

**Conservation Commission  
Meeting Minutes of November 28, 2012**

Present: Lester Garvin, Chair (LG)  
Phil Lussier (PL)  
Will Thayer (WT)  
Dave Fessenden (DF)  
Brian Clark (BC)  
Brittany Martin (BM)  
John Madock's, guest (JM)

The meeting is called to order at 7:30pm.

1. Board reviews the November 14, 2012 minutes. BC moves to accept the amended minutes, WT seconds and all vote in favor.
2. Board discusses the letter from the Army Corp regarding the Pleasant Street culvert. There are several violations that are noted. PL states this is what he expected to happen. The town is in violation of many state requirements.
3. Board reviews the images and information from Jacobs Engineering regarding the work they are performing along Route 116. There appears to be no siltation. Board is happy with the work thus far.
4. Board discusses the Emerald Ash Borer meeting on December 4, 2012 in Leominster, MA. WT and BC think they will be able to attend this meeting. There is another meeting in Amherst at Holdsworth Hall on December 18<sup>th</sup> from 5:30-8:30. PL thinks he will be able to attend this meeting. Quarantines may be discussed, to slow the spread of this invasive species in the area.
5. Board discusses the Swift River. LG and PL visited the site. PL received an email response from Mart Stinson about the apparent violation on the Swift River. He also mentioned that the river front has been reduced to 100' from 200' for perennial streams. Stinson agreed that we should monitor the situation.
6. Board discusses the part of the road that hasn't been paved on Pleasant Street culvert. No new news.
7. Board holds an RDA hearing for James LeBeau's foundation repair project on Steady Lane. PL doesn't think JL is in the buffer zone. LG will follow-up to get an application and a DOA. Board feels comfortable signing it. PL moves to close the hearing, DF seconds and all vote in favor.
8. Board discusses John Madock's property on Spruce Corner Road. LG and PL went on a site visit; JM showed them around the property, there were large holes in the floodplain that have since been filled with water. JM reviews LG's maps of his property. The area that he is interested in to use as a hay field is defined as a wetland. JM's intentions are to bring the area back to the farm land it once was instead of leaving it to the beavers. JM states that the beaver's actions may have caused the area that is now considered to be a wetland, a wetland.

LG is going to recommend that JM works with Michael Marcus of New England Environmental to help him with this project. JM told LG that NRCS isn't spending any monies to help farmers nowadays. Once JM gets an idea of the land and soil types it will give him a better idea of how to proceed. LG states that Natural Heritage would probably weigh in on JM's plans and that it would be good to get them involved from the beginning.

Board recommends submitting an RDA as the next step and from there the Board will decide whether or not it will require an NOI from the DEP. JM states that he may want to till the ground that appears to be the wetland area. PL states that the Wetland Protection Act states that you cannot dredge, fill or alter a wetland area. JM states that he would be fine with not tilling the earth in this area. He wanted to have a few cows, chickens, develop fields and the animals would keep the brush down. He also stated he had a vision to develop a hardwood forest and possibly a few ponds on the property.

Board doesn't think that an NOI is required for cows and an electric fence. PL states that if JM is planning on moving forward with changing the area back to the farm land it once was, he would want to submit an RDA and the Board would then decide if that would be against the Wetlands Act. PL states that the Board may ask JM to consult with Natural Heritage to talk about the turtle population on the property. PL thinks that JM needs to fill in

the holes on the property, take the piles of soil off the wetland area and remove the culvert so it's not sitting in that channel.

PL recommends that JM get the land back to what it was before he completed the recent work before submitting an RDA. JM states that he will get the land back to the way it was and will also remove the culvert and then will consider submitting an RDA.

9. Board discusses on-line building permits. There are no permits to approve at this time.

10. PL motions to adjourn the meeting, WT seconds and all vote in favor.

Meeting adjourns at 9:22pm.

Respectfully submitted,  
Brittany Martin

## Brittany Martin

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**From:** plussier@whitneyacres.com  
**Sent:** Wednesday, December 12, 2012 9:26 PM  
**To:** b.martin@55plusmarketing.com  
**Subject:** Fwd: Swift River Bank Modification and Floodplain filling

Brittany,

This is the email to which I was referring in the meeting of 11-28-12. It should probably be attached to the minutes for that night.

Phil

-----Original Message-----

**From:** Stinson, Mark (DEP) [<mailto:mark.stinson@state.ma.us>]  
**Sent:** Friday, November 16, 2012 10:50 AM  
**To:** [plussier@whitneyacres.com](mailto:plussier@whitneyacres.com)  
**Subject:** RE: Swift River Bank Modification and Floodplain filling

Excellent. Yes, I can see where he might have gotten incorrect information.

New Riverfront only has a 100 Foot Riverfront Area. See 310 CMR 10.58(2)(a)3.c.

Any fill placed in BVW will need to come out or be replicated, same with fill in the floodplain, compensatory storage required or it will have to come out. Approval also will be needed from NHESP.

If you have photos, please send them along.

Mark

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**From:** [plussier@whitneyacres.com](mailto:plussier@whitneyacres.com) [<mailto:plussier@whitneyacres.com>]  
**Sent:** Thursday, November 15, 2012 9:31 PM  
**To:** Stinson, Mark (DEP)  
**Subject:** Re: Swift River Bank Modification and Floodplain filling

Mark,

Lester Garvin and I met with the landowner today. He has agreed to stop what he is doing and hire a consultant to help guide him through the process. He is new to the area and has big plans for starting some kind of farm. He probably got much of his advice from his neighbors, one of whom is Lenny Roberts.

We'll keep you posted.

Thanks,  
Phil

-----Original Message-----

**From:** Stinson, Mark (DEP) [<mailto:mark.stinson@state.ma.us>]  
**Sent:** Thursday, November 15, 2012 04:54 PM  
**To:** [plussier@whitneyacres.com](mailto:plussier@whitneyacres.com)

**Subject:** RE: Swift River Bank Modification and Floodplain filling

I know the site well, drive by there a lot. What kind of new construction?

Do you have photos of the violation?

Any remove, fill, dredge or alter of a resource area requires the filing of an NOI.

You need to document what is going on.

You have Riverfront Area, of course, 200 feet out from the Mean Annual High Water. Right there, may not be the same as top of Bank, take a look at 310 CMR 10.58(2)(a)2.b.

You have BVW and you have Bordering land Subject to Flooding (floodplain). The area is also within estimated and priority habitat.

You cannot convert BVW to agriculture. If someone is claiming agriculture, just because it may have been 50 years ago doesn't mean you can do the same thing as was done then. Aerial photos going back ten years don't show any agriculture there in the wetlands or Riverfront.

So, take photos, keep notes, establish jurisdiction, and if any activity has occurred in any resource area, issue an enforcement order, make them stop. That's the first thing. Get them to attend a commission meeting.

Then let me know what you find out. I'll work with you on "what now?" and the language of the order.

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**From:** [plussier@whitneyacres.com](mailto:plussier@whitneyacres.com) [<mailto:plussier@whitneyacres.com>]

**Sent:** Wednesday, November 14, 2012 10:40 PM

**To:** Stinson, Mark (DEP)

**Subject:** Swift River Bank Modification and Floodplain filling

Mark,

One of our commissioners noted new construction activity on the bank of the Swift River north of the Rte. 116 crossing in the Spruce Corner section of town. Please see the attached photo. Our question: If there is a clear violation what is the next step? Walk us through the process please. Stop order? Violation notice? Enforcement order? We have very little experience with these procedures.

Thank you,  
Phil L.

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Version: 2013.0.2805 / Virus Database: 2637/6019 - Release Date: 01/08/13