

CONSERVATION COMMISSION
AMENDED AGENDA
NOVEMBER 1, 2006



7:00 Preliminary Inquiry - 108 B Newtown Road - Venki Srinivasan
Conservation Restriction Signature - Kingman Property

7:15 Notice of Intent - 412 Arlington Street - J. Williams
R. Wilson Associates for the sewage disposal upgrade within 100' of wetlands.

7:30 NOI - Continuation - 77 Esterbrook Road

7:45 Notice of Intent 7 Duston Lane - Cynthia Harvey
Landscaping within 100' of a wetland.

8:00 Request for Determination - Bellows Farm Condominium Trust
Barry, Weston & Sampson Engineers for drainage improvements within 100' of a wetland along an emergency access road off of Bellows Farm Road (Town Atlas Plate E-5, Parcel 51).

8:15 Notice of Intent - 49 Taylor Rd (Lot 2 Partridge Pond Rd) David Dayton
Foresite Engineering for the construction of a single family house, driveway and associated utilities within 100' of a wetland at 49 Taylor Road to be known as Lot 2 Partridge Pond Road (Town Atlas Plate F-3, Parcel 83).

8:30 Preliminary Review - 81 River Street - Mill site redevelopment
Extension Permit - Lot 2 Willow Street 85-836
Certificate of Compliance - 149 High Street 85-596
Request to use Calcium Chloride - Spring Hill Commons - General Condition #30
SET SITE WALK - 60 Powdermill Road

Minutes

September 6	comments rec'd by	TM, JA
September 20	" " "	TM, JA
October 4	" " "	TM, JA

SIGNATURE

CONSERVATION COMMISSION
MINUTES
NOVEMBER 1, 2006

MEMBERS PRESENT: Terry Maitland, Janet Adachi, William Froberg, Linda Serafini, Julia Miles

STAFF/RECORDING SECRETARY: Andrea Ristine

CONSERVATION ADMINISTRATOR: Tom Tidman

VISITORS: William Kingman, Karen O'Neill, Venki Srinivasan, Russell Wilson, Mary Unger, Ron Beck, Barry Yaceshyn, Janice Fahey, Pamela Alcaide, Cynthia & John Harvey, Brian Butler, Francis Mastroianni, Scott Hayes, Rena Delosreyes, Lou Levine, John Flannery, Joe Levine, Cynthia & John Harvey

7:08 Preliminary Inquiry - 108 B Newtown Road - Venki Srinivasan

Mr. Srinivasan reported that he resides at the noted property; the house was built in 2002. The entire lot is 2.8 acres and approximately 80% is wetlands. The house has a rear walk-out basement with a ten-inch drop from the door step to the ground. He wishes to create a 10'x10' brick patio at the rear doorway.

Mr. Tidman reported that the house was constructed under the setbacks of the previous Bylaw and sits along the 40' no-build setback.

Mr. Srinivasan stated that he wishes to build the patio up to be level with the back door with sand and brick with a surrounding wood frame.

Upon query by Mr. Froberg, Mr. Tidman noted that the existing wetlands are wet and not just vegetation. Mr. Srinivasan reported that it does not seem that the house has ever had a wet basement.

Discussion. Upon query by the Commission Mr. Tidman reported that this sort of patio (previous) has been considered by the Commission in the past as "associated landscaping".

Discussion: the Commission felt that the proposal would have been allowed under the previous Bylaw setbacks as it does not seem that it would be a significant impact to the wetlands. Mr. Srinivasan was directed by the Commission to file a Request for Determination for the proposed project.

7:21 Mr. Maitland called the meeting to order.

Conservation Restriction Signature - Kingman Property

Karen O'Neill from the Acton Conservation Trust (ACT) reported to the Commission that William Kingman is ready to finalize the Conservation Restriction (CR) for 65 Esterbrook Road and needs the Commission to sign the CR Certification and field inspection report to be sent for approval to the Executive Office of Environmental Affairs. As noted to the Commission on September 6, 2006, the 6.5-acre property is a priority parcel for acquisition in the Open Space and Recreation Plan (OSRP). The property is located on a scenic road, contains open meadow, woodlots and stream.

