

**Bolton Conservation Commission**  
**Minutes of Meeting**  
**June 7, 2005**

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

**1. Upcoming Meetings** Bill Fateiger agreed to attend the upcoming Planning Board meeting to participate in the discussion on the Century Mill Estates FOSPRD proposal.

**2. Minutes** Bill Fateiger said that he made comments on some of the past minutes. Mr. Fateiger provided his comments in writing to Carol Gumbart. A motion was made by Bill Fateiger, seconded by Lori Stephenson to accept the minutes of April 19, May 3, May 17 and May 20, 2005, with the modifications made by Mr. Fateiger. VOTE: Aye, unanimous.

Bill Fateiger formally submitted the minutes he took at the Annual Town Meeting on May 2, 2005. A motion was made by Bill Fateiger to accept the minutes of May 2, 2005, seconded by Lori Stephenson. VOTE: Aye, unanimous.

A motion was made by Bill Fateiger to accept the minutes of April 5, 2005, seconded by Scott Duhaime. VOTE: Aye, unanimous.

**3. Omansky, 151 Kettle Hole Road** Myrna and Leon Omansky were present by appointment to discuss signs located on their property. Mark Sprague, an abutter and member of the Bolton Board of Health, was also present. Mr. Omansky said that they have 6 signs on their property that are 18" by 12" in size. Mrs. Omansky said that they would like them removed. Mrs. Omansky asked why they have signs and does anyone else have them. The Commission reviewed the Order of Conditions that set forth the requirement for signs and conceded that the number and size were not commensurate with the requirements of the Order. The Commission members stated that most of the present members were not on the Commission when the Order of Conditions was issued. Mr. Sprague said that at the time the house was being constructed they Commission might have required the developer to change the number and size. Mrs. Omansky asked who is the audience for the signs? Mrs. Omansky said that the signs clearly decrease her property value. The Commission explained that there are circumstances when the Commission and/or the Board of Health may require signs for future owners to be aware of certain conditions. The Commission said that in some cases the Board of Health has required that no herbicides and pesticides be posted on trails that pass nearby wells. Scott Duhaime said that the intent is to prevent further impact to the buffer zone and conservation restriction area. After a brief period of Mrs. Omansky repeating her questions without letting the Commission respond Lori Stephenson said that the Commission would try to work with the Omanskys, but that they should hear the Commission's point of view. Ms. Stephenson proceeded to explain again why the Commission requires signs. Mrs. Omansky said that right not only one sign is visible as the others are covered by vegetation. Mr. Duhaime said that he is fine with allowing them to remove 3 signs to comply with the order, but questioned who takes them out, who replaces the larger signs with smaller ones, and who pays. Bill Fateiger said that 7 signs of that size is extreme and that he recommends that the Commission do a site visit to look at the placement so they can come to an agreement. A site visit was scheduled for June 9, 2005, at 5:30 p.m. Martha Remington, a resident joined the meeting and asked if the Commission was going to walk the site if they reduced the signs. The Commission said that they would walk the signs and then decide whether to reduce the number or size. Mr. Sprague was asked whether he had any further

comments. Mr. Sprague said that as a Board of Health member he is cautious of undoing what another (prior) board has done.

**4. Water Resource Protection District (WRPD)** Bill Fateiger opened the continued hearing on the WRPD. Present was Martha Remington, resident. Ed Englemann offered to go through the bylaw with Carol Gumbart and try to figure out some recommendations. Mr. Fateiger said that as an interim step it would be reasonable to follow the base map of the WRPD for areas of jurisdiction. Ms. Remington said that she feels we should have a more restrictive WRPD for Riverfront Area by adding the extra 25' to it. Ms. Remington said that developers get variances and waivers from our Bylaws. Mr. Fateiger said that zoning bylaws applicants must prove a hardship. It was agreed to wait to hear back from Mr. Englemann. Lori Stephenson suggested that Mr. Englemann report back when they get through certain parts of the review. Ms. Remington asked if there are any other towns with a WRPD. Mr. Fateiger said that Gardner has one but it allows for construction. Ms. Remington said that she does not want to be the sticky wicket but that she needs to stick up for the Bylaw and that it is only indefensible when you fail to uphold it.

