

Minutes of the Conservation Commission
April 28, 2008

- Present: CP: Christopher Picone, Chairman MD: Marshall Dennis
MH: Michael Horgan LD: Lorraine DeSouza
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 Bylaw.
- 7:31 PM CP opened the Notice of Intent Hearing for San Ken Homes for 24 & 30 River Styx Road last continued from March 24, 2008. CP asked in there were any abutters present to speak for or against this application: none were present. LC informed the Commission that the Applicant has requested a continuance in order to file the Common Driveway Permit with the Planning Board.
CP: Motion to continue the Hearing to May 12, 2008 at 7:45PM
LD: Seconded the Motion
Motion carried unanimously 4-0
- 7:32 PM CP opened the Notice of Intent Hearing for Ryan Malatos for Lot 1 Ashby Road continued from April 14, 2008. CP asked in there were any abutters present to speak for or against this application: none were present. Christopher MacKenzie of Whitman & Bingham and Richard Wright represented the Applicant, who was not present. Mr. MacKenzie handed out revised NOI forms and plans. Mr. MacKenzie explained that Jack Maloney of Whitman and Bingham located the edge of stream and depicted its associated riverfront area on the plan. Mr. Maloney and Mr. Wright indicated that they do not feel this is a stream. LC informed the Commission that if a stream is shown on the USGS map, the Commission must consider it to be perennial. The onus is on the Applicant to prove otherwise by documenting the stream is dry for four consecutive days during a non-drought period. The driveway, grading and a portion of the house would be located in the riverfront area. MD asked if the MESA application had been submitted yet. Mr. Malatos wanted to talk with Natural Heritage prior to filing the application. LD asked if the garage entrance could be moved to the front to minimize riverfront impacts. The Commission requested that the Applicant talk with the Natural Heritage Program to see if they would consider allowing the house to be positioned within 50 feet of the wetland located to the right of the property to minimize riverfront impacts as the wetland to the left and rear of the lot provides better habitat for the ski-tailed emerald (a State-listed Species of Special Concern). MD requested that the riverfront area and the proposed impacts be accurately calculated. LD requested the Forest Cutting Plan be made part of the record for this application. Mr. MacKenzie informed the Commission that the plans have also been revised to include a stilling basin for dewatering purposes. LD expressed concern regarding petroleum products from the driveway impacting the adjacent wetland. LC requested the Commission perform a site visit to look at the stream and riverfront impacts. The Commission set up a site visit for May 1, 2008 at 9:00AM.
CP: Motion to continue the Hearing to May 12, 2008 at 9:00PM
LD: Seconded the Motion

Motion carried unanimously 4-0

7:45(8:05) PMCP opened the Notice of Intent Hearing for Robert F. Raffi, Jr. for Lot 2 Rindge Turnpike Road continued from April 14, 2008. CP asked in there were any abutters present to speak for or against this application: none were present. LC informed the Commission that the Applicant has requested a continuance because his Attorney was not able to attend tonight's Meeting.

CP: Motion to continue the Hearing to May 12, 2008 at 8:00PM

MH: Seconded the Motion

Motion carried unanimously 4-0

7:50(8:06) PMCP opened the Notice of Intent Hearing for Robert F. Raffi, Jr. for Lots 1 and 2 Wilker Road continued from April 14, 2008. CP asked in there were any abutters present to speak for or against this application: none were present. LC informed the Commission that the Applicant has requested a continuance because his Attorney was not able to attend tonight's Meeting.

CP: Motion to continue the Hearing to May 12, 2008 at 8:15PM

MH: Seconded the Motion

Motion carried unanimously 4-0

Other Business:

- LC updated the Commission on the bill from the Mount Grace Conservation Land Trust regarding the Russell Hill project. LC notified the Commission that the Town Accountant found another account to pay this bill out of and requested the Commission rescind their vote of December 10, 2007 authorizing the expenditure from the Wetland Fee Fund.
MH: Motion to rescind the Conservation Commission vote of December 10, 2007 and allow the Town Accountant to pay this bill out of the Bond monies allocated at Town Meeting.
CP: Seconded the Motion
Motion carried unanimously 4-0
- Mr. Wright requested permission to install a flow device through a beaver dam located on Frank Quinn's property which is causing flooding in his cattle pasture. LD noted seeing the cattle in the stream channel and informed Mr. Wright that his cattle could be damaging the banks and exacerbating the flooding problem. Mr. Wright did not propose a specific design for the device but was looking to place a culvert through the dam. LC informed Mr. Wright that he should meet with Rick Metcalf because the Board of Health has to deem the flooding problem as a threat to public safety or public health to order to proceed. The Commission determined they would visit the property on Thursday, after their site visit at Lot 1 Ashby Road.
- LC informed the Commission that when she was writing up the Order of Conditions for Sunset Lake, she noticed that the applicant had paid the Bylaw fee associated with controlling vegetation but not water level variation which more aptly described the proposed work. She notified the Applicant's consultant and met with Mr. Johnson who wanted to meet with the Commission tonight to discuss this situation. Mr. Johnson was not in attendance at the meeting. Paul Boushell, Town Administrator, advised the Commission that fees were separate from the Hearing process and warned the Commission that they would be setting precedence if the Commission were to waive these fees. LD stated that she was willing to waive the fees in order to maintain goodwill in the community. MD stated that the Commission should not set

precedence and requested the project be conditioned such that no work was to be performed until all fees are paid.

MD: Motion to stipulate in the Order of Conditions that no work shall commence until all fees owed to the Town have been paid.

LD: Seconded the Motion

Motion carried unanimously 4-0

The Drawdown Monitoring Data Form was reviewed by the Commission. The Commission will revise the form per the discussion and will send it to LC to attach to the Order of Conditions.

- CP: Motion to approve the minutes of April 14, 2008
MH: Seconded the Motion
Motion carried 3-0 (LD abstained as she was not present at that Meeting)
- CP: Motion to approve the minutes of January 28, 2008
MH: Seconded the Motion
Motion carried 3-0 (MD abstained as he was not present at that Meeting)
- CP: Motion to approve the minutes of November 5, 2007
MH: Seconded the Motion
Motion carried 3-0 (MD abstained as he was not present at that Meeting)
- CP informed the Commission that Naukeag Lake Club had lower the water level of their pond in the last two weeks. LC reviewed the Commission's records and noted that the Order of Conditions to perform a bi-annual drawdown had expired years ago. LC also noted that a letter had been sent to Robert Chapin on behalf of the Naukeag Lake Club in January regarding drawdown but had received no response. LC drafted a letter for the Commission to review requiring the Naukeag Lake Club to file a Notice of Intent immediately. The Commission requested that a representative of the Naukeag Lake Club attend their Meeting on May 12, 2008.
- LC disseminated a Forest Cutting Plan for Ashby Road for comment.
- The Commission reviewed a letter LC wrote to the Board of Selectmen regarding placing a number of properties under the care, control and custody of the Conservation Commission.
MH: Motion to support LC's petition to the Board of Selectmen to add the listed parcels to the Commission's inventory.
CP: Seconded the Motion
Motion carried unanimously 4-0

CP: Motion to adjourn

MD: Seconded the Motion

Motion carried unanimously 4-0

Meeting adjourned at 9:17 PM

Respectfully submitted by Lori Capone, Conservation Agent