Upon query by Ms. Miles, Ms. O'Neill reported that the CR parcel contains meadow, stream, woodland habitats; it is not adjacent to other town owned conservation land. The Trust will maintain the CR on a volunteer basis with the owner.

7:33 Notice of Intent - 412 Arlington Street - J. Williams

Russ Wilson from R. Wilson Associates presented plans for a sewage disposal upgrade within 100' of wetlands. The proposed replacement leaching field is located beyond the 100' buffer zone. The septic tank will be 51.1 feet from wetlands; the Board of Health has not yet issued a permit.

Upon query by Ms. Adachi, Mr. Wilson reported that the old septic tank will be abandoned in place and filled with sand.

7:36 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Decision - 412 Arlington Street

Ms. Miles moved that the Commission issue a standard Order of Conditions for the plans as presented. Mr. Froberg 2nd; unanimous.

7:38 NOI - Continuation - 77 Esterbrook Road

The Commission conducted a site walk on October 31st; Mr. Tidman reported that he investigated the adjacent parcel of land to the northeast and placed three additional wetland flags. The wetland line was found to follow a northeasterly direction and does not impact the proposed plan.

Upon query by the Commission, Mr. Tidman reported that the Commission historically has allowed the installation of fences within the no-build setback.

Upon query by Ms. Miles, Frank Ferrari from Aquascape Pool Designs reported that an in-ground pool is drained only a few inches for winterization and there are several options for pool water treatment. Mr. Ferrari agreed that all excavated materials to be stockpiled will be more than 75' from the edge of wetlands.

7:46 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Decision - 77 Esterbrook Road

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

- 1) All pool equipment shall be located outside of the 100' wetland buffer zone.
- 2) A cartridge filtration system shall be used to eliminate the need for backwash maintenance of the pool.
- 3) Any necessary water withdrawal from the pool shall be discharged to an area outside of the 100' wetland buffer zone.
- 4) Any excavated materials or temporary storage of excavated materials shall be placed beyond 75-feet from the edge of wetlands. The area within the 100' buffer zone where woodchips have been added to amend the soil shall be outlined on the plan.

Ms. Adachi 2nd; unanimous.

Certificate of Compliance - 149 High Street 85-596

Mr. Froberg moved that the Commission issue a Certificate for DEP File No. 85-596. Ms. Adachi 2nd; unanimous.

Extension Permit - Lot 2 Willow Street 85-836

Ms. Miles moved that the Commission issue a two year Extension for DEP File No. 85-836. Ms. Serafini 2nd; unanimous.

Wheeler Lane – USGS Gauging Station

Mr. Tidman noted that the Commission will be receiving a filing in the near future regarding the gauging station at the end of Wheeler Lane.

Notice of Intent 7 Duston Lane

At the request of the Applicant the Commission tabled the hearing for 7 Duston Lane until later in the evening pending the arrival of the Applicant's representative.

8:00 Request for Determination - Bellows Farm Condominium Trust

Barry Yaceshyn from Barry, Weston & Sampson Engineers presented plans for drainage improvements within 100' of a wetland along an emergency access road off of Bellows Farm Road (Town Atlas Plate E-5, Parcel 51). Mr. Yaceshyn reported that this portion of the Bellows Farm development built in the 1980's is having drainage issues. All drainage collected from upstream of the emergency access road discharges under the access road and is funneling into back yards and across Longmeadow Drive and not through the drainage system. This drainage problem causes icing and water flow through residents' yards and ultimately over Longmeadow Drive creating hazardous conditions during winter months. The proposal is to create a 1.5' wide by 100' long swale adjacent to the emergency access road in order to divert drainage flow through the existing drainage system. The wetland associated with this proposal is at an existing culvert outlet which has been created by the drainage and existing groundwater levels. The isolated wetland was non-existent at the time of the construction of the existing drainage system for the development.

Upon query by Ms. Miles, Mr. Yaceshyn stated that although the design will divert a majority of runoff away from the "new" isolated wetland; high groundwater exists in this area and he does not feel that the "new" wetland will dry out or be altered. No activity is proposed within the wetland.

