



**Minutes of
The Danvers Conservation Commission
Thursday, July 25, 2013
Danvers Town Hall**

The Danvers Conservation Commission held a public meeting on Thursday, JULY 25, 2013, at the Danvers Town Hall, Daniel J. Toomey Hearing Room, located at One Sylvan Street, Danvers, MA 01923.

Members present: Neal Waldman, Member
Matthew Lallier, Member
Michael Splaine, Member
Jeffrey Cary, Member
William Glynn, Chairman

Members absent: Tom Manuel, Member
Lisa Austin, Member

Staff present: Kristan Farr, Planner
Janell Powers, Secretary

William Glynn opened the Conservation Commission meeting at 7:00 p.m. with a reading of the "Commission Statement."

New Business:

Farr stated she had to issue a emergency beaver certification. She needs it ratified. Trapping and hand tools only. The Town does the work. Farr stated that she doesn't have any choice in the matter.

Farr has an answer from the Town Counsel and will forward the information to the members.

Splaine asked about the Mill Pond. There are a lot of activities there by the pond, concerts etc. It is very dirty. DPW does the maintenance. Dredging would be very expensive. Cary had stated his work said it would be about 50K. They would like to bring it up to DPW. Farr asked the purpose. Until they got clogged up it was nice Waldman stated. Hancock did some work pro bono. They would like Rick Rodgers to come in and discuss this.

Minutes

May 23, 2013; June 13, 2013; June 27, 2013; July 11, 2013

Splaine motioned to continue the approval the May 23, 2013 and June 13, 2013 and June 27, 2013 and July 11, 2013 meeting minutes until the next meeting. Waldman seconded. All others were in favor and the motion carried.

Request for Amendment

Pickering Street; DEP File No. 14-1222

Rick Rodgers, Town Engineer was present to represent for the second amendment. Rodgers explained that DEP sent out a letter well after construction started and they stated they had a

Superseding Order of Conditions. DEP asked them to reduce the rip rap, Heidi Davis at DEP would rescind the Superseding Order if they did this. They are just going through the formal process. Rodgers explained that it was a minor change but it came in well after the 10 day appeal period. Heidi is always concerned about the rip rap. They reduced upstream rip rap and downstream needed to be reduced. They just need the amendment approved. They have to get this culvert done and have the street back open for school. The department doesn't like hard surfaces on the soil. They run into erosion and they are battling over amount of rip rap, so they reduced it from 50 feet to 40 feet. William Glynn could not vote on this matter. They needed another member to vote. They went onto the next hearing until Jeffrey Cary arrived.

Once Cary arrived, Rodgers stated that they met with DEP on site on July 11, 2013 and resolved the matter, they revised plan pulling the riprap back. DEP stated that they would rescind their Superseding Order of Conditions if these changes were made. They are here tonight before the Commission requesting the Amendment being approved and they are well under construction.

Waldman motioned to close the Public Hearing and issue an amended Order of Conditions for DEP File No. 14-1222, Pickering Street. Lallier seconded. Glynn recused himself from discussing the case. Cary was in favor. Splaine was in favor. The motion carried.

**Public Hearing [310 CMR 10.05 (4)] – RDA
I-95; DCC File No. 2013-04**

Andrea Norton, Mass DOT representative was present to discuss proposed signage replacement. Norton stated that this is an ongoing contract going in different phases. This project begins in Peabody after Route 1 and continues north, on both sides through to Georgetown, Route 133. The agents are not concerned with yield and stop, the next sign is a d-sign, getting off the highway, big green signs, there are no problems with those. The OD signs, everyone has concern with these. Borings have already been done. It depends on which sign they choose to go with. They will use drill shaft or spread fitting. If the area is steep, it is drill shaft that they must use. They use an auger and drill very long, rebar cage and fill with concrete, attach a post, an arm & the sign. Spread runs parallel to the highway, the length can be 5 feet deep.

The CMS signs are the newest, they are electric "wear seat belt" etc. On this project there are CMS signs. She spoke with Farr in May. She did not include every location, just the ones where the CMS signs are to be going. They dismantle the green part, send to recycling, they do not remove footing, the next guide sign is put very close. They make sure the signs were placed in the correct places. Splaine asked why they do not re-use the posts. Norton stated that the signs have a shelf life of 25 years. With the weather conditions, there are vibrations and the bolts become lose and need to be replaced.

The contract first gets awarded, then the contractor does borings, as boring results come in the shop drawings have to be approved. The drawings are in process, it will be one or the other. The signs are all approved. The only thing is the actual footings that have not been approved right now. Norton stated one of the first parts is there are markings (metal fence post) where they are going. Splaine stated he does not see how they can object, these have to be done. Lallier asked if this has to do with the cable guard on Rt 95? No, that is something else, Norton stated. They paved part of it but it started in Peabody to prevent people from crossing.

