

CONSERVATION COMMISSION

AMENDED AGENDA

MARCH 16, 2011

7:00 PM

TOWN HALL - 472 MAIN STREET - ROOM 204

7:00 Preliminary Review - 16 Heritage - C. Perraud - *CANCELLED*

7:15 Notice of Intent - 95 Newtown Road - Westchester Company (010)

Construction of a proposed single family home and driveway within 100' of a bordering vegetated wetland (town atlas plate E-3 parcel 29).

Site walk conducted 3/16/11 – Commission questions delineation, requiring botanist to return to the site – *hearing to be continued*.

7:30 Request for Determination - 16 Martin Street - J. Sweeney (020)

Proposed construction of a 16'x12' shed within 100' of a wetland (town atlas plate H-2A, parcel 79). Site walks conducted with TM, FP ADM & TT.

7:40 Continuation - NOI - Nonset Path - Hawthorne Homes, LLC

Email from M. Krol (040)

Request for Extension - Letter - Acton Hydro Co., Inc. - 85-893 (030)

MINUTES

January 20 OSRP	forthcoming		
March 3 OSRP	forthcoming		
February 9 OSRP	comments rec'd by	ADM, FP	} signature
February 16	“ “ “	TT, ADM, FP	
February 17 OSRP	comments rec'd by	TT, ADM, TM	
March 2	comments rec'd by	TT	

**CONSERVATION COMMISSION
MINUTES
MARCH 16, 2011
7:00 PM
TOWN HALL - 472 MAIN STREET - ROOM 204**

COMMISSIONERS PRESENT: Terrence Maitland, Andrew Magee, Fran Portante, Tom Arnold,

ASSOCIATE MEMBER(S): Christine Perraud

RECORDING SECRETARY: Tom Tidman

CONSERVATION ADMINISTRATOR: Tom Tidman

VISITORS: John Sweeney, Mike Coates, Ann-Marie Sweeney, Michael Krol, Jay Frolick, Charles Baglio, Peter Rosner, Maria Membrino, Geraldine & Irwin Abrams, Betsy Purcell, Prasad Kommineni, Mingchen Wu, James Shope, Bernice & Steve Baran, Bob Knowlton, Michael Stephenson, Kate Chung, Linda Campelia, Brian Butler, Fran Simeone, Victoria Mohar Sudana, Linda Onuska, Brenda Ferriero, Kirk Ware, Rich Harrington

7:00 Business - Preliminary Review - 16 Heritage - C. Perraud - **CANCELLED**

Mr. Maitland discussed potential ethics law requirements with the Commission.

7:15 Notice of Intent - 95 Newtown Road - Westchester Company (010)

Construction of a proposed single family home and driveway within 100' of a bordering vegetated wetland (town atlas plate E-3 parcel 29).

Site walk conducted 3/16/11 – Commission questions delineation, requiring botanist to return to the site.

The applicant's representative, Acton Survey & Engineering, requested a continuance of the hearing. The Commission did not open the hearing therefore not continued.

[See file in the Conservation Office also located in DocuShare: Conservation Commission – 2011 Meetings – 03-16-2011 - (010 & 011).]

7:25 Request for Extension - 316 Old High Street - Acton Hydro Company, Inc. - 85-893 (030)

Mike Coates from Acton Hydro stated that he needs to request a second request for extension for his Order of Conditions; he stated that he feels that he can complete the project by this summer and needs a one year extension. There is a small amount of work to be completed, he believes that he would be done by now if he were not involved in a motorcycle accident. The work needing completion involves work on the abutments and installation of the spillway control structures.

Mr. Magee noted that it seems to be a case of hardship the Commission could issue a one year extension under the Act and re-file under the Bylaw; then Mr. Coates would not have to pay an additional filing fee.

Mr. Maitland noted that this is a request for a second extension which Commission is prohibited to issue under the Bylaw.

The Commission suggested that Mr. Coates can file for an extension under the Wetlands Protection Act but will have to file a new Notice of Intent under the Bylaw since the Commission cannot grant a second extension under the provisions of the Bylaw.

Mr. Maitland noted that the Commission is meeting again on March 23rd and will add it to the agenda for proper posting so the extension can be voted upon under the Act.

[See file in the Conservation Office also located in DocuShare: Conservation Commission – 2011 Meetings – 03-16-2011 - (030).]

7:35 Request for Determination - 16 Martin Street - J. Sweeney (020)

Site walks conducted with TM, FP ADM & TT.

Owner, John Sweeney presented plans for the proposed construction of a 16'x12' shed within 100' of wetlands (town atlas plate H-2A, parcel 79). Mr. Sweeney's home was built in the 1890's and sits on a half-acre lot. In addition to the proposed shed, he plans to add a naturalized area with shrub plantings approximately 400 s.f. in size within an area of existing lawn adjacent to the proposed shed. Previously, a playground structure had been removed from the yard closer to the wetlands than the proposed shed.

