanimous. Abutters cards submitted with the abutter's list. John Cotter, Russell Wheatley Co., gave presentation representing Peter Wells and Jean Bumpus, two of the four owners of the property. Property is located on west side of Dale Street. Proposal is to subdivide property into two residential house lots. Currently has single family home with commercial landscaping

business. Landscaping business will be moved offsite when this goes through. The majority of the lot is wetland, shown with flags 1-13, and loops around to rear where you have the Shumatuscacant River, which they took off another plan; it hasn't been physically located. Approximate location is given on these plans of the river itself.

Proposal is for two residential house lots. Location of the houses is shown on the plan. Plan has been presented to ZBA for lot width variance on Lot 1 and frontage variance on Lot 2. There is no filling of wetlands proposed. They are honoring the 10' buffer zone, and proposing siltation barrier. They did topo of site. Re-worked property lines; has gone to building inspector and it is acceptable to him and conforms to bylaws. Will be two single family house lots with grading shown. Proposing a retaining wall on Lot 1 at the 10' buffer zone, and creating swale along property line by the Halls so that any runoff will be caught by the swale and redirected back to wetlands. They are mitigating with siltation fence shown along both property lines. Houses will conform to zoning, and they are not proposing any filling of wetlands. Utilities will be municipal with both houses having a sewer tie in and water connections. House lots are 41,000 s.f. and 76,000 s.f. Upland area on both lots is smaller than 30,000 s.f. of upland, but exceeds 15,000 s.f. on each lot. Kathy - they don't show exact location of Shumatuscacant River. John - previous notices done that were downstream from this lot, and at that point, the Shumatuscacant was considered an intermittent stream. They have to look into this. Kathy - brought up river front area. There was a drawing that Brooke did, and Kathy wondered about WS9, whether it was a fence or property line. John - they located those flags independently twice. Kathy - on DEP wetlands map, area looked like it extended further towards the property boundary; it also indicated there was a vernal pool there. Is the wetland up front a vernal pool, or is it ILSF? John felt it was ILSF. They didn't show the extent of it; they would have to prove to the board that it is ILSF; there would be other regs that go with that - a flood zone that goes around it. They will be considered Form A plans after they go to Planning.

Opened to floor:

David Hall, 29 Dale Street - which plan are they going by? Revised August plan is the one being used. There's a 6' swale that runs natural. Mike - they want to make sure the water runs away from the Halls' property. John - they aren't filling any wetlands. He's not sure if fill will have to be brought in; goal is to move soil around and not bring in any fill. David - read prepared letter expressing concerns (attached). They have filled on the property for 13 years. They have called to complain and it stops for a few weeks and then resumes. He submitted photos from 2001, 2008, and filling is bigger. Fill was removed on August 20th, haybales were put in. They are still doing it. How can Conservation approve this if it hasn't finished with Zoning? He questioned 15,000 s.f. of contiguous land. He requested board to hire consultant to check soils for fill. Denis - is he having problems with drainage? David - no - he has a problem with illegal filling in the wetlands. Applicant would have to pay for it, burden of proof is on applicant. Problem could be mitigated if they only put in one house. David submitted copies of his material with photos.

Dennis Delsignore, 6 Beaver Lane - agrees with Mr. Hall. His lot is two levels and lower level is always flooded. Would like to know where pond/river actually is. There are two sink holes there. He is concerned the water will go into his yard.

Maureen Delsignore, 6 Beaver Lane - it has gotten worse over the years. It has been building up. They are concerned that if they are going to do digging on that property to put in the two

houses, wetlands are going to flood even more. Just to the right of paper road is called the 100 year floodplain and Shumatuscacant is right in back of that.

Jim Franey, 931 Washington Street - re vernal pool, how is it determined? Are there more restrictions on vernal pools? Kathy – it takes a certified biologist to certify a vernal pool, and in this case, she thinks it is a potential vernal pool, hasn't been certified. A biologist could figure that out. It may trigger a wildlife habitat study.

Rich Curtin, 16 Beaver Lane – concerned about flooding also. Gets very wet. Has complained about dumping. Needs serious consideration as to what is going on there. There is a business running out of there that shouldn't be there.

Dorie Hall - if it's a vernal pool, could it be evaluated? Wanted to see qualifications of person who would be doing study. Submitted her letter and photos.

Denis - endangered species - listed as not existing based on map. Kathy found potential vernal pool on one of the GIS maps. Is it ILSF or a vernal pool? John – when Brooke did flagging, there was a little water in it.

