

**CONSERVATION COMMISSION
AGENDA
APRIL 19, 2006**

- 7:00 Notice of Intent - 170 School Street - William Tsacoyeanes
R. Wilson Associates: for the replacement upgrade of the existing sewage disposal system.
- 7:15 Notice of Intent - 42 Ethan Allen – Timothy Easterly
Duncan Brown: for the replacement of an existing sewage disposal system.
- 7:30 Continuation - NOI - 436 Great Road - see agenda packet information
- 7:45 Request for Extension – 93 Taylor Road - see agenda packet information
- 8:00 Continuation - NOI 2 - Woodlands at Laurel Hill - *continued until 5/3 @ applicant's request*
- 8:15 Notice of Intent - 30 Great Road – Thomas McLaughlin - Acton Indoor Sports
Stamski & McNary: for the construction of an outdoor climbing tower and high ropes course with associated mulch landing zone with 200' of Nashoba Brook and within 100' of wetlands. See agenda packet information.
- 8:30 Request for Determination - Jones Field Parking - Town of Acton Engineering Department
(Town Atlas Plate H-2A, Parcel 52) - Realignment of existing parking and replacement of the existing guardrail along Stow Street at Jones Field within 100-feet of a wetlands and 200-feet of Fort Pond Brook. See agenda packet information.

Requests for Extension

- 80 Willow Street
- 26 Grasshopper Lane

MINUTES

March 15 submitted within

**CONSERVATION COMMISSION
MINUTES
APRIL 19, 2006**

MEMBERS PRESENT: Terry Maitland, Mike Eder, Julia Miles, Cheryl Lowe, Linda Serafini, Bill Froberg, Janet Adachi

CONSERVATION ADMINISTRATOR: Tom Tidman

RECORDING SECRETARY: Andrea Ristine

VISITORS: Duncan M. Brown, Steve Marsh, Steve Nelson, Therese Marsh, Tim & Pat Easterly, Patty Lee

7:03 Notice of Intent - 170 School Street - William Tsacoyeanes

Russ Wilson from R. Wilson Associates presented plans for the replacement upgrade of the existing sewage disposal system. The proposed replacement leach field will be 55' from the edge of wetlands and the limit of disturbance (haybale line) will be 41'.

Upon query by Ms. Adachi, Mr. Wilson reported that the area of the proposed leaching field is currently lawn. Applicant will have to temporarily remove the existing guardrail on School Street to gain access to the site.

Upon query by Ms. Lowe, Mr. Wilson reported that the replacement leaching field could not be located in the same place as the failed system due to groundwater in the area; which originally had been filled.

Upon query by Mr. Eder, Mr. Wilson reported that the septic design is currently under review with no problems anticipated by Health Dept. staff. The Board of Health (BoH) cancelled the meeting scheduled for April 10th due to lack of quorum; this plan was to be voted on at that time but will not be reviewed until April 24, 2006

Upon query by Ms. Miles, Mr. Wilson reported that he was not asked or required to design an alternative septic system.

Upon query by Mr. Tidman, Mr. Wilson reported that all excavated materials will be removed from the site.

Mr. Tidman reported that he has been on site and does not have any conflict with the wetland delineation.

Upon query by Ms. Lowe, Mr. Wilson reported that he could not design the system closer to the street on the west side of the house due to the difficulties in keeping the existing grade elevations around the existing house. One tree will have to be removed to accommodate the leaching field.

Upon query by Mr. Froberg, Mr. Tidman reported that the sewer district does not include this section of School Street and is not an alternative to replacing the system on site.

9:16 Upon query by Mr. Maitland, Mr. Wilson reported that the replacement system is required due to failure and sale of the property.

9:17 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Decision - 170 School Street

Mr. Eder moved that the Commission issue an Order of Conditions (OOC) with the following special conditions: 1) This OOC is dependent upon the approval of the Acton BoH for the plans submitted for this NOI: Septic System Upgrade & Notice of Intent Plan dated April 10, 2006. 2) All haybales placed for siltation prevention must be removed from the site within 30 days of the stabilization of the area of activity. Ms. Adachi 2nd; unanimous.