Pamela Alcaide from the Bellows Farm Board of Trustees reported that the drainage problem gets progressively worse every winter; the Trust does provide barrels of sand along the roadside in the problem areas.

Janice Fahey from Bittersweet Lane stated that the drainage problem causes extremely hazardous situations during the winter months.

Discussion.

Upon query by Ms. Miles, Mr. Tidman stated that he doesn't think that the "new" wetland will dry up due to the proposed changes; the area is too shallow to function as a vernal pool. The proposed project is fairly simple.

8:30 Hearing no further comments or questions, Mr. Maitland closed the meeting

Determination – Bellows Farm Condominium Trust

Ms. Adachi moved that the Commission find the proposed project will not impact the resource area (negative three under the Act and Bylaw). Ms. Serafini 2nd; unanimous.

8:32 Notice of Intent 7 Duston Lane - Cynthia Harvey

Brian Butler from Oxbow Associates presented plans for landscaping and the reestablishment of natural vegetation within the 100' buffer zone. A perimeter deer fence has been established 50' from the edge of wetlands on the property with plantings inside the fence line away from wetlands. The Applicant also wishes to establish a small work area for storing of firewood and gardening supplies. Mr. Butler stated based on his experience that he does not feel that historically or presently the proposed activities have had or will have an impact on the resource area. The area to be established as a "work area" historically was the landing area during the construction of the house and common driveway in 1989 and has been used by the Applicant as such for gardening purposes since that time.

Upon query by Ms. Miles, Mr. Butler reported that there is no disturbance within the 50' setback but native plant species have been established within the natural 50' buffer. The "work area" is strictly a staging area for gardening and landscaping purposes.

Mr. Maitland reported that he has seen the site and finds the proposal to be modest activity.

Upon query by Mr. Froberg, Mr. Butler stated that there has been no alteration to the land with the exception of plantings of native species within the 50' setback.

Mr. Tidman noted that the "work area" has been used for a long period of time; proposed future activity should be covered under this wetlands filing. The hemlock stand doesn't support under-story vegetation but the owner/applicant is little by little establishing native species that are wildlife-beneficial and is asking for an ongoing staging area for gardening purposes.

Upon query by Ms. Miles, Mr. Butler reported that the Applicant has planted Cinnamon Fern, Red Maple and Rhododendron within the 50' setback.

Mr. Froberg stated that any alterations within the 100' buffer zone needs to be documented and a planting plan should be submitted.

Upon query by Mr. Froberg, Mr. Butler stated that an alternative location for the "work area" could be chosen outside of the 100' buffer zone but it would require removal of existing trees; the existing topography naturally creates the area currently being used.

Francis Mastroianni from 8 Duston Lane reported that he has lived in his home for two years and the reason for this NOI filing was due to his inquiry based on his observations at 7 Duston Lane. He stated that he doesn't feel it is accurate for the Applicant to state that the activity is the re-vegetation of a staging area. He also stated that he feels that the stream is perennial and not intermittent. His property is located on the opposite side of the brook which has mature forest including underbrush. He stated that he believes that vegetation was removed from 7 Duston Lane; truckloads of mature pine were removed from the property and the site was clear cut. When he inquired to the owner/applicant he was told that the trees removed were a threat to the existing house at 7 Duston Lane. Mr. Mastroianni stated that the project is not as it has been characterized in the presentation and not appropriately stated. He feels that the area in question is a sensitive area. He feels that the plantings that have been installed at 7 Duston Lane may be native to New England but not to the local area. He feels that the location of the work area within the 100' buffer zone is not necessary; the owner/applicant owns several acres and the Commission should not permit the proposed work area location. There is another level area on site where a tractor is stored and the owner/applicant owns other contiguous parcels to Spring Lane.

Mr. Maitland stated that based on his observations during the site walk that the wetland behind 7 Duston Lane compromises the open usable space of the property.

Mr. Butler reported that there was one dead tree removed from within the 100' buffer zone and all other logging activities within the seven-acre parcel were outside of the 100' buffer zone. There is only one means of exiting the property via the existing stone bridge.

