

**CONSERVATION COMMISSION**  
**AGENDA**  
**OCTOBER 17, 2012**  
**7:00 PM**  
**TOWN HALL - 472 MAIN STREET**  
**ROOM 204**

7:00 Notice of Intent - 33 Nashoba Road - Amelie Mailloux - DEP File 85-1100 (010)

Engineer: Stamski & McNary

Proposed razing and an existing single family home and construction of a new proposed single family home within 100' of wetlands located at 33 Nashoba Road, Acton (town atlas plate D-2, parcel 104).

7:15 Request for Determination - East Acton Village Green - 130 Concord Road (020)

Town of Acton Natural Resources Dept: proposed thinning of understory and selective removal of trees in preparation of the proposed East Acton Village Green within 100' of wetlands adjacent to Ice House Pond located at, Acton (town atlas plate G-4, parcel 211).

7:30 Morrison Farm Committee - Bill Mullin

7:45 Notice of Intent - 12 Elm Street - Edward Fox – 85-1101 (030)

Engineer: Stamski & McNary

Proposed addition to an existing single family home within 100' of a wetland located at (town atlas plate E-2, parcel 228).

8:00 Hybrid Farm

Land Gift Acceptance - Quarry Road (040)

MINUTES

October 3      forthcoming

**CONSERVATION COMMISSION  
MINUTES  
OCTOBER 17, 2012  
7:00 PM  
TOWN HALL - 472 MAIN STREET  
ROOM 204**

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

**NATURAL RESOURCES DIRECTOR:** Tom Tidman

**RECORDING SECRETARY:** Tom Tidman and Bettina Abe

**VISITORS:** Amelie Mailloux, George Dimakarakos, Mark Wilson, Rodney Petr

7:00 Notice of Intent - 33 Nashoba Road - Amelie Mailloux - DEP File 85-1100 (010)

George Dimakarakos from Stamski & McNary presented plans for the proposed razing of an existing single family home and construction of a new single family home within 100' of wetland. Most of the lot is within the buffer zone, the existing house is 18' from the edge of the wetland; the proposed house will be 25' and the proposed driveway will be 50' from wetlands. The proposal will create a net increase in structure free buffer zone on the property with the removal of a section of the old driveway. The new proposed septic system will be located 75' from the edge of wetlands.

Upon query by Mr. Magee, Mr. Dimakarakos reported that the size of the new house will be double the size at 4,000 s.f. from 2,000 s.f.

Mr. Magee noted that the proposed structure will not be in greater non-compliance from the existing, therefore allowable under the Bylaw.

Ms. Green noted that the proposed house will be constructed within existing lawn area and will not adversely impact the wetland buffer zone. However yard debris has been historically dumped in the wetland area, in the future the homeowner should be aware that this is prohibited.

Abutter, Rodney Petr from 26 Nashoba Road, spoke in favor of the new house construction.

Mr. Magee stated that the Commission may wish to have a row of boulders installed.

7:30 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Decision - 33 Nashoba Road - 85-1100

Mr. Magee moved that Commission issue an Order of Conditions for the plans as presented, waiving standard Conditions 18 & 19 under the Bylaw with the following special condition: the Applicant shall install a row of three to four foot diameter boulders along the proposed siltation prevention barrier line beginning at Wetland Flag #2 and ending at #8, buried to half their depth, no greater than five feet on center. Ms. Portante 2<sup>nd</sup>, the motion passed unanimously.

7:40 Request for Determination - East Acton Village Green - 130 Concord Road (020)

Mr. Tidman overviewed the history of the East Acton Village Green, noting that it had previously been designed with Community Preservation Act (CPA) funds which was awarded and eventually returned to the fund when the project had not commenced within the proper time limitations. Recently Charlie Abraham of Axe Brothers offered his services to selectively clear the "Village

Green" and install several benches. Most of the trees to be cut are within 100' of Ice House Pond and an isolated wetland. The limit of clearing and wetland delineation has been flagged on site.

Upon query by Ms. Green, Mr. Tidman reported that the specific trees to be removed have not been marked but he has walked the site with Mr. Magee, Mr. Charter and Mr. Abraham. Ms. Green indicated that she would be more comfortable if the trees to be removed were marked and the Commission conducts a site walk.

Mr. Maitland continued the meeting until November 7 at 7:15 PM pending an inspectional site walk to review the trees to be removed.

