

**Town of Bellingham  
Conservation Commission  
North Community Building  
Bellingham, MA 02019  
Minutes of the meeting of April 14, 2010**

**Project: 105-615**  
CNOI

**Project Description:**  
Hartford Avenue / Shoppes at Bellingham Phase I  
14 building, parking areas, stormwater & wastewater mgt., & new  
access road off North Main Street

**Applicant:**  
Robert Frazier  
W/S Development  
1330 Boylston St.  
Chestnut Hill, MA 02467

**Representative:**  
ERM / Ann McMenemy  
399 Boylston St.  
Boston, MA 02116

**Continuation time: 7:30 PM**

Chairman Cliff Matthews opened the continued hearing. Bob Frazer and Ann McMenemy as well as abutter, Bob Daley were all present. Cliff Matthews stated that the Commission would like to comment on the letter that the applicant wrote in response to the Commission's Demand to Show Cause (310CMR10.05 (4)(g) letter that was hand delivered to the Commission at the last continuation of March 24<sup>th</sup>. He stated that the project has lost its momentum and that there has been no reduction in the proposed wetland impact of 4810 sf. Regarding the applicant's statement that the hearings were often 30-45 minutes, Mr. Matthews said that many continued hearings have been scheduled for one hour and that frequently the applicant went into other scheduled hearings beyond their allotted time. He added that the shorter hearing times were scheduled for transfer of information. In response to the applicant's statement that the Commission would not allow our consultants to meet outside the hearing process, he stated it would not only appear to violate open meeting law but that it is the Commission who would be writing the permit not the consultants. Mr. Matthews continued that on three occasions, the Commission asked the applicant to investigate the possibility of the standing water at wetland crossing "M" being a vernal pool. The applicant stated in the response letter that they were in "adamant disagreement" of the certification materials that were submitted on May 9, 2008. On August 15, 2009, Commission members and Ann McMenemy confirmed the vernal pool boundaries that were ready for surveying and yet the survey work is not completed. Ann McMenemy replied that this was due to snow and ice cover and occasional flooding. A three dimensional survey is necessary to capture the micro topography for design purposes. Mr. Matthews said that the Commission was in the field several times and that snow and ice were not present. Cliff added that at the last continuation of October 28, 2009, the Commission again instructed Dave Albrecht to work on the crossing design. Dave Albrecht stated at that continued hearing that he would meet with the design team and begin design on the proposed crossing. Bob Frazier stated again that TetraTech has submitted many contract revisions. Cliff stated that it has been nine months since we confirmed the vernal pool boundaries and no information has been submitted to the Commission on that design to date. Cliff then stated that the applicant told the Commission in 2008 that the Mass. Highway Notice of Intent component was to be submitted to the Commission shortly and that the SDEIR was also to be completed. Bob Frasier stated that TetraTech is now on board with the Mass. Highway component and will begin the design. Mr. Frasier also stated that the highway project will go forward regardless of the status of The Shoppes project. Cliff Matthews reiterated that the Commission is approaching the three year mark for this Notice of Intent review and we still do not have any information on the proposed vernal pool crossing, that the submittal of information from the applicant is far too slow and that the review has lost its momentum. Ann McMenemy stated that the design team had planned work strategies scheduled that first included review of the stormwater management portion of the project. She stated that the applicant will proceed to request a continuation until June 23<sup>rd</sup>. Because the time was running into the next scheduled hearing, by unanimous vote, the hearing was continued to 10:00 PM the same evening.

**10:00 PM Continuation**

Bob Frazier, Ann McMenemy and Bob Daley were present when the continued hearing was opened. Mr. Matthews stated that since the applicant chooses not to withdraw without prejudice, the Commission had three choices to consider: to continue for another period of time, to grant the original request to continue to June 23<sup>rd</sup> or to