Cynthia Harvey also noted that the one dead tree that was removed within the 100' buffer zone leaned towards the house.

Mr. Butler stated that there were lots of tall white pine timbers removed from seven-acre site. The Bylaw doesn't exclude the use of land for routine activities within the buffer zone; the proposed activity area is within the Commission's purview. The owner/applicant is not using chemicals within the buffer zone and is restoring vegetation to the site with native plant species with habitat value.

Ms. Harvey noted that her house was constructed 16 years ago and some of the trees were not removed but were damaged during construction. Recent observations by her tree professional found that it was time to remove three hollow hickory trees, a hemlock with rot that is endangering the house; only one dead tree was removed from buffer zone.

Mr. Maitland noted to the Commission that the deer fence placed along the 50' setback is eight feet tall.

Ms. Harvey also noted that her existing hemlock grove is being affected by Wooly Adelgid but they are surviving at this time.

Upon query by Mr. Froberg, Ms. Harvey reported that she uses woodchips to help amend poor soils.

Upon query by Ms. Miles, Mr. Butler reported that the stream is not perennial based on the USGS maps and he has not seen any evidence of recent tree removals within the buffer zone on the site.

Mr. Harvey also noted that Mr. Butler was also on this site during the early nineties at the time Spring Hill Road was constructed and nothing has changed since then.

Mr. Mastroianni interjected in disagreement. Mr. Tidman reported that there is yellow birch, red maple on the Harvey's side within the stream's buffer zone (outside of the deer fence) along with hemlocks and several large oaks inside of the deer fence.

Mr. Mastroianni interjected in disagreement, Ms. Miles informed Mr. Mastroianni that hemlock groves do not naturally allow under-story vegetation and amending soils with woodchips would help reestablish vegetation; Yellow Birch and Red Maples are early-succession growth. Activities between 50' and 100' from wetlands are permissible under the Bylaw.

9:14 Mr. Tidman stated that he found no evidence on site that the buffer zone has been cleared but was used historically for construction staging in the late 80's and is currently the owner/applicant's staging area for landscaping.

Mr. Butler stated that if there was a better topographical area on the property the applicant would use it but flat areas are limited on this property.

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

Decision - 7 Duston Lane

Ms. Adachi moved that the Commission issue an Order of Conditions for the plans as presented with the following special condition:

1) The Applicant shall submit a "restoration planting plan" for the area located from the edge of wetlands to the 50' buffer. Once the restoration planting is complete, the area will be allowed to naturalize.

Ms. Serafini 2nd; unanimous.

9:20 Notice of Intent - 49 Taylor Rd (Lot 2 Partridge Pond Rd) - David Dayton

Scott Hayes from Foresite Engineering presented plans for the construction of a single family house, driveway and associated utilities within 100' of a wetland at 49 Taylor Road known as Lot 2 Partridge Pond Road (Town Atlas Plate F-3, Parcel 83). The lot is located within the R-2 Zoning District (20,000 sf); the associated wetlands are on the adjacent lot (Atlas Plate F-3, Parcel 70-7). The wetlands were delineated by Chuck Caron; his delineation report has been submitted with the NOI. The existing tree line on Lot 2 follows along the existing stone wall. The proposed house and driveway for Lot 2 will be within an existing open lawn area. The length of the proposed driveway includes a runoff infiltration trench.

Mr. Maitland reported that he has visited the site with Mr. Tidman; to review the wetlands line. Mr. Hayes reported that soil samples were the defining factor in the delineation driving the delineation to the conservative side as vegetation could not be used as the determining factor.

Upon query by Ms. Miles, Mr. Hayes reported that the proposed line of haybales shown on the plan follows the existing edge of lawn keeping the existing lawn open area for the new lot.

Ms. Miles stated that she feels that the new house lot (new construction) should respect the 50-foot natural vegetative buffer.

Mr. Tidman noted that a planting plan can be designed to naturalize the 50' setback.

Upon query by Tom Kanwit from 41 Taylor Road, Commission staff noted that a legal abutters list contains all abutters within 100' of the proposed project parcel and there is no filling of wetlands proposed.

