

CONSERVATION COMMISSION  
SEPTEMBER 21, 2005

7:10 Request to Amend - 172 School Street - 85-841 - The Menici Group  
Phil Menici for the construction of a single family house and associated utilities, grading, septic and driveway within 100' of a wetland.

7:15 Request to Amend - 12 Elm Street – 85-905 - Ryan Bettez  
Replacement of a sewage disposal system within 100' of a wetland. This was discussed on a preliminary basis on 9/7 with the Commission.

7:30 Abbreviated Notice of Resource Area Delineation - 737 & 741 Main Street  
R. Wilson Associates      Applicant: Ron Peabody, 737 Main Street, LLC  
B & C Associates      Site Walk 9/16

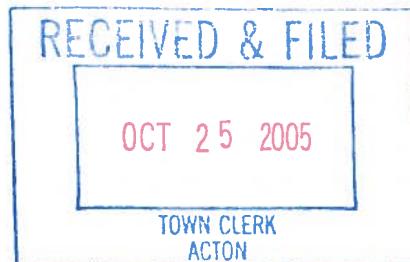
7:45 Notice of Intent - 18 Cherokee Drive septic - R. Wilson Associates  
Carolyn Bowers for the upgrade of an existing septic system within 100' of a wetland.

8:00 Continuation - ANRAD 53 Fort Pond Road  
Stamski & McNary      Applicant: Gustavus Esselen  
B & C Associates      Second Site Walk 9/16

NOMINATE CHAIRPERSON

MINUTES

September 7 forthcoming



CONSERVATION COMMISSION

MINUTES

SEPTEMBER 21, 2005

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

CONSERVATION ADMINISTRATOR: Tom Tidman

RECORDING SECRETARY: Andrea Ristine

VISITORS: Isabella V. Choate, Dennis Ring, Mark Donohoe, Bob Elliot, Dave Crossman, Linda Taylor

7:15 Request to Amend - 172 School Street - 85-841 - The Menici Group

Mark Donohoe from Acton Survey & Engineering presented preliminary plans for the construction of a single family house and associated utilities, grading, septic and driveway within 100' of a wetland. Mr. Donohoe reported that approved OOC was issued under the old bylaw setbacks and the house is currently under construction. They need to shift the two-foot overhang from the front to the back of the house to meet zoning requirements from the front of the property line. Shifting the overhang to the rear of the house would still meet the 40' setback under the old bylaw. A deck was constructed on the rear of the house that was not approved under the original filing and does not meet the 40' setback. The builder will dismantle the deck and wishes to place on the west side of the house meeting the 40' setback. Mr. Tidman has initiated a cease and desist on the project until the Commission reviews the situation.

Discussion.

The Commission stated that a Request to Amend the OOC will be required. The hearing will be scheduled for October 5, 2005 at 7:15 PM.

Staff noted that a new certified list of abutters should be attained from the Assessor's Office since the original one is over two years old.

7:29 Request to Amend - 12 Elm Street – 85-905 - Ryan Bettez

Replacement of a sewage disposal system within 100' of a wetland. This was discussed on a preliminary basis on 9/7 with the Commission.

Erin Bettez presented a new plan for the proposed house addition and septic replacement. The plan has been designed by a different engineer than their original submitted in the NOI. The changes to the plan show a lower mounded system with less fill within the buffer zone with a slight change of alignment.

The Commission found this to be acceptable.

7:33 Hearing no comments or questions, Mr. Maitland closed the hearing.

Decision – Request to Amend - 12 Elm Street

Mr. Eder moved that the Commission move to accept the amended plan and issue an Amended OOC keeping the original additional special conditions. Ms. Miles 2<sup>nd</sup>; unanimous.

7:34 Abbreviated Notice of Resource Area Delineation - 737 & 741 Main Street

R. Wilson Associates  
B & C Associates

Applicant: Ron Peabody, 737 Main Street, LLC  
Site Walk 9/16

Bob Elliot from R. Wilson Associates presented the wetland delineation plan as flagged by Dave Crossman from B & C Associates. There is an existing house at 737 Main Street and the adjacent lot, 741 Main Street is currently undeveloped.

Mr. Tidman reported that he has been on site with Commissioners and the applicant's engineer separately. He found no conflict with the delineation and does agree with the flagging.

Upon query by Ms. Lowe, Mr. Elliot reported that the 200' riparian zone is within the existing tree line.

Upon query by Mr. Maitland, Mr. Tidman reported that there is significant wildlife habitat along this riverfront area; the inner and outer riparian zones both contain sensitive habitat.

Discussion.

The Commission asked that the habitat line be added to the plan. Mr. Crossman noted that the ANRAD filing process is for wetland delineation not covered under the Endangered Species Act. Once a development plan is designed they will be required to file the NOI with the Natural Heritage and Endangered Species Program (NHESP). Any work involved within a priority habitat area will require a separate permit from NHESP in addition to the NOI filing.