#### Morrison Farm Committee - Bill Mullin

Mr. Mullin gave an overview of the Morrison Farm Committee (MFC) regarding the history of the Town acquiring the Morrison Farm; four committees have previously studied this project to date. There is a "living history" mandate from East Acton Village (EAV) to the Robbins Monument. The site has a history dating back from pre-revolutionary times to modern day. Plans are underway to have an all inclusive CPA application before the Community Preservation Committee (CPC) for their review later this fall.

#### 8:45 Notice of Intent - 12 Elm Street - Edward Fox (030)

Jonathan Bolan from Stamski & McNary presented proposed plans for the addition to an existing single family home; the proposed addition will be 33' from the edge of wetlands, the existing home is currently 21'. All proposed work would be within existing lawn area.

Ms. Green noted that there is an area between Wetland Flags #4 and #5 that could have been set approximately five feet closer to the house.

#### Decision - 12 Elm Street

The Commission discussed whether the discrepancy in flag locations would have an impact on the project and/or wetland resource area. The consensus was that moving the flags would not impact the project or negatively impact the resource area.

Mr. Magee moved that the Commission issue a standard Order of Conditions for the plans as presented, waiving standard Conditions 18 & 19 under the Bylaw.

Mr. Colman 2<sup>nd</sup>; unanimous.

#### 8:00 Hybrid Farm License Agreement

Ms. Abe explained surety options requested from last hearing on 9/19/12:

- 2-3 year bond with a bonding company;
- 5 year bond with a bonding company;
- separate Town of Acton account or fund governed by conditions approved by the Acton Board of Selectmen, i.e. an initial contribution augmented by \$1,000 annual fee.
- Rockland Trust \$2,500 savings account using Hybrid Tax ID, co-signed by McConnors and a Town of Acton official; and letter stating that bank manager may not release funds to Hybrid, Inc. without Town of Acton Agreement.

Tom Arnold reported that the bond company can issue renewable 2-3 year bond costing 2%-5% of the value of the bond with a financial statement from the McConnors included in lieu of collateral. The Commission discussed the costs of removing fencing/shed wood based on estimate from Shawn O'Malley. Mr. Maitland said the bond amount should at least be \$10,000 to cover any additional remediation in case the McConnors successors could not perform duties associated with going out of business. A 10,000 bond at 5% is \$500. The License need only reference that

there is a bond. Amount can be added later. Wick McConnon says he can get a letter of credit but it's a hardship if he has to come up with collateral.

The Commissioners agreed that the license agreement allows for renegotiation. Mr. Colman reiterated that either party can discuss issues that arise in the future and work out any changes at each annual renewal rather than automatically renewing the agreement. Terry Maitland explained the need to modify Section 9.4 of the draft License agreement to reflect the new date and amount to \$10,000.

Andy Magee asked if the Commission is covering potential costs sufficiently to allow for various conditions other than removing fence and sheds because he believes the town is boarding 32 horses on its conservation land. He stated that the MSPCA could potentially charge money to remove horses if Hybrid Farm, Inc. goes under. Terry Maitland stated this surety bond is for a worst case scenario such as incapacity of owners or their assigns to perform; and there is minimal probability this would happen. Rita McConnon stated that there is sufficient room for every horse to be exclusively stabled on Hybrid Farm property if necessary. Jim Colman stated he does not believe that the Town would have legal responsibility for the horses in the worst case scenario.

Terry Maitland proposes that the license state in Section 9.4 "not later than December 1, and not more than \$10,000.

**Motion:**

Jim Colman moved that the annual license agreement with Hybrid Farm be approved as discussed tonight with a \$10,000 bond and provide that the dates be adjusted accordingly by adding 3 months to each relevant date in the draft.

In the motion the following license textual changes will be included in the draft:

*5.1 Upon each renewal of this license agreement, Licensees shall pay an annual license fee of \$1,000 for use of the Licensed Premises to the Town of Acton by January 15<sup>th</sup> of each year, commencing on January 15, 2013.*

*Paragraph 9.1 begin in October, 2012*

*Paragraph 9.2 change date to Jan. 15, 2013*

*Paragraph 9.3 Restoration of Site at Termination. At the termination of this License, either by non-renewal or pursuant to Section 13 herein, the Licensees agree to remove and dispose of all fences and structures on the Licensed Premises, and restore the Licensed premises to their pre-license conditions or to such reasonable condition as is determined by the Commission at the termination of this Agreement. The Licensees shall complete such restoration within (30) days of the termination of this License. Licensees are permitted to enter Licensed Premises after the termination of the License during that thirty (30) day period only to fulfill their obligations under this Section.*

*9.4 Posting Surety Bond. Not later than December 1, 2012 in the amount of \$10,000 and in a form approved by Town Counsel to adequately cover the costs of removing and disposing of all fences and structures on the Licensed Premises, and restoring the Licensed premises to their pre-license condition or to such reasonable condition as is determined by the Commission at the termination of this Agreement in the event of failure by the Licensees to do the same as required pursuant to Section 9.3 herein.*

*9.5 Abandonment of Existing Crossing. Use of the crossing from Area C. into Area D. as shown in the attached plan, is prohibited after December 31, 2012 unless the Commission has issued an Order of Conditions allowing such use, and the Licensees have received a Certificate of Compliance from the Commission.*

Tom Arnold seconded the motion.

