

Minutes of the Conservation Commission
July 23, 2007

Present: CP: Christopher Picone LD: Lorraine DeSouza, Chairman
 MH: Michael Horgan GH: Gary Howland, Associate
 LC: Lori Capone, Conservation Agent

7:30 PM CP opens the Meeting of the Conservation Commission under the Wetlands Protection Act and the Town of Ashburnham Wetlands Protection Bylaw.

7:31 PM CP opens the Notice of Intent Hearing for Robert Dufour: 25 Proctor Street continued from May 14, 2007 and June 11, 2007. CP asked if there were any abutters present regarding this Hearing: there were none. Sandra and Robert Dufour updated the Commission regarding their Variance Request from the Zoning Board of Appeals (ZBA). David Perry of the ZBA entered the meeting with their decision. The ZBA granted a Variance to locate the house 10 feet further from the River but explained to the Commission that it may make more sense to locate the house 15 feet from the street, for public safety purposes. There was much discussion. The Commission agreed to allow the house to be located 15 feet from the street but requested that the erosion control barrier be moved to the toe of slope to minimize disturbance to the riverfront area to the maximum extent practicable. It was agreed that haybales and silt fence would be installed at the limit of disturbance and silt fence only would be utilized for the installation of the sewer line. The Alternatives Analysis was discussed. The applicant agreed to submit an Alternatives Analysis and revise the plans per discussion.

LD: Motion to Close the Hearing

CP: Seconds Motion

Motion carries unanimously 3-0

CP: Motion to issue an Orders of Condition per revised plan and discussion.

LD: Seconds Motion

Motion carries unanimously 3-0

7:45 (7:52 PM) CP opened the Notice of Intent Hearing for Cynthia and Eric Lilljequest. CP asked if there were any abutters present regarding this Hearing: there were none. Cynda Joyce of Trowbridge Engineering presented the project to the Commission for the Applicant, who was also present. Ms. Joyce explained that the system could not be moved further from the wetland due to the presence of ledge. LD requested that a silt fence detail be provided on the plan. Ms. Joyce explained that the existing system will be decommissioned by Title V and Ashburnham Board of Health regulations. LD requested that erosion controls be installed for the decommissioning of the existing system.

CP: Motion to close the Hearing

MH: Seconds Motion

Motion carries unanimously 3-0

Minutes of 7/23/07 continued

CP: Motion to issue an Order of Conditions per plan and discussion pending receipt of revised plans.

MH: Seconds Motion

Motion carries unanimously 3-0

8:00 (8:11 PM) CP opened the Notice of Intent Hearing for 203 Sherbert Road: construction of a single family house within the buffer zone. LC notified the Commission that one of the abutters was not notified. The Commission tabled the Hearing until August 13, 2007 at 8:15 PM. The Commission requested LC coordinate with the Applicant and their engineer to address her concerns with the project.

8:15 (8:17 PM) CP opened the Notice of Intent Hearing for Whitney Park Development: proposed construction of 16 single family houses and 94 condominium units and all infrastructure, under Chapter 40B, continued from July 9, 2007. CP asked for abutters: there were none. Chris Deloge of Whitman and Bingham and Mark Dymek presented the final plans to the Conservation Commission. LC has just received the plans and has not had time to fully review the final set but questioned the first wetlands crossing as it has been redesigned without a culvert. There was much discussion. The Commission reviewed the outstanding comments raised in Rizzo's peer review dated July 23, 2007. It was agreed that the plans would be revised as follows:

1. Install a 12" culvert through the crossing, to maintain the hydrologic connection, in addition to those already proposed through the existing drainage swale on Williams Road.
2. Label the stream as intermittent or perennial.
3. Crushed stone would be installed in the roadway adjacent to the vernal pool, for erosion control.
4. The house on New Street will be repositioned to move work away from the wetland and help maintain a vegetated buffer.
5. Comment # 129 in Rizzo report will be addressed through an Addendum installing an 18" pipe.

