

CONSERVATION COMMISSION
AGENDA
FEBRUARY 21, 2007

7:15 NOI - Continuation - 60 Powdermill Road
NHESP response received - no impact

7:20 Request for Red-line Change - Lot 2 Partridge Pond
Installation of water well within 100'

7:30 Request for Determination - 81 River Street - Lothrop Mill, LLC
Temporary storage of fill within 100' of wetland and 200' of Fort Pond Brook for future redevelopment.

7:45 Grasshopper Lane - Abutters Follow-up

8:00 Project Update - 93 Taylor Road

8:15 Notice of Intent - 45 Main Street - Lot 2 - Renwick Tweedy, Jr.
Notice of Intent - 45 Main Street - Lot 3
Construction of two sewage disposal systems and associated grading within 100' of wetlands.
Request for Extension - 4 Meadow Brook Road

Certificate of Compliance - 30 Great Road- Acton Sports

Spring Hill Commons - Vote - waiver of Condition #30



MINUTES

December 20 comments rec'd by TM, JA
January 17 " " TT, TM, JA

Signature

**CONSERVATION COMMISSION
AGENDA
FEBRUARY 21, 2007**

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

CONSERVATION ADMINISTRATOR: Tom Tidman

RECORDING SECRETARY: Andrea Ristine

VISITORS: Scott Hayes, Louise Gerhart, Leo Bertolami, Steve Marsh, Robert Hendrie, Kevin and Ann Melia, Walter Tetschner, Mark Donohoe, Joseph Levine, Ed Flannery, John Boardman, Jeramie Vaine, Tony Buscemi, David Paikin

7:20 Mr. Maitland called the meeting to order.

NOI - Continuation - 60 Powdermill Road

Mark Donohoe reported that the Natural Heritage and Endangered Species Program (NHESP) responded to the NOI filing and finds that the proposal will have no impact to habitat on this site. The registered species of concern are two types of fresh water mussels. Drainage from the proposed walkway will be directed towards the existing on-site catchbasin.

7:24 Hearing no further comments or questions, Mr. Matiland closed the hearing.

Decision – 60 Powdermill Road

Ms. Adachi moved that the Commission issue a standard OOC for the plans as presented. Ms. Miles 2nd; unanimous.

7:20 Request for Red-line Change - Lot 2 Partridge Pond

Scott Hayes from Foresite Engineering reported to the Commission that since the issuance of the OOC for Lot 2 he has discovered that the Acton Water Supply District does not provide public water on Partridge Pond Road; therefore the Applicant needs to provide a water well for the new lot. The proposed well location is within the 100' buffer zone within existing lawn area that is to be naturalized under the approved OOC. The closest point of a public water main is approximately 200' away at Taylor Road. The Water District will not allow an easement across the existing house lot at 49 Taylor Road to service the new subdivided Lot 2.

Upon query by Mr. Tidman, Mr. Hayes reported that existing bedrock is estimated at a depth between six and ten feet; an existing well across the street from this site is 280' deep.

Upon query by Mr. Maitland, Mr. Hayes reported that it would be cost prohibitive to extend the water main from Taylor Road; it is estimated that it would be approximately \$100,000 to extend the main from Taylor Road, drilling a well is estimated to be approximately of \$3,000.

Discussion.

The Commission expressed concern regarding the potential volume of water, filtering of silt from drilling activities before discharging towards the adjacent wetlands and removal of tailings; the Commission will require an amended plan providing written details regarding filtering of silt and removal of tailings in order to consider voting on the red-line change.

Mr. Hayes also stated that he would be willing to be on site during drilling activities.

Mr. Maitland stated that in order for the Commission to consider approving a request for a red-line change it requests that the following plan details and narrative be included on a revised plan:

- 1) All tailings shall be contained within a haybale dike during drilling operations; all tailings shall be removed from the 100' wetland buffer at the conclusion of the well installation and disposed of appropriately.
- 2) As suggested by the Applicant's engineer and agreed to by the Commission, the site engineer shall be present during drilling operations.
- 3) All water generated during the drilling process shall be contained within the haybale dike and disposed of appropriately.

