

**CONSERVATION COMMISSION  
AGENDA  
JUNE 20, 2007**

7:15 Violation - 70 Newtown Road - Steve Kelley

7:30 Notice of Intent - 81B River Street - Lots 1, 2 & 3 (3 NOI's) - Lothrop Mill LLC

Places Site Consultants: for the redevelopment of an existing mill complex, demolition of existing structures and construction of three single family homes in the Fort Pond Brook riverfront area (southerly side).

7:50 Notice of Intent - 149 Central Street - Infant Toddler Childrens Center

Acton Survey & Engineering: for an addition to the existing building within 100' of a wetland.

8:00 Continuation - NOI - 12 Spring Hill Road

Request for Extension - 25 Overlook Drive 85-873

Certificate of Compliance – 4 Brimstone Lane 85-484

(Partial Certificate) of Davis Road - Bellows Farms

**Conservation Restriction – Woodlands – council review? To approve**

**Minutes – June 4 forthcoming**

**CONSERVATION COMMISSION  
MINUTES  
JUNE 20, 2007**

**MEMBERS PRESENT:** Terry Maitland, Janet Adachi, Frances Portante, Julia Miles, Linda Serafini

**ADMINISTRATOR:** Tom Tidman

**RECORDING SECRETARY:** Andrea Ristine

**VISITORS:** Patty Lee, Brian Bendig, Kathy Dacey, M.P. Dacey, D. Schweppe, Jim Snyder-Grant, David Hardt, Ellen Little, Jill Goldman-Callahan, Bob Callahan, Kim & Jack Appelmans, Cynthia Harvey, Rebecca Harvey, Stewart Harvey, Elaine & Bill Sisler, Benjamin Campbell, John Stewart Harvey, Fred Seward, Bill Sawyer, Dara Mitchell, Terry O'Sullivan, Joan Gardner, Harvey Schmidt

**7:15**    Violation - 70 Newtown Road - Steve Kelley

The Commission discussed the paving violation that occurred at 70 Newtown Road. Ms. Adachi noted that the Kelley's deed for the conveyance from Westchester Corporation does not reference the special condition in perpetuity. Staff reported that the Kelley's deed has a cross reference error made by the closing attorney but the special conditions in perpetuity are cited in the originating deed from Tricone.

Mr. Tidman commented noting that Mr. Kelley had stated that he paved the driveway for safety reasons due to snow and ice. He will contact Mr. Kelley again to come before the Commission.

Request for Extension - 25 Overlook Drive 85-873

Mr. Maitland noted that the Applicant is requesting an 18-month extension of the Order of Conditions (OOC) but recommended that the Commission grant three years since it can only be extended under the Bylaw once.

Ms. Miles moved that the Commission issue a three year extension for DEP File No. 85-873; Ms. Adachi 2<sup>nd</sup>, unanimous.

Certificate of Compliance (Partial) – 4 Brimstone Lane 85-484 (off Davis Road at Bellows Farms)

Ms. Miles moved that the Commission issue a partial certificate of compliance for 4 Brimstone Lane within the Bellows Farm development (Town Atlas Plate E-5, Parcel 48-6); Ms. Portante 2<sup>nd</sup>, unanimous.

**7:30**    Notice of Intent - 81B River Street - Lots 1, 2 & 3 (3 NOI's) - Lothrop Mill LLC

Sue Sullivan from Places Site Consultants presented plans for the proposed redevelopment of an existing mill complex, demolition of existing structures and construction of three single family homes in the Fort Pond Brook riverfront area (southerly side). Preliminary plans were presented to the Commission on November 1, 2006.

The three proposed single family homes will be on 10,000 SF lots within a previously disturbed area and there is an existing retaining wall along Fort Pond Brook. Although the groundwater table is high in this area, the basement level of the proposed homes will have a positive flow to the sewer connection. No formal drainage calculations have been provided with the Notices of Intent (NOI's). The drainage design for this proposed development provides for sediment control for water quality purposes with a drainage swale; all three foundations will have groundwater recharge trenches and a sloped basin for driveway runoff. All proposed construction activity is above the

100-year flood plain elevation but is within the riverfront area. The proposed development will have a slight decrease of pervious area with no increased alterations within the riverfront area.

