

TOWN OF LEE

32 MAIN STREET

PUBLIC MEETING

**POSTED IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. CHAPTER 39
SECTION 23B - AMENDED.**

CONSERVATION COMMISSION

Meeting Minutes

PLACE OF MEETING: Judge's Chambers, Town Hall

DAY, DATE & TIME: Monday, November 5, 2012

Member Present: Kathy Arment, Chair, Stu Dalheim, Marilyn Hansen, John Coty

6:50 Kurt Warner, Lee High School to be recognized for his clean up of Loncope Park paths.

Mr. Warner will be submitting paperwork to his teachers and will send a copy to Conservation. He is going to be clearing trees and there is a 30 foot muddy area. It is being suggested that he submit a Request for Determination. He wants to start before winter.

7:00 Continued Notice of Intent, Thomas Touponce, 905 Pleasant Street, NOI # 196-0406, removal of soil and sod with the replacement of gravel. Tom Touponce, Deb Garry and Mark Stinson present.

Mr. Touponce wants to pull the NOI and go for the agricultural exemption. There will be a nursery in the back with the farm market out front and he feels he can do more with the property without NOI regulations. The outer riparian of the River's Protection Act will still keep him out of the wetlands and if there is any work in the flood plain, compensatory storage would be required. Mark Stinson said he needs to go through NHESP because it is not existing agricultural but a new activity. Mr. Touponce believes that Chapter 40 of the regulations says that two parcels need not be considered two parcels if they are linked by a roadway, waterway, etc. He is claiming this is not new agricultural but an expansion or extension. Mr. Stinson said this is new agriculture because it has not been used as agricultural within the last five years. Mr. Stinson was concerned how the high water line would be determined and by reading the proposal whether the Commission would consider this new agriculture. He read from the regulations which defined agricultural as producing or raising a commodity for commercial purposes. The first function of

his plan is the commodities produced on Meadow Street that will go to Route 102 to be sold. The regulation states that agriculture has to be 100 feet away from the river. Ms. Hansen said that the Mr. Touponce will have to support a full agricultural use for the Commission to exempt it under agriculture. The portion of the parcel he will be planting trees is 150 feet – 200 feet from the wetland which is the tree line. He will be unable to cut any of the trees down. The Commission agrees that growing trees is a sustainable product being used for agricultural use. Mr. Touponce will still have to go to NHESP/MESA. On Meadow Street Mr. Touponce has other commodities he will be selling such as hay, straw, compost, and mulch from wood ways Thirty acres will be set aside for vegetables. Mr. Stinson said if he withdraws the NOI, he has to abide by the minutes because if he doesn't, he will be in violation. He is suggesting that Mr. Touponce keep the NOI and then he can get a Negative 5 Determination of Applicability from the Commission with an attachment of the work proposed. This will give him a paper trail as well as a legal answer from Conservation. This is the route Mr. Touponce wants to pursue.

Ms. Arment motioned to continue to Monday, Nov 19 at 7:00 pm, seconded by Mr. Coty, all in favor.

7:30 Casey (Kathleen) Jeffrey Glenar, 1675 Pleasant, to discuss runoff from Onyx mill.

Pictures were shown to the Commission of the water on their property. Onyx Mill put up jersey barriers which is diverting the river water to their property. Mr. Glenar was told by the operations officer at Onyx Mill that they are told by the EPA when to open floodgates to the dam which was questioned by Mr. Stinson. Depending on the timing of the opening of the floodgates, their property gets flooded. When the Mill waits until the swelling of the river to open the gates, Glenar property gets flooded. This last event the gates were opened four days prior to the full swelling of the river which avoided the flooding of the Glenar property. The day before Hurricane Sandy hit, the owner of the mill puts up the jersey barriers to their property which alters the flow of the flood onto the Glenar property. Mr. Stinson said that bringing fill into a flood plain is a violation of the Wetlands Protection Act and the Commission could issue an Enforcement Order. He also suggested that they have a civil issue here which means documenting everything and hire a lawyer. Mr. Stinson further clarified that the EPA can override the Enforcement Order by exerting federal supremacy. If the EPA is not directing the Mill to open the floodgates, then they should be submitting a Notice of Intent to the Commission in order to open the valve. Mr. Grant will be asked to come before the Commission to explain the situation with the opening of the valve; if he cannot make it on the November 19th meeting, to send Mr. Healey. Mr. Stinson advised the Glenars contact Kate Parsons of National Resource Conservation Service.

7:45 Request for Certificate of Compliance, John Fitzpatrick, 1 Chanterwood

The property has been walked and viewed by the Commission. Everything was done to compliance.

Motion to grant the Certificate of Compliance made by Ms. Arment, seconded by Mr. Dalheim, all in favor.

Other Business:

- Review DEP Letter requesting Mark be allowed to offer comments
Commission reviewed, approved and signed the letter
- Approval of October 22 minutes

Ms. Arment voted to approve minutes of October 22, seconded by Mr. Coty, all in favor.

Building Write-Offs:

Joe and Lillian Abderhalden
220 Wahington Mountain Road
Extend Front of House

Pat Hickey
105 Spring Street
Close off Existing Patio

Office Duty:

Nov 12 – AL
Nov 26 – RA
Dec 10 - SD

Ms. Arment motioned to close the meeting, seconded by Mr. Dalheim, all in favor. Meeting closed 8:15.

Respectfully submitted,

Martie Martin