



# TOWN OF NORTHBOROUGH Conservation Commission

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Approved  
2/11/19

## Conservation Commission Meeting Minutes January 14, 2019

**Members Present:** Greg Young (Chairman), Diane Guldner, Kelley Marston, Todd Helwig, Tom Beals, Justin Dufresne

**Members Absent:** Wayne Baldelli

**Others Present:** Mia McDonald (Conservation Agent), see attached Sign-In Sheet

The Chair opened the meeting at 7:00 p.m. and made an announcement that the meeting is being recorded and to mute cell phones. Laura Ziton stated that she is recording the meeting.

Ms. Guldner read into record the hearing notice for the Request for Determination of Applicability application for 0, 329 & 333 West Main Street to create underground infiltration system and pave existing parking area with associated site work, and Notice of Intent application for the Northborough Department of Public Works for drainage work in the Green Street Right-of-Way and 234 A Church Street.

Mr. Helwig made a motion to approve the Minutes of December 10, 2018 with no corrections; Mr. Beals seconded; all voted in favor; motion approved (Mr. Dufresne abstained).

### Notice of Intent – Green Street Right-of-Way and 234 Church Street; Right-of-Way and Map 43, Parcel 41

**Applicant:** Town of Northborough Department of Public Works  
**Request:** Replacement and repair of existing catch basin and drainage.  
**Jurisdiction:** Buffer zone to bordering vegetated wetlands.

Scott Charpentier (DPW Director) presented the project. As part of the paving program for this coming year, the DPW is proposing some drainage improvements localized on Green Street. The existing catch basin located in front of the property at 62 Green Street does not drain; water puddles and sheet flows across the roadway. They are proposing to replace the catch basin with a deep sump hooded catch basin and 240 linear feet of drain line. It has been surveyed. Riprap will be placed on private property; the resident has agreed. Ms. Guldner asked if there was any way to lessen the amount of salt used because of the wetland; Mr. Charpentier said he would be hesitant to do that because of the safety factor. Ms. Guldner asked if he could work around the tree; Mr. Charpentier agreed. To the edge of the wetland from the riprap is approximately 20 feet; they are requesting a waiver from the 15 and 30-foot restrictions.

Richard Rand (234A Church Street) said he was aware of the project and the water was running onto his property anyway. Mr. Charpentier said he met with the Rands twice before; they approved the project and signed the Notice of Intent application. Having no other input, Mr. Beals made a motion to close the hearing; Ms. Guldner seconded; all voted in favor; motion approved.

Mr. Helwig made a motion to issue an Order of Conditions for the Green Street Right-of-Way and 234A Church Street with a waiver of the restrictions in the 15 and 30-foot buffer zones; Mr. Dufresne seconded; all voted in favor; motion approved. Special conditions for the protection of the tree will be included.

Request for Determination of Applicability – 0, 329 & 333 West Main Street; Map 81 Parcels 13, 14 & 15

Applicant: Labadini Corporation  
Request: Creation of a new underground infiltration system and paving of existing parking area and associated site work.  
Jurisdiction: Buffer zone to bordering vegetated wetlands.

Michael Scott (WDA Design Group) was present for the Labadini Corporation, a Marlborough based landscaping company who has an option to purchase the property at 329 West Main Street (three parcels). The property is on the southern side of West Main Street; the wetland is on the northern side of West Main Street. They had previously filed an RDA to clean the stormwater basins. Mr. Labadini proceeded to move forward and file with the Conservation Commission and ZBA. The property is 100% within the Groundwater Overlay. It is a pre-existing non-conforming lot. Mr. Labadini does commercial and residential maintenance and will occasionally bring clippings and brush to the site for a few days and then haul it off the site; he will use the western portion of the site for vehicle storage, temporary storage, and yard waste. Mr. Litchfield asked that that portion of the site where clippings and brush are being stored be paved. The applicant proposes to pave approximately 14,000-15,000 square feet of the site. As a result of the paving, there will be three new water quality structures. Mr. Scott said they filed an RDA because all of the work is within the buffer zone only; the property line is 80+ feet away from the wetland on the south side of the road; work within the buffer zone is just a matter of installing a stormwater infiltration system; there will be a trench cut, and then stabilized.