Upon query by Ms. Portante, Mr. Sweeney stated that the naturalized area will involve removing some of the existing lawn area and replace with shrub plantings (list of shrubs is included in the RDA submittal).

Upon query by Mr. Maitland, Mr. Sweeney reported that he does not know where the old septic system is located; the new one was in place when he moved in during the 1990's.

Upon query by Ms. Portante, Mr. Sweeney stated that the proposed shed will be placed on sono-tubes with no foundation.

Mr. Magee stated that the project seems de minimis.

Mr. Maitland noted that the lot is completely constrained by wetlands.

[See file in the Conservation Office also located in DocuShare: Conservation Commission – 2011 Meetings – 03-16-2011 - (020).]

7:53 Determination of Applicability - 16 Martin Street

Mr. Magee moved that the Commission find that the work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the special condition that the proposed shed be set on sono-tubes and not in direct contact with the ground (-2); Ms. Portante 2nd, unanimous.

7:55 Continuation - NOI - Nonset Path - Hawthorne Homes, LLC

Mr. Maitland reported to the applicant and abutters that due to weather conditions, the Commission has still not been able to conduct a site inspection, therefore the Commission will be requesting the applicant to continue the hearing again.

Mr. Magee disclosed for the record that his employer, Epsilon Associates, and Oxbow Associates have worked together on other projects in the past. Mr. Magee also noted that his company was also retained by Kirk Ware for environmental consulting at the Concord Auto Auction property approximately 15 years ago.

Mr. Maitland asked Rich Harrington from Stamski & McNary to review site details discussed at the 3/2/11 hearing regarding this site for edification of Mr. Magee who was not present on 3/2.

Mr. Harrington reported that the wetlands have been delineated by Dave Crossman of B & C Associates. Proposed access to the upland/buildable portion of the property will be through a 20' wide easement from Nonset Path. After consultation with the Fire Chief it was determined that the proposed paved surface will be 18' wide, not 16' as previously proposed on 3/2/11. All surface runoff from Sub-catchment Area 1A will enter the constructed Stormwater Wetland A through two sediment forebay structures. Runoff will then travel under the proposed driveway and into Constructed Wetland B before entering the

replication area. The entire parcel is just over seven-acres and the project qualifies as a Limited Project under 310 CMR 10.53(3)(e).

Kirk Ware from Hawthorne Homes, LLC reported that he had a productive meeting with the Nagog Woods Community Corporation (NWCC) last summer and requested a follow-up meeting to discuss options for accessing the site; no follow-up meeting was granted by NWCC.

Mr. Harrington described improvements proposed for the entry drive off Nonset Path noting that there are two easements that exist to Nonset Path: (1) a 20' wide "right of way and utility" easement currently servicing three single-family homes and (2) a 50' wide utility easement located where the Nagog Woods playfield which is considered a 'use area.' Town water runs through the site under the existing gravel road from Old Stone Brook. There is an existing 6" sewer-main which will be extended under the proposed access road from the existing utility easement. The property is zoned "Residence A" which allows for a total of 36 units, either single-family or two-family dwellings. Mr. Harrington reported that he has had a preliminary review with Town staff and will submit a revised plan once all issues are addressed from the meeting, which will include the new proposed 18' width of the entrance road.

Upon query by Mr. Maitland, Mr. Harrington reported that access through the 50' wide utility easement was considered but the amount of wetlands fill would be much greater than the proposed access route.

Upon query by Mr. Magee, Mr. Harrington confirmed that the proposed alteration/replication ratio is approximately 1:1.

Upon query by Mr. Magee, Mr. Ware stated that this parcel was under common ownership with the existing three subdivided lots along the common-drive off Nonset Path in the early 1980's.

Mr. Maitland stated that the Commission will need some clarification on the title based on the concerns raised in the D'Agostine, Levine, Parra, Netburn letter to the Commission dated on 3/2.

Mr. Ware described the title, noting that the owner has signed all necessary documents but he has not received them yet.

Mr. Arnold stated that it appears that the scope of the retained utility easement appears to be only for the sewer connection. Mr. Ware stated that the title was reviewed thoroughly and a written opinion was given. Mr. Arnold stated that he would like a copy of the written opinion for the record.

Upon query by Mr. Magee, Mr. Harrington reviewed the wetland replication detail and construction sequence and will look into a greater than 1:1 wetland fill/replication ratio.

Mr. Magee stated that he would prefer to see greater setbacks in the buffer zone between the proposed location of the stormwater wetland and the edge of natural wetlands

Mr. Harrington stated that there is a proposed catchbasin close to the property line with the abutter at 111 Nonset Path common-drive; constructed Stormwater Basin A is set at an elevation to receive runoff from the common-drive and the abutting property.