Upon query by Mr. Tidman, Ms. Sullivan reported that the landscape architect, Bill Murray, approved plantings that won't affect the retaining wall; the plantings are noted on the Landscape Grading and Utilities Plan.

Upon query by Mr. Tidman, Mr. Flannery reported that there are no underground tanks on this site; old tanks were removed from the site across the brook approximately 15 years ago.

Upon query by Mr. Maitland, Ms. Sullivan stated that the proposed houses will be 2,000 s.f., three bedroom, with a garage with natural gas and connected to the town sewer system.

Upon query by Ms. Adachi, Ms. Sullivan reported that the retaining wall and roadway will be maintained by the homeowners association.

Upon query by Ms. Miles, Ms. Sullivan reported that the site can be developed for commercial use as allowed under zoning which would create a more intensive development; the proposed development of three homes is less intensive.

Upon query by Mr. Tidman, Ms. Sullivan reported that a sidewalk is not proposed with the construction of the three houses on this site.

Upon query by Ms. Adachi, Ms. Sullivan stated that plantings and wildflower mix will be provided between the brook and existing retaining wall and will not be blocked off.

Upon query by Patty Lee, Ms. Sullivan stated that drainage calculations have not been done for this development but she can provide them; drainage swales behind the units are not proposed because she did not want to channelize runoff.

Upon query by Mr. Maitland, Ms. Sullivan reported that groundwater exists three feet below grade, the proposed foundations need to be four feet above groundwater, the backyards will be close to the natural grade but they will need new soil for healthy vegetation to take root on the site. The proposed driveway will require a couple of feet of fill in order to provide the property drainage pitch.

Brian Bendig from the Historic Dist Commission (HDC) reported that the HDC has met with representatives of Lothrop LLC; they are in the early process of reviewing the proposal but no application has been filed with the HDC at this time.

Upon query by Ms. Adachi, Ms. Sullivan reported that the proposal will not involve a Comprehensive Permit since it is a permitted use within the South Acton Village District.

Upon query by Harvey Schmidt from 65 River Street, Ms. Sullivan reported that the area of Lots 2 and 3 include part of the brook. The proposed houses will be set at an elevation of 162' and the floodplain elevation in this area is 157.2; this site should not be affected if the existing dam is removed at 53 & 55 River Street.

Upon query by Mr. Maitland, Ms. Sullivan stated that she could not address the impacts to Mr. Schmit's property, she has only looked at surface runoff and groundwater. The proposed houses will have positive flow to the sewer connection, footing drainage will be allowed to connect to the drainage system in the roadway.

Upon query by Ms. Miles, Ms. Sullivan stated that the proposed development on the other side of the brook is dependent upon what is usable in the old mill building.

Mr. Maitland noted that the NOI filing is complete, the Commission has received a written request for waiver as is permissible under the Bylaw.

8:15 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Notice of Intent - 149 Central Street - Infant Toddler Children's' Center (ITCC)

Mark Donohoe from Acton Survey & Engineering presented plans for the proposed 700 s.f. addition to the existing building within 100' of a wetland. The wetland line has moved two to three feet since the last filing with the Commission; the proposed addition meets the 40' setback from the "new" line of delineation and will be to the northeast side of the existing building. The area of the addition can be accessed from the previously disturbed area near the house. The soils from the proposed activity will be placed outside of the 100' buffer zone.

Upon query by Ms. Miles, Mr. Donohoe clarified that the new 40' setback is based on the new wetland line moving up hill two to three feet.

Mr. Maitland further clarified that the existing building is 39' from the edge of wetlands based on the new delineation and it was over 41' from wetlands in previous filings so the proposed addition will be within one foot within the setback. Mr. Maitland suggested that the Applicant communicate with the architect to make the building meet the current 40' setback.

Upon query by Ms. Miles, Susan Twombly reported that the proposed addition will be a long and narrow room providing as much light as possible, the wetland area is within a fenced in area.