The concern that Mr. Young had was the condition of the existing basin; the pipe is still not functioning. Mr. Scott said it clearly needs maintenance and that MassDOT has committed to performing that maintenance by cleaning out the pipe. Ms. Marston asked about pesticides. Mr. Scott said there is a list of what he intends to store on site included in the ZBA application; they are required to be contained. The original plan showed a holding tank, but it has yet to be field located. A 21E has been completed and there are no contaminated materials on site. The plan does call for removing and replacing the floor drains and constructing a new holding tank and septic system. Ms. McDonald said the Town Engineer is working closely with the applicant. The comment from Mr. Litchfield is that the application for ZBA is lacking information necessary for the groundwater portion of the review. Ms. Marston asked if snow or street sweepings would be stockpiled from offsite. Mr. Scott did not think that Mr. Labadini's company performed street sweeping and that snow would not be brought in from offsite; Mr. Scott will confirm this. Mr. Dufresne asked about the existing use on the site. What is there today? Mr. Scott said it is owned by Allstate Power, but the company was not currently conducting business out of the building. The current owner added the garage to the original building; offices are on the first floor; the rear has high bay garage space. Mr. Helwig asked what changed from zoning that makes it allowable today. Mr. Scott said Mr. Labadini was applying to continue the current industrial use of the property with the ZBA. Mr. Helwig asked what he is storing in terms of yard waste. Mr. Scott stated that brush and/or cuttings would be stored on the concrete pad. Mr. Helwig said there is an issue in town where people bring things in and tell us one thing and it turns out to be another. Mr. Scott said the landscaping company was detailing fully what would be stored on site with the Groundwater Committee as part of the ZBA application. Ms. Guldner asked if the welding operation and storage would be cleaned and organized. Mr. Scott stated that the site will be cleaned up; but the applicant has no control over it at this point as he does not own it.

Karina Hanson (6 Buckhill Road) stated she observed a lot of activity going on. She is concerned about the nearby drinking water wells. She asked for an explanation for the use and chemicals stored on the site. Ms. McDonald said this board only determines the proposed activity and use and the effects on the wetland resource areas. The ZBA will determine the use in relation to zoning, as well as the activity and chemicals stored on site and their impact to the groundwater.

Paul Krause (10 Buckhill Road) said it is good to see the catch basin cleaned out, but showed how the water flows on both sides if it is high; the area is very low. They want to add more asphalt on an area that should permeate and is maxed out. He said there is no more land for the water to go, including the septic. He questioned the WDA maps that were provided and was told they were possibly older GIS maps he was looking at. Mr. Dufresne said the Commission looks at what is happening to the water as it leaves the site and how it could potentially affect the wetland across the street; he is happy to see the pavement put in for vehicle parking; any runoff that would occur goes into a deep sump hooded catch basin and through a water quality treatment all before it infiltrates into the ground. Currently, any spills that would happen go directly into the ground. Mr. Krause said there are no spills now because Allstate Power can't operate right now; the use of the property now is barely for parking and you want to bring in more fuel and gas at the site. Landscapers move a lot of gasoline. Mr. Krause had a concern for the amount of fuel, fertilizers and pesticides the applicant plans on having on site in the beginning of the year. Mr. Dufresne stated the Commission looks at surface runoff. Mr. Young said some of the concerns are out of the jurisdiction of the Commission and that the Zoning Board does not act until after Groundwater makes their recommendation favorably. The residents will have three more opportunities to discuss their issues outside the jurisdiction of the Commission. Ms. McDonald said they have provided a full stormwater management report that shows that the flow on the site post-construction is proposed to be less than what it is now because of the infiltration that they are putting in which will reduce the flow coming off the pavement. She said staff recommends, if it is approved, the Commission condition that the pipe is functioning; the drainage calculations include a functioning pipe. The staff also recommends that as the plans denote that there is existing drainage unknown, those lines should be shown as proposed and not as existing. Mr. Scott will change the plans to show that it is proposed.

Patricia Kress (60 Old Colonial Road) commented that there are some chemicals that can flow into the groundwater which is a concern to her. Mr. Young said that would be a question for the Groundwater Committee. Mr. Young had a concern with the pipe that goes under West Main Street and was hesitant to approve the proposed plan unless that pipe can function; otherwise that basin will fill up quickly. There was discussion as to whether to keep the hearing open in the event there are changes from other boards. Mr. Helwig made a motion to continue the hearing to February 11<sup>th</sup>; Ms. Guldner seconded; all voted in favor; motion approved (Mr. Beals abstained).

Request for Extension of Order of Resource Area Delineation (5 Bearfoot Road; Map 30, Parcel 33) – Scott Goddard was present. He said there has been no activity since the ORAD was issued; site conditions and resource areas have not changed. He is requesting an extension of three years. Mr. Young said they walked the site and it looked as if the wetland area has changed. Mr. Goddard said there is more water on the site currently, but the wetland was delineated with soils and has not changed. Mr. Goddard stated the delineation was peer reviewed. Ms. McDonald explained that she read the file and no peer review was conducted on this delineation. Mr. Helwig asked what they plan to do with it; Mr. Goddard said currently there are no plans. Mr. Dufresne asked if the stream across the street was downgraded to intermittent in the ORAD. Mr. Dufresne stated that the riverfront area from the perennial stream across the street would extend into the property. Ms. McDonald stated that she read a transcription of the hearing and the stream across the street was not discussed, but the Commission motioned that no riverfront area was present on the property. Ms. McDonald said she believed the motion is what is currently valid and must be honored.

Ms. McDonald said that at the request of Mrs. Guldner, she looked into the file for the construction of Pond View Way, next door, and found additional information on the outlet from Solomon Pond; that this was not included with the filing, this is new information and needs to be considered in future delineation of the site. Ms. McDonald said additional new information was presented by a resident who approached the Commissioners during the site walk and stated that the outlet from the pond is regularly impounded by neighbors with rocks that they keep next to the outlet. Staff recommended that based on new information, as well as the fact that the previous Order was controversial, the order of resource area delineation should not be extended.