Bill Fateiger made a motion, seconded by Ed Englemann to administer the WRPD Bylaw during this interim period based on the Zoning Map shown in the Town Bylaws. Lori Stephenson recused herself since the decision could affect a project her husband has proposed and is already before the Commission. VOTE: Unanimous.

**5. Pan Cemetery, Main Street (112-502)** Bill Fateiger opened the hearing on the Notice of Intent proposal to expand Pan Cemetery. Brandon Ducharme of Ducharme and Wheeler, Inc., were present to represent the applicant. Resident, Martha Remington was present representing the Historic Commission. Mr. Ducharme stated that the Water Resource Protection District (WRPD) Bylaw does not permit the expansion within the WRPD. Mr. Ducharme said that this application is pursuant to the Massachusetts Wetlands Protection Act and Bolton Wetland Bylaw. Mr. Ducharme said that the Pan Cemetery is located between Route 117 and Great Brook. Mr. Ducharme said that there is a bordering vegetated wetland (BVW) adjacent to the Brook along the toe of the slope. Mr. Ducharme said that most of the area of proposed expansion is in fill material. Ms. Remington said that the fill material is from years of Department of Public Works (DPW) dumping the fill illegally.

Mr. Ducharme said that they proposed to expand the number of grave plots, the gravel entrance and gravel driveway to the plots. Mr. Ducharme said that there are 142 plots with the expansion. Mr. Ducharme said that the work is proposed in the Riverfront Area (RFA) and will disturb 18.2% of the RFA, and he noted that this is beyond the threshold of 10%. Mr. Ducharme said that this area is previously disturbed. Mr. Ducharme said that they are not proposing any irrigation. Mr. Fateiger said that this is a redevelopment of previously disturbed RFA and that the Commission is going to want to see the site. Mr. Fateiger said that he would want to see the WRPD overlay on the plans.

Ms. Remington said that the survey does not include the most eastern section of the cemetery. Ms. Remington said that the Historic Commission is working to firm up the boundaries. Ms. Remington's comment led to a discussion as to whether there were any alternatives for the plots outside the RFA. Mr. Ducharme said that they do not have any alternative locations in the Pan Cemetery and he did not appear to understand the boundary issue raised by Ms. Remington. Mr. Ducharme said that he is not aware of any alternatives at any of the other cemeteries in Town and that they feel this is an improvement to the RFA. Ms. Remington said that she has lived next to the Cemetery for 26 years and that previous Commission's have admonished the DPW for their illegal dumping.

Scott Duhaime asked if the site is within the WRPD as shown on the base map. Mr. Fateiger said that it is within the WRPD and that Ducharme and Wheeler should be able to overlay this on the plan. Mr. Ducharme asked if they would need to file or not. Mr. Fateiger said that it depends on where the line overlays on the plans. Ms. Remington said that Harold Babcock, Chair of the Cemetery Committee had initially hoped to terrace this cemetery. Carol Gumbart asked what the depth to groundwater is on the site. Mr. Ducharme said that it is about 20 feet.

A site walk was scheduled for June 9, 2005, at 5:00 p.m. Mr. Ducharme was advised to add the WRPD overlay onto the plans. The hearing was continued, with the consent of the applicant, to June 21, 2005, at 8:00 p.m.

**6. Joyce, 20 East End Road (112-505)** Bill Fateiger opened the hearing on a Notice of Intent proposing to add an attached garage, deck, potting shed and green house. Brandon Ducharme of Ducharme and Wheeler, Inc., was present representing the applicant. Lori Stephenson recused herself from the Commission, as her husband is the applicant. Mr. Fateiger said that Mr. Joyce and Ms. Stephenson's property does not fall within the WRPD as shown on the base map. Ms. Stephenson said that when they constructed the house the deck and garage were part of their original plans but not part of the Order of Conditions that was approved for the house construction. Scott Duhaime asked what amount of Riverfront Area (RFA) alteration is proposed. Mr. Ducharme said that the proposal alters 6.3 % or 1300 square feet. Ms. Stephenson provided a history of the use of the land stating that the property had been all orchards and fields before they constructed their house. Ms. Stephenson said that the driveway was a tractor path and the house is within the former Christmas Tree portion of the farm. Ms. Stephenson said that the Christmas Trees got away from them and is no longer part of the operation of the farm. Ms. Stephenson said that the house was constructed in 1996 and the property does not have a conservation or agricultural restriction on it.