Splaine motioned to close the Public Hearing and issue a Negative Determination of Applicability for DCC File No. 2013-04. Waldman seconded. All were in favor and the motion carried.

**Public Hearing [310 CMR 10.05 (4)] – NOI
108 Water Street; DEP File No. 14-12__**

Applicant, Richard Stamm was present to discuss the proposed bulkhead and floats. He is the property owner & also a surveyor, a member of national professional land surveyors. He would like to put a dock in. Stamm stated for the record, when he first bought the property it was about 18 hours before the explosion. He let the Chapter 91 License expire because he was trying to rebuild his house. Splaine stated they did get correspondence from the neighbors that states Mr. Stamm does not have frontage on the water. Stamm stated that the deed references a plan showing frontage. Stamm stated in 1909, the plan was done by Jewett and he has this deed and he handed to the Commission. Stamm stated that the Deed makes reference to a plan. If you do a title search, he chased them back to 1850. He has researched a lot of deeds and they all state "by the crane river", his does not.

Glynn stated that it is not the purview of the Commission to determine whose property is whose. Glynn is asking for more detail on the location and the detail of the dock. It is a float. Stamm stated that the bulk head is old utility poles. It goes back before DEP & conservation rules and regulations were in place. He wants to replace those with 1x1 timbers. It is all going to be done by hand. He will place new timbers in bulkhead area after removing old ones. Then there will be a 560 square feet, going 100 feet out from the bulkhead. You are allowed to go ¼ of the distances. Stamm stated that at low tide, there will be 18 inches clearance. This will be maintained with legs. The legs will be 18" to the top of the flats. The Dept. of Fisheries sent a letter today. The 6x6 legs will rest on the flats. The plans don't need to be stamped on this Chapter 91 license he said.

Glynn stated that he is concerned about protecting the resources and to mitigate any issues that might arise. They would like some professional opinions. Cary stated the property drawing shows something different than what the abutters gave them. Stamm stated in 1930 he owned another parcel. Glynn stated we are not here to adjudicate whose property is whose. Cary would like to know whose property this is. Cary asked what the mean high water elevation is on the plan. Stamm stated that he observed the mean high water level. Stamm added that he pulled all of the dock plans from all of the properties and they are all over the place. It is a definition. The datum is 1929 NADD. Cary asked the benchmark of this? Lallier would like a site visit. Is there any additional information that they need? There is no DEP number, so they cannot make a decision until there is one. Glynn would like a PE or someone to stamp it, and he would like the drawings to have a little more detail. Waldman asked if they should wait for comments from DEP. They would like to schedule a site visit. Lallier asked if he could stake it out to show where the float would go. Stamm stated that he found drill holes and based some off of the neighbors survey. A site visit was scheduled for Saturday morning on July 27th at 8:30 a.m. He stated that the previous float was about 20 feet out. Splaine asked why the float is so long. Stamm replied that it will get him 2 hours and the norm was to have 100 feet.

Andrea Daley, Town Meeting member of Precinct 3 is representing for Paris Pelletier, abutter. Her son Doug Daley, owns 6 Riverside, was also present. Carolyn Dabose, owns part of 6 Riverside Street, stated that she grew up in that area. Daley asked if they may they go to the site visit? Norm Legros, 16 Washington, asked since the state owns part of the property next door to Stamm, can they all stand there? It is a group home. Glynn replied that is not in their purview.

Pelletier stated that the Chapter 91 License is expired. Pelletier added that this proposed position of the dock would not be on his property, it would be crossing his family's property. Daley mentioned that she had a lengthy conversation with Farr. She understands that this Commission doesn't deal with the deed. Daley stated when a person buys a house, you borrow money. The bank owns that house until you make the last payment. The bank does a deed research. The deed that Bateman gave to Stamm does not reference the water. The one prior does not reference the deeds. Daley went and researched all the deeds of the abutters on Water Street. Daley stated that all of the deeds reference Crane River, creeks, ponds, etc. but Stamm's does not. Daley wants to state that Mr. Stamm is a surveyor and with the complexity of the problem it would behoove the Commission to have someone do a new survey other than someone he worked for. Daley showed the plan and explained. Daley went to the Registry

of Deeds. The land was marked as of 1909. All of the lots all, n, s, e & w will reference water if they own a right to it.

Daley stated that she served 17 years on the ZBA and was Chairman for 2 of those years, and went to court to verify some of the positions they took. The state owns 13 feet on the water. She passed out the plan and there is a discrepancy of square footage.