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close the hearing and issue a denial based on the applicant's inability or unwillingness to provide necessary information in a timely manner. The alternatives were discussed. After discussion about the applicant providing the Commission with periodic updates, Barry Lariviere made a motion to continue the hearing to June 23 with the requested periodic updates on the survey work. The vote was 2 for (LF) and (BL) and 3 against (AM)(MO)(BN). Mike O'Herron questioned the applicant's statement that the filing is nearly complete stating that there is one major component of the project (the crossing) that has not yet been surveyed, designed or submitted. Ann McMenemy then stated that her engineering team is new and would have to review and quantify the details of the wetland and vernal pool impacts. She also said that there are other issues as well: the status of the access road is not yet determined (state or town), the design standards for the bridge must be met (state or town), and that the proposed mitigation and changes in stormwater management have to be included in the crossing design. Mike O'Herron then made a motion to deny the project DEP #105-615 based on the applicant's failure to diligently pursue the project by submitting information in a timely fashion to the Commission. The motion was seconded by Anne Matthews. Before the vote, under discussion George Holmes then stated that DEP could possibly take over the project and issue a permit directly without the Commission's input. Anne Matthews asked Mr. Frasier when he would be resubmitting to the Planning Board and he said he did not know but that when he did, their peer review would be continued from where it was left off after the applicant updates the new Planning Board members. He stated that traffic, stormwater and financial issues have all been addressed successfully with the Planning Board. He also stated that the stormwater issues were resolved in just one Planning Board meeting. The vote results were 2 Yes (MO)(AM) and 3 No (BN)(LF)(BL). Mr. Matthews stated that motion failed to deny and motion failed to continue. After more discussion, Lori Fafard made a motion to reconsider the motion to continue to June 23<sup>rd</sup> with the requirement that the applicant submit periodic progress reports to the Commission on the status of their progress. Ann McMenemy in answer to the Commission's question on when she had originally requested the continuation for as the second meeting in June, June 23<sup>rd</sup>. Barry Lariviere seconded the motion. Mr. Matthews called for the vote. Results were unanimous to continue the hearing to June 23<sup>rd</sup> at 7:30 PM at which time the applicant will have submitted proposed crossing information for the Commission to review. Ann McMenemy then stated that she would not be available for that meeting because she was on vacation. Mr. Frazier said that he and the engineer from TetraTech would be in attendance. Abutter Mr. Daley expressed his discontent with the Board's vote to continue the hearing.

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**Project: 105-663**

Cont'd NOI

**Project Description:**

Lot 8, Silver Lake Road, sfd, septic, driveway

**Applicant:**

Bellingham Residential #2 Realty  
120 Quarry Dr.  
Milford, MA 01757

**Representative:**

Peter Lavoie, Guerriere & Halnon, Inc.  
333 West Street  
Milford, MA

**AND ...**

**Project: 105-665**

Cont'd NOI

**Project Description:**

Lot 9, Silver Lake Road, sfd, septic, driveway

**Applicant:**

Bellingham Residential #2 Realty  
120 Quarry Dr.  
Milford, MA 01757

**Representative:**

Peter Lavoie, Guerriere & Halnon, Inc.  
333 West Street  
Milford, MA 01757

**Continuation time 8:00 PM**

Peter Lavoie and Don Seaburg as well as a number of abutters (see list) were present. After Cliff Matthews opened the continued hearings for Lot 8 and Lot 9, he stated that much work has gone into addressing not only the construction of the dwellings but also the existing flooding issues on both the lots and Silver Lake Road at the lots.

He added that if the berm repair and culvert repair are not completed in conjunction with the development of the lots, periods of high flow will flood the lots and Silver Lake Road potentially even worse than existing conditions.

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Mr. Matthews stated that the Orders of Conditions were prepared for signing that evening as discussed at the last continuation. He said that one of the Special Conditions is that the applicant will work with George Holmes to determine the best way to exit Lot 9 and enter the abutting property for rendering the berm repair. The culvert repair is included in the Order of Conditions for each lot due to the related potential for flooding conditions. The applicant has also agreed to post a passbook bond to ensure that the culvert work is completed. Upon successful completion of the culvert work all the bond money and accrued interest will be returned to the applicant. The berm work will be completed before the development of Lot 9 and the culvert replacement will be done in a period of low flow. Peter Lavoie presented revised plans for Lot 9 and stated that the buyer of the lot requested that the house and driveway be shifted and the revisions require less grading for development of the lot than the original plan. Mr. Matthews then stated that the applicant has given easement plans to the town for the area on Silver Lake Road where the newly proposed 24 inch culvert will be constructed. The culvert repair will address the flooding issues for both of the lots. Don Seaburg stated that it should take at least two days to repair the culvert. The Lot 8 revised plan includes a post and rail fence marking the No Disturb Zone. There were no further questions or comments. By unanimous vote, the hearings for both Lot 8 and Lot 9 were closed. The Orders of Conditions were signed that evening.

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**Joint Hearing with Blackstone Conservation Commission:**