Mr. Ducharme said that the soils are all gravel with a good percolation rate. Mr. Ducharme said that there will be minimal to no grading and that the construction will have a frost wall. Mr. Ducharme said that they would need to tweak the driveway 10 to 15 feet towards the wetlands but within previously disturbed areas. Mr. Ducharme said the construction would not need a foundation drain since the runoff coefficient was minor. Mr. Ducharme said that there would be no net increase in the rate or amount of runoff. Mr. Ducharme said that the deck will be constructed on sono-tubes and is within a grass area approximately 83 feet from Great Brook. Mr. Ducharme said that the deck is approximately 40 feet to the bordering vegetated wetlands (BVW) so the Wetlands Protection Act exemption does not apply. Ms. Stephenson said that the greenhouse will have footings and that the potting shed is on an existing patio. Ms. Stephenson said that the greenhouse will be used for the agricultural business but it does not meet the agricultural exemption. Ms. Stephenson said that any material excavated during the project might be removed to a sand pit on the farm. Ms. Stephenson said that the previous Order of Conditions did not require any deed restrictions be placed on the property and that there were no continuing conditions. Mr. Fateiger said that the WRPD line could be removed from the plan since we have established it does not fall within the WRPD on the base map. Mr. Duhaime asked if any of the proposed work was staked out for the Commission to see. Ms. Stephenson said that it is not. A site visit was scheduled for June 11, 2005, at 7:30 p.m. and the hearing was continued, with the consent of the applicant, to June 21, 2005, at 8:15 p.m. Ms. Stephenson said that while the Commission is there she would like to show them a few agriculture projects that they are contemplating in the future.

**7. Pondsides, 893 Main Street (112-503)** Bill Fateiger opened the continued hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act. Brandon Ducharme was present representing the applicant, Heritage Manor Development LLC. Resident Martha Remington was also present. Mr. Ducharme said that they have updated the plans to show the off site wetland and associated buffer zone despite that he and Mr. Fateiger were unable to hook up to view it in the field together. Mr. Ducharme said that they included the Mitigation Measures on the plan and provided the Post-Construction Operation and Maintenance plan. Mr. Ducharme said that the revised plan includes a swale detail with proposed seeding to be hydroseeded with the New England Erosion Mix. Mr. Ducharme said that the revised landscape plan shows a 15-foot swath of vegetation around the proposed clubhouse to include boulders, mulch, trees and shrubs. Mr. Ducharme said that the plans and narratives state that the field behind the clubhouse shall not be mowed more than 2 times a year. Ms. Remington asked why the work is being allowed in the buffer zone. The Commission explained that the filing is solely under the MA Wetlands Protection Act and not the Bolton Bylaws. The Commission explained that work in the buffer zone is up to the discretion of the Commission and that based on their review the work will not have an impact if appropriately conditioned.

Scott Duhaime asked where the Zoning Board of Appeals is in the process of their review of this project. Mr. Ducharme said that the hearings have been continued and are proceeding. Mr. Duhaime went through a list of the questions the Commission had for the ZBA, and the other members were satisfied that they were addressed. A motion was made by Bill Fateiger, seconded by Lori Stephenson to close the public hearing. VOTE: Aye, unanimous.

**8. Grala, 256 West Berlin Road (112-504)** Bill Fateiger opened the public hearing on a Notice of Intent proposing to replace a failed sewage disposal system. Tom DiPersio Sr. of Thomas Land Surveyors was present to represent the applicant. Mr. DiPersio said that there is a band of ledge in the rear of the 2-acre parcel. Mr. DiPersio said that the replacement system is primarily within the lawn and that the present system failed the Title V inspection. Mr. DiPersio said that the system would be elevated due to groundwater found at 36 inches below the surface. Mr. DiPersio said that the Bolton Board of Health has approved the proposed system with a variance to the water table and the Title V 4 foot off-set. Mr. DiPersio said that the site has an intermittent stream with no significant bordering vegetated wetlands (BVW). Mr. DiPersio said that they have proposed an impervious barrier to minimize the slopes. Mr. DiPersio said that the slopes would be replanted. Carol Gumbart said that the intermittent stream might not be a resource area under the MA Wetland Protection Act if it is not flowing out of a wetland. Ms. Gumbart said that the project is exempt from the Bolton Wetland Bylaw. The Commission noted that the 100-foot buffer zone line was not shown on the plan. The Commission set a site walk for June 11, 2005, at 8:30 a.m. The hearing was continued, with the consent of the applicant, to June 21, 2005 at 8:30 p.m.

