

Minutes of Meeting – September 7, 2006

The City of Methuen Conservation Commission held a public meeting on September 7, 2006, at 7:00 p.m. in the William Quinn Public Safety Building, Sanborn Hall. Present for this meeting were Suzanne Lamoureux, Chairperson, John Wilkens, Vice Chairperson, Christopher Parsons, Secretary, George Kazanjian, Financial Secretary, and Commissioner Sandra Boulay. Absent was Commissioner Alan Golobski. Also present were Joseph Giarrusso, Conservation Officer and Head Clerk, Dianne A. Dewan.

The Chairperson called the meeting to order at 7:15 p.m.

I. NOTICES OF INTENT:

- A. Notices of Intent – DEP File #219-1008 – MCC File #06-016 – Parcels 5 & 48, Zanchi Way - Glendora McIlwain Putnam – Stowers Associates, Inc. (Con't from 08/03/06)

The Chairperson re-opened the public hearing for the above noted project and read a letter dated August 29, 2006 from Stowers Associates Inc. requesting the hearing be continued to the meeting of September 21, 2006.

Hearing no public input at this time, Mr. Kazanjian made a motion to CONTINUE the hearing to September 21, 2006. The motion was seconded by Mr. Parsons and so voted, UNANIMOUS.

- B. Notices of Intent – DEP File #219-1010 – MCC File #06-017 – Kristen Lane – Great Eastern Construction LLC – Christiansen & Sergi, Inc. (Tabled from 08/17/06)

The Chairperson read a faxed memo dated September 6, 2006 from Philip Christiansen requesting that the Notices of Intent be withdrawn.

Mr. Parsons made a motion to ACCEPT the request to withdraw, which was seconded by Mr. Kazanjian and so voted, UNANIMOUS.

- C. Notices of Intent – DEP File #219-1011 – MCC File #06-018 – Lot 4, Porter Avenue – Jeffco Inc. – Andover Consultants Inc.

The file in order, a motion was made by Mr. Parsons; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ACCEPT the Notices of Intent for the above noted project.

The Chairperson opened the public hearing and Bill MacLeod of Andover Consultants presented the plans for the construction of a single family dwelling and associated utilities which will result in the alteration of 3,012 sq/ft of Riverfront Area associated with the Merrimack River. Erosion control consisting of double staked hay bales and Conservation markers shall be used to control the limit of work and prevent future encroachment.

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The Chairperson read comments from the Conservation Officer's report and a memo dated September 5, 2006 from the City Engineering Department.

Mr. Parsons noted his concern with the clearing of any River Birch in the area. He requested the site be checked regarding this issue.

Public Input:

Tom McMenamon of 2 Girard Avenue noted that he would like to meet with someone from Jeffco who would explain what they are going to do. He has no objections to them building homes, he just wants it done properly.

Jonathan Paul of 2 Porter Avenue noted his concern with any negative affects to the wildlife habitat and hoped that they can avoid any impacts to this area.

A long discussion followed on the issue outlined in the City Engineering Department's memo of September 5, 2006, with the common sewer service connection. Mr. MacLeod noted he was aware that if the sewer connection did not get approved as proposed, they would have to come back to the Commission for an amendment for an alternate route.

With respect to the Riverfront Alternative Analysis, Ms. Lamoureux noted that there was not one provided and it is entirely a Riverfront Area lot. She asked Mr. MacLeod to provide testimony on alternatives.

Mr. MacLeod noted that because the lot is a grandfathered lot, the alternatives are confined to the lot. One of the alternatives that they looked at was the other sewer service that would have had to go to the rear of the lot to Girard Ave. They chose to come in with a better alternative of a shorter sewer line outside of the 100' Riparian Zone. They have kept the alteration on the lot to a minimum.

Mr. MacLeod agreed to Mr. Parsons' request for Conservation markers in the rear of the property along the hay bale line and asked that the public hearing be closed this evening.

A motion was made by Mr. Wilkens; seconded by Mr. Parsons; so voted, UNANIMOUS to CLOSE the public hearing for this project. The Commission now has 21 days in which to make their decision. It will not be made this evening.

D. Notices of Intent – DEP File #219-1012 – MCC File #06-019 – 210 Howe Street – Neve Holdings, Inc. as Trustee of North Shore Methuen Holdings Nominee Trust – The Neve-Morin Group, Inc.