**Discussion of the motion:** The Commissioners questioned whether they should require an NOI filing for the road/cart path improvement as part of license agreement.

This is for improving the existing, compacted gravel cart path for Area D, an alternate route/horse travel corridor on Hybrid Farm property. A new path is not being created, rather it is being made more passable. Amy Green is concerned because soft mud could ooze out the sides of the trap rock under the currently intended remediation plan. Andy Magee is concerned about 28 horses marching through that passageway causing it to erode quickly and is surprised that stipulation for formal filing was removed. Tom T. stated that around town many people maintain dirt roads in buffer zones. Tom T. says that a separate stand alone NOI on Hybrid Farm property would make more sense; and he can take care of this filing with Wick McConnon and renew it each year. Andy Magee says there are 2 places where wetland overlaps with pastureland and we may want to keep horses and storm water out of the area. Jim Colman suggested that there are still items to be considered in future and one of those is storm water mitigation.

Fran Portante stated that these things will be monitored on an annual basis. Andy Magee says that Dept. of Agriculture is permitting commercial activity on conservation land as long as the property is not degraded; so it behooves us to be sure horses don't graze in wetland. Additionally, some storm water detention basins should perhaps be installed along with a plan to restore property. Andy is uncomfortable with managing a property and all the entailing provisions. Tom Arnold is in favor of Tom Tidman's suggestion to file an NOI for Hybrid property since it deals with a specific issue. Jim Colman read Agreement, Section 10.2 and reiterated the intent that these issues would be addressed in the first year. Andy Magee says there are many aspects of the licensed portion of property that require an engineer's examination. Mr. Colman stated that allowing a year is not unreasonable to work those details out. It was also discussed that the amount of the bond can be changed in the future if it becomes apparent that more (or less) is needed, and to consider inclusion of actions that the Town may need to take such as revegetation. Mr. Maitland stated that there is a motion on the table to approve this lease. The Commission added the following provision:

First line of the agreement says, "this<sup>XX</sup> day of October." And that:

*Section 10.2. Before any renewal of this Agreement is granted, the Parties agree to use reasonable best efforts to agree to (1) changes, if any, that should be made in the vegetative cover in Area D; and (2) how to control runoff and prevent adverse impacts on any areas subject to jurisdiction under the Wetlands Protection Act/Acton Wetland By-law or water quality from activities on the Licensed Premises.*

The motion passed with six aye and one nay (Mr. Magee nay).

#### Land Gift Acceptance - Quarry Road (040)

Mr. Tidman briefly described the land gift of 1.5 acres off of Quarry Road from Mary Gustin (town atlas plate B-5, parcel 13) which was accepted at the 2012 Annual Town Meeting (Article 53).

Mr. Maitland noted that he walked the property with Mr. Tidman prior to Town Meeting; this land does not abut other existing town owned land.

Mr. Magee noted that the property is proximate to a parcel of land with the conservation restriction associated with the Woods at Laurel Hill development.

Mr. Magee moved that the Commission accept the gift of land as described in the documents provided by town counsel and approved at the 2012 Annual Town meeting; Ms. Portante 2<sup>nd</sup>, unanimous.

9:30 Meeting adjourned.



Terry Maitland  
Chair

10-17-2012

Properties

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Type	Title	Owner	Edited	Size	Actions
	<a href="#">0001 - October 17 Agenda</a>	naturalres	10/11/12	14 KB	
	<a href="#">010 - Notice of Intent - 33 Nashoba Road - 85-1100</a>	naturalres	10/15/12	6 MB	
	<a href="#">020 - Request for Determination - East Acton Village Green - 130 Concord Road</a>	naturalres	10/11/12	840 KB	
	<a href="#">030 - Notice of Intent - 12 Elm Street - 85-1101</a>	naturalres	10/15/12	8 MB	
	<a href="#">040 - Land Gift - Quarry Road</a>	naturalres	10/11/12	679 KB	