7:15 Notice of Intent - 42 Ethan Allen Drive – Timothy Easterly

Duncan Brown presented revised plans dated 4/15/06 for the proposed replacement of an existing sewage disposal system. There is an existing interceptor drain on the property which will require a variance from the Board of Health for the distance between the proposed system and the drain. There are minor changes to the plan as revised. This will be the third septic system for this lot since its construction 42 years ago. The proposed system is a trench system with step down trenches on the hill on the south west side of the existing house. Two of the proposed trenches and one-half of the septic tank will be within the 100' buffer zone. The

closest proposed trench will be 75' from the edge of wetlands and the limit is disturbance will be approximately 26'.

Upon query by Ms. Miles, Mr. Brown stated that construction will take approximately eight to nine days, weather permitting. All disturbed areas will be returned to lawn and his plan calls for the placement of loose hay on the slope to help protect against erosion until the site is stable.

Upon query by Mr. Froberg, Mr. Brown reported that the Applicant will try to limit stockpiling at the rear of the lot but will need the entire site for staging. The Applicant will be reusing the existing top soil by rolling and stockpiling it and then put it back in place once the leaching field is constructed. The Applicant will be using the area in the rear as well as in the front for staging.

Commissioners expressed concern with the proposed stock piling adjacent to wetlands. Mr. Brown stated that the proposed construction sequence and stock piling locations will minimize erosion potential during the construction process.

Upon query by Mr. Eder, Mr. Brown stated that the Applicant would be amenable to providing silt fence in conjunction with the proposed haybales for siltation prevention. Haybales will be placed along the top of the existing slope.

Mr. Brown noted that the property currently has surface breakout of sewage so the owners need construction to start as soon as possible.

Upon query by Ms. Miles, Ms. Lowe stated that the use of salt marsh hay instead of hay/straw bales would prevent the introduction of weed seeds to the site and adjacent wetlands.

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

Decision - 42 Ethan Allen Drive

Mr. Eder moved that the Commission issue an OOC with the following special conditions: 1) This OOC is dependent upon the approval of the Acton BoH for the plans submitted for this NOI: Proposed Septic System Replacement revised April 14, 2006. 2) The line of haybales noted as the limit of work shall include silt fence. All siltation prevention devices must be removed from the site within 30 days of the stabilization of the area of activity. 3) Erosion control and reseeded methods for stabilization after project activities shall be reviewed and approved by the Conservation Administrator. Ms. Miles 2nd; unanimous.

7:30 Continuation - NOI - 436 Great Road

Mr. Tidman reported that the septic design plans have been approved by the Board of Health.

7:44 Mr. Maitland closed the hearing.

Decision - 436 Great Road

Mr. Eder moved that the Commission issue an OOC for the plans as presented with the following special conditions: 1) This OOC is dependent upon the approval of the Acton BoH for the plans submitted for this NOI: Proposed Septic System Replacement revised March 27, 2006. 2) Erosion control and reseeded methods for stabilization shall be reviewed and approved by the Conservation Administrator. 3) All haybales placed for siltation prevention must be removed from the site within 30 days of the stabilization of the area of activity. 4) A planting plan and maintenance schedule for the proposed leaching field shall be submitted for review and approval by the Conservation Administrator. 5) Stockpiling of materials shall be outside of the 100' buffer zone. Ms. Adachi 2nd; unanimous.

7:45 Request for Extension - 93 Taylor Road - see agenda packet information

Attorney Steve Nelson requested an extension for the OOC under the Bylaw, pursuant to the order of the Superior Court. Construction activities have not commenced since the issuance of the OOC due to the appeals filed by the abutter, Robert Hendrie at 89 Taylor Road. Mr. Nelson gave an overview of events involving the property and reviewed the approved plan filed under the former Bylaw, which required only a 40' setback from wetlands. See "Superior Court Clerk's Notice dated January 31, 2006".

