



## **Town of Avon Conservation Commission**

**Thursday, February 2, 2012  
Meeting**

**Members Present:** Chairman; Dave Young, Vice-Chairman; Kevin Mooney and Kerin Metcalf

**Others Present:** Terry Edwards, owner of 120 South St, Bill Self; Curley & Hansen, Todd Pillings; Curley & Hansen both here to represent 120 South St  
John Smith; 47 Nichols Ave - abutter to 120 South St, Kevin Edwards, 561 Old South St.

David Howe, 330 Howard St, LLC; Andrew Daniels, Brian McCarthy, R.J. O'Connell & Assoc.:  
Thomas Liddy, Luca Environmental

Joseph Lalli, Town of Avon, Town Council

Mr. Young opens meeting at 6:30 then goes into to recess to await a quorum.  
Meeting call to order at 6:55pm

The first item on the agenda is a Certificate of Compliance for the property at 182 Central St owned by Alexander Campbell. The Oder of Conditions was issued on April 23, 1999 and recorded with the Norfolk County Registry of Deeds on April 29, 1999. A dwelling was constructed on the property in 1999. Mr. Mooney motioned to accept the completion of a single family dwelling and septic system for the above mentioned property with a parcel number of (old- B3-2-2B) B3-1-14. Ms. Metcalf seconded the motion. Motion passes 3-0

### **7:02pm 120 South St continuation from January 12, 2012**

Mr. Mooney explains that the site visit was completed on the date of January 22, 2012 (rescheduled from January 21, 2012) and it was then determined that the depression are in fact wetlands and cannot be filled in or disturbed, so they will have to look elsewhere to avoid impact onto those areas. Mr. Self confirms that Mr. Mooney is referring to both areas, the one next to the driveway and South St and the one on the westerly side of the property because it was unclear in the letter that he had received. Mr. Mooney stated that the vegetation that is located in the two areas is covered under the Town Wetlands Bylaw. It has wetland trees that would have to be removed if it were to be filled in. Mr. Self questioned if the Commission took into consideration the size and that it is a ponding area for mosquito larvae. Mr. Mooney replied that it has wetlands species so it's a wetland. Mr. Mooney brought up that they had just been notified that per the Board of Health regulations there is no filling of any wetlands for the purpose of a septic system, which also reflects the regulations of the DEP. Mr. Self stated that they are not filling in the wetlands for the septic system. But Mr. Mooney stated that no, but the proposed septic is right next to the wetlands. Mr. Pillings states that title five and the state definition of wetlands is different, and that the Board of Health has no jurisdiction over these wetlands. Mr.

Mooney stated well we do and we determine these are wetlands so. Mr. Mooney said you were going to do test pits to the rear of the property. Mr. Self told the Commission that he had not done any other test pits in the rear of the property like he said he was going to because he was waiting for the results of the site visit. Mr. Mooney states the Commission has the authority to allow the wetland areas to be filled in, but the Commission is looking to minimize the impact of the wetlands. Mr. Pillings asked what they are looking, erosion control. Mr. Mooney said the wetlands have numerous vegetation and older trees which are the erosion control as they are. He goes on that they could do some modifications to the wetlands in the front. The Commission is looking for the best management practice, example the septic system, which seems to be a concern of the Board of Health as well as the Commission, so find a new place for it. Change the location of the proposed driveway instead of clearing out the all the trees and going straight through the wetlands. Mr. Pilling states that one of the primary reasons for the modifications that they had originally submitted was to contain the water from running on to the neighbor's property. Mr. Mooney said you need to use what you already have and modify what is there, can you put in a system to get the water out, without, building a wall, taking down all the trees, building a swale, yes. Mr. Pilling says will it accomplish the said goal, no. Mr. Self says that one problem that they are having is that the house to the west was built in the 1983 and you can see that the grading created the wetland to the west. Mr. Mooney states that yes maybe it was but there were a lot of things done before the Wetlands Act was put into place. Mr. Self mentions again that they wanted to alleviate the flooding of the neighbor, by putting in the swale and changing the grading to keep the water surcharge from going onto her property. He also says that they cannot achieve it with what is there now because the wetlands are just too low and the water comes from the east side of the property to the west and they need to raise it at least two feet above the water table to be able to recharge and that was the reason for filling. Mr. Self is asking permission from the Conservation Commission to perform testing under the Notice of Intent filing.