**Project: 105-669**  
NOI

**Project Description:**

Lake Hiawatha lake drawdown and treatment of aquatic vegetation

**Applicant:**

Larry Sposato  
Lake Hiawatha Assoc.  
337 Lakeshore Dr.  
Bellingham, MA

**Representative:**

Dominic Meringolo  
Aquatic Control Technology Inc.  
11 John Rd.  
Sutton, MA

**Hearing Time: 8:20 PM**

Chairman Cliff Matthews opened the joint hearing with the Bellingham and Blackstone Conservation Commissions for the Notices of Intent for the annual lake drawdown and treatment of nuisance aquatic vegetation at Lake Hiawatha. Larry Sposito and Dominic Meringolo (ACT) as well as resident John Constantino were present. There was no representation from the Blackstone Conservation Commission in spite Anne Matthews' attempts to notice them of the proceedings. Mr. Meringolo stated that Aquatic Control Technology Inc. (ACT) is representing the Lake Hiawatha Assoc for the Notices of Intent that include three portions: monitoring of the lake to assess the health of the lake, lake drawdown proposed at three feet implementing the MA Fish & Wildlife protocol of 2004, and spot treatment of nuisance aquatic vegetation with USEPA and DEP approved chemicals by Act, a licensed applicator. He listed a number of invasive plants that are included in the annual herbicide spot treatment using Reward (Diquat), Aquathol K(endotholl), Rodeo or AquaPro (glyphosate), Copper Sulphate or Captain and other potential backups. The proposed lake drawdown would begin mid October to Nov. 1 and would be completed by Dec. 1<sup>st</sup>, using a slow process of withdrawing approximately three inches a day, one board at a time. The lake level would be returned to high level in mid-Feb. to Mar and be in place by April 1<sup>st</sup>. The purposes for the drawdown are to assist in the control of weed growth and to allow residents to manually rake/clean/repair their shorelines of weeds and debris and to allow for good management of the dam structure. He stated that some years may only require a partial drawdown of three inches to control Milfoil. The annual spot treatment of chemicals to control weed growth by licensed applicators (ACT) includes assessment, pretreatment of specific problem areas, ACT contacting the Assoc. to advise of a suggested plan of action, and once approved, ACT would proceed with applying the treatment with an airboat. Restrictions are 5 days for irrigation, 3 days for livestock and drinking, and voluntary restriction on swimming and boating. ACT will post the shoreline. **Special Conditions** discussed: The Lake Hiawatha Assoc. must notify the Blackstone & Bellingham Conservation Commissions 48 hours in advance of drawdown and weed control, during winter months when the lake is drawdown manual removal of debris is allowed and no mechanical work may take place on any shoreline or lot, ACT will work in conjunction with the Lake Hiawatha Assoc. on annual lake drawdown, when the lake is lowered, ACT and the Lake Hiawatha Assoc. will report on any

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maintenance issues required for the dam to the Blackstone DPW and copy to both Blackstone and Bellingham Commissions, a staff gauge will be installed for use in determining water levels, a list of Lake Hiawatha officers or subcommittee members who will be responsible for the lake drawdown (including addresses and telephone numbers) will be submitted to each Conservation Commission. The board voted to close the hearing and issue the Order of Conditions for Bellingham and send a copy to the Blackstone Conservation Commission.

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**Project: 105-666**  
NOI

**Project Description:**  
5 Beech Street – septic repair

**Applicant:**  
Gail Otis, Executrix  
160 Old Derby St.  
Hingham, MA

**Representative:**  
Colonial Engineering Inc.  
11 Awl Street  
Medway, MA

**Hearing time: 9:00 PM**

Paul DeSimone of Colonial Engineering was present when Cliff Matthews opened the hearing. Mr. DeSimone stated that the existing cesspool on the site is failing to the point where it is leaching out of the ground. The repair is proposed within the outer 100 feet of the Riverfront Area to Hopping Brook. The Board of Health has approved the plan with three separate waivers. There are no other resource areas on the site and the work will be within the buffer zone only. George Holmes has seen the site and recommended that a Special Condition be that all the waste and debris on the site be removed when the septic system is being constructed. The Commission had no further questions or comments. By unanimous vote, the hearing was closed and the Order of Conditions was approved for signing.

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Commission members were reminded that the Conflict of Interest Training was to have been completed by April 1<sup>st</sup>.

Cliff Matthews reported that the Commission is in receipt of an Order to Remand to Board (ZBA) relating to the Lakeview Estates Chapter 40B project located at Silver Lake. The Commission will be receiving a filing as well.

A site walk was scheduled for Sat., April 24<sup>th</sup> at 8:30 AM for Highridge Estates. Cliff will also try to coordinate a walk for the proposed forest cutting plan proposed off Lake St. & Pulaski Blvd.

The Board signed:

Certificate of Compliance	105-148/Brook St. Culvert
Partial Cert of Comp.	105-119/ Building #7, Old Bridge Lane, Maplebrook Condos
Orders of Conditions	105-663/Lot 8, Silver Lake Road/sfd, culvert/Fafard
	105-665/Lot 9 Silver Lake Road/sfd, culvert, berm/Fafard
	105-666/5 Beech Street/septic repair/Otis

Attending the meeting were: Cliff Matthews, Barry Lariviere, Lori Fafard, Brian Norton, Michael O'Herron, Anne Matthews, George Holmes and Associate Member Amanda Meisner.

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