

**CONSERVATION COMMISSION  
MINUTES  
AUGUST 17, 2011  
7:15 PM  
TOWN HALL - 472 MAIN STREET - ROOM 204**

**COMMISSIONERS PRESENT:** Terry Maitland, Andrew Magee, Bill Froberg, Tom Arnold, Fran Portante, Amy Green, Jim Colman

**CONSERVATION ADMINISTRATOR & RECORDING SECRETARY:** Tom Tidman

**VISITORS:** John Murray, Michael Krol, Michael Stephenson, Jey Jeyaseelan, Linda Onuska, Ziping Jiang, Ke Weihua, Charles Bradley, Bernice Baran, Thomas Geagan, Robert Knowlton, Lou Levine

7:20 Mr. Maitland called the meeting to order.

7:22 Hearing - Order to Show Cause - 101 Nonset Path (010-011)

Mr. Maitland tabled the hearing regarding Chapter O under the Town of Acton Bylaw until the conclusion of the 101 Nonset Path wetlands hearing continuation on this date. (See 9:05 PM.)

7:23 Notice of Intent - 50 Jackson Drive - L. Bigelow - 85-1069 (020)

Mark Donohoe from Acton Survey & Engineering presented plans for the proposed construction of a single-family home and infrastructure within 100' of a wetland (Town Atlas Plate E-3, Parcel 23-8). The wetland has been delineated by B & C Associates on July 11, 2011. The proposed septic system will be mounded; groundwater is at two-feet in this area. The proposed driveway will be pitched to drain towards the house into a small rain-garden.

Upon query by Mr. Maitland, Mr. Donohoe reported that the final elevation of the proposed septic system will be four to five feet above the existing grade; the design is not yet approved by the Board of Health.

Upon query by Mr. Magee, Mr. Donohoe stated that he could place a row of boulders along the 'limit of clearing' as shown on the plan.

Mr. Donohoe reported that roof runoff will be directed to discharge in a drip-line recharge trench proposed around the house. The house will be elevated with a rear walk-out basement; the foundation elevation will be above groundwater.

Ms. Green noted that she would like the erosion control barrier on the north side of the lot to be extended to the 95' elevation contour line.

Charles Bradley from 46 Jackson Drive reported that many efforts have been made for a successful perc test and he is concerned that this system will fail.

Mr. Maitland stated that approval by the Acton Board of Health is still required under Title 5.

Mr. Donohoe noted that the septic design will conform to all requirements set forth under Title 5. This lot is not within a flood zone; the system will be mounded approximately five-feet.

7:40 Hearing no further comments, Mr. Maitland closed the hearing.

*[See file in the Conservation Office also located in DocuShare: Conservation Commission - 2011 Meetings 08-17-2011 - (020) - Notice of Intent - 50 Jackson Drive - 85-1069].*

#### Decision - 50 Jackson Drive - 85-1069

Mr. Magee moved that the Commission issue an Order of Conditions (OOC) for the plans as presented with the following special conditions:

1. No activity associated with the construction of the proposed septic system, within 100 feet of wetlands, shall occur until approval by the Acton Board of Health has been obtained.
2. The applicant shall install a row of three-to four-foot diameter boulders buried to half their depth. The boulders shall be placed no greater than 10 feet on center along the line shown as the "limit of clearing" (erosion control barrier). No work, grading, clearing, lawn or any other activity may occur beyond this line of boulders at any time now or in the future.
3. The erosion control barrier line illustrated on the Notice of Intent plan, dated July 26, 2011, shall be extended by approximately 20 feet on the northwest side of the proposed septic system, to a point intersecting the 95-foot contour line.

Mr. Arnold 2<sup>nd</sup>; motion passed unanimously.

7:44 Notice of Intent - Continuance - 101 Nonset Path - 85-1060 (030 - 031)

\*\* Mr. Colman stated that he will abstain from participating in the hearing and voting since he a new Commissioner and has not been a part of the hearing process to date.

Mr. Harrington from Stamski & McNary reported that the Fire Chief communicated to the Applicant on August 10, 2011, requiring an 18 foot wide driveway for the 12 proposed units. Once the design has gone through the Conservation process then he will proceed with the zoning issues. The plan has not changed since the last hearing continuation and remains with 12 proposed units.

Upon queries by Mr. Maitland, Mr. Harrington confirmed that the Applicant chose not to have more engineering done at this time. The Applicant cannot move forward with a building permit and address zoning issues until they have an approved OOC.

In regards to the 8/12/2011 memo from the Zoning Enforcement Officer, Scott Mutch, Mr. Harrington stated that a building permit won't be issued if the Applicant can't address zoning issues and the proposed project would not proceed.

Mr. Maitland agreed that if there is validity to the Zoning Enforcement Officer's memo, the project will not proceed.

Ms. Green noted that there is no response to the Commission's questions from the last meeting; it seems impractical to condition the questions.

