

CONSERVATION COMMISSION
AMENDED AGENDA
JUNE 6, 2007

7:15 Conservation Restriction Signature - Woodlands at Laurel Hill - John Pitner

7:30 POSTPONED until June 20 at 7:15PM - Violation - 70 Newtown Road – Steve Kelley

7:45 Notice of Intent – West of 8 Spring Hill Road - Lots 2C & 3 - Jeanson Homes, Inc.

Applicant: Jeanson Homes, Inc. Owner: William & Deanne Angell
Acton Survey & Engineering: limited project - construction of two single family homes, driveway, utilities and associated grading within 100' of wetlands and wetland crossing.

8:00 Abbreviated Notice of Resource Area Delineation - 530 Main Street - Dean Curtin

Stamski & McNary - Town Atlas Plate E-4, Parcel 25

Certificates of Compliance

- 130 Summer Street - 85-460 – Condition in Perpetuity “Discharge from the pool backwashing pipe shall occur outside of the 100' wetland buffer zone.”
- 4 High Street - 85-884 – project never started

MINUTES

May 2, 2007 comments rec'd by TT, TM, JA *signature*

**CONSERVATION COMMISSION
MINUTES
JUNE 6, 2007**

MEMBERS PRESENT: Terry Maitland, Janet Adachi, William Froberg, Frances Portante, Julia Miles

RECORDING SECRETARY: Andrea Ristine

VISITORS: John Pitner, Belle Choate, William Sawyer, Jack , Joan Gardner, Stewart & Cynthia Harvey, Jill Goldman-Callahan, William Roop III, Mark Donohoe, Ben Ewing

7:15 Conservation Restriction Signature - Woodlands at Laurel Hill (to be known as Avalon Acton)

John Pitner from Avalon Bay Communities presented the Conservation Restriction for Woodlands at Laurel Hill requesting endorsement and signatures of the Commission.

Mr. Maitland tabled the issue until June 20, 2007 pending the approval of Town Counsel.

Certificates of Compliance

- 130 Summer Street - 85-460 – Condition in Perpetuity “Discharge from the pool backwashing pipe shall occur outside of the 100’ wetland buffer zone.” Ms. Miles moved that the Commission issue a Certificate with the condition as noted in perpetuity. Ms. Portante 2nd; unanimous.
- 4 High Street - 85-884 – project never commenced. Ms. Miles moved that the Commission issue a Certificate to close the Order of Conditions (OOC) for the development proposal that never commenced. Ms. Adachi 2nd; unanimous.

Minutes

Ms. Adachi moved that the Commission accept the minutes for May 2, 2007; Ms. Miles 2nd; unanimous.

7:30 Violation - 70 Newtown Road – Steve Kelley - POSTPONED until June 20 at 7:15PM

7:45 Notice of Intent – West of 8 Spring Hill Road - Lots 2C & 3 - Jeanson Homes, Inc.

Applicant: Jeanson Homes, Inc. Owner: William & Deanne Angell
Mark Donohoe from Acton Survey & Engineering presented proposed plans for a limited project involving construction of two single family homes, driveway, utilities and associated grading within 100’ of wetlands and wetland crossing. Pursuant to the Commission’s site walk on June 1, 2007, Mr. Donohoe reported that the site has been delineated and re-flagged. He believes that the wetland line has not changed significantly since 1999. The Applicant proposes a common driveway for two proposed single family homes. In accordance with DEP design standards, an open box culvert is proposed at the driveway’s wetland (intermittent stream) crossing; 884 SF of wetland will be filled and replaced adjacent to the filled area. There are no other wetland alterations proposed with the exception of the crossing. The proposed primary and reserve septic systems are outside of the 100’ buffer zone. Mr. Donohoe also noted that the Applicant is aware of the issue relating to the allowance of access as a limited project given that the subject parcel was formerly attached to 8 Spring Hill Road.

Upon query by Ms. Adachi, Mr. Donohoe reported that since the Commission’s 1999 denial of the proposal the two State protected species, Mystic Valley Amphipod, *Crangonyx aberrans* and the Spotted Turtle, *Clemmys guttata* have been removed from the “Special Concern” list by

Natural Heritage & Endangered Species Program (NHESP). The Applicant also proposes a different location for the wetland crossing needing less fill than proposed in 1999.

Upon query by Ms. Miles, Mr. Donohoe stated that the Commission's standard of "hardship" also has changed since 1999. The Commission disagreed.

Upon query by Ms. Miles, Mr. Donohoe reported that, although not shown on the plans, the reserve septic systems will be located outside of the 100' buffer zone. He will also amend the plan to provide Lot 2 with the proper setbacks required under the Board of Health Bylaws between the proposed septic and water well.

