

Minutes of the Conservation Commission  
November 26, 2007

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

7:30 PM CP opened the Meeting under the Wetlands Protection Act, M.G.L. Ch 131 Sect. 40, and in accordance with the Ashburnham Wetlands Protection Act.

7:31 PM CP opened the Notice of Intent Hearing for Lower Naukeag Association for a 4-foot drawdown on even years and a 2-foot drawdown on odd years.  
CP: Motion to amend the Legal Ad which read, 2-foot drawdown on even years and 4-foot drawdown on odd years to accurately reflect the proposed 4-foot drawdown on even years and 2-foot drawdown on odd years.  
LD: Seconded Motion  
Motion carries unanimously 3-0

CP stated for the record that the Conservation Commission is an abutter to the project as they manage a parcel adjacent to the lake but this will not influence their decision for or against this application. There was no objections.

CP asked if there were any abutters present to speak for or against this application. Abutters present were: Don and Judy Bastarache: 39 Lower Lake Road, Walter Sussbauer: 343 Lake Road, Robert King: 46 Page Avenue, Paul DeMeo: 37 Lower Lake Road, David Levanti: 10 Lower Lake Road, Keith Bauer: 6 Brideau Road, Kerry Richards: 6 Brideau Road, Natalie and Kevin Learned: 12 Wyman Road, Hunter Gelinias: 8 Bass Cove Row, Valorie Daigle: 21 Heather-Dunn Road, Stanley Herriott: 11 Houde Avenue, Barbara and David Brown: 230 Sherbert Road, Glenn Niinimaki: 99 Bachman Road, John Lee: 66 Saari Camp Road, Tom Smolinsky: 176 Sherbert Road, James Duffy: 6 Wyman Road, David Duffy: 6 Wyman Road, Alan Drouin: 80 Winding Cove Road, and Leo Collette Jr.: 194 Lake Road.

Steven Slocum, president of the Lower Naukeag Lake Association presented the project to the Commission. Mr. Slocum asked Leo Collette to provide the Commission with a brief history of drawdown activities of Lower Naukeag. Water rights were historically controlled by an outfit in Winchendon. The water rights were sold to private parties which were then conveyed to the Town of Ashburnham Board of Water Commissioners in 1947 to control the flashboards on September 30<sup>th</sup> of each year, in order to maintain and repair the dam. Mr. Slocum indicated that the present drawdown is proposed to limit chemical control of nuisance aquatic weed. Chemical control would still be necessary for bladderwort.

LD questioned the rate and timing of release and coordination with upstream lakes. Mr. Slocum indicated that one 12 inch board is removed at a time allowing the lake to achieve a 3-4 foot drawdown within 1½ weeks and indicated he would coordinate with the other lakes. Mr. Slocum stated he would contract Aquatic Control to provide a flow

rate for the lake. LD recommended the lake association provide the Commission with a monitoring program. Mr. Slocum agreed and volunteered to be the monitoring agent. Valorie Sibley of 21 Heather-Dunn Road volunteered to perform water clarity testing during the drawdown process. There was much discussion regarding the timing of drawdown. Hunter Gelinas of 8 Bass Cove Row recommended that the duration of the drawdown include three hard freezes. LC informed the Commission that DEP recommends drawdowns to begin November 1 and achieve full recharge by April. Valorie Sibley stated her concern that by November the lake may already have ice. Paul DeMeo of 37 Lower Lake Road informed the Commission that he has lived on Lower Naukeag for 25 years and has witnessed how successful drawdowns have been for weed control. Don Bastarache of 39 Lower Lake Road commented to the Commission that when there is a water shortage in Upper Naukeag, the Town has looked to use Lower Naukeag therefore drawdown would be preferable to chemical treatment.

Walter Sussbauer of 343 Lake Road expressed his concern with detrimental impacts associated with past drawdowns, especially impacts to the vast bordering vegetated wetlands associated with the lake, wildlife stranded in shallow coves, impacts to beaver lodges and subsequent introduction into new areas. Mr. Sussbauer requested the Commission review their old records, especially in regards to a letter he had written to the Commission on February 16, 2006.

CP explained that the Commission needed to move on to the next Hearing and requested that the Hearing be continued to December 10<sup>th</sup>. Mr. Slocum agreed.