As requested in a letter dated September 7, 2006, read for the record by Ms. Lamoureux, a motion was made by Mr. Wilkens; seconded by Mr. Parsons; so voted, UNANIMOUS to TABLE the public hearing to the meeting of September 21, 2006.

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II. CALL TO ORDER: The Chairperson called the regular meeting to order at 7:38 p.m.

III. ACCEPTANCE OF AGENDA / AMENDMENTS (IF ANY): A motion was made by Mr. Parsons; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ACCEPT the Agenda as posted.

IV. ACCEPTANCE OF MINUTES: There were no minutes ready at this time.

V. NEW BUSINESS:

A. Request for Determination of Applicability – MCC File #06-015 – 54 Lincoln Street – Thomas & Donna Jankowski

The property owner, Thomas Jankowski, submitted a copy of the legal notice and presented the plans for an inground pool that will be within the 100' Buffer Zone of Bordering Vegetated Wetland approximately 48' from the Resource Area at the above noted address.

Hearing no questions of the Commission, a motion was made by Mr. Kazanjian; seconded by Mr. Parsons; so voted, UNANIMOUS to ISSUE Negative 3 Determinations with standard boiler plate, conditions #2 and 7 waived under the state and # 7 to require a letter upon completion under the local, and adding the following special conditions:

- All stockpile fill and loam shall be ringed with erosion control consisting of double-staked hay bales to prevent material from eroding off site.
- All stockpiling of materials shall be in the front of the property.
- Existing grades shall not be altered beyond the required area necessary for the proposed work.

VI. OLD BUSINESS:

Ms. Lamoureux noted that she was taking item G out of order to accommodate the applicant.

G. Certificates of Compliance/Bond Release – DEP File #219-872 – MCC File #03-029 – 4 Viviana Street – William Hall – Engineering & Surveying Services

Ms. Lamoureux read comments from the Conservation Officer's report and a memo dated September 5, 2006, from the City Engineering Department.

In response to the City Engineering memo, William Hall explained that he bought the extra parcel to the North so that he could reposition the septic system.

A motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ISSUE Certificates of Compliance and RELEASE the bond for the this project.

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A. Enforcement Issues

1. EO # 06-001 - 117 Hampshire Road - Iannuccilli

Mr. Giarrusso updated the Commission noting that the property owner did not get in touch with him in time to meet before tonight. He is going to meet with him next week to go over the requirements that the Commission has placed on the property.

2. NOV – 06-004 – 9 Rivers Edge Place - Doherty

Mr. Giarrusso noted that this is on the agenda as a result of failure to construct the lot in accordance with the original Rivers Edge subdivision. The new property owners had an issue with the first landscaper who left without doing the work and they have a new landscaper who is doing the work, but due to a miscommunication with Christiansen and Sergi, they need to provide clarification to insure payment. This will be done with the escrow lawyer within the next day or so and an as-built will be done for the next meeting.

Ms. Lamoureux read a letter dated September 6, 2006 from the property owner basically stating the same things that Mr. Giarrusso stated about the inability to get this taken care of before the filing deadline and requesting that item B below be tabled.

3. NOV – 06-014 – 25 Hampshire Road – Estes Express

Mr. Giarrusso updated the Commission noting that he met with representatives of Estes Express and they are looking at options to correct the problem. He suggested that they properly tie into sewer even if it means an additional filing.

B. Partial Certificates of Compliance – DEP File #219-419 – MCC File # 94-012 – 9 Rivers Edge Place – John Doherty – Christian & Sergi (Tabled from 01/19/06)

As requested in a letter from the applicant read above under item A-2, a motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANMOUS to TABLE this item to the meeting of September 21, 2006.

C. Certificates of Compliance/Bond Release – DEP File #219-886 – MCC File # 03-040 – 105 Pleasant Valley Street – Applebee’s International/Public Storage, Inc.- Merrimack Eng. Services, Inc. (Tabled from 08/03/06)

Ms. Lamoureux read comments from the Conservation Officer’s report noting the applicant has failed to address the issues of non-compliance with the site and Orders of Conditions.

A motion was made by Mr. Parsons; seconded by Mr. Wilkens; so voted, UNANIMOUS to DENY the Certificates of Compliance and Bond Release for reasons noted above.

The Commission requested that a notice of violation be sent to the property owner to bring the site into compliance within 30 days or an Enforcement Order will be issued.

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D. Certificates of Compliance Bond Release – DEP File #219-932 – MCC File #04-030
Lot 1, Danielian Way – Dancross Realty Trust – The Neve-Morin Group, Inc.

