

CONSERVATION COMMISSION  
AMENDED AGENDA  
SEPTEMBER 7, 2005

7:00 Notice of Intent - Parker Street Sidewalk – Town of Acton  
Construction of a sidewalk and drainage improvements on Parker Street at Robert Road.

7:15 Request for Determination – Road Resurfacing - Town of Acton  
Repaving of School Street from Hosmer Street to Route 2, Sandy Drive, Candida Lane, Laurel Court, Lilac Court, Martin Street from Maple to Stow Street, Tuttle Drive from Prospect to Torrington Lane, Central Street from Half Moon Hill to the railroad tracks, Arlington Street from Hayward Road to Spruce Street, Arlington Street from Agawam to Newtown Road, Fort Pond Road, Musket Drive, Alcott Street from Thoreau Road to Concord Road, Davis Road from Utility Pole 14/8 to Blue Heron Way, Esterbrook Road and Ladyslipper Lane.

7:30 Notice of Intent - 73 Charter - Raymond Grey  
Replacement of a sewage disposal system within 100' of a wetland.

7:40 Notice of Intent - Martin Street Sidewalk – Town of Acton  
Construction of a sidewalk, drainage improvements and road milling and repaving on Martin Street at Fort Pond Brook.

7:50 ANRAD – 53 Fort Pond Road  
Second site walk conducted August 29<sup>th</sup> with Tom, Julia, Janet & Cheryl

8:05 Notice of Intent - – 115 River Street - *Burke Realty Trust*  
Continued from August 17<sup>th</sup>. LA Associates & E.T.S. Environmental Consulting & Mgt. Services for the removal of debris and grading within 100' of a wetland and within 200' of Fort Pond Brook.

Preliminary - Request to Amend – 12 Elm Street

Certificates

- ◊ Charter Road – Water District 85-890
- ◊ 49 Stoneymeade Way 85-699 (pool)

MINUTES

July 20            comments rec'd by      JR, ME, TM  
August 17            "            "            "      JM



**CONSERVATION COMMISSION  
MINUTES  
SEPTEMBER 7, 2005**

**MEMBERS PRESENT:** Cheryl Lowe, Janet Adachi, Julia Miles, Mike Eder, Terry Maitland

**CONSERVATION ADMINISTRATOR:** Tom Tidman

**RECORDING SECRETARY:** Andrea Ristine

**VISITORS:** Corey York, Royce Fuller, Patty Sullivan, Kirk Fitzpatrick, Ann Forbes, Ed Pearson, Isabella V. Choate, Reggie Achilles, Leslie Ann Sugrue, Ryan Bettez, Bob Blanchette

7:11 Mr. Eder called the meeting to order.

7:12 Notice of Intent - Parker Street Sidewalk – Town of Acton

Corey York from the Acton Engineering Department presented plans for the construction of a sidewalk and drainage improvements on Parker Street at Robert Road; the entire project runs from High Street to the town line.

Upon query by Ms. Lowe and Ms. Miles, Mr. York reported that the pond at Robert Road receives runoff from the roadway as the existing grade is towards the pond. The only activity near wetlands is in this location. A small portion of the existing garden at Robert Road and Parker Street will be lost. The Town has received a petition requesting a sidewalk from most of the residents in this area.

Upon query by Ms. Adachi, Mr. York reported that the existing conditions near the pond is mostly a grass and sand shoulder. They don't expect to hit ledge but do expect a lot of stone from an old stone wall.

Upon query by Mr. Eder & Ms. Lowe, Mr. York stated that they intend to match the existing grades but pitch the gradual slope to runoff towards the new catchbasin. The catchbasin will have a four-foot deep sump for sediment settlement with a hooded gas trap.

Mr. Eder expressed concern stating that the Town should receive all of the easements needed before commencement of work.

Upon query by Ms. Lowe, Mr. York reported that the 12" and 18" maple trees will not be removed. The Tree Warden, Dean Charter feels that they wont be impacted by the proposed activity.

Royce Fuller from 5 Robert Road noted that he personally is in favor of the town providing a sidewalk in this area.

Upon query by Mr. Maitland, Mr. York reported that the Highway Department will start the project during the spring of 2006.

Patty Sullivan from One Carlton Drive stated that she is also in favor of this sidewalk and noted that the pond at Robert Road is in poor condition.

Upon query by Ms. Miles, Mr. Fuller reported that the pond's water elevation drops below the outflow pipe during certain times of the year.

7:30 Discussion.