The Commission reviewed a letter from Jim Shanahan, Town Accountant, dated July 23, 2007, regarding monies owed to the Town. There was much discussion. The Commission discussed continuing the Hearing to allow the applicant to resolve this matter and revise the plans. The applicant requested the Commission close the Hearing tonight and also requested the Commission hold an additional meeting to issue their decision. The Commission decided to issue their decision at their next regularly scheduled meeting. The Commission again expressed their concern with closing the Hearing with these outstanding issues and recommended continuing the Hearing to the next meeting. The Commission agreed to have the Order of Conditions drafted for signature for the next meeting so it would not hold the applicant up but would allow him additional times to resolve outstanding issues, if needed. The applicant stated he was unwilling to continue the Hearing.

LD: Motion to close the Hearing
MH: Seconds Motion
Motion carries unanimously 3-0

Other Business:

1. Timberlost Farm: Mr. and Mrs. Wright requested to meet with the Commission regarding the dredging of the perennial stream located at 327 Ashby Road. Mr. Wright explained that due to beaver activity, the wetlands have expanded on his property and he lost two cows in the wetlands this year. Mr. Wright requested permission to dredge out the stream to allow the water to flow through the property quicker and dry out some the bordering wetlands. LD explained that the whole swamp is identified by the Natural Heritage Program as estimated endangered species habitat. There was much discussion. It was determined that a Notice of Intent would be submitted fully explaining the proposed activity so that the Commission could be fully assess the proposed project.
2. Robert Macioci of 126 Stodgemeadow Road met with the Commission regarding a flooding problem he believes is emanating from the property across the street. Mr. Macioci requested the Commission notify his neighbor, Mr. Gilley, about keeping his culvert clear of debris. Mr. Macioci's lawyer has written Mr. Gilley a letter stating that if water trespasses onto his property, he will need to be compensated. The second issue raised by Mr. Macioci was the diversion of streams on Mr. Gabriel's property to Mr. Macioci's culvert. The Highway Department dredged out the trench and stabilized it with riprap this Spring but Mr. Macioci requested it be dug deeper. Mr. Macioci also requested the Commission become pro-active regarding the development of Mr. Gabriel's property. The Commission determined the maintenance of a private culvert or a trench on private property did not fall within the purview of the Wetlands Protection Act. The Commission assured Mr. Macioci that they would evaluate the development of the abutting property when a Notice of Intent was filed with the Commission and ensured him that he would be notified of the Hearing as an abutter.
3. CP: Motion to enter into Execution Session for purposes of discussing the potential acquisition of real property, only to exit Executive Session to enter back into Open Session.
MH: Seconds Motion
Motion carriers unanimously 3-0
Roll Call: MH – yea, CP- yea, LD – yea

CP: Motion to exit Executive Session and enter back into Open Session
MH: Seconds Motion
Motion carriers unanimously 3-0

Minutes of 7/23/07 continued

Roll Call: MH – yea, CP – yea, LD – yea

4. GH passed out a request from the Executive Director of the NE Wilderness Trust to meet with the Conservation Commission and the Ashburnham Conservation Trust (ACT) to discuss the Wapack Project. LD asked that they come to one of the Commission's meetings. GH asked that the Commission attend an ACT meeting. This meeting will be arranged.
5. GH informed the Commission about a hike on Bush Hill the Ashburnham Conservation Trust is coordinating for October 13, 2007 with a rain date of October 14th. GH requested the Commission attend.
6. GH informed the Commission that he was approached by Lakeside Village regarding the donation agreed upon when the subdivision was approved. They are requesting that the donation be reduced because they are not making as much money as they thought they would. Lakeside Village had proposed paying the legal costs, provide signage, and donate a \$12,000 endowment. GH suggested the Commission reduce the proposed donation by 20%. LC informed the Commission that the applicant is presently in front of the Planning Board requesting the 55 and older restriction be withdrawn to increase the marketability of the units. LD suggested the Commission hold off on making a determination on the endowment until the end of the project to see what the market does.

CP: Motion to adjourn

MH: Seconds Motion

Motion carriers unanimously 3-0

Meeting adjourned at 10:35 PM

Respectfully submitted by Lori Capone, Conservation Agent