Mr. Tidman noted that the Commission could include a notation regarding the habitat in the ORAD. He also noted that the wetland and riparian zone line follows the habitat line so if any future activity is kept out of the wetland and riparian zone they would be outside of the habitat area.

7:57 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Decision - Order of Resource Area Delineation – 737 & 741 Main Street

Ms. Lowe moved to that the Commission accept the delineation as accurate with the additional notation that this parcel is located within the estimated habitat area "WH 7489" as indicated on the Estimated Habitats of Rare & Certified Vernal Pools: July 1, 2003. Ms. Miles 2<sup>nd</sup>; unanimous.

7:59 Notice of Intent - 18 Cherokee Drive - Carolyn Bowers

Bob Elliot from R. Wilson Associates presented plans for the proposed upgrade of an existing septic system within 100' of a wetland. Dave Crossman from B & C Associates delineated the edge of wetlands. The lot is limited due to existing ledge, grades and groundwater. Groundwater was found to be two feet below the soil surface. To lessen the amount of fill needed for the leaching field they have designed the system with a poly barrier.

Upon query by Mr. Eder, Mr. Elliot reported that Health Department staff has approved the plan and will recommend that the Board of Health approve the design. The plan will need a variance from the for the 75' setback from wetlands under the Health Bylaws. The system will be 51' from the edge of wetlands with fill and grading approximately 37'.

Upon query by Mr. Maitland, Mr. Elliot reported that the proposed system will be similar to a FAST System. They will be replacing the system in place due to all of the constraints on the existing lot.

8:05 Hearing no further comment or question, Mr. Maitland closed the hearing.

Decision – 18 Cherokee Drive

Ms. Miles moved that the Commission issue a standard Order of Conditions for the plans as presented. Ms. Adachi 2<sup>nd</sup>; unanimous.

8:06 Continuation - ANRAD - 53 Fort Pond Road

Stamski & McNary  
B & C Associates

Applicant: Gustavus Esselen  
Second Site Walk 9/16

Rich Harrington from Stamski & McNary presented plans as revised based on the September 16<sup>th</sup> site walk.

Dave Crossman from B & C Associates reported that he did observe stained water level marks on the trees in the suspected vernal pool area. Mr. Harrington noted that they surveyed the highest elevations of the tree stains. This area is subject to protection under the Bylaw as a vernal pool; he estimates the area to be approximately 664 cubic feet. This area is indicated on the amended plans as "potential vernal pool" and they shall investigate the area further during the spring.

Ms. Miles stated that the second suspected vernal pool area should be identified on the plan. Mr. Harrington asked that the Commission require this as a condition in the Order.

Mr. Tidman reported that he did speak the Littleton Conservation Agent and made her aware of the potential vernal pool on Acton's side and that there is another over the Littleton town line. Although the Littleton vernal pool does have an outlet he feels that it does have standing water without flow during critical periods of the year and could qualify as a vernal pool.

Upon query by Ms. Miles, Mr. Tidman and Mr. Crossman both agreed that a wetland buffer zone around a wetland in an abutting town is still considered a protected jurisdictional resource area in Acton.

Mr. Harrington noted that the potential vernal pool in Littleton is most likely 100' from the property/town line.

Mr. Crossman stated that he doubts that the area in Littleton is a vernal pool because it has a gravel basin and doesn't seem that it would hold water for 60 days.

Mr. Tidman noted that successful breeding wood frogs would be found in a sunnier pooling area; this is a dark and shady area so he felt that even if it was used it wouldn't be a successful breeding area.

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

Decision - Order of Resource Area Delineation – 53 Fort Pond Road

Ms. Adachi moved that the Commission accept the delineation as accurate with the special condition that the Applicant shall investigate "Potential Vernal Pool A" and the potential vernal pool within Wetland Flags 2, 3, 52, 53, 54, 55, 57 and 58 in the Spring of 2006. If evidence is found supporting vernal pool activities the Applicant shall certify the vernal pool(s) with the Natural Heritage and Endangered Species Program. The Applicant shall submit a written report of the investigation and, if applicable, include a copy of certification documentation to the Commission. Ms. Lowe 2<sup>nd</sup>; unanimous.

8:28 NOMINATE CHAIRPERSON

Discussion.

Ms. Miles nominated Mr. Maitland as Chair. Ms. Adachi 2<sup>nd</sup>; unanimous.

Ms. Lowe nominated Mr. Magee as Vice Chair; Ms. Adachi 2<sup>nd</sup>; unanimous.

8:40 Meeting Adjourned.

Terrence Maitland  
Terrence Maitland  
Chair