The current delineation is valid until February 16<sup>th</sup> of 2019. Mr. Beals made a motion to extend the ORAD for a period of one year to February 16, 2020; Mr. Helwig seconded; in favor was Mr. Helwig and Ms. Guldner; opposed was Mr. Beals, Mr. Dufresne, Ms. Marston and Mr. Young; motion denied.

Mr. Goddard stated he intends to expedite a project and apply for the February meeting.

**Requests for Certificates of Compliance:**

249 Church Street; Map 43, Parcel 50; DEP File #247-1036 – Continued. No new information available.

329 & 345 West Main Street; Map 81, Parcel 13, 14 & 15; DEP File #247-0257 – Mr. Helwig motioned to issue a Certificate of Compliance; Mr. Beals seconded; all voted in favor; motion approved.

294 Boundary Street; Map 33, Parcel 31; DEP File #247-0903 – Mr. Beals motioned to issue a Certificate of Compliance; Ms. Guldner seconded; all voted in favor; motion approved.

12 Saddle Hill Drive; Map 101, Parcel 33, DEP File #247-766 – Mr. Helwig motioned to issue a Certificate of Compliance; Ms. Guldner seconded; all voted in favor; motion approved.

North Side of Davis Street & Davis Avenue, Lots 10-23 (including 12 Saddle Hill Drive); Map 101, Parcels 29-33 & 35-37, DEP File #247-438 – Re-Issue Duplicate Original – Mr. Helwig motioned to re-issue a duplicate original Certificate of Compliance; Ms. Guldner seconded; all voted in favor; motion approved.

160 Rice Avenue; Map 35, Parcel 53; DEP File #247-1134 – Mr. Helwig motioned to issue a Certificate of Compliance; Ms. Guldner seconded; all voted in favor; motion approved (Mr. Beals abstained).

**Other Business:**

432 Whitney Street Update – On December 21, 2018 a letter was received from the Law Offices of Mackie and Shea representing Thomas McCuine who lives on 37 Cherlyn Drive. The letter stated that construction activity was taking place within the buffer zone of wetlands, photos were included that show a bulldozer working in the buffer zone. The letter was also addressed to MassDEP. Ms. McDonald contacted Mr. Anza to request a site visit. She requested that MassDEP attend, as well. Mr. Anza agreed to meeting only Ms. McDonald and Mr. Young; Mr. Anza did not allow DEP to attend. She and Mr. Young visited the site on Wednesday, January 9. At the site visit, Mr. Anza said the scope of his work is to spread the compost material that is already there and restore the grades to the 2010 topographic plan and plant vegetables in the spring. He wants to spread compost twelve to eighteen inches deep to prepare a pasture for growing vegetables. DEP, Mr. Litchfield and herself agreed that it would be new agricultural activity within the 100-foot buffer zone and would require a Request for Determination permit application. The Commission had previously given him permission to do tree clearing on the existing cart path outside the buffer zone; during this work he put a load of compost at 432 Whitney Street. Mr. Anza was told to stop all work in the buffer zone. He agreed to stop.

Mr. Beals said it is in violation of the enforcement order we gave him and we should starting issuing Mr. Anza a violation notice every day. Ms. McDonald asked Judith Schmidt of MassDEP what would be the next step if he did not cease work. Ms. Schmidt said until he alters a wetland, there are not many mechanisms for enforcement other than to require a permit application for work in the buffer zone.

Ms. McDonald detailed the chronological order of correspondence: the first McCuine letter was received December 21, at which time staff requested and then conducted a site visit on January 9. A response letter was drafted entitled Site Visit Summary, Permit Application Requirement and Notice to Cease Work. The letter was sent on January 11. While the response letter was being reviewed by Town Counsel, a second letter arrived on January 10 (dated January 9) from Mr. McCuine's attorney requesting enforcement action. A similar letter was also sent to the Zoning Enforcement Officer from Mr. McCuine. This office also has received an email from an abutter supporting Mr. McCuine's letters. Staff has spoken with Mr. Anza, who has received our letter by mail and email. Mr. Anza stated he will cease work in the buffer, other than maintaining the existing cart path, as previously allowed, and that he plans to submit a permit application for the pasture.

**Informal Discussion:**

MACC Conference – The conference will be held on Saturday, March 2<sup>nd</sup>. Please respond to Ms. McDonald within the week if you plan to attend so the town can issue payment.

Wetlands Bylaw & Regulations Update – The subcommittee met to talk about reviewing the bylaws and regulations. Issues discussed were BOH setbacks, no touch and structure setbacks, and isolated wetlands. The Subcommittee will meet again next month, hopefully to make recommendations to the Commission.

Ms. McDonald said Mr. Butt's certified letter was returned unaccepted; it will be placed in the file. She will attempt sending it again by regular mail.

The next meeting is scheduled for February 11, 2019.

Mr. Helwig made a motion to adjourn; Mr. Beals seconded; all voted in favor; motion approved. The meeting adjourned at 8:57 p.m.

Respectfully submitted,

Melanie Rich  
Commission Secretary