

Minutes  
Lee Conservation Commission  
Town Hall 32 Main Street Land Use Office  
Wednesday October 18, 2017 7 PM

Commissioners Present: Kathy Arment, Chair; Stu Dalheim; John Philpott; Marilyn Hansen; James Wickham (John Coty, Jr. recused until further notice)

Members of the Public Present: Mike Kulig, Berkshire Engineering; Tom Scheurer; Michael and Rick Shove; BJ Church, Building Commissioner

John Coty, Jr. recuses himself from any discussions or decisions of the Commission until further notice.

- **Notice of Intent David Forrest 660 Greylock Street DEP # pending Construction of a shared driveway with stream crossing, work in wetlands and wetland replication area** Mike Kulig presenting. No DEP # has been issued as there are questions about the NOI which lead to fee differences. There are 2 developed lots, one for the house and one for the garage. Mr. Forrest has 3 other lots, one with wetlands. A subdivision road appears to be needed to develop the 2 buildable lots; the road will need to go through a wetland and a stream crossing is needed. It is impossible to do a stream crossing that adheres to the state stream crossing standards; because of this the project was applied for as a limited project. A 401 Water Qualification will be needed. Different possibilities were presented as to how to approach the project—combining 2 lots into 1, checking on when the lots came into existence to see if they need to be or can be considered separate lots by the town by-laws, etc. Mr. Kulig will talk to the applicant and research about the lots and the town bylaws as they pertain to them.

**Motion made and seconded to continue to the November 15, 2017 meeting at 7:00 PM.**

**Unanimous approval.**

- **Request for Determination of Applicability Tom Scheurer 405 Laurel Street Driveway maintenance by overlaying existing pavement** Mr. Scheurer would like to put 2" of paving on top of the existing driveway. The footprint will remain the same and nothing will be done to the drainage. The driveway is approximately 325 feet in length and 15 feet in width.  
**Motion made and seconded to issue a Negative Determination #3 with the conditions that before and after photos be taken and that the work will be within the existing footprint of the driveway. Unanimous approval.**

- **A motion was made and seconded to approve the minutes of the October 4, 2017 meeting. Unanimous approval.**

- **Michael Shove 105 Tyringham Road Rick Shove presented an incident that had happened on Sunday.**

**Mr. Shove (Michael is his son):** He said that Mr. Coty approached him on the Shove property on Sunday, October 16, 2017, and told he and Michael to stop work, that they were in violation of the Wetlands Act because they were working in a flood plain without a permit. Mr. Coty identified himself as a member of the Conservation Commission three times. He responded that there was a permit and they would continue to work. He was also told that he had lied on his permit application. He asked Mr. Coty to leave as he didn't appreciate the way he was

being confronted. He just wanted the Commission to be aware of what was going on and that he had reported Mr. Coty to the Ethics Commission and had a trespassing warrant filed. He requested that Mr. Coty not be allowed to sit on the Commission and make decisions until the issue was solved.

**Ms Arment:** She confirmed that Mr. Coty is a member of the Commission and that the above was not going to be discussed by the Commission. The permit had been reviewed by Mr. Philpott of the Commission and had been approved. In the future, she would appreciate a phone call if anything like this happens so it can be dealt with quickly. She thanked him for his input.

**Ms. Church, the Lee Building Commissioner:** She presented her responsibilities in her position as the Building Commissioner. The Building Department did issue a building permit on October 11, 2017 after having received the Conservation's approval. (There was a note of disapproval on the permit dated October 12<sup>th</sup>). Jeff Clemmons did the review of the permit and asked Ms. Church for confirmation of it before it was issued. Once a permit is issued, if there are problems from other Commissioners or Boards it is up to them to act on them. Joy Duperault, Director of Flood Hazard Management had come to the office about 2 months ago and confirmed that the Building Department's maps were current. Mr. Coty appeared at the Building Safety Office on the 16<sup>th</sup> and identified himself as a member of the Commission at some point and confronted the people there. Ms. Duperault was called to confirm the map used and the fact that the site was not in a flood plain. Mr. Coty was called by Ms. Arment about doing this as a member of the Commission. He was asked to step back and but would not, saying that he had rights as a private citizen. The handling of the issue was unprofessional in her opinion and she believes that the Building Department did due diligence in issuing the permit.

**Mr. Coty:** He apologized to the Commission. He disputes the facts of Mr. Shove. He visited the Shove property on October 15, 2017 and talked to them and asked them to wait until Monday to do further work so he could check maps. Later that night he looked at the MassGIS map and believes that it indicated that the place the garage was being built was in the flood plain. He asked for Tim McKenna from DEP for his input on the maps. The maps used by the Building Department are different than those the DEP uses. Mr. McKenna sent him copies of the MassGIS map. Mr. Coty denied saying he was a Commission member when he was on the property and in the Building office.

**Mr. Philpott:** He does the computer sign-offs for the building permits. He had approved the permit for the Commission believing the work being done was not in the flood plain. He looks to see if a property is near a stream, wetlands or in a flood plain. If there is a question, he generally asks the one seeking the permit to come before the Commission.

The Commission will research about the maps, which ones are to be used, and how to use them to avoid conflicts in the future.

It was suggested that a Request for Determination of Applicability be filed if necessary.

- **Continuance of Stockbridge Terrace Enforcement Order to November 15, 2017 meeting.** The Commission will not act on this until further notice from representatives of Stockbridge Terrace.
- **Motion made and seconded to close the meeting at 8:15 PM. Unanimous approval.**

Documents: Notice of Intent David Forrest 680 Greylock Street; Request for Determination Tom Scheurer 405 Laurel Street; October 4, 2017 minutes, copies of the MassGIS maps.

Respectfully submitted:  
Kathleen Vsetecka