Mr. Maitland noted that the key is "like structure" meeting the preexisting nonconforming setback. Mr. Maitland withdrew his request of having the architect redesign the building to reduce the addition by one foot.

Kathy Dacey from 153 Central Street, expressed concern to the Commission noting how much fill has been placed on to this property; in past years she has seen sand, soil and mulch added to the property. She had a property bound marker that was four feet above ground which is no longer visible. She feels that there should be more control of runoff from 149 Central Street and that there has been a huge negative change to the brook in the past 48 years; the level of the brook is higher than in the past and vegetation is more dense.

Upon query by Ms. Adachi, Mr. Tidman reported that activities conducted in the play areas had been filed with the Commission in the past because materials break down and need to be re-established.

Dee Schweppe from 154 Central Street stated that the Civil Defense Department measures the brook at his site; he is concerned that the topography of the ITCC property has changed. It concerns him that another 700 sf of impervious surface is being added to the site and feels that if they need the building space the Applicant should build up not out.

Upon query by Kathy Dacey, Mr. Maitland stated that there are provisions for erosion control; the Applicant does not propose to construct a retaining wall.

Mr. Tidman noted that the proposed addition does not require additional fill to be brought onto the site, but will involve removal of soil; he does not feel that the proposal will have an impact on flooding as the building is uphill and ten feet above the floodplain elevation. The proposal will not add fill to the floodplain.

Upon query by Ms. Miles, Ms. Twombly stated that the proposed access to the addition area will be from the same side of the existing parking lot. Mr. Donohoe stated that he will review the requirements for fire emergency access.

Upon agreement by the Applicant, Mr. Maitland continued the hearing until July 18 at 7:15 PM in order to conduct a site walk.

#### 8:45 Continuation - NOI - 12 Spring Hill Road

Mark Donohoe presented an amended plan, dated June 12, 2007, depicting the latest wetland delineation, reserve leaching fields, the existing fire pond and intermittent stream. Mr. Donahue stated that, in his opinion, the fire pond is too large and deep, it has a fish population and flow into it from the intermittent brook and therefore does not qualify as a vernal pool. Mr. Donohoe stated

that he feels that the proposed driveway will hinder the wetland corridor no more than Bare Spot Farm located at 276 Pope Road. The proposal will require no alterations to the existing drainage system. The Applicant is also providing a conservation restriction on a majority of the undeveloped portion of the property. Mr. Donohoe has submitted two letters to the Commission addressing issues under the Act and other concerns raised by the Commission and abutters. The drainage calculations show no increase in runoff for the 100-year storm. The proposed stone groin shown on Lot 3 has also been moved farther from the wetland buffer zone, closer to the proposed house along the 199-foot contour line.

Mr. Maitland reported that he was on site with Mr. Tidman on this date and they were surprised that the intermittent stream flowing from the west (across Lot 3) has a strong flow and defined banks. Mr. Maitland stated that this stream should be depicted on the plan and questioned why it is not considered to be a perennial stream. He and Mr. Tidman found the other intermittent stream flowing from the southeast was dry. Mr. Donohoe stated that the westerly stream has a larger drainage area but is not identified as a perennial stream on the USGS map. This stream has a 150 acre drainage area; a perennial stream is defined by having a drainage area of more than one square mile.

Mr. Maitland stated that the Commission would like to have the existing stone walls and the streams shown on the plan. Mr. Donohoe agreed to do so although he did not feel it was necessary.

Mr. Maitland stated that Mr. Tidman identified an area that he suspects is a vernal pool at the northern end of Lot 2C. Mr. Tidman stated that it is a defined depression currently holding water that he suspects is a vernal pool.

Mr. Donohoe stated that there are no proposed alterations within 150' of this depression. Ms. Miles noted that all resource areas are to be shown on the plans.

Upon query by Mr. Maitland, Mr. Donohoe stated that he needs to meet the new requirements of Title 5 and Board of Health restrictions and cannot rely on the 1999 test pits. Additional deep hole tests are needed to follow through with the septic permitting process but he cannot do so until the Applicant can gain access to the proposed septic areas. The Applicant does not have permission to enter through the abutting property. The Applicant is proposing standard chambered leaching fields with no extra treatment; he will meet the required setback distances from proposed and existing wells.

