

Bolton Conservation Commission
Minutes of Meeting
April 19, 2005

PRESENT: Karen Augustine, Scott Duhaime, Ed Englemann, Bill Fateiger, Lori Stephenson, Amy Wilson and administrator Carol Gumbart

1. Minutes Bill Fateiger made a motion, seconded by Ed Englemann to accept the minutes as amended of March 1 and March 15, 2005. VOTE: Aye, unanimous.

2. Water Resource Protection District (WRPD) Public Hearing Carol Gumbart said that she had provided an objective statement to the Commission for discussion. Lori Stephenson said that she felt that we need to focus on the intent. Bill Fateiger said that the WRPD and Wetland Bylaw contradict each other and that we need regulations for the Wetland Bylaw. Ed Englemann said that the emphasis is different but that they both do the same thing. Karen Augustine said that there is not a substantial enough difference between the two Bylaws that we can't get done with the Wetland Bylaw and regulations. Mr. Englemann asked whether we need to be clear on the redundancies before we move ahead. Amy Wilson said that she is less concerned with the redundancies than the inconsistencies. Scott Duhaime raised the question of the base map and whether we needed to put out a request for proposals to redo the base map. Mr. Duhaime suggested that we pull out what is good in one of the Bylaws and put it into the other one. Mr. Fateiger said that the strongest part of the WRPD is the 25-foot off the wetlands. Mr. Duhaime asked whether the Planning Board or Zoning Board of Appeals would treat one bylaw any differently from the other? Gerard Ahearn, the Chairman of the Zoning Board of Appeals (ZBA) happened to walk through the meeting at this time and was asked whether either bylaw is treated preferentially over the other one. Mr. Ahearn said that the ZBA looks at both the bylaws equally and considers the Commission's overall input. The Commission then discussed whether they would like to review the draft regulations for the Wetland Bylaw but decided to postpone their distribution. Carol Gumbart will redistribute the comparison chart prepared by Town Counsel. The hearing was continued to May 3, 2005 at 7:00 p.m.

2 West for Anestis, 448 Still River Road (RDA) Bill Fateiger opened the continued public meeting on a Request for a Determination of Applicability proposing to construct a garage at 448 Still River Road. Dan West was present representing the applicant. Scott Duhaime said that he, Lori Stephenson, and Karen Augustine made a site visit to the property. Ms. Augustine said that the proposed garage is within the Riverfront Area. Mr. West said that while the stream was wet during the fall it was not running. Mr. Duhaime said that they are not altering any important habitat area and that there is a steep slope that runs down hill from the proposed garage. Ms. Stephenson said that the project should be conditioned to require haybales and siltation fence along the tree line. Ed Englemann said that the roof runoff should be infiltrated into the ground and pitched toward the driveway. Mr. Fateiger said that the RFA is presumed to provide the functions listed in the Act. Carol Gumbart said that she was not aware of any other construction projects the Commission had approved though a Determination of Applicability. Ms. Stephenson said that the Commission approved the blacksmith shop on the Roemer's land and that was a Determination for work in the RFA too. Mr. Englemann reiterated his concern with runoff from the garage. It was noted that there is more than 100 feet of vegetation between the proposed garage and the stream. Ms. Stephenson said that the proposed location would not require any tree removal. Mr. Fateiger asked Mr. West if he would amend his plan to include a

roof drain leading into a drywell. Mr. West agreed and drew the changes onto the plan. A motion was made by Bill Fateiger, seconded by Scott Duhaime to issue a Negative 2 Determination of Applicability with the conditions that haybales and silt fence be located on the downstream side of the garage. VOTE: Aye, unanimous.

3. Silver, 438 Still River Road (RDA) Bill Fateiger opened the continued public meeting on a Request for a Determination of Applicability. Karen Augustine said that she, Lori Stephenson and Scott Duhaime visited the property. Bill Fateiger said that he had visited the property prior to the application being filed. Mr. Fateiger said that he looked at the two options the Silvers were contemplating and that he did not have any issues. It was confirmed that the riding arena would be constructed in front of the barn (east of the barn) within the existing paddock. A motion was made by Scott Duhaime, seconded by Bill Fateiger to issue a Negative 3 Determination of Applicability with the condition that the arena be located to the east of the barn. VOTE: Aye, unanimous.