CP: Motion to continue this Hearing to December 10, 2007 at 7:45PM.

MH: Seconded Motion

Motion carried unanimously 3-0

7:45(8:30) PMCP opened the Notice of Intent Hearing for Alan Drouin of 80 Winding Cove Road for the demolition of the existing and construction of a new single family and installation of an in-ground pool, within the buffer zone and riverfront area. CP asked if there were any abutters to speak for or against this application: none were present. LC explained that the application was missing the riverfront calculations and an Alternative's Analysis.

CP: Motion to continue the Hearing to December 10<sup>th</sup> at 8:45PM

MH: Seconded Motion

Motion carried unanimously 3-0

8:00(8:30) PMCP opened the Notice of Intent Hearing for Joseph Archangelo of 97 Fitchburg Road for the construction of a new septic system and water line. CP asked if there were any abutters to speak for or against this application: none were present. Angel Lehtonen of Northland Engineers presented the project to the Commission for the Applicant, who was not present. There was much discussion regarding the location of the resource areas to the proposed activities. LD asked for silt fence to be installed along the front of the property to ensure there was no erosion into the roadway and potentially the wetlands located across the street. The Commission questioned whether sewage was available, but

it was located too far away from the site. LC requested the machinery and all materials be stockpiled in the front yard.

LD: Motion to close the Hearing

CP: Seconded Motion

Motion carried unanimously 3-0

LD: Motion to issue an Order of Conditions per plan and discussion.

CP: Seconded Motion

Motion carries unanimously 3-0

8:15(8:38) PM CP opened the Notice of Intent Hearing for Habitat for Humanity for 203 Sherbert Road last continued from October 22, 2007. CP asked if there were any abutters to speak for or against this application: none were present. Will Houghton submitted a dewatering plan, erosion control detail and USGS map and explained that Whitman & Bingham were working on locating the floodplain. Mr. Houghton explained that the conveyance of the Deed was still not executed. The Commission discussed associated grading for the backyard. Angel suggested haybales and construction fence instead of silt fence for erosion control due to the presence of buried materials located on site limiting the ability to properly install silt fence. LD expressed her concern with the introduction of invasives to the adjacent wetland resource area. CP suggested a wood chip berm with an orange fence be employed for erosion control as the site is flat. The berm would be constructed 1½ feet tall with a 2 foot base. LD asked for the limit of work be delineated on the plan and in the field.

LD: Motion to continue to December 10, 2007 at 9:00PM so the applicant could provide the required Deed and floodplain information.

CP: Seconded the Motion

Motion carried unanimously 3-0

8:30(9:00) PM CP opened the Notice of Intent Hearing for Sylvia Lamb for 3 Brook Road, last continued from October 22, 2007. CP asked if there were any abutters to speak for or against this application: none were present. Chris MacKenzie of Whitman & Bingham and Sylvia Lamb addressed the Commission. Mr. MacKenzie informed the Commission that he had contacted Chuck Caron of Caron Environmental to flag the riverfront area who indicated to him that this could not be field located but should be located based on the best available information. Mr. MacKenzie informed the Commission that he could located the stream in the middle of the open water but the Commission informed the applicant that centerline was not the bank of the river. Mr. MacKenzie stated that he is working on getting old maps of the area and field locating the edge of the open water but haven't been able to get a field crew to the site yet.

CP: Motion to continue the Hearing to December 10, 2007 at 9:15PM so the applicant can provide additional information regarding the location of the riverfront area.

MH: Seconded Motion

Motion carried unanimously 3-0

8:45(9:10) PM CP opened the Notice of Intent Hearing for Todd Griffin of 75 West Shore for a proposed addition and septic system repair with associated grading and driveway

alterations located within the buffer zone, last continued from 10/22/07. CP asked if there were any abutters to speak for or against this application: none were present. LC informed the Commission that Angel Lehtonen of Northland Engineers has requested another extension for her client to finalize his plans.

CP: Motion to continue the Hearing to December 10, 2007 at 9:10 PM.