Decision – Parker Street Sidewalk – Town of Acton

Mr. Maitland moved that the Commission issue an Order of Conditions with the special condition that the issuance of this Order shall not be construed to allow work without the Town of Acton attaining the proper easements shown as needed on said plan. Ms. Lowe 2<sup>nd</sup>; unanimous.

7:34 Request for Determination – Road Resurfacing - Town of Acton

Corey York from the Acton Engineering Department presented plans for the repaving of School Street from Hosmer Street to Route 2, Sandy Drive, Candida Lane, Laurel Court, Lilac Court, Martin Street from Maple to Stow Street, Tuttle Drive from Prospect to Torrington Lane, Central Street from Half Moon Hill to the railroad tracks, Arlington Street from Hayward Road to Spruce Street, Arlington Street from Agawam to Newtown Road, Fort Pond Road, Musket Drive, Alcott Street from Thoreau Road to Concord Road, Davis Road from Utility Pole 14/8 to Blue Heron Way, Esterbrook Road and Ladyslipper Lane.

Mr. York reported that some streets will have a layer added and some will be grinded and then resurfaced. Fort Pond Road has no drainage facilities within the roadway so the Town will remove accumulated sand and debris from the road shoulders. Other streets with drainage system will have gas trap hoods added to the catchbasins such as Arlington Street at Newtown Road. In the area of Davis Road the Town is requiring the developer to clean out the catchbasins and add some drainage swales.

Upon query by Mr. Eder, Mr. York reported that the town does not propose widening of any road, existing widths will be maintained.

Upon query by Ms. Lowe, Mr. York reported that the Town is trying to retrofit existing drainage systems as they resurface roads in town.

Upon query by Ms. Miles, Mr. Tidman reported that upon the past suggestion of Jeffrey Rogers the Town is improving drainage facilities of existing roadways as they are resurfaced. Mr. Maitland noted that in the past the Commission has allowed Requests for Determination for road resurfacing projects as it is maintenance of existing public ways.

7:45 Hearing no further comments or questions, Mr. Maitland closed the meeting.

Determination - Road Resurfacing - Town of Acton

Mr. Eder moved that the Commission issue a negative three (-3) under the Wetlands Protection Act and a negative two (-2) under the Bylaw. Ms. Miles 2<sup>nd</sup>; unanimous.

7:30 Notice of Intent - 73 Charter Road - Raymond Grey

Kirk Fitzpatrick from Civil Solutions presented plans for the replacement of a sewage disposal system within 100' of a wetland. This is for an existing three bedroom home that is surrounded by wetlands. They will excavate the old leach field materials and the new system constructed in the same location with new materials. They have received approval from the Board of Health. The line of haybales will be the limit of work.

Upon query by Ms. Lowe, Mr. Fitzpatrick reported that the new leach field will be 50' off edge of wetland.

7:48 Mr. Maitland closed the hearing.

Decision – 73 Charter Road

Ms. Miles moved that the Commission issue a standard Order of Conditions. Mr. Eder 2<sup>nd</sup>; unanimous.

7:50 Notice of Intent - Martin Street Sidewalk – Town of Acton

Corey York from the Acton Engineering Department presented plans for the construction of a sidewalk, drainage improvements and road milling and repaving on Martin Street at Fort Pond Brook.

The proposed sidewalk will be constructed without a curb due to flooding at Fort Pond Brook. Haybales and silt fence will be provided for erosion control. The existing guardrail will be relocated. The closest point of activity from wetlands is approximately two feet at Wetland Flag (WF)12. Sump hooded catchbasins will be installed in sensitive areas.

Ms. Lowe suggested that the use of other plantings, besides grass, be investigated in the area of WF12. Mr. York agreed but noted that the Town doesn't want any plantings to be invasive to the roadside or sidewalk to create maintenance issues.

Upon query by Ms. Miles, Mr. York reported due to flooding issues in this area they did not design the sidewalk with the standard six-inch raised curb because it would disrupt the flow pattern towards the catchbasin. The entire project is within flood plain and Fort Pond Brook does overtop the road during a large storm event.

Upon query by Mr. Maitland Mr. York reported that where there is no road layout with a right-of-way (ROW) the Town refers back to the plot plans of properties along the roadway and must acquire easements where necessary. Mr. York also noted that the hedge at 36 Martin Street will be removed and they are working with the owner and tree warden to negotiate an alternative planting.

Upon query by Mr. Maitland, Mr. Tidman reported that this project is exempt from the Rivers Protection Regulations (310 CMR 10.58) and is permissible under the Bylaw since this project is an improvement for the benefit of public safety.