Mr. Magee expressed concern with the location and extent of the detention basins within the buffer zone, noting in particular that under the bylaw the basin berm and the proposed

wall are structures and not allowed at the proposed location. Mr. Magee asked if the basins could be moved up the slope.

Mr. Harrington reviewed the description of the existing flow of drainage patterns and reviewed proposed basins 1B and 1C.

Mr. Magee noted that the basin was not serving just the roadway, but also the upland development. Mr. Harrington reported that the basins' proposed location, at a low elevation, catch runoff from the neighboring lot as well as the proposed roadway. The basins' locations and size are based on the runoff calculations.

Mr. Magee reiterated his concern regarding the proposed replication area wall and the extensive work within the buffer zone.

Mr. Harrington stated that if the Commission conditions an approval requiring that the wall be removed from the design, he will do so. If a condition is imposed to reduce the stormwater requirements, he can remove the wall from the proposed design.

Mr. Magee stated that the Commission posed the question multiple times regarding the proposed locations of the retention basins and tonight the Commission is informed that if a condition is imposed then it would be redesigned.

Upon query by Mr. Arnold, Mr. Harrington agreed that the applicant is proposing 12 units.

Upon query by Mr. Arnold, Mr. Harrington stated that the position of the applicant is that the Commission can approve the proposal as is, or deny.

Barnice Baran from Old Stone Brook, noted that based on the memo from the Zoning Enforcement Officer, the Zoning Board of Appeals is unlikely to approve the current plan over-ruling zoning requirements.

Attorney Lou Levine expressed several concerns noting that the hearing has been ongoing since March, 2011. The Town Planner has stated that town-houses are not permissible. The Commission asked specific questions at the last hearing continuation pertaining to vernal pool investigation and narrative, engineer's structural detail of the driveway, detention basin walls and advanced drainage details. Mr. Levine continued noting that the Commission cannot issue a general OOC and condition it later in time; the proposal is not for the Commission to design. The Fire Chief stated 18' road width requirement with an area 26' wide; the additional necessary information has not been submitted. Mr. Levine opined that under a Limited Project, at most, access could be for a single family home with a 12 foot wide driveway. As presented, the project cannot be approved or conditioned by the Commission.

Thomas Geagan, representing the owner stated that they have a zoning opinion of their own, which does not agree with the opinion of the Town's. The project design was started in April, 2006; without an OOC, payment of back taxes or zoning review cannot go forward; if ultimately if the Town's zoning opinion is correct, then the project will be modified.

Upon query by Mr. Maitland, Mr. Geagan confirmed that the applicant does have an opinion regarding zoning of this parcel.

Upon query by Michael Stephenson from 434 Old Stone Brook, Mr. Harrington stated that silt fence would be used in the areas where 18 foot wide drive would be constructed within the 20 foot wide easement.

Michael Krol expressed concern regarding currently wet yards and proposed runoff; soil borings found groundwater to be between six and eighteen inches. If water is to “sit” in the proposed retention basins all of the time there will be real concerns regarding mosquito breeding and West Nile Virus. Mr. Krol also opined that the vernal pool assessment done by B & C Associates is ‘weak’, there are vernal pool species in the area; the pools need to be independently reviewed.

Robert Knowlton from 432 Great Elm Way noted that most of the sub-basins are located in the restricted use area, and they are permanent structures.

Upon query by Mr. Magee, Mr. Harrington reported that if the proposal was for one single family home, the roadway would only need to be 10 to 12 feet wide.

Mr. Magee asked Mr. Geagan since he has a different opinion on zoning and there is an issue with the easement, is there an opinion on the easement as well? Mr. Geagan confirmed that there is a differing opinion on the easement as well as zoning.

Lou Levine stated that he believes there was a letter to the Town Planner from Mr. Greenberg acknowledging the “existing easement, but it can be moved...”

Ms. Green indicated that she had a number of questions concerning the stormwater report, including a review of what stormwater stands were or were not being met, the need for an operations plan, and the hydrology of basins in the buffer zone.

8:45 Hearing no further comments or questions, Mr. Maitland closed the hearing.

*[See file in the Conservation Office also located in DocuShare: Conservation Commission - 2011 Meetings 08-17-2011 - (030-031) and Conservation Commission – Wetland Filings – 101 Nonset Path – DEP file 85-1060 (<https://doc.acton-ma.gov/dsweb/View/Collection-4347>)].*

#### DECISION - 101 Nonset Path - 85-1060

Mr. Arnold moved that the Commission deny the project as presented, Ms. Portante 2<sup>nd</sup>; the motion passed with five aye, one nay and one abstained (5:1:1). A formal written decision will be drafted, reviewed and voted on at a special meeting to be held prior to the Commission’s next regular scheduled meeting on September 7, 2011.

9:05 Hearing - Order to Show Cause - 101 Nonset Path (010-011)

Town Treasurer, John Murray, reported, that a payment plan has not been arranged to date, thus the Commission must deny, suspend or revoke any permit. The land is in foreclosure in Land Court, Mr. Murray is intervening in the Commission’s hearing.