LD: Seconded Motion

Motion carried unanimously 3-0

9:00(9:11) PM CP opened the Notice of Intent Hearing for William and Sheryl Hornak of Lot 3 Young Road, last continued from 10/22/2007, for the proposed construction of a single family house, subsurface disposal system and well located within the buffer zone. CP asked if there were any abutters to speak for or against this application: none were present. Jack Visniewski of Cornerstone Land Consultants and Attorney Richard Labors presented the project to the Commission for the Applicant, who was not present. The Natural Heritage program has made a determination that endangered species habitat is located in the front of the site and across the street from the site and requested the applicant make the following changes to the plan: 1.) The erosion control barrier should be narrowed in the front of the lot to minimize impact to endangered species habitat; 2.) The replication area should be moved away from the roadway; and, 3.) Red pine should be eliminated from the replication planting schedule. Board of Health had also requested two additional perk hole tests which have been added to the plan. These changes have been incorporated into the plans Mr. Visniewski presented to the Commission. CP requested that due to the level topography of the site and the presence of endangered species habitat, the erosion control barrier should consist of silt fence only. The Commission also requested that the construction of the replication area be monitored by a wetland scientist. LC informed the Commission that DEP still has the project listed as under review and advised the Commission not to close the Hearing until that issue has been resolved. LC also requested that the plans be revised to reflect silt fence only for erosion controls and that silt fence be depicted between the resource area and the replication area.

CP: Motion to continue the Hearing to December 10, 2007 at 9:15PM.

MH: Seconded Motion

Motion carried unanimously 3-0

9:15(9:25) PM CP opened the Request for Determination of Applicability Hearing for Frederick P. Joyce Jr. of Harris Road for the proposed grading associated with the construction of a new septic system, located within the buffer zone. CP asked if there were any abutters to speak for or against this application: none were present. Cynda Joyce of Trowbridge Engineering presented the project to the Commission for the applicant, who was not present. LC commented that even though this would not change the design of the project, she would like to see the wetlands delineation revised to connect wetland flag #12 to #9 and eliminate 10 and 11. Ms. Joyce agreed. LC also requested that silt fence or construction fence be installed along the limit of work to inhibit further intrusion into the buffer zone. The Commission agreed that caution tape would be sufficient.

LD: Motion to close the Hearing

CP: Seconded Motion

Motion carries unanimously 3-0

LD: Motion to issue a Negative Determination of Applicability per plan and discussion

CP: Seconded Motion

Motion carries unanimously 3-0

9:30(9:35) PM CP opened the Abbreviated Notice of Intent Hearing for Klaus Kleinschmidt of 64 Winding Cove Road for the proposed replacement of a tight tank located within the buffer zone. Carol and Klaus Kleinschmidt presented the project to the Commission. CP asked if there were any abutters to speak for or against this application: none were present. Mr. Kleinschmidt explained that his Title V failed and needed a new system. The leach field will be located outside the buffer zone but the outlet, tank, and pump chamber will be located within the buffer zone. The Commission requested the silt fence be brought up the lot line and an additional row of silt fence be installed. Mr. Kleinschmidt agreed to have Ross Associates revise the plan.

LD: Motion to close the Hearing

CP: Seconded Motion

Motion carried unanimously 3-0

LD: Motion to issue an Order of Conditions per plan and discussion contingent on receipt of the revised plan.

MH: Seconded Motion

Motion carried unanimously 3-0

9:45(9:50) PM CP opened the Amended Notice of Intent Hearing for Robert and Jean Waltz of 7 Forest Lane for the proposed construction of a new single family house, driveway and associated grading, located within the buffer zone. CP asked if there were any abutters to speak for or against this application: none were present. Bruce David presented the project to the Commission for the applicants who were also present. Mr. David explained the changes to the plan, specifically the enlargement of the house footprint. The Commission requested the silt fence be brought up both lot lines. LC explained to the applicant that the original Order expires on March 22<sup>nd</sup> and an Amendment does not extend the expiration date of the original Order. The Waltz requested a three year extension to the original Order.