**9. Bolton Department of Public Works (DPW), Green and Bare Hill Road (RDA)** Bill Fateiger opened the public meeting on a Request for a Determination of Applicability proposing to overlay Green Road and Bare Hill Road with a 3 inch bituminous overlay. Shelly O'Toole was present to represent the DPW. Scott Duhaime said that Green Road is in "shitty" shape. The Commission asked if the work proposed was the same as the recent public review they performed for other roads in town. Ms. O'Toole confirmed that the work is the same. A motion was made by Bill Fateiger, seconded by Lori Stephenson to issue a Negative 1, Negative 2 and Negative 3 for work on portions of Green Road and Bare Hill Road. VOTE: Aye, unanimous.

**10. Emergency Certification** A motion was made by Bill Fateiger, seconded by Lori Stephenson to ratify the issuance of the issuance of two separate Emergency Certifications, one for work on Sampson Road at the culvert and one for work on Main Street across from Bolton Spring Farm in the drainage swale. VOTE: Aye, Unanimous.

**11. Vinger Land, Public Access** The Commission generally discussed where the trails are laid out on the properties in the vicinity of the Vinger land. Mrs. Gumbart said the town attorney needed more time to review the deeds, as they are vague. The Commission agreed to schedule time with Jacqueline McGarry to discuss her concerns with the trail layout.

**12. Stephenson Land Management Plan** A motion was made by Bill Fateiger, seconded by Ed Englemann, to formally accept the Management Plan prepared for the Stephenson property. VOTE: Aye, unanimous.

**13. Aschettino, Hudson Road Land Acquisition** Bill Fateiger said that he attended a Board of Selectmen meeting. Mr. Fateiger said that Doug Storey was also in attendance representing the Affordable Housing Partnership. Mr. Fateiger said that the Affordable Housing Partnership is not interested in the property. Scott Duhaime said that the price she is asking does not match the value of the property as conservation land. Carol Gumbart said that the Boy Scouts have continued to express and interest in preserving the parcel and may have some money to put towards a project. It was agreed that Ms Gumbart should contact Dennis PreFontaine at the Boy Scouts and learn more about their standing.

**14. Year End Budget Review** The Commission discussed whether to purchase a trailer or not. It was agreed that Carol Gumbart would send out via email how the Town's Insurance Policy work if the Commission purchased the trailer and it was pulled on private vehicles. Bill Fateiger said that about \$7800 would be needed for a fence and legal representation if we were to work with the neighbor as they have suggested. Carol Gumbart said that we should purchase the signs for the Gould property and the Savigano property. The Commission agreed to pass the grant through to the trail committee, match the \$380 with the BCT, which would buy the stringers for the Zink Trail. The Commission also agreed to that there was \$8,000 in next year's budget for beaver trapping, as we can't trap until after July 18<sup>th</sup>.

**15. Taggart Site Walk , Forbush Mill Road** Carol Gumbart and Lori Stephenson said that they walked the property and that the water level was above the flags around the kettle hole. Ms. Gumbart suggested that it be certified as a vernal pool. Ms. Stephenson described the property and said that a former cart road winds around the kettle hole.

**16. Forest Cutting Practices** The Commission confirmed that Town Counsels opinion is that forest cutting is exempt from the Bylaw if carried out in conformance with the Massachusetts Wetlands Protection Act exemptions.

**17. Upcoming Meetings** Carol Gumbart reminded the Commission that the Century Mill Estates FOSPRD hearing was continued to the following evening.

**18. Land Protection** Scott Duhaime said that Dan Gaffney is working on learning more about the Commonwealth of Massachusetts land in Bolton. Mr. Duhaime said that he is working with Pat Walrath to find out who the state contact is. Mr. Duhaime said that he is interested in the whether the 7 acres of Commonwealth land could be purchased and used for active recreation.

Respectfully submitted,

Carol A. Gumbart  
Conservation Administrator