4. K&L Holding, Hudson Road (112-444) & WRPD Bill Fateiger opened the continued public hearings to consider new information. Present was Stan Gordon, representing First Colony Development. The Commission reviewed the metes and bounds plan, the Operation and Maintenance Plan and the revisions to the site plan. The only issue that was unresolved was whether the buffer zone slope should be planted with juniper as proposed by the engineering consultants. The Commission requested that Mr. Gordon discuss this further and try to stay with native species that are found on the site. The hearing was continued to May 3, 2005 at 9:15 p.m.

5. Town Meeting Article Chris Slade of the Advisory Committee was present by appointment. Mr. Slade was joined by David Lindsay and Scott Powell also on the Advisory Committee, after the discussion started. Mr. Slade explained that the Advisory Committee voted against the Commission's article to set the fine at \$300 for violations of the Wetland Bylaw because of their concern for potential mismanagement with such a high fine. Mr. Slade said that he was here tonight to see if we could come together before the discussion is at Town Meeting. Bill Fateiger said that the Commission does not have anything in writing but that we have a procedure that includes notifying the property owner, sending a letter, issuing a cease and desist and then the fine. Mr. Fateiger said that the final step, the fine will only be used when nothing has been rectified. Mr. Fateiger said that it is usually the developers that we find do not comply. Mr. Fateiger suggested that the Commission could put a policy in place and amend the Article to reflect the policy. Mr. Lindsay explained his concerns with the Article including the time frame benefiting the Commission to take the action and that he felt there should be a cap on the amount the fine can reach. Karen Augustine said that the fine can be appealed to the District Court and it would then be up to the court whether the fine needs to be paid or not. Ms. Augustine said that the per day violation would stop once an appeal is filed and resume if the court found in favor of the Commission. Mr. Slade said that the Department of Environmental Protection (DEP) doesn't work on days but considers the intensity of the damage for the fine. Scott Duhaime suggested that we put in place the Step Escalation Procedure and have it reviewed before Town Meeting. Mr. Fateiger agreed to draft the Policy and to amend the article to read so that to put the fine into effect the Policy must be followed.

6. Moss Quitclaim Deed for Open Space Karen Augustine said that Bob Moss has not called her to schedule a time to walk the open space. Ms. Augustine will call him.

7. Vinger Easements, S. Bolton Road Carol Gumbart said that she received the written interpretation from Town Counsel. Karen Augustine and Scott Duhaime said that they would like copies.

8. Quail Run Vernal Pool Carol Gumbart confirmed that the vernal pool at the edge of Quail Run is a certified vernal pool. Ms. Gumbart said that she has a request from Minuteman Vocational School to purchase a new digital camera for their vernal pool studies. Ms. Gumbart said that the budget of \$500 is still available to Minuteman. The Commission authorized the purchase.

9. Land Acquisition Projects Carol Gumbart said that she would schedule a walk on the newly acquired Stephenson property next week. Bill Fateiger and Lori Stephenson said that they would attend. Karen Augustine said that she needs a phone number to contact David Connelly. Carol Gumbart asked the Commission for dates to walk the Aschettino property. Ms. Gumbart will make arrangements for a site walk.

10. Bower Springs The Commission discussed the concern raised by the Roberts of Flanagan Road about whether buses that use the parking lot would be prohibited with the proposed new layout for access and egress for the parking lot. Bill Fateiger agreed to put in bounds at the front of the site so the Commission can reassess the layout. Carol Gumbart will check whether any scenic road hearings are required or if the historic commission has any jurisdiction if we need to move the stonewall.

11. Beaver Karen Augustine said that the Board of Selectmen want to have the beaver trapped and not put in the additional pipes. Ms. Augustine said that volunteers would like to breach the dams to reduce the flood levels.

Respectfully submitted,

Carol A. Gumbart
Conservation Administrator