Upon query by Ms. Miles, Mr. Donohoe stated that the foundation recharge trench is located within the 75' setback; he believes that this trench does not qualify as a "structure".

Bill Sawyer stated to the Commission that in 1965 when Spring Hill Farm went up for sale John Putnam felt that the area should be saved from dense development. This area is a large wetland with islands of uplands. The farm was bought, subdivided and built. He feels that the further division of 8 Spring Hill Road is an incremental invasion of the wetlands. He noted that Spring Hill Road was flooded over by a foot of water in 1980 as was the whole general area. He feels that it is important to protect the resources and that the plan violates all of the interests of the Act. The plan disturbs an extensive amount of the buffer zone. There is no public interest addressed with the proposed development and he does not feel that it is consistent with the intent of the Bylaw. The fire pond protects the houses in the area. There is no public water supply in this area; it is all private wells. The intermittent stream does not dry up and is a dependable source of water to the fire pond and wells. During the drilling of the well for his residence, water was struck at 70' but the Board of Health required it to be drilled deeper.

Jack Appelmans submitted and reviewed a letter "8 Spring Hill Road Development Proposal, *Neighborhood Group Concerns*" dated 6/6/07.

Joan Gardner from 15 Spring Hill Road stated that she served as a Selectman in the past and feels that a decision approving this proposal would set a precedent.

Dara Mitchell from 8 Spring Hill Road agreed, stating that she feels that approving this proposal would set a precedent across Acton and not just in this general area.

Mr. Maitland noted that the Commission has questions and concerns regarding the filing as a limited project, the possibility that the owners created their own hardship and whether the Commission is obligated to allow access through wetlands to the two proposed lots.

Upon query by Ms. Miles, Mr. Donohoe stated that he will further clarify the status of the intermittent stream, location of potential vernal pools and the status of the lot's subdivision approval.

Mr. Maitland stated at this time he is not of the opinion that the Commission is obligated to approve the proposal.

Dara Mitchell stated to the Commission that it is her understanding that the driveway easement has to be approved by her as the owner of 8 Spring Hill Road since it crosses her property. Prior to the purchase of the home located on 8 Spring Hill Road she did some investigation and thought further development on the adjacent parcels was not possible and the issue would not arise again. The proposed driveway as shown today on the plan cuts through and takes more land than she thought would occur. She thought the new common driveway, if ever built, would split off of her driveway, keeping only one driveway access from Spring Hill Road.

Mr. Maitland stated that the Commission will provide its concerns in writing to Applicant.

Upon agreement by the Applicant's representative, Mr. Maitland continued the hearing until July 18, 2007 at 8:15 PM.

#### Conservation Restriction – Woodlands at Laurel Hill

Mr. Tidman reported that Town Counsel has not approved the restriction but it is exactly what he recalls that the Commission agreed to.

Ms. Miles moved that the Commission accept and sign the 6.69-acre restriction based on Mr. Tidman's recommendation. Ms. Portante 2<sup>nd</sup>.

Discussion. The motion passed unanimously.

#### Decision – 81B River Street - Lot 1

Ms. Adachi moved that the Commission issue a standard Order of Conditions (OOC) for the plans as presented. Ms. Serafini 2<sup>nd</sup>; the motion passed 4 aye and 1 nay.

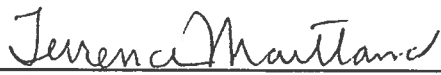
#### Decision – 81B River Street - Lot 2

Ms. Adachi moved that the Commission issue a standard OOC for the plans as presented. Ms. Serafini 2<sup>nd</sup>; the motion passed unanimously.

#### Decision – 81B River Street - Lot 3

Ms. Serafini moved that the Commission issue a standard Order of Conditions (OOC) for the plans as presented. Ms. Portante 2<sup>nd</sup>; the motion passed unanimously.

10:47 Meeting adjourned.

  
Terry Maitland  
Chair

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