Ann Forbes from 25 Martin Street noted that this neighborhood has asked for safety improvements along this road. Parts of Martin Street have bad sight distance lines; however being an old through road this is not an easy area to design this paved sidewalk structure. She has written to the Board of Selectmen (BOS) cautioning the town of some historic structures at the corner of Maple and Martin Street. This plan would be obliterating one historic structure on one side and endangering the other. The southeast corner of Martin & Maple Street has an old stone sidewalk dating back to the 1875 era, which is a walkable sidewalk at this time. She is worried that this stone sidewalk will be destroyed for this project.

Mr. Maitland noted that although this is of historic interest, this issue is not within the Commission's purview and the area noted by Ms. Forbes is outside of the Commission's jurisdiction.

Mr. York reported that the Town has contacted abutters in this area to try to keep the historic value and improve public safety. The Town will need easements granted from property owners to do this project.

Ms. Forbes also noted that there is an old well in this area.

Mr. Maitland noted that the Commission is very supportive of preserving the historic value but it is out of their purview.

Upon query by Mr. Tidman, Mr. York reported that the Town hopes to do this project this fall.

8:23 Hearing no further comments, Mr. Maitland closed the hearing.

Decision - Martin Street Sidewalk

Mr. Eder moved that the Commission issue an Order of Conditions with the special condition that the issuance of this Order of Conditions shall not be construed to allow work without the Town of Acton attaining the proper easements shown as needed on said plan. Ms. Miles 2<sup>nd</sup>; unanimous.

7:50 ANRAD – 53 Fort Pond Road

Second site walk conducted August 29<sup>th</sup> with Tom Tidman, Julia Miles, Janet Adachi and Cheryl Lowe.

Bob Blanchette from Stamski & McNary reported that their delineation has been confirmed with the Town of Littleton. Based on the site walks the Acton portion of the property has had several changes and two additional flags added to the site as noted on the plan. Dave Crossman from B & C Associates does not feel that the small depression at the front of the property is a wetland.

Ms. Lowe noted that this area is obviously collecting water and feels that it may be a vernal pool.

Ms. Miles noted that the depression within the northeast leg of the property is believed to be a vernal pool and Mr. Crossman agreed to flag it as such.

The Commission asked that the wetland line be delineated on the abutting property to the west to confirm if there is any other buffer zone brought forth on this property by the abutting wetlands.

Mr. Tidman noted that during the site walk the noted pooling area clearly has staining that leads his suspicion that it is a vernal pool. Mr. Crossman stated that he would investigate this area further.

Mr. Blanchette admitted to finding water in this area during soil testing in February 2005.

Mr. Maitland asked that the applicant allow that the hearing be continued in order to further investigation of unresolved potential of resource areas.

Ms. Miles stated that wetlands clearly exist on abutting parcels.

Mr. Blanchette reported that the Young family have granted access to investigate the potential presence of wetland resource areas but have had no contact with Gaenetto and Duffy family but he feels that he can gain access to these parcels for investigation.

Isabella Choate asked if the wetlands in Littleton will take on buffer setbacks in Acton. Mr. Eder noted that a wetland buffer zone is resource under the Acton Wetland Protection Bylaw and would be protected under the Bylaw.

Mr. Blanchette agreed to continue the hearing.

Mr. Maitland continued the hearing until September 21, 2005 at 8:00 PM.

8:48 Notice of Intent -- 115 River Street - Burke Realty Trust

Continued from August 17<sup>th</sup>. LA Associates & E.T.S. Environmental Consulting & Mgt. Services for the removal of debris and grading within 100' of a wetland and within 200' of Fort Pond Brook. Site walk conducted 9/2/05.

Reggie Achilles from ETS Environmental Consulting & Mgt Services gave overview of the site and recent activities.

LeslieAnn Sugrue from LA Associates presented a hand drawn site plan. She stated that she felt that the contingencies they are working under did not need a surveyed plan. The dumpster on site has volatile material should be removed immediately from the site and is currently under a tarp.

Ms. Miles stated that she understands the scope of project doesn't change without a survey but a topography map has not been provided. Ms. Sugrue noted that the area is relatively level. There has been a lot of fill in area with little hydric soils. The topography on site does not change. There is an existing stone wall and berm on the south side of the lot within the buffer zone and possibly the inner riparian zone. Existing conditions do not change the scope of work proposed. There is hazardous materials on site that need to be removed.

Upon query by Ms. Lowe, Mr. Achilles reported that the dumpster on site is filled with corroded paint pales. The topography on the site is not natural; the site has old fill from more than 30 years

ago. There are remnants of excavated soils of recent that are open to the elements at this time. The test pits on site show evidence of said fill. It was during the 9/2/05 site walk that he was informed that the Commission enforced the required surveyed site plan after submitting the NOI. The proposed scope of work will not change with the submittal of a surveyed plan. They want to excavate and remove the bad materials.

