

**Town of Foxborough  
Conservation Commission Minutes  
February 10, 2010**

**Members present:** Bob Boette, Chairman, Allan Curtis, Vice Chairman, Harold Blomberg, Doug Davis, Judi Johnson and Jim Marsh

**Members absent:** Eric Nelson

**Also present:** Jane Sears Pierce, Conservation Manager  
Bill Hocking, Temporary Conservation Manager

**Meeting Opened**

Bob Boette opened the meeting at 7:10 PM, which was held in the Board of Selectmen Meeting Room in the Town Hall.

**Documents Signed**

DEP #157- 452, 96 E. Belcher Road, Order of Conditions Bylaw Extension Permit (one year).  
One voucher was also signed.

**DEP #157-486, Abbreviated Notice of Resource Area Delineation**, (off) Morris Street

The hearing for this filing was closed on February 1, 2010, per the applicant's request. This public meeting was scheduled specifically so that the Commission could meet the State's 21 day requirement for the issuance of the filing's Order of Resource Area Delineation. No one was present in the audience.

Jane was pleased to report that the site's vernal pool had been certified on the previous day (February 9, 2010), adding that this will ensure the protection of its wildlife habitat functions. She then reviewed her conversation with Dan Gilmore (DEP SE regional office) regarding resource area definition "nuances" under the WPA. Dan had explained the following:

Isolated Vegetated Wetland (IVW) - Although the ANRAD filing and cover letter refer to the vernal pool as "ILSF/Vernal Pool," the plan indicates that it is an Isolated Vegetated Wetland, which is not a protected resource area under the WPA. The plan's inclusion of the words "limit of vernal pool, elevation 307.8 (NAVD88)" next to the words "Isolated Land Subject to Flooding" are, basically, misleading since an IVW is not a protected State resource area (IVWs are Federal jurisdiction wetlands, only).

Isolated Land Subject to Flooding (ILSF) - If the vernal pool qualified as an ILSF (i.e. if one year flood calculations were submitted, showing that it would hold a quarter acre foot of water), then the applicant would need to provide calculations for a 100 year storm event, which would be considered to be the maximum extent of the ILSF. The applicant did not include either of these calculations in their ANRAD filing.

Dan explained that if the Commission wanted to approve the IVW, for example, as a Pond they would then check off the form's "modified" box and include the following type of language, stating clear reasons for the findings:

"Based on knowledge of the area, the Commission believes that the isolated depression meets the regulatory definition of a pond at 310 CMR," etc.

Discussion followed regarding the BVW delineation and the vernal pool's designation (shown as an "Isolated Vegetated Wetland" on the plan). Bob advised that he wanted the wording of the ORAD to be kept simple, indicating that the Bay Colony delineation should be specifically referenced in the ORAD.

Jane then reviewed her recommended wording for the ORAD, first explaining that the form included three different wetland delineation determinations: accurate, modified and inaccurate. Her recommendations, including the Commission's revisions, are listed below:

In the Form's "Accurate" section, under Bordering Vegetated Wetlands:

- a. The Commission approves the following BVW flags (referred to on the *Overlay Plan* as "Bay Colony Line," defined in red), as overlaid from the site's previously approved ORAD (#DEP SE 157-371, 10/7/2002) plan entitled "Wetland Plan of Land in Foxborough, MA, Sage School," prepared by Bay Colony Group, Inc., dated 7/30/02, rev. 10/3/2002:  
BVW flag sequence #1 (11/12/01) through #19 and  
BVW flag sequence #1B (1/17/01) through 42B

In the form's "Inaccurate" section:

2. Other resource area(s), specifically:
  - a. ILSF/Vernal Pool
  - b. Drainage Ditch
3. The boundaries were determined to be inaccurate because:
  - a. ILSF/Vernal Pool - The site's ILSF, referred to in both the ANRAD form and cover letter as "ILSF/Vernal Pool," is inaccurately designated "Isolated Vegetated Wetlands" on the Plan. (This vernal pool was certified by the MA Natural Heritage Program on 2/09/10.)

Based on their knowledge of the area, the Commission believes that the site's isolated depression meets the regulatory definition of Isolated Land Subject to Flooding ("ILSF") at 310 CMR 10.57(2)(b)3.

In addition, the site's 6/07/01 DEP Superceding Determination of Applicability (Positive) includes the following information:

Approved Plans (on file with DEP):

"Conservation Filing, Upgrading Plan, Morris Street, Foxborough, MA," signed & stamped by Stephen E. Poole, PE, dated 5/14/00.

"Existing Conditions, Morris Street, Foxborough, MA" signed by Dellorco & Associates Land Surveyors-Civil Engineers, dated 5/14/00, rev. April 4, 2001 with supplemental information dated 4/18/01.

Positive, 2a (added to boilerplate language):

"The observed boundary of Isolated Land Subject to Flooding (ILSF) on the previously noted "Existing Conditions" plan illustrating the largest observed volume of water confined in the area [310 CMR 10.57(2)(b)] [observed on April 3, 2001]."

- b. Drainage Ditch - The Plan's so-called "drainage ditch" was not delineated.

Based on their knowledge of the area, the Commission believes that the plan's "drainage ditch" meets the regulatory definition of an intermittent stream at 310 CMR 10.58(2)(a)1.c. and should be included/delineated on the plan.

**Motion** by Judi Johnson to sign **DEP #157-486, Order of Resource Area Delineation**, Morris Street, to be mailed by February 17, 2010, as discussed. Seconded by Allan Curtis. **Vote: 6:0:0**

**Meeting adjourned** at 8:00 p.m.

Draft minutes submitted by: Judy Leahy on 2/22/10

Approved by Commission: 2/22/10