7:30 Request for Determination - 81 River Street - Lothrop Mill, LLC

Joseph Levine from Northeast Site Development presented a plan showing a proposed temporary storage area for fill located within 100' of wetland and 200' of Fort Pond Brook; the stored materials will be used for the future redevelopment of 81 River Street (Lothrop Mill). Mr. Levine noted that he was before the Commission under a preliminary review basis for the future development of Lothrop Mill (81 River St.) and excavated materials from another project will be used for the future at redevelopment of this site. The proposed temporary storage area will be 50' x 40'.

Upon query by Ms. Miles, Mr. Levine stated that materials may possibly be stored for up to a year.

Mr. Froberg stated that he wants assurance that the stock piled materials will remain within the proposed storage area's foot print and a date certain knowing when it will be removed or used on site. He feels that the time frame stated is too open ended.

Upon query by Mr. Maitland, Mr. Levine reported that he anticipates filing an NOI for the redevelopment of 81 River Street within the next couple months but it is a complicated site.

Upon query by Mr. Maitland, the property owner, Ed Flannery stated that the materials that will be stockpiled at the site will be clay and gravel material.

Upon query by Ms. Miles, Mr. Flannery reported that they will store approximately 2,500 cubic yards at this site.

Discussion. Hearing no further comments or questions Mr. Maitland closed the meeting.

Determination – 81 River Street – Lothrop Mill LLC

Mr. Froberg moved that the Commission issue a negative three determination with the following special conditions:

1. The maximum volume of material (excavated soil) shall not exceed 2,500 cubic yards.
2. The Applicant may use the proposed storage area for one year. If the proposed storage area is needed beyond one year the Applicant shall come back before the Commission for a status report.
3. All material stored in the proposed storage area shall be fully contained within a staked haybale dike as defined on the Topographic Survey Plan dated January 26, 2007. Haybales shall be monitored during the time materials are stored to ensure that no silt is escaping from the storage area.

Ms. Serafini 2nd; unanimous.

8:10 Grasshopper Lane - Abutters Follow-up

Louise Gerhart stated that she, Walter Tetschner, Kevin and Ann Melia are before the Commission seeking feedback on issues raised in their two letters to the Commission dated January 11 and January 13, 2007.

Mr. Maitland stated that the Commission has not had an opportunity to discuss the topics addressed in their letters submitted on January 17 since it has not met since that time.

Upon query by Ms. Gerhart, Mr. Maitland stated that the Commission has not had another project with a situation similar to that of the abutters to 26 Grasshopper Lane and questions the advisability of amending the Bylaw for such an uncommon circumstance.

Ms. Gerhart stated that her proposed amendment to the Bylaw is not specific to the abutters' situation with 26 Grasshopper Lane; she noted that she has an AT&T right-of-way through her property and believes that the recommended change would apply more globally.

Mr. Maitland stated that the concerns addressed in the abutters' letters seemed mainly to concern the apparent inconsistency of the cross pitch of driveway with the plans approved under the OOC for 26 Grasshopper Lane. The changes in the driveway pitch were with the agreement of then-Chairman Andy Magee and Tom Tidman during a site visit, and were subsequently affirmed by a representative of DEP as necessary to protect the interests of the Act and Bylaw. The Commission will affirm the change with a red-line change on an "as-built" plan.

Kevin Melia interjected voicing his disapproval of the process of changing the plan without notifying abutters. Mr. Maitland reported that red-line changes are not subject to open hearing process with renotification of abutters. There should have been a note to the file regarding the change. Mr. Maitland noted that the 26 Grasshopper project is complicated, that staff and commissioners have been on site numerous times and DEP has affirmed the Commission's actions.

Mr. Melia interjected reiterating his complaint about the process and abutters' lack of opportunity to contest changes made to the plan. Mr. Maitland stated that the Commission may allow a red-line change for a minor modification; it is in the judgment of the Commission whether changes to a plan are minor or major. The pitch of the driveway should not have been approved as it was originally designed. The modification of the pitch of the driveway therefore was deemed a minor change in the best interest of the resource area and accepted as a red-line change in the field with no requirement of a public hearing process; as noted, DEP affirmed the change.