9:20 Hearing no further comments, Mr. Maitland closed the hearing.

#### DECISION - Order to Show Cause - 101 Nonset Path

Mr. Magee moved to deny under the Town of Acton Bylaw, Chapter O, Ms. Portante 2<sup>nd</sup>; motion passed unanimously.

*[See file in the Conservation Office also located in DocuShare: Conservation Commission - 2011 Meetings 08-17-2011 - (010-011) and Conservation Commission – Wetland Filings – 101 Nonset Path – DEP file 85-1060 (<https://doc.acton-ma.gov/dsweb/View/Collection-4347>)].*

#### Request for Certificate of Compliance - 22 Nashoba Road - 85-1050 (040)

Mr. Magee moved to issue a Certificate as recommended by Mr. Tidman, Mr. Froberg 2<sup>nd</sup>; unanimous.

Request for Certificate of Compliance - MacGregor Lane - 85-445 (050)

Ms. Portante moved that the Commission issue a Certificate as recommended by Mr. Tidman, Mr. Froberg 2<sup>nd</sup>; unanimous.

Request for Certificate of Compliance - 24 Conant Street - 85-933 (060)

Ms. Portante moved that the Commission issue a Certificate as recommended by Mr. Tidman, Mr. Arnold 2<sup>nd</sup>, unanimous.

Request for Certificate of Compliance - Robbins Mill Estates, Phase 1 - 85-802 (070)

Mr. Magee moved to issue a Certificate as recommended by Mr. Tidman, Ms. Portante 2<sup>nd</sup>; unanimous.

MINUTES

Mr. Magee moved that the Commission approve the minutes for June 15, July 6 and July 20, 2011, Ms. Green 2<sup>nd</sup>; unanimous.

9:30 Meeting adjourned.

  
Terry Maitland,  
Chair

TT:ahr  
ahr.concom.minutes.08-17-2011

**CONSERVATION COMMISSION**

**AGENDA**

**AUGUST 17, 2011**

**7:15 PM**

**TOWN HALL - 472 MAIN STREET - ROOM 204**

7:15 Hearing - Order to Show Cause - 101 Nonset Path (010-011)

7:15 Notice of Intent - 50 Jackson Drive - L. Bigelow - 85-1069 (020)

Acton Survey & Engineering – proposed construction of a single-family home and infrastructure within 100’ of a wetland (Town Atlas Plate E-3, Parcel 23-8).

7:30 Notice of Intent - Continuance - 101 Nonset Path - 85-1060 (030 - 031)

Request for Certificates of Compliance

- 22 Nashoba Road - 85-1050 (040)
- MacGregor Lane - 85-445 (050)
- 24 Conant Street - 85-933 (060)
- Robbins Mill Estates, Phase 1 - 85-802 (070)

MINUTES

January 20 OSRP	forthcoming			
March 3 OSRP	forthcoming			
**March 23 CC & OSRP	forthcoming			
June 15	comments rec'd by	TT, TM, ADM, FP		<i>signature</i>
July 6	“ “ “	AG, ADM, FP, TT		<i>signature</i>
July 20	“ “ “	TT, AM, AG, JA, JSG		<i>signature</i>
August 5	pending			

Location: Home » Public Meetings » Conservation Commission » 2011 Meetings » 08-17-2011 Listing

08-17-2011



Type	Title	Owner	Edited	Size	Actions
	<a href="#">0001 - August 17 Agenda</a>	naturaires	08/12/11	26 KB	
	<a href="#">010 - 07-22-2011 - Chapter O - Notice of Hearing to Show Cause</a>	naturaires	08/02/11	66 KB	
	<a href="#">011 - 07-26-2011 - Notice of Intervention - 101 Nonset Path - June Peters</a>	naturaires	08/02/11	30 KB	
	<a href="#">020 - Notice of Intent - 50 Jackson Drive - 85-1069</a>	naturaires	08/12/11	1 MB	
	<a href="#">030 - 101 Nonset request for Letter from Fire Chief to Conservation</a>	naturaires	08/10/11	44 KB	
	<a href="#">031 - 08-12-2011 - Zoning Guidance &amp; Information - NOI of Hawthorne Homes LLC - 101 Nonset Path</a>	naturaires	08/15/11	65 KB	
	<a href="#">040 - Reqeust for Certificate of Compliance - 22 Nashoba Road - 85-1050</a>	naturaires	08/10/11	68 KB	
	<a href="#">050 - Request for Certificate - MacGregor Lane - 85-445</a>	naturaires	08/02/11	161 KB	
	<a href="#">060 - Request for Certificate of Compliance - 24 Conant Street - 85-933</a>	naturaires	08/10/11	63 KB	
	<a href="#">070 - Request for Certificate of Compliance - Robbins Mill Estates - Phase 1 - 85-802</a>	naturaires	08/10/11	73 KB	