AND

E. Certificates of Compliance Bond Release – DEP File #219-931 – MCC File #04-031
Lot 2, Danielian Way – Dancross Realty Trust – The Neve-Morin Group, Inc.

AND

F. Certificates of Compliance Bond Release – DEP File #219-930 – MCC File #04-032
Lot 3, Danielian Way – Dancross Realty Trust – The Neve-Morin Group, Inc.

Ms. Lamoureux noted that a verbal request has been received from the applicant to table items D, E and F above to the next meeting due to a discrepancy in the as-built plans and vertical datum, which has resulted in the City Engineering Division being unable to compare the as-built plans with the approved plans.

A motion made by Mr. Wilkens to TABLE the items to the next meeting of September 21, 2006, was seconded for discussion by Mr. Parsons.

Mr. Giarrusso explained that the applicant has hired a different engineer and they used different data.

The motion was then voted, UNANIMOUS.

H. Certificates of Compliance/Bond Release – DEP File #219-980 – MCC File #05-034 –
60 Pine Street – Daniel Bumagin – Stowers Associates, Inc.

Ms. Lamoureux read comments from the Conservation Officer's report and a memo dated September 5, 2006 from the City Engineering Department.

A motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ISSUE Certificates of Compliance and RELEASE the bond for the above noted project.

I. Request for Insignificant Change – DEP File #219-808 – MCC File #02-004 – 612 Forest Street – Melissa Brisson

Mr. Giarrusso explained the requested change to shift the location of the proposed dwelling back to the location of where the original dwelling was located. There would be no significant grading changes necessary to accommodate this change.

Ms. Lamoureux read a memo dated September 5, 2006 from the City Engineering Division noting no problems with the requested change.

A motion was made by Mr. Wilkens; seconded by Mr. Parsons; so voted, UNANIMOUS to GRANT the change finding it Insignificant.

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- J. Orders of Conditions/Bond – DEP File #219-972 – MCC File #05-028 – Mauna Kea Way (off Atkinson Street) – Greenview, LLC
AND
K. Orders of Conditions/Bond – DEP File #219-976 – MCC File #05-029 – Lot 1, Mauna Kea Way - Greenview, LLC
AND
L. Orders of Conditions/ Bond – DEP File #219-975 – MCC File #05-030 – Lot 2, Mauna Kea Way - Greenview, LLC
AND
M. Orders of Conditions/Bond – DEP File #219-974 – MCC File #05-031 – Lot 3, Mauna Kea Way - Greenview, LLC

As requested in a letter dated September 6, 2006, from Meisner Brem Corporation, a motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ACCEPT the Withdrawal of items J, K, L and M above.

- N. Orders of Conditions/Bond – DEP File #219-973 – MCC File #05-032 – Lot 4, Mauna Kea Way - Greenview, LLC

Ms. Lamoureux read a letter dated September 6, 2006, from Meisner Brem Corporation requesting that they be allowed to re-open the public hearing to seek approval for construction on this lot. She also read comments from the Conservation Officer's report noting that should the Commission grant the request, he recommends that it be under the condition that the applicant submits a copy of the Notice of Intent to Natural Heritage Endangered Species Program and they follow the requirements on the Natural Heritage Map of October 2006.

Mr. Giarrusso noted that he recommends that as Natural Heritage has updated their map and this property now falls within the area of concern for protected species.

A motion was made by Mr. Kazanjian to DENY the request to re-opening the public hearing.

Mr. Giarrusso noted that he feels the applicant has suffered enough with fees that his engineering firm has benefited by as a result of all the information they submitted to Community Development and he feels it is reasonable to allow them to re-open the public hearing.

Mrs. Boulay noted that it would just be punitive, even though it has been a waste of time. If they have to move forward, why make waste and start all over again. She agrees with Mr. Giarrusso.

Mr. Kazanjian's motion failed due to a lack of a second.

A motion was then made by Mr. Wilkens; seconded by Mrs. Boulay; so voted by MAJORITY to ALLOW the public hearing to be re-opened with the provision that a copy of the Notice of Intent be submitted to Natural Heritage Endangered Species Program and they follow the requirements of the Natural Heritage Program and adhere to the map as published on October 1, 2006. Mr. Kazanjian was OPPOSED.