Russ - they would be pleased to provide information regarding any questions if they are provided with a list of specific questions the commission has. They would provide whatever expertise that is required. Mike – re Beaver Lane, there is a drain manhole on Vineyard Road, which should probably take care of their problem. Kathy – there are a lot of storm drains, but they go straight down and don't have pipes with them, to take care of some of the puddling, more of a leaching thing. She didn't know of anything that ran down Vineyard. John - there are two catch basins on Vineyard that go down Beaver Lane. Neighbors are concerned about backyard. Mike – the neighbors just want to make sure that 5 Dale Street water doesn't drain on them. Grades go from 172 down to 168; 171 on corner of Vineyard Road and goes back down to 168 at wetlands. They would be responsible for their own water to make sure it drains. John – there is drainage from Beaver Lane that comes to easement in the middle of the road and goes in back of the neighbors. Kathy felt there should be a site walk out there.

Issues to be looked into for Board: drainage, vernal pool, riverfront, ILSF?, amount of fill to be put in, fill that is already there, wetlands flags. They would need Order of Conditions from Conservation before going to Planning Board for Form A plans. Russ requested a list of questions they can address. Board to do site walk on 96 at 8 a.m. Kathy will do it on her own. DEP # hasn't been issued yet.

Motion to continue to 9/23/14 made by Denis, seconded by Mike, unanimous.

9 p.m. NOI, 899 Washington Street, Patricia Louis, Estate of Francis & Wilhelmina Messier, to construct single family dwelling and garage with site appurtenances within the 10' buffer zone of a bordering vegetated wetland. Motion to open the hearing made by Bill, seconded by Mike, unanimous. John Cotter and Russ Wheatley gave presentation. Proposing single family house to be constructed on Washington Street. BVW is outlined in green to the rear of the house. The lot drops down from Washington Street about 7' and flattens out to lawn area and continues down into BVW. The lot is traversed by a 20' wide sewer easement. They

are proposing to grade a building footprint of 36' x 60', with garage, driveway on north side of property. There will be a lot of fill brought onto this property. Drainage swales will be created on the north and south sides of property to direct any runoff that may come off this property to the back to protect lots to the north and south. The wetlands are delineated by flags 1-12. They are proposing siltation fence along the 10 foot buffer for a portion of the wetlands, and across to stone wall, to be used as a portion of the new property line. The lot has not been created yet.

Sewer goes to the back of the property into existing easement. Water service will be on Washington Street. The river is substantially behind this property. The 200' riverfront district doesn't reach the property at all. It is in front of ZBA and Planning also. There will be 40' of fill, and the house will have a walkout basement. It will drop down on each side of the house to existing grade. Kathy asked for botanist's report, which was submitted. Mike was familiar with surrounding property, and they all have the same thing – higher at the street, and then they go down in the back. Denis has gone out; the wetlands are far back. Kathy – how much fill is to be brought in? It will be over 100 yards, and they will have to get a permit from the Board of Selectmen. Swale will go on both sides of property. Garage is going to be a front entry; plan was revised 8/25/14. Berm and swale were added to left side. There is 10' buffer behind the building.

Jim Franey, 931 Washington Street - wanted it clear that it's just a request for a single family residence. Yes. In the wooded lot beside the Messier's house. John - a lot of trees will have to come down.

Kathy Najaulis, 237 Bedford Street - is pond still back there? Yes - it's marked as edge of wet area.

Jim Franey - area maybe a vernal pool that Kathy Najaulis was referring to. Can it be checked? Denis - they're not going near there and can't get at it due to vegetation. It's before vegetation, but may be on cemetery property.

DEP hasn't issued file # yet. Commission will do to site walk on 9/6.

Mrs. Franey – question on trees being taken down. John – because of the way the lot drops down, they will have to take down trees, but will try to leave as many trees as they can.

Motion to continue to 9/9 made by Denis, seconded by Bill, unanimous.

NOI, 999 Adams Street, Brandon Duffel, 999 Adams Street LLC, to expand existing facility construction of building and parking area and site utilities within the 100 foot buffer zone of a bordering vegetated wetland. Motion to open the hearing made by Denis, seconded by Mike, unanimous. Green cards and newspaper notice were submitted. John Cotter and Russ Wheatley gave presentation. They are proposing additional building on Precast Specialties site at town line. Proposed building is 51' wide x 321' long, with proposed parking around building. Building itself and a portion of the parking lot is within 100' of BVW. There is a drain that runs the entire length of the along the MBTA property that collects the runoff from the train. There is a drain pipe at the end of the property that goes under the road into what used to be Naval Air Base. They are proposing to expand the use of the site. The building will be used for creating

concrete items. They are conforming to storm water management and the WPA. Drainage that will be created by the improvements to the site will run into catch basins with gas traps, into a drain manhole, into a proposed detention basin. The detention basin will have an outfall at the south end into grass swale and the existing wetlands that were flagged by Brooke Monroe.

As far as mitigation, there will be a siltation fence along improvement area to the wetlands on south side of property. The site as it looks right now has been approved by Zoning. They will have to go to Planning for site plan review for October meeting. They are preparing drainage calcs for 2, 10 and 100 year storm. No DEP # has been issued yet.