Glynn asked if she has any objection to the float? Daley stated that the float Mr. Stamm has currently, her uncle gave it to him. Mr. Stamm put a boat on the float. Daley pointed out on the pictures that she had up on the easel, on the corner, shows healthy eel grass that cleanses the water. The wall shows the clarity of the water, if you through a quarter in you can see if it is heads or tails.

On Mother's Day 2011, floats appeared out of nowhere on Mr. Stamm's property. Daley went down and told Mr. Stamm that he could not just put floats in and she notified Farr & the Harbormaster. Daley added that it took months, she believes until August until it was removed. Daley stated that the river cleans itself. She lives on Danvers stream off of North Shore Avenue. The wall was built in 2007 or 2008. Daley stated when the floats appeared up stream there was build up of flotsam and jetsam? Daley stated that there is no necessity to bring out a float for 120 feet. He has an 18 foot boat in his yard and that will be added to the 100 foot float.

Daley stated that this is just the first step. The license is also expired. The original license was in issued in October 1997. If this filing comes to reality all of the eel grass is going to be choked to death. The area is 638 square feet. She would like to have Mr. Stamm show where this is in relationship to the registered plot. If this happens then the whole plot plan is subject to question. Glynn pointed out to Mr. Stamm the importance of the eel grass. Cary stated there are other types of floats. The others in the area seem to be around 20 or 30 feet. Daley added that the eel grass will be choked out by putting the ramp in to get to the float. Most docks that long, are on poles not on the mudflats. Mr. Pelletier has one of the floats that goes out 60 feet, Stamm added. Daley stated she used to live at 33 River Street and the houses are very close together. Her son, Doug Daley, 6 Riverside Street stated that in looking at the diagrams it is going out 100 feet and at an angle and he would like to know where it is in relation to the plot plan. He also would like to know that if this float crosses his property, could he be liable. If it ends up on his property, it could be any abutter. Glynn stated if someone just installed this and there are not really penalties, they are just told to take them down. Paris Pelletier asked to make a decision for the land portion. Glynn is not making a judgement call on whose land it is. If one is installed. They are not here to prevent them from putting docks in, just to protect the wetlands and mitigate the process of the projected work.

Farr read off the application, which states the applicant and the property "to the best of their knowledge". Farr stated if you give him approval on this, he still would have to go for a Chapter 91 license. On the record, the issuing authority must be provided with a stamped survey. Since there are discrepancies, where does this fit in? She is concerned with the wetlands. Daley stated, she has all of the deeds. If this board grants this, she will appeal the decision. Splaine is asking if it is his property why can't he have a 60 foot float if abutters have it. Pelletier thinks that the Commission should find out if this is his property.

Bill Nicholson, member of River Committee and Town Meeting member in Precinct 8. He is concerned of the 100 foot going out. Consider that an impact. Nicholson asked if this board if it is considered a quasi board. He finds it very hard to believe that it is not this Commission's jurisdiction to determine if this is his property.

Carolyn Dabose stated that the way this property is, it's a cove, Stamm & Pelletier are in this cove. She stated that all of the floats to the right of her, go straight out. She is next to the half way house. She

saw them bringing the pier out and she called Daley, she felt so bad, but it was causing swill in there. She is for the wetland and has swans coming into her yard. She is right next to Mr. Stamm. She knows the property inside out. She asked why must human beings bring piers out that far, it is not necessary. What is the purpose of such a long pier? They have a little pier. Boats come and there is gas and oil in the boats. She grew up here and there are no more jellyfish or crabs. They used to go swimming here in inner tubes. They have fancy boats now. There is no seaweed. How do you know that he owns this land? They don't want to see damage to the cove. The Commission prefers that they don't put a float, but they can only mitigate any damage to the wetlands. Dabose added that the long illegal floats that Stamm had put out there without permission, swayed on her property and Pelletier's.

Splaine asked if they can go on Harbormaster's boat and look from the other side. Dabose stated that she is not getting all the junk from the river and does not want to. Dabose asked if Richard Stamm can just start working. Glynn stated no, they are going on site visit; they have to look at what is being proposed. They also are asking for more details and a stamped plan.

Mr. Stamm read from Chapter 91. Mr. Stamm stated to resolve the issue the neighbors can come on the site visit. He stated that he wants to clear this up.

Splaine motioned to continue the Public Hearing for 108 Water Street; DEP File No. 14-12__ until the meeting of August 8, 2013 and schedule a site visit for Saturday, July 27, 2013 at 8:30 a.m. and try to make a future meeting with the Harbormaster. Lallier seconded. All were in favor and the motion carried.

Adjournment:

Splaine motioned to close the meeting and adjourn at 8:50 p.m. Waldman seconded the motion. All were in favor and the motion carried.