In June, 1998 the Applicant filed an application for a septic system with the BoH. [Ed. The BoH initially approved a variance for the septic system in 2000; Mr. Hendrie's appeal of that decision was dismissed.] The proposed wetland delineation based on soil samples and vegetation analysis was reviewed by three

wetlands specialists [Ed. The Commission issued a limited ORAD in 2000, certifying only a portion of the delineation.]. The Commission denied Applicant's first Notice of Intent (NOI) in 2000, but approved the second NOI, issuing an OOC in 2001 which was appealed by Mr. Hendrie under the Bylaw to the Superior Court and under the Act to DEP. DEP issued a Superseding Order of Conditions (SOOC). The BoH in the meantime, again, had approved a variance for Applicant's proposed septic system. (During the BoH permitting process, Mr. Hendrie sought and received a BoH permit for an irrigation well. The location of the irrigation well is different from the approved location on the permit.) Mr. Hendrie also filed an appeal of the BoH decision.

Upon query by Mr. Froberg, Mr. Nelson reported that the SOOC did not differ from the OOC issued by the Commission and DEP essentially upheld the Commission's decision.

In December 2002 the Superior Court cases, involving the appeals of both the BoH and /Commission decisions, languished with Judge Bonnie McLeod. In response to the Commission's assented-to request, the Court stayed proceedings in the Commission appeal pending a decision in the BoH appeal. In 2005 the Court issued a decision affirmed the BoH variance although the Superior Court Clerk's Office delayed entering formal judgment until January 8, 2006. In the Commission appeal, Mr. Hendrie sought a dismissal because the three- year time period for the OOC had expired; the Superior Court issued its most recent order, which among other things, rejected Mr. Hendrie's motion.

Upon query by Mr. Eder, Mr. Nelson reported that the Commission appeal case is still active pending the Commission's decision for Extension of the OOC under the Bylaw. Town Counsel recommended that the case come back before the Commission for an extension permit. The Court Order dated January 31, 2006 states "(1) the Applicant/Defendant may submit to the Commission a written request for an Extension Permit *nunc pro tunc* to September 16, 2004; (2) the Commission shall consider the Applicant's request as though the request had been timely filed; (3) the Court will try the merits of the controversy with respect to the Commission's OOC."

Upon further query by Mr. Eder, Mr. Nelson reported that Town Counsel called it a misstep due to the pending legal proceedings. The Applicant is asking the Commission to respectively extend the OOC retroactive to the date prior to the expiration of the OOC as stated in the Court Order dated January 31, 2006.

Mr. Froberg noted that the Commission would be granting an extension based on acknowledgement of unavoidable delay and asked why the Applicant did not file for an extension prior to the expiration of the three year OOC time period. Mr. Nelson stated that the law was clear under the Act and Judge Paul A. Chernoff considered the standard under the Act in ordering that the extension request be filed retroactively under the Bylaw.

Some Commissioners feel unsure would like to seek Town Counsel's legal opinion on the matter.

Upon query by Commissioners, Mr. Nelson reported that the Applicant probably will have to probably go back to the DEP with a new NOI filing under the Act.

Mr. Hendrie submitted a written statement, dated 4/19/06, asking current Commissioners to make them selves familiar with the project before considering the request for extension.

The Commission tabled the decision until May 17, 2006 to seek a legal opinion from Town Counsel.

9:35 Mr. Maitland closed further discussion until 5/17/06.

Continuation - NOI 2 - Woodlands at Laurel Hill - at Applicant's request Mr. Maitland continued the hearing until May 3, 2006 at 7:45 PM.