They are putting in gas traps in deep sump catch basins (4), go into detention basin, into outfall pipe, into grass swale, and then into the wetlands. Each one is a best management practice. The catch basin with gas traps and deep sump, goes into drain manhole that also has a sump that also works as a sedimentation basin, and into the detention basin. The detention basin is also a structure for best management and as is the grass swale. Kathy suggested they look at MASS DOT plan as far as drainage. Building will need septic. If it is added, it needs to be on plan. Kathy - suggested they hold off till they go to Planning. They need DEP # and septic on plan.

Motion by Bill to continue to 9/23, seconded by Jerry, unanimous.

Discussion – RDA, 1212 Bedford Street - issues - soil removal, installation of drain pipe, and installation of fence. WPA Form 2 reviewed. Kathy - it would be ideal if the board could get the applicant to determine how large an area had been filled in wetland and recreate it in place or in another location on the lot. Mike – how can the board prove there were wetlands there? Suggested he remove fill, put pipe in, start all over with an NOI. Bill – concerned with causing more damage. Mike – would like to see it go back, but to what? Kathy – you should be able to test pit it. Mike – how can you tell what was there and what wasn't. Kathy – a competent soil scientist would be able to tell; they can tell the difference between what is natural and what has been brought in. The applicant would be responsible for the cost. The wetlands are not shown on the neighbor's property, and thought that was inappropriate. There are no haybales on plan. Kathy felt the applicant had short cut the system and didn't think Enforcement Order should be lifted. There is still fill on 1200 Bedford Street. There is still a drainage problem and she didn't think it had been fixed. Thinks the drainage pipe will help and would like to see it go in. She's just not comfortable. A large amount of fill has gone in. Mike – pond is on 1200 Bedford Street; there is fill on 1200. That is a different aspect because it is under a different name. 1212 needs to be cleared up first. Denis – brought up the building that Mr. D'Andrea hopes to construct in the future. Mike – that would come under the Planning Board. Property behind the Reeds is partially 1212 and 1200 Bedford Street.

Bill – likes the idea of the pipe that is proposed, but is that the solution to the problem of the water build-up and how is it going to be maintained? Denis – as far as replication, we don't know how much has been filled in. Mike – putting in pipe will hopefully alleviate the Reeds' water problem, remove soil. Feels that if there were wetlands, they are gone now. Denis – this is something that has occurred over the years, with other commissions as well. It didn't happen overnight. Vinnie – another commission had told him there were no wetlands, and he brought in fill. Brian Reed – there were wetlands where he broke the 10' buffer zone. Kathy – this meeting is closed for discussion other than board.

Mike - motion to go by the RDA and have Mr. D'Andrea do what is on the RDA, and keep Enforcement Order in place until the RDA is done and address anything else later. Pipe will be put in, remove the fill from 1212 and cease and desist is still in place. Kathy – asked about the fence. Mike – didn't agree with fence, but it's part of the RDA. Denis – board could make recommendation that something else be suggested instead of fence or along side of it that would be more cosmetic. The fence is along the lot line of the Reeds', and then it goes back into a box with a gate. Kathy – are they going to allow something within 10' of wetlands as far as fence? Denis – to clarify, Mike is suggesting negative determination #3 - as described in RDA, keeping cease and desist in place, which wouldn't allow any more fill to be brought in. Yes. Building will require a NOI. Second by Jerry. Discussion: Kathy - should have been NOI, doesn't think wetlands are delineated correctly on plan. Doesn't agree with this at all. Asked if board agrees that there are no wetlands on the Reeds' property. Board is in agreement that there are wetlands on the Reeds' property. Vote - 5 ayes, 1 nay (Kathy). Denis – recommends that Mr. D'Andrea make the fence and barrier as cosmetically okay with the Reeds' as possible. Mr. D'Andrea – wants the fence as a safety element for the kids at the day care.

Correspondence:

cc Kopelman & Paige re Superior Court case – Powers vs. Park and Commission
Mass. Audubon information

MACC – information on classes and webinars being held

cc: Penney Engineering - re 123 Centre Ave. - letter to be sent that they will have to file for test pits.

ZBA agenda – reviewed – 76 East Street, 154 Bedford Street, 622 Richard Fitts Drive - Jerry will check it out.

Jerry reviewed the building permits he signed.

Minutes – motion to approve July 22, 2014 executive session made by Mike, seconded by Denis, 4 ayes, 2 abstentions (Bill & Kathy).

July 22, 2014 open session – motion to approve made by Denis, seconded by Mike, 4 ayes, 2 abstentions (Bill & Kathy).

August 12, 2014 – motion to approve made by Russ, seconded by Bill, 4 ayes, 2 abstentions (Denis, Mike).

Motion to adjourn at 10:10 p.m. made by Jerry, seconded by Russ, unanimous.

Respectfully submitted,

Nancy Hurst