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- O. Orders of Conditions/Bond – DEP File #219-926 – MCC File # 04-026 – Whisper Meadow (Carriage Way, Miller & Lippold Streets) – DC Development Group LLC

A motion was made by Mr. Wilkens; seconded by Mr. Parsons; so voted, UNANIMOUS to ISSUE Orders of Conditions with standard boiler plate, # 4 of the local change from one to three years, #24 to require a bond to be set by the City Engineering Department, #33 to read 100', # 48 to reference Special Conditions H and I and adding the following:

Findings:

The Notice of Intent submitted by DC Development Group, LLC (updated applicant) and plans (17 sheets) entitled "Definitive Subdivision Plan, Whisper Meadows" by MHF Design Consultants, Inc., is for the proposed construction of 7 single-family dwellings, (reduced from the originally proposed 9 single-family dwellings), roadway system, drainage system and utilities that will result in proposed alteration of Bordering Vegetated Wetlands totaling approximately 1,500 sq/ft. Sediment and erosion control devices have been proposed to mitigate potential adverse effects to the resource areas.

Special Conditions:

- A. Before ANY activity on the site may begin**, the Contractor, job supervisor, and City Engineer shall meet with the Conservation Officer to review the Order of Conditions, Construction Sequence and timetable for the project. At this time, the contractor shall review any issues with the location of stockpile areas. Copies of the 401 Permit, MEPA certificate and "NPDES Stormwater Management for Construction Activities Permit" and "Stormwater Pollution Prevention Plan," shall be submitted at this time.
- B. Before ANY activity on the site may begin** the Applicant shall submit four (4) copies of all necessary information to address the issues raised in Engineering Division's letter dated September 6, 2003. All comments shall be reviewed and verified by the City's Engineering Division, which shall submit a final report to the Commission.
- C. Before ANY activity on the site may begin**, the Applicant shall address issues with the City of Methuen's ability to comply with requirements of the approved Operation/Maintenance Plan. The applicant shall provide documentation that insures that the site will not be in violation of the plan and ORDER.
- D. Before ANY activity on the site may begin**, the limit of work SHALL be staked in the field. The Conservation Commission or its agent shall inspect it before work may begin. Proposed erosion control above wetland replication and/or restoration areas shall be installed after areas have been completed.

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E. Applicant shall notify the Conservation Commission Office 48 hours before the utility crossing is done. Once the wetland crossing work is complete, the applicant shall then complete the associated replication and/or restoration for the crossing within 30 days and submit a report, documenting all wetland replication and/or restoration completed. All Wetland Replication shall comply with the approved plan as submitted by Seekamp Environmental Consulting, dated April 20, 2006. (Failure to comply with this condition will result in \$100.00 per day that the applicant is in none compliance.) This report does not exempt the applicant from submitting a final biologist report for a Certificate of Compliance.

F. A copy of the foundation certification showing the location of the foundation and **cellar floor and/or top of foundation elevation** shall be submitted to the Commission and approved **before** final building permit is released. This plan shall include location of wetland flags and shall be at the same scale as the approved plan.

G. A dumpster(s) will be used for the construction debris to prevent materials from blowing into the resource area(s).

H. Copies of all drainage maintenance reports shall be submitted to the Commission. **This condition shall remain in perpetuity.**

I. The property owner(s) shall be responsible for inspection of dry well systems every two years and any required maintenance. **This condition shall remain in perpetuity.**

J. Prior to any field changes, a written request to include drawings shall be submitted for review and approval by the Commission and/or its agent. Should dewatering be required for the construction, the Commission shall be notified and shall approve the methods used.

P. Orders of Conditions/Bond – DEP File #219-1009 – MCC File # 06-015 – 24 Varniai Street
Kevin M. Flatley

A motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ISSUE Orders of Conditions with standard boiler plate, # 4 of the local change from one to three years, #24 to be waived, #33 is N/A, # 48 to reference Special Condition B and C and adding the following:

Findings:

The Notice of Intent filed by Kevin M. Flatley with plans by applicant is for the proposed construction of a 20' long dock with associated float resulting in the alteration of approximately 4' of Bank and unknown amount of Bordering Vegetated Wetlands and buffer zone associated with Forest Lake.

Special Conditions:

- A. **Before ANY activity on the site may begin**, a copy of the Chapter 91 license shall be submitted to the Commission for their records.
- B. All work associated with the assembly of the dock sections shall be done in a manner that does not result in the impacts to the existing shoreline conditions. All seasonal storage of the dock shall be done so that there is no impact to the existing shoreline and associated bordering vegetation.
- C. Prior to any field changes, a written request to include drawings shall be submitted for review and approval by the Commission and/or its agent. There shall be no expansion of the existing beach area; any clearing/cutting of vegetation will be considered a violation to the Order. (Failure to comply with this condition will result in \$100.00 fine per day that the property owner is in non-compliance. Each day of non-compliance shall be considered as a separate violation.)