9:36 Notice of Intent - 30 Great Road – Thomas McLaughlin - Acton Indoor Sports

Rich Harrington from Stamski & McNary presented plans for the construction of an outdoor climbing tower and high ropes course with associated mulch landing zone within 200' of Nashoba Brook and within 100' of wetlands. All proposed work activity will be within existing lawn area. The closest point of activity will be 26' from wetlands and the proposed climbing tower will be 51' from wetlands. The six proposed climbing poles are partially sunken utility poles with guy anchors. A written request for waiver under the Bylaw has been submitted with the NOI package as well as an alternatives analysis.

Alternatives for this project are that the Applicant could remove an existing pool, soccer field or relocate the existing leaching fields.

Mr. Eder stated that he would like Mr. Harrington to address the impact to the resource areas within the area of the proposed structures. Mr. Eder asked the Applicant to state how the project will not impact the resource areas of interest under the Act. Mr. Harrington noted that the proposed activity is not within wetland resource areas; it will be in an already disturbed "lawn" area. The proposal does not alter any grade elevations on the site; it is outside of the flood plain. The riverfront area is previously disturbed as it is existing lawn. Mr. Harrington also does not feel that there will be an adverse effect on wildlife since the proposed area of activity is currently lawn currently. Mr. Eder stated that he sees little impact of this project on the already disturbed resource areas.

Upon query by Mr. Eder, Mr. Harrington reported that there are no grading changes proposed or fill required for the project.

Upon query by Ms. Miles, Mr. Harrington reported that there is existing paved parking on the west side of the building. The amount of existing parking is based on zoning requirements for the square footage of the building facility. There are a few extra parking spaces but the available parking still is not enough in the winter.

Upon query by Ms. Lowe, Mr. Harrington noted that the existing lawn area is established and permeable to stormwater absorption but he does not know the rate of absorption. He feels that the absorption rate of an area with bark mulch would be similar.

Upon query by Commissioners, Mr. Harrington reported that this lot was created prior to August, 1996 and the Rivers Protection Act. A minor scale project such as this typically does not require drainage analysis.

Upon query by Mr. Froberg, Mr. Harrington reported that the bark mulch area surrounding the perimeter of the proposed tower and ropes course will have a hard edge to contain the bark mulch, such as 6" x 6" railroad ties or timbers. This will provide a defined edge between the course and the existing lawn area; this area is flat as well. The bark mulch will need to be replenished annually as a part of the foreseen maintenance program for this area.

Upon query by Mr. Maitland, Mr. Harrington stated that he is not sure this project could be considered "redevelopment with the riverfront area" although the area is previously disturbed.

Upon query by Mr. Eder, Mr. Harrington stated that stormwater runoff for the entire site flows towards the Nashoba Brook.

Upon query by Ms. Miles, Mr. Harrington noted that the Applicant could attempt to push the proposed course further from the resource area but it would be closer to the roadway and compromise the safety of participants using the course; including safety spotters who would be standing in the roadway. The proposed site is within existing lawn area.

Upon query by Ms. Miles, the owner, Thomas McLaughlin, noted that not all of the parking on the parcel is for his facility; some is for the other office building and residence.

Upon query by Mr. Tidman, Mr. McLaughlin reported that there is regular, informal use of the field.

Mr. Tidman noted that some existing conditions on the site are nonconforming; existing parking is currently closer than the proposed project.

Discussion.

Mr. Eder stated that the Applicant should demonstrate that there are no adverse impacts to the resource areas.

Upon query by Ms. Miles, Mr. Harrington reported that typically landscaped areas with mulch would have the same runoff value as for lawn areas which would be different than for wooded areas or paved surfaces; all of which fall under an open space category for runoff calculations.

Upon query by Mr. Maitland, Mr. McLaughlin stated that the poles in the ropes course will be sunk into the ground to a stable elevation. Mr. Harrington noted that the climbing tower would have concrete footings.

Upon query by Mr. Maitland, Mr. McLaughlin stated that the course would be used during the summer season.