Mr. Mooney motions to allow test pits to be performed at 120 South St at the southeasterly end of the lot for the purposes of the septic system design, amended to include 100 South St as well. Ms. Metcalf seconded the motion. Motion passes 3-0.

Mr. Mooney motions to continue the Notice of Intent hearing of 120 South St to March 1, 2012 at 7pm, with the plans and other reference items 10 days prior to the continued date. Ms. Metcalf seconded the motion. Motion passes 3-0.

Mr. Mooney motions to approve the schedule of bills for \$180.00 for Ms. Hershey services rendered on January 12, 2012 & January 21, 2012. Ms. Metcalf seconded the motion. Motion passes 3-0.

The Commission reviewed all other mail.

**7:45pm      330 Howard St      continued from**

Mr. Mooney brings up the two issues that he was waiting for to complete the Enforcement Order. First is the performance guarantee, which will consist of the estimate provided by Mr. Daniels to do the work plus 20% contingency and 20% over site. And the second item is to see if Mr. Howe had reviewed he draft and is willing to agree to it. Mr. Daniels says his estimate to do the work is

\$25,000 which does not include the over site percentage. Not much clearing will need to be done, silt fence, hay bales, digging up the earth and to do similar replication as Brockton. Mr. Daniels asks the Commission what exactly are they looking to have them do in D.W. Fields, is it just mainly invasive removals or what else is the Commission looking at and where are they supposed to be doing this since the Park is so large. Mr. Mooney explains that you (338 Howard St) have to look and see what needs to be done, talk to the Association see what they want done, coordinate with Brockton to determine the work. The replication is up to 8,000 sqft which can be in combination with the replication and the clearing of invasive for example. Using the replication estimate of \$25,000, double that to include D.W. Fields as well for clearing, monitoring, etc. So then taking the \$50,000 plus the 20% plus the other 20% gives a performance bond to the Town of Avon, Conservation Commission in the amount of \$76,000 and Mr. Mooney states that will be fine they will not require a \$25,000 cash bond and makes the adjustment on line 9 of the enforcement order. Mr. Mooney explains that the Conservation Agent would like to do a site visit possibly with the Commissioners for her to get an idea of the area and the situation. The Commission will notify 330 Howard St LLC of the date and time. Both parties further reviewed the Order to clarify certain terminology, example the study is just doing the research to determine an area to do the mitigation.

Mr. Mooney asked how they are doing with the other Boards and Departments. Mr. Daniels states that they have a issuance letter from the Planning Board everything is all pending the approval of the Conservation Commission and the Water Commissioners, they worked everything out with and submitted paperwork and they (330 Howard St LLC) is waiting to hear back from them.

Mr. Young reviewed the letter that had been received from the Water Commissioners schedule a meeting with 330 Howard St, LLC for November 3, 2011. Mr. Howe states they did meet with them and the Commissioners wanted to put monitoring wells on their property at 338 Howard St, Brockton, but Mr. Daniels said that they would be willing to give the Water Department \$5,000 to put towards the wells to be put in on the Town's property. And goes on to state that the Water Commissioners voted to and approved it. The problem was to access the wells they would need to cross wetland areas to get to the wells. On a legal standpoint if contamination is found on their property then they have the problem.

Mr. Mooney states that once the Enforcement Order is accepted the Avon Conservation Commission will file it with the Southeastern DEP, Holbrook Conservation Commission and Brockton Conservation Commission. Mr. Mooney then goes on to read the Enforcement Order in its entirety.

Mr. Mooney motioned to approve the Enforcement Order with the slight changes made at this hearing. Ms. Metcalf seconded the motion. Motion passes 2-0 Mr. Young abstains. Mr. Howe will get a schedule to the Commission by the end of March beginning of April of when they will be starting to work on this project.

Mr. Mooney will make the adjustments and send it to Jaime Velazquez to distribute and mail the original by Certified Return Receipt. Mr. Mooney motioned to close the meeting with 330 Howard St LLC. Ms. Metcalf seconded the motion. 3-0.

Next meeting scheduled for March 1, 2012 at 6:30 pm

Mr. Mooney motioned to adjourn the meeting, motion seconded by Ms. Metcalf. Meeting adjourned at 8:20pm.