CP: Motion to issue a three year Extension to the Order of Conditions

LD: Seconded Motion

Motion carried unanimously 3-0

CP: Motion to close the Hearing

LD: Seconded Motion

Motion carried unanimously 3-0

CP: Motion to issue the Amendment to the Order of Conditions per plan and discussion

MH: Seconded Motion

Motion carried unanimously 3-0

10:00(10:10) CP opened the Notice of Intent Hearing for San Ken Homes for 30 River Styx Road for the proposed construction of a common driveway and related site grading, within the buffer zone. CP asked if there were any abutters to speak for or against this application: none

were present. Christopher MacKenzie of Whitman & Bingham presented the project to the Commission for Sandy and Ken Lehtonen, who were also present. The driveway is proposed at a 10% grade with a settling basin and swales are proposed to manage drainage. LC explained that the applicant has submitted photographs of four consecutive days of the stream being dry to overcome to presumption of the perennial status of the stream. LC explained that DEP issued a Drought Advisory that stated evidence since October 1, 2007 could not be submitted as proof. LC stated she discussed this with DEP and was advised that the Commission could not accept the photos from October 1<sup>st</sup> and the applicant would have to provide new photos of four consecutive days to meet the requirements set forth in the River's Protection Act. There was much discussion on redesigning the driveway to minimize impacts to the Riverfront Area to the maximum extent possible. The applicant agreed to continue the Hearing so the plans could be revised.

LD: Motion to continue the Hearing to December 10, 2007 at 9:20PM

CP: Seconded Motion

Motion carried unanimously 3-0

10:15(10:25) CP opened the Abbreviated Notice of Intent Hearing for Bittina and David Nutting of 1 Little Watatic Pond Road for the proposed installation of a tight tank and destruction of garage and sauna, located within the buffer zone. Angel Lehtonen of Northland Engineers presented the project to the Commission for the applicant who was not present. CP asked if there were any abutters to speak for or against this application. Ms. Lehtonen stated for the record that she is an abutter to the project. Ms. Lehtonen explained that a tight tank was required due to the limitations of the lot size. LD requested silt fence be installed along the front of the property for erosion control.

CP: Motion to close the Hearing

LD: Seconded Motion

Motion carried unanimously 3-0

CP: Motion to issue an Order of Conditions per plan and discussion.

LD: Seconded Motion

Motion carried unanimously 3-0

### **Other Business:**

1. LC informed the Commission that she is in receipt of a Request for a Certificate of Compliance for 81 Old Ashby Road. LC informed the Commission that the lake side addition was not constructed but the applicant would like to close out the Order. LC has inspected the site and it is stable.

LD: Motion issue a Certificate of Compliance for 81 Old Ashby Road

CP: Seconded Motion

Motion carried unanimously 3-0

2. LC informed the Commission that the Highway Department requested an Emergency Permit to remove debris from beaver dams, by hand, at four locations: Sherbert Road, Depot Road, Rindge Turnpike Road and Old Ashby Road. There was much discussion regarding finding a semi-

permanent resolution to the beaver situation. The Commission issued the beaver permit contingent on the Highway Department presenting a Master Plan for beaver control prior to the issuance of another Emergency Permit.

3. LC informed the Commission that the 21-day period for the Commission to issue a decision regarding the Amendment to the Order of Conditions for 100 Main Street expires today and the applicant has still failed to submit a satisfactory plan to the Commission that accurately reflected the proposed project.  
CP: Motion to issue a Denial for the Amendment to the Order of Conditions.  
MH: Seconded Motion  
Motion carried unanimously 3-0
4. LC distributed a Forestry Cutting Plan for Richard Wright on Ashby Road for their review.
5. LC informed the Commission that she is in receipt of a Subpoena of the Commission's records for 142 Central Street.
6. LC informed the Commission that she received a complaint from a neighbor and DEP regarding work at the Symonds Property on Lakeshore Drive. LC inspected the site and the owner is constructing a retaining wall that is just barely within the buffer zone and recommends that the owner file a Request for Determination of Applicability for the work.
7. DEP forms were signed: OOC for 1 Little Watatic Pond Road (DEP #92-791), Amended OOC for 7 Forest Lane (DEP #92-677), OOC for 97 Fitchburg Road (DEP #92-789), Cert. of Comp. for 81 Old Ashby Road, (DEP #92-683), Amended OOC for 100 Main Street (DEP #92-778), and Emergency Beaver Permit for the Ashburnham Highway Dept for Sherbert Road, Rindge Turnpike Road, Old Ashby Road and Depot Road.

CP: Motion to adjourn the Meeting

LD: Seconded Motion

Motion carried unanimously 3-0

Meeting adjourned at 12:00PM

Respectfully submitted by Lori Capone, Conservation Agent