Mr. Kanwit also expressed concern about drainage issues that may be affected by the new construction.

Upon query by Mr. Maitland, Mr. Hayes reported that the Board of Health has approved the proposed sewage disposal plan. The proposed plan provides mitigation for new impervious surfaces.

Upon query by Ms. Miles and Mr. Froberg, Mr. Hayes stated that the proposed septic system meets Title 5 requirements and septic systems are exempt from the Bylaw.

Upon query by Mr. Hayes, Ms. Miles stated that the existing lawn area is non-conforming for the existing house lot as it stands without being subdivided; the proposed lot is new construction that she feels is required to meet all of the setbacks under the Bylaw.

Mr. Tidman suggested that the Applicant submit a planting plan to establish a 50' natural vegetative buffer. Mr. Hayes disagreed stating that the Bylaw protects pre-existing nonconforming activities and Applicant should be allowed to continue the lawn use with the new subdivided lot.

Mr. Froberg noted that the 75' no-build setback is respected in the plan, there is an existing stone wall along the property line and asked Commissioners if allowing the existing lawn use to continue would cause a negative impact beyond the current use; the existing stone wall is a natural barrier. Ms. Miles stated that she feels that pressure on the wetlands is being increased with the proposed house and septic.

Upon query by Sue Nugent from 5 Partridge Pond Road, Mr. Hayes reported that there is no activity proposed on the adjacent lot (Atlas Plate F-3, Parcel 70-7). Access to the new proposed lot will be from Partridge Pond Road.

Rena Delosreyes from 45 Taylor Road expressed concern regarding potential changes in drainage and the nature of the wetland. Mr. Hayes stated that the Applicant is not obligated to provide drainage calculations for a single-house lot; he does not feel that the design will change current drainage conditions since runoff from new impervious surfaces will be directed to groundwater. Only minor grading is proposed for the new construction.

Upon query by Ms. Miles and Mr. Maitland, Mr. Hayes stated that the Applicant does not propose any new activities within 50' of the wetland.

Discussion.

Mr. Froberg stated that he feels that removing the existing grass within the 50' setback and establishing plantings would disturb the buffer zone area more than it is at this time. Mr. Tidman stated that the Commission could impose a condition requiring native plantings within the 50' setback without removing the grass and allow the area to naturalize.

10:19 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Decision - 49 Taylor Rd (Lot 2 Partridge Pond Rd)

Ms. Miles moved that the Commission issue an OOC with the following special conditions:

- 1) The Applicant shall submit an amended plan depicting the 50-foot No Disturbance Buffer.
- 2) The 50' buffer zone line shall be considered the 'limit of work'; haybales shall be installed along the 50' buffer zone line. In addition to allowing the area contained within the 50' buffer zone to naturalize, the Applicant shall submit a planting plan comprised of native plant species having wildlife value, to be planted in the 50' buffer zone. The planting plan must be reviewed and approved by the Commission or its agent prior to construction.

Ms. Adachi 2nd; motion passed with four ayes and one nay (4:0:1).

8:30 Preliminary Review - 81 River Street - Lou Levine, Joe Levine & John Flannery

Lou Levine presented preliminary plans for the proposed redevelopment of the "Flannery Mill Site". An ANRAD filing will be submitted to the Commission in the near future. The developers intend to preserve the historic mill building on the property, construct new condominiums, clean up the opposite side of the river and also create a river walk through the proposed complex. Conceptually there will be 16 units and three single family homes. The entire river front area is disturbed but he feels that there will be less impact to the resource area than currently exists once the project is complete.

Minutes

Ms. Adachi moved that the Commission accept the minutes of September 6, September 20 and October 4, 2006. Ms. Serafini 2nd; unanimous.

SET SITE WALK - 60 Powdermill Road – 11/6 @ 3:30 PM

Request to use Calcium Chloride - Spring Hill Commons - General Condition #30

The Commission tabled the issue; a meeting should be scheduled with the representative to follow up on their inquiry.

10:55 Meeting adjourned.

Terrence Maitland
Terrence Maitland
Chair

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