Based on inquiries from the Commission, Mr. Maitland suggested that the Applicant outline all current uses of the property, address drainage to the degree possible with respect to lawn versus mulch, provide soil boring test results, quantify the number of needed parking spaces, provide plan details for the edging around the landing zones, state in writing why the proposal will not impact the resource areas more than existing, and consider how there could be improvements to the site if the proposal was permitted.

Mr. Tidman also suggested that the Applicant provide more information on existing noncompliant activities and their differences and similarities.

Upon agreement by the Applicant, Mr. Maitland continued the hearing until May 3, 2006 at 8:30 PM.

9:19 Request for Determination - Jones Field Parking - Town of Acton Engineering Department

(Town Atlas Plate H-2A, Parcel 52) - Realignment of existing parking and replacement of the existing guardrail along Stow Street at Jones Field within 100-feet of a wetlands and 200-feet of Fort Pond Brook.

Selectman, Lauren Rosensweig representing the South Acton Commuter Rail Task Force (SACRTF) reported that the SACRTF was organized to address and optimize the use of the train station and protect the surrounding neighborhood. One idea was to try to upgrade the existing parking around Jones Field which serves commuters as well as patrons using the playground and ball field. Reserve parking is needed to strike a balance among all users.

Bruce Stamski, Director of Public Works, stated that regardless of who uses the parking areas at Jones Field the area needs organization that is also less intrusive to the adjacent resource areas. He noted that people are very creative in their parking strategies along Stow Street, parking off of the roadside which causes erosion problems. The existing road shoulder is a gravel base where the Town will install a guardrail and create reserved parallel parking along the Stow Street. The guardrail and the fog line will be marked with parking lines since painting gravel is not feasible. There will be approximately two to three feet of fill between the guardrail and paved road which should also help prevent erosion. He has also proposed an access gate for maintenance of the field at the end of the proposed guardrail along Stow Street adjacent to Fort Pond Brook.

Upon query by Ms. Miles, Mr. Tidman noted that routine Town maintenance project typically have been filed as Requests for Determinations (RDA).

Upon query by Ms. Lowe, Mr. Stamski reported that the proposed reserve parking spaces will only be reserved 6 - 10 AM to facilitate commuters using the train station and then will be open for general public use after 10AM.

Upon query by Ms. Miles, Mr. Stamski reported that this proposal probably will reduce the parking area slightly but it will provide better controlled parking without erosion of the road shoulders into the adjacent resource areas.

Upon query by Ms. Miles, Mr. Stamski reported that there is a berm along the roadway that directs runoff flow down the street and not directly into wetlands.

9:34 Hearing no further comments or questions, Mr. Maitland closed the meeting.

Determination - Jones Field

Ms. Lowe moved that the Commission find that the work as described is within its jurisdiction but will not alter the resource area and therefore will not require a NOI filing (WPA Negative Finding No. 2 and Bylaw Negative No. 3)). Ms. Miles 2nd; unanimous.

Requests for Extension

80 Willow Street - Mr. Tidman reported that work has started on the site; the area has been cleared and some boulders have been removed from the proposed foundation area.

Mr. Eder moved that that Commission grant a three year extension permit as requested by the Applicant. Ms. Miles 2nd; unanimous.

26 Grasshopper Lane – Mr. Tidman reported that the building is requesting a six month extension to complete the project due to legal disputes and delays caused by the abutters.

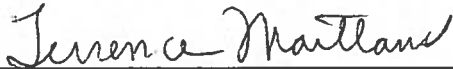
The Commission tabled the issue until May 17, 2006 to seek guidance from Town Counsel regarding a second extension permit under the Bylaw.

Assign Hearing Officer(s) - ANRAD - Quarry Road (rear) Yin Peet

The Commission will conduct a site walk on April 26th at 8:30 AM and 4 PM.

30 Great Road - Site Walk - Commissioners will visit the site on their own prior to the May 3rd hearing continuation.

10:20 Meeting adjourned.



Terrence Maitland, Chair

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