Abutter, Jack Applemans from 4 Spring Hill Road expressed concern noting that the Blue Spotted Salamander (*Ambystoma laterale*), a species of special concern by NHESP, has been identified a mile away from this project in Town of Carlisle and is capable of migrating $\frac{1}{2}$ mile. Mr. Applemans asked that the Commission require the Applicant to have the area re-evaluated for other species, including the Blue Spotted Salamander. If there is a vernal pool located beyond the bounds of this site it should still be protected.

Joan Gardner from 15 Spring Hill Road presented two priority habitat maps to the Commission showing a local vernal pool and a potential vernal pool in the area.

Cyntia Harvey from 7 Duston Lane stated that the letter submitted to the Commission from Brian Butler in April, 1999 addresses issues that still apply today regardless of the removal of the two species from the NHESP list. This proposal involves intensive clearing of terrestrial buffer. Ms. Harvey urged the Commission to consider not just the impact of the proposed development on protected and/or species but the loss of mature woodland habitat that will result.

Upon query by Stewart Harvey, Mr. Donohoe stated that he did not depict the existing fire pond within the wetlands on the plan but noted that the proposal does not involve filling the fire pond.

Upon query by Mr. Froberg, Mr. Donohoe reported that both the 1999 and the current NOI filing propose a limited project accessing uplands. The 1999 NOI filing proposed crossing the wetland at a different location and involved more wetland filling disturbing the Mystic Valley Amphipod.

Mr. Harvey expressed concern stating that this area is a small upland surrounded by significant wetlands; the trees that are to remain will be compromised due to the removal of adjacent trees.

Upon query by Ms. Miles, Mr. Donohoe reported that Charles Caron re-flagged the site but the new flags have not been re-surveyed.

Upon query by Mr. Applemans, Ms. Miles asked that if abutters suspect that there are vernal pools on their property that they provide that evidence to the Commission and have it certified; Applicants are not allowed onto abutting property without permission of the landowner.

Mr. Applemans asked if it is premature to assume that only two species listed with NHESP were found in 1999; whether further investigation done for other species on or around the site or whether there could possibly be other newly listed species on the site that were not found in 1999.

Mr. Donohoe stated that there are no listed endangered species or species of special concern present on the site.

Ms. Harvey asked if any further study of the site was done as recommended in 1999 by Brian Butler of Oxbow Wetland Associates.

Mr. Applemans expressed concern regarding the timing of determining the presence of potential vernal pools.

Upon query by Mr. Sawyer, Mr. Maitland stated that the Commission may obligate the Applicant to investigate potential vernal pools on the site.

Cynthia Harvey noted that even if there are no species of concern on the site, Mr. Butler's letter from 1999 indicates that it would be a great mistake for other species if this area were to be developed.

Upon query by Ms. Harvey and Jill Goldman-Callahan, Mr. Maitland agreed that this site is within a wonderful eco-system abutting one of Acton's largest conservation areas, none of the other animal species mentioned by abutters is endangered so there is not much entitlement to protection under the Commission's jurisdiction. The Commission will review the environment and rights of the Applicant to develop the property.

Bill Roop from 376 Pope Road noted that the existing fire pond is not located on the plan and feels that the owners of the property have created their own hardship to increase profits; the proposed lots originally were part of a seven-acre lot and the purpose in creating the large lot was to protect the wetlands in the first place.

8:33 Upon agreement by the Mr. Donohoe, Mr. Maitland continued the hearing until June 20th at 8PM.

8:34 Abbreviated Notice of Resource Area Delineation (ANRAD) - 530 Main Street - Dean Curtin Town Atlas Plate E-4, Parcel 25

Ben Ewing from Stamski & McNary presented amended plans for the delineation of resource areas. The plan was amended from the original submittal removing resource area delineation onto the abutting property owned by Brewster Conant. A site walk was conducted on this date with Dave Crossman, Tom Tidman, Terry Maitland and Julia Miles. Three resource areas were identified on the property.

Upon query by Mr. Maitland, Mr. Ewing reported that the owner is investigating the property's potential pending the delineation; there are no development plans at this time.

Upon query by Mr. Maitland, Mr. Ewing reported that the term "recovered" noted on the plan is only due to the fact that his survey crew could not confirm the line of the stone wall prior to tonight's meeting.

Mr. Maitland confirmed that he was on site and feels comfortable with the delineation as shown on the revised plan dated June 5, 2007.

Ms. Miles noted that during the site walk Commissioners observed that there appears that some clearing of vegetation had been done at the front of the property along Main Street between Wetland Flags WF11 & WF 15 without filing with the Commission; this was done within the no-disturb buffer zone. Any further activity should file with the Commission.

Mr. Maitland agreed noting that vegetation was recently removed from this area.

8:42 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Order of Resource Area Delineation (ORAD)

Ms. Miles moved that the Commission approve the amended plan as presented, dated June 5, 2007. Mr. Frobert 2nd; unanimous.

Discussion.

9:33 Meeting adjourned.

Terrence Maitland
Terrence Maitland, Chair

ahr:concom.minutes.2007.060607