VII. INSPECTOR'S REPORT: In addition to his written report, Mr. Giarrusso noted the following:

1. Mr. Giarrusso informed the Commission that Natural Heritage has generated new maps effective October 1, 2006.
2. Mr. Giarrusso noted that the Mobil station project on Ayers Village Road is looking to complete all phases of the project and as a result, they need an additional bond set for the final phase. The City Engineering Department has recommended \$21, 000. The Commission needs to set the bond for this phase.

A motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to SET the Bond in the amount of #21,000 for Phase III.

3. Mr. Giarrusso noted that upon inspecting a Danielian Way site, he found that Bay State Gas was installing gas line in the area of Venice and Brentwood without any permits from Conservation. He shut the job down and will be issuing a Notice of Violation requiring that they file with the Commission. The new construction supervisor for Bay State Gas was very eager to comply with the Commission's requirements and has since taken care of some of the stockpiling concerns.
4. Mr. Giarrusso noted that James Crump is appealing the Orders of Conditions for Cornelie Road. He will keep the Commission updated.

VIII. OTHER BUSINESS:

1. Acceptance of Conservation Easements - There were no easements at this time.
2. Acceptance of Performance Bonds – There were no bonds at this time.

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3. Emergency Certifications

Mr. Giarrusso noted that there are beaver dams to the rear of 9 Harris Street, including possibly some new dams that need to be breached to alleviate flooding conditions.

A motion was made by Mr. Parsons; seconded by Mr. Kazanjian; so voted by MAJORITY to ISSUE an Emergency Certificate as noted above. Mr. Wilkens abstained.

4. Correspondence

Mrs. Dewan noted the receipt of a letter from Sally Hayes of Florida who sold her condo in Pride's Crossing and money has been held in escrow as there were no Certificates of Compliance issued for several of the projects that were done on the property. She is asking the Commission to take enforcement action against the developer to have him comply. They are supposed to request the Certificates within 30 days of completion and the project has been done for some time. Mrs. Dewan has been in touch with Kevin Saba, the developer, and he has hired Cammett Engineering to do the necessary as-builts to request the Certificates. Cammett Engineering has informed her that they have just completed all the site work and will be submitting the requests within the next couple of weeks. She has updated Ms. Hayes on this progress.

5. Bea's site along the Merrimack River

In response to a newspaper article and residents asking questions of Mr. Wilkens on the Bea's site and Mr. Parson's concern with an island area being used for a picnic area, Mr. Giarrusso noted that he would contact Jack Shepard at the State and report back to the Commission on how plans for the site are coming along.

Ms. Lamoureux noted that when she saw the article in the newspaper, she went directly to the Mayor because her concern is that the article stated the site was going to be developed. As the Commission knows, that entire site is within the Conservation Commission jurisdiction; it is Riverfront Area and Floodplain and there are extreme limitations on what can be done on the site. She reminded the Mayor that the property was purchased through the work of the Conservation Commission who wrote the grant and had the contacts with the grant. She specifically asked that the Conservation Commission, specifically Mr. Giarrusso, be involved in the panel or any discussion related to any development of that property in order to avoid having grandioso ideas and things put in newspapers and peoples minds that are wonderful ideas, but may not be able to be permitted. They may not be allowable due to either restrictions of finance or regulation. She was told that would not be a problem and that it is actually going under the Master Plan steering committee of which the Commission will all be involved. She has made it clear and will continue to remind the Mayor that, while they are all in favor of good development, she does not want the Commission to look like the bad guy when someone comes and asks why that can't have a concession stand and ferris wheel and whatever else the ideas will be for there when the Commission all knows that realistically, in a floodplain, it is virtually impossible to put any permanent structures. In order to prevent any ideas from getting out of hand, she has requested that Mr. Giarrusso, at the minimum, be involved in discussion related to development of that parcel.

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IX. ADJOURN: A motion was made by Mr. Kazanjian; seconded by Mr. Wilkens; so voted,
UNANIMOUS to ADJOURN the meeting at 8:45 p.m.

Respectfully submitted by:

Reviewed by:

Approved on:

Dianne A. Dewan
Head Clerk

Suzanne M. Lamoureux,
Chairperson

Date Approved