Mr. Tidman noted that as proposed, the pitch of the driveway near the pond would have required a significant amount of fill and in the field it was discovered that it would have caused alteration to the stream bank on the opposite side of the driveway from the pond. It was agreed that the Applicant could pitch the driveway the opposite way.

Mr. Melia interjected expressing disapproval of the process for changing plans that affect abutters' property with no follow-up with abutters. He asked how abutters could contest the Commission's decision to accept red-line changes. Mr. Maitland stated that he is unaware of a process to contest the Commission's judgment regarding a red-line change.

Walter Tetschner interjected expressing his disagreement with the Commission.

Mr. Froberg affirmed Mr. Maitland's response stating that a change in the field was made and was considered to be non-significant; the change clearly would not have been allowed as a red-line if it was deemed a major change, and judgment was made and supported by DEP.

Upon query by Ms. Gerhart, Mr. Tidman stated under the OOC two growing seasons must pass from the time of planting the wetland replication area; the earliest that a Certificate of Compliance could be requested would be in the fall of 2007.

Ms. Gerhart stated that she has suggestions, if it is possible, regarding conditions in perpetuity when a certificate is finally issued. Mr. Maitland suggested that additional time be scheduled on a future agenda regarding this issue.

Mr. Melia interjected stating that he feels the change to the driveway was a major change and not minor.

8:39 Project Update - 93 Taylor Road

Steve Marsh reported that he received an Order to Show Cause on February 16, 2007 stating that Mr. Hendrie had withdrawn his appeal of the Superseding Order of Conditions (SOOC). The wetland line has been staked approximately every five feet; through the appeal process with DEP the wetland line did change in one area from the previously approved line approved under the Bylaw. The Applicant plans to proceed with the project under the court-approved plan under the Bylaw but will move the proposed house location slightly to meet the 25' and 40' setback (as required) and provide a red-line change on an as-built plan. The OOC under the Bylaw is only valid until October 2007.

Mr. Maitland stated with the complexities of this site that he is not comfortable with an as-built plan with a red-line change.

Mr. Marsh stated that a site can have two wetlands lines; it is his decision whether to comply with the court order or comply with the Bylaw.

Upon query by Ms. Adachi, Robert Hendrie from 89 Taylor Road stated that he still has a pending appeal of the Order of Conditions in court against the Town under the Bylaw.

Upon query by Mr. Maitland, Mr. Marsh stated that he can make the site plan comply with the Bylaw using the new DEP SOOC delineation but wishes to do so by showing it as red-line change on an as-built plan. He does not wish to reopen the hearing to amend the plan with the time constraints of the OOC as it would open the situation for another appeal.

Mr. Hendrie noted that the wetland line moved approximately five feet during the DEP proceeding, and that the court had not ordered that the new wetland line be used but only ordered the Commission to consider the Extension of the OOC under the Bylaw. He also noted that the proposed wall would also have to be moved to meet the 25' setback. Mr. Hendrie also noted that the area of the wetland crossing also changed significantly, the DEP SOOC delineation is 15' down hill in the area of the wetland crossing.

Mr. Maitland stated that soil borings were used for the delineation under the SOOC; the Commission will agree with the new engineering.

Upon request from the Commission, Mr. Marsh stated that he will submit an amended plan meeting setbacks under the old Bylaw.

8:57 Notice of Intent - 45 Main Street - Lot 2 - Renwick Tweedy, Jr.

Jeramie Vaine from LandTech Consultants presented plans for the repair of an existing septic system within 100' of a wetland. The proposed retaining wall and associated grading in relation to the replacement septic system are within the 100' buffer zone; the leaching field is outside of the buffer zone. The proposed septic tank is 76' from the edge of wetlands. The existing house is 37' from the edge of wetlands. The existing garage, shed and 900 s.f. of pavement will be removed to comply with setback requirements under Title V. The septic design plans have been filed with the Board of Health but a permit has not been issued as of this date.

David Paikin from 13 Conant Street expressed concern regarding potential grade and drainage changes.

Notice of Intent - 45 Main Street - Lot 3

Jeramie Vaine from LandTech Consultants presented plans for the installation of a new septic system associated with the construction of a new house on Lot 3. Lot 3 is an "Approval Not Required" (ANR) lot and the septic design plan has been filed with the Board of Health but a permit has not bee issued as of this date. A portion of the leaching field is within the 100'

buffer zone; the leaching field will also have a concrete retaining wall 50' from the edge of wetlands to limit grading over the lot line and towards the wetlands.