Upon query by Mr. Eder, Mr. Achilles reported that he is a Licensed Site Professional (LSP) and makes sure that proper procedures are followed according to regulations and standards set by Massachusetts Contingency Plan (MSP). October 10, 2005 is his deadline for the date of knowledge 120 days from when the test results were received. He used field instrumentation to detect volatiles.

Mr. Eder stated that he feels that there are past violations on the site.

Upon query by Ms. Miles, Ms. Sugrue and Mr. Achilles reported that they are not affecting natural soils and both agree that they are working in a resource area.

Upon query by Mr. Maitland, Mr. Achilles reported that the stop work order initiated by Mr. Tidman kept the dumpster, two trailers and the existing 20 cubic yards of excavated soils from being removed from the site. Currently under this NOI filing he only wants to remove the noted materials from the site and if further material is found that needs to be removed they will address it at that time with the Commission.

Upon query by Mr. Eder, Mr. Achilles stated that he is an LSP and noted that the potential hazard for this site is to leave the pit open as it is currently; the dumpster should have been removed earlier this summer.

Ms. Sugrue noted that DEP depends of the expertise of an LSP agent; the process has been privatized and they are following the MCP set by DEP.

Mr. Achilles noted that this project involves a limited scope area. He has submitted the analytical summary; there is no effect to groundwater based on the field instrumentation tests. A 21E study on the site is what triggered this current process.

Mr. Eder stated that he is not convinced that what has been found at this time is all that is present on the site and asked for other areas to be evaluated. Mr. Achilles stated that the other metal debris on site is not considered hazardous material. He is following the MCP and it would not be of service to the client or the Commission to go digging and disturbing areas that they don't think is hazardous.

Mr. Eder stated that he feels that the NOI application is incomplete. Other members have already asked for a surveyed site plan, and he, in looking over the NOI filing did not see sufficient detail as to what the scope of the work was and how the work would meet the performance requirements for the areas being impacted. Mr. Achilles stated that he has shown areas of contamination and has given his professional estimate of less than five cubic yards has yet to be removed from the site.

Mr. Eder stated that he is not convinced that what has been found at this time is all that is present on the site and asked for other areas to be evaluated. Mr. Achilles stated that the other metal debris on site is not considered hazardous material. He is following the MCP and it would not be of service to the client or the Commission to go digging and disturbing areas that they don't think is hazardous. He has shown areas of contamination and has given his professional estimate of less than five cubic yards has yet to be removed from the site.

Upon query by Mr. Tidman, Mr. Achilles stated that he does not feel the need to install monitoring wells; he did dig deeper in the area in question and found nothing beyond the noted debris.

Jerry Burke, owner of the property, stated that he previously had a buyer for this property who conducted a 21E study; the outcome of that study is before the Commission at this time. Kurz Associates conducted the study and samples were taken of what was found.

Mr. Tidman suggested that the Commission issue an OOC with the special condition that the final report be submitted with a surveyed plan detailing what was done.

Mr. Maitland asked if the applicant would be willing to continue the hearing based on the concerns stated. Mr. Achilles stated that he didn't feel that it would change the scope of the proposed project; they have delineated that area of concern and he is following MCP standards. He prefers to close the hearing and the Commission issue an OOC based on Mr. Tidman's suggestion.

10:10 Mr. Maitland closed the hearing.

Decision – 115 River Street

Mr. Eder moved that to deny the NOI filing due to lack of information. The motion failed.

Discussion.

Ms. Lowe moved that the Commission issue an OOC with special conditions (see decision on file). Ms. Adachi 2<sup>nd</sup>; the motion passed with three aye and two nay (Ms. Miles and Mr. Eder nay).

Request to Amend OOC - 12 Elm Street

Ryan Bettez presented a new plan designed by a different engineer. The proposed septic replacement is shown with a slight alignment change and much less fill would be required.

The Commission stated that this plan is approvable but the hearing would have to be reopened to document the amendment.

Certificates

Charter Road – Water District 85-890

49 Stoneymeade Way 85-699 (pool)

Mr. Tidman reported that both projects are complete.

Ms. Miles moved that the Commission issue certificates for both projects as recommended by the Administrator. Ms. Adachi 2<sup>nd</sup>; unanimous.

MINUTES

Ms. Miles moved that the Commission approve the minutes for July 20 & August 17, 2005.

Ms. Adachi 2<sup>nd</sup>; unanimous.

10:44 Meeting adjourned

Terrence Maitland

Terrence Maitland  
Vice Chair