Mr. Magee stated that the Commission will need the stormwater basins and replication area flagged on-site prior to a site walk. Mr. Tidman noted that the Bylaw requires that proposed replication areas be marked in the field for the Commission's review.

James Shope from Nagog Woods Community Corporation (NWCC) stated that the covenants allow for utilities to be installed within the 50' wide utility easement and the area must be restored to a soccer field. The hammerhead lot is restricted to five single family lots.

Mr. Maitland stated that the Commission will need proof of the restriction.

Mr. Shope also reported that he checked with DEP, DEP has approved a 10,000 gallon/day increase to the Nagog Treatment Plant; this proposal would be significantly more than that.

03-16-2011

Type Title	Owner	Edited	Size	Actions
 Extra Information	naturales	03/23/11	3	  
 00001 - March 16 - Amended Agenda	naturales	03/16/11	93 KB	  
 0001 - March 16 Agenda	naturales	03/11/11	87 KB	  
 010 - Notice of Intent - 95 Newtown Road	naturales	03/11/11	2 MB	  
 011 - Request to Continue - 95 Newtown Road - 85-1061	naturales	03/16/11	23 KB	  
 020 - Request for Determination - 16 Martin Street	naturales	03/11/11	665 KB	  
 030 - Acton Hydro - 316 Old High Street - Extension Request 85-893 - 03-16-11	naturales	03/16/11	17 KB	  
 040 - Michael Krol Email - Henley Road Access-Nonset Path Project 3-16-2011	naturales	03/16/11	13 KB	  

Extra Information

Type Title	Owner	Edited	Size
 010 - Email from James Shope - March 16, 2011 FW_ Nagog Woods - Nonset Path.pdf	naturales	03/23/11	
 Email from James Shope - 3-16-2011 photo - Hammerhead lot wetlands 003.jpg	naturales	03/23/11	
 Email from James Shope - 3-16-2011 photo - Hammerhead lot wetlands 005.jpg	naturales	03/23/11	

Mr. Arnold stated that he would like to review the 50' wide utility easement/soccer field covenant.

Michael Stephenson from 434 Old Stone Brook stated that it seems to him that this is a classic example of the owner creating their own hardship.

Upon query by Mr. Maitland to Mr. Ware, Mr. Shope interjected to point out that the President of NWCC is present and can address the possibility of the applicant connecting to existing roads in NWCC.

Peter Rosner, from 113 Waterside Clearing and President of NWCC, reported that Mr. Ware did approach the board regarding his proposal; they have not foreclosed the discussion or the possibility of access; they still have many questions, runoff being one.

Brian Butler from Oxbow Associates asked the Commission to clarify whether the three existing house lots on the common-drive, where improvements are proposed, need to cosign the Notice of Intent, since work will occur on their properties, or will their lots be encumbered by the activities? Mr. Maitland stated that it is very likely that the easement would obviate the need for an owner's agreement but he would like this to be resolved.

Michael Krol from 25 Henley Road asked if soil borings have not been done, how can the engineers know what the long-term impact will be on abutting properties and to wetlands from the changes to groundwater?

Mr. Ware stated that he is willing to meet any time to discuss alternative access schemes.

Mr. Maitland suggested that it would be an important meeting to have prior to the next continued hearing with the Commission. The Commission will schedule site walks within the next couple weeks.

Upon agreement by the applicant, Mr. Maitland continued the hearing until April 20, 2011 at 7:30PM.

[See file in the Conservation Office also located in DocuShare: Conservation Commission – 2011 Meetings – 03-16-2011 - (040) and Extra Information, and 03-02-2011 - (010) and Extra Information].

MINUTES

Mr. Magee moved that the Commission approve the minutes for February 9, 16 & 17, 2011, Mr. Arnold 2nd; unanimous.

9:45 Meeting adjourned.



Terry Maitland
Chair

TT:ahr
ahr.concom.minutes.2011.03-16-2011

03-02-2011

Type	Title	Owner	Edited	Size	Refers
	Extra Information	naturalres	03/11/11	1	
	0001 - March 2 - Amended Agenda	naturalres	03/02/11	95 KB	
	0001 - March 2 Agenda	naturalres	02/24/11	92 KB	
	010 - Notice of Intent - Nonset Path (town atlas plate B-4, parcel 12)	naturalres	02/24/11	54 MB	
	020 - Request for Certificate of Compliance - 141 Great Road 85-278	naturalres	03/02/11	6 MB	

Extra Information

Type	Title	Owner	Edited
	DLPN Letter 3-2-2011 - 101 Nonset Path	naturalres	03/11/11