Upon query by Mr. Tidman, Mr. Vaine reported that a portion of the proposed retaining wall will be constructed with concrete lock blocks and the higher/larger portion of the retaining wall will be reinforced concrete. The highest point of the retaining wall will be approximately eight-feet above grade. John Boardman of LandTech reported that Title V does not require a railing along the retaining wall but the building permit, once issued, may address if it is deemed necessary by the Building Commissioner.

Upon query by Mr. Tidman, Mr. Vaine reported that the Applicant is proposing a total of five lots; the plans are before the Planning Board at this time.

Upon query by Mr. Froberg, Mr. Vaine reported that the Applicant has approval for the roadway upgrade for the ANR plan; all sewage disposal plans for the five proposed lots have been submitted to the Board of Health.

Upon query by Ms. Miles, Mr. Vaine reported that the proposed septic system locations are fixed and should not have any modifications; comments received from the Health Department were punch-line items.

David Paikin from 13 Conant Street inquired about Lot 1. Mr. Vaine stated that Lot 1 will not be filed with the Commission since it does not propose activity within the 100' buffer zone.

Upon query by Mr. Paikin, Mr. Vaine reported that the existing swales on Lot 2 drain towards the wetland; the development of Lot 1 will have no influence on drainage with abutting properties. There is a proposed drainage swale on Lot 1; the design will not change or increase the volume of runoff to the adjacent wetlands.

Upon query by Mr. Froberg, Mr. Vaine reported that leaching field will involve additional fill within the buffer zone to meet Title V regulations on Lot 3.

Tony Buscemi expressed concern regarding potential runoff since this site is up gradient from his property located at 37 Main Street. Mr. Vaine reported that the proposed drainage swale on Lot 3 will allow runoff to flow in the same direction as it does currently and continue around the proposed retaining wall; runoff from the area above the proposed retaining wall will flow with the contours to the east.

Upon query by Mr. Paikin, Mr. Boardman reported that the property will not be permitted to be subdivided beyond the proposed five lots. The Special Permit from the Planning Board limits the number of house lots and the extension of the paper roadway (Renwick Way). Renwick Way will never be extended through to Conant Street. The restriction will be recorded at the Registry of Deeds and cannot be changed.

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

Decision - Lot 2 Renwick Way

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

Decision - Lot 3 Renwick Way

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

Request for Extension - 4 Meadow Brook Road

Mr. Tidman reported that the project has started but the Applicant needs an extension to ensure time for completion.

Ms. Adachi moved that the Commission issue a three-year extension of the Order of Conditions. Mr. Froberg 2nd; unanimous.

Certificate of Compliance - 30 Great Road- Acton Sports

Mr. Tidman reported that the project is complete and ready for Certificate.

Ms. Miles moved that the Commission issue a Certificate of Compliance. Ms. Serafini 2nd; unanimous.

Wetherbee Street - Onyx Transportation

Upon query by Ms. Miles, Mr. Tidman stated that the area behind 30 Great Road is owned by Onyx Transportation and should be investigated for a large stock-pile of material within the buffer zone.

Spring Hill Commons – DEP File No. 85-939

Ms. Adachi moved that the Commission waive Condition #30 of the Order of Conditions issued to Spring Hill Commons to allow the use of calcium chloride within the 100' buffer zone on existing walkways and parking areas as stated in the letter from the Commission to the Applicant dated January 31, 2007 (see file).

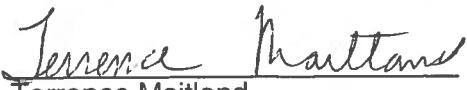
Discussion. Ms. Adachi outlined the reasons for allowing the use of calcium chloride

Ms. Miles 2nd; unanimous.

MINUTES

Ms. Adachi moved that the Commission accept the minutes for December 20, 2006 and January 17, 2007. Mr. Froberg 2nd; unanimous.

10:05 Meeting adjourned.


Terrence Maitland
Chair

ahr:concom.minutes.2007.022107