

**Great Barrington Conservation Commission Meeting
Great Barrington Fire Station, 37 State Road
March 29, 2012**

ATTENDEES: Patricia Kinne, Bruce Gore, Jennifer Connell, Andrew Mankin, Jessica Dezieck

Chairman Kinne brought the meeting to order at 7:00 pm.

7:00 NOI – 39 Dresser Ave, filed by Joel and Kate Millonzi. Proposed work is the demolition of a garden shed and construction of a new garage, and for the demolition of a pergola and the addition of a new connector between units 39A and 39B.

Joel Millonzi was not present, but Alan Clark, his architect, represented him. Agent Sewall stated that she feels the plan is a good one, and that all of the Commission's questions have been answered by the plan. Agent Sewall read the Special conditions:

1. In case of emergencies, problems, or the need to discuss site conditions with the Conservation Commission, please contact the Commission during business hours at 413-528-1619 extension 122.
2. The term "Plans" as used in the Order shall refer to the Plans entitled:
 - a. Erosion Control, Addendum #1, pages 1-4, dated March 9, 2012
 - b. Storm Water Control, Addendum #2, pages 1-5, dated March 9, 2012
 - c. Mitigation, Addendum #3, pages 1-2, dated March 9, 2012
 - d. Mitigation Planting Plan, Addendum #2, pages 1-6, dated March 9, 2012

The Order permits only the work as shown on the approved Plans.

Members of the Commission and/or its Coordinator shall have the right to enter and inspect the premises to evaluate and ensure compliance with these conditions and performance standards as stated in the Order, the Act, and/or the Ordinance, and may require additional information, measurements, photographs, observations and/or materials or submittal of data or information deemed necessary by the Commission for that evaluation.

3. The Commission reserves the right to impose additional conditions on any portion of this project that causes impact to any area of jurisdiction under the Act or the Ordinance.
4. Erosion control measures shall not be removed and shall remain intact until removal is approved by the Commission and/or the Coordinator. The sediment collected by these devices shall be removed and placed at an upland location and in a manner that will prevent its later erosion to any resource area.
5. At no time shall sediments be allowed to flow into or accumulate in any wetland or resource area on or off the property.
6. The Order shall be included with all construction-related documents. All contractors working at the site shall be made aware of the provisions contained within the Order and

adhere to all Special Conditions herein. At all times, the site foreman, supervision engineer or construction manager shall have a copy of the Order at the site and direct compliance with the requirements of the Order.

7. Any changes made to the approved Plans, unless otherwise specified in the Order, which will alter an area subject to protection under the Act or Ordinance, shall require applicant to inquire of the Commission, in writing, whether the change is significant enough to require the filing of a new Notice of Intent.
8. In the event that this property/project is sold or conveyed, the new owner(s) shall meet with the Conservation Commission or its Coordinator prior to commencing or continuing any work permitted by this order.
9. (excavator copy of OOC) **Prior to the commencement of any earth moving activities**, whoever shall be employed to execute earth-moving activities must be provided a copy of the Order.
10. **Prior to the initiation of any work**, unless otherwise agreed upon by the applicant and Commission or its Coordinator, all erosion control measures shall be constructed and installed as shown on the approved Plans. The erosion control specifications provided in the Notice of Intent and the erosion control provision in the Order will be the minimum standards for this project; additional measures may be required. **No work shall begin until the Commission has inspected and approved of all erosion controls.**
11. (emergency contact information) **Prior to initiation of any work**, emergency contact phone numbers, including cell phone numbers of the applicant, their environmental consultant, contractor, site foreman and construction manager shall be furnished to the Commission.
12. No disturbed areas or stockpiled materials shall be left unprotected or without sufficient erosion controls to ensure such materials will not cause any impacts to any wetland or resource area.
13. To prevent erosion, soils exposed for periods greater than one month shall be stabilized with erosion control blanket or netting, or a covering of mulch, or a temporary cover of rye or other grass. Drainage ditches shall be hydro-seeded with a perennial grass mixture. Any stabilization materials such as jute netting shall be firmly anchored to prevent them from being washed from slopes by rain or flooding. Preference should be given to biodegradable materials. This condition is ongoing and does not expire upon completion of this project or the issuance of a Certificate of Compliance.
14. The applicant shall immediately control or correct any erosion problems that occur at the site and shall also immediately notify the Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary.
15. Unless otherwise specified in the Order, the wetland replication shall be performed in accordance with the Notice of Intent, the Plans and any supplemental documents. The Commission reserves the right to require additional plantings to ensure achievement of 75% cover of wetland plant species within two full growing seasons, as specified in 310 CMR 10.55(4)(b). Two years begins from the date of final planting. Please call the Conservation Commission agent within 48 hours of final planting for a site visit and documentation.
16. Within 30 days of final grading, (or within 30 calendar days after the commencement of the following growing season if the project is completed after October 31st), all disturbed areas shall be permanently stabilized with rapidly growing cover and a minimum of 4 to 6 inches of organic topsoil, if necessary.

17. Upon completion of construction and final soil stabilization, the applicant shall submit the following of the Conservation Commission to request a Certificate of Compliance (COC):
- A Completed Request for a Certificate of Compliance form (WPA Form 8A)
 - IF the project has any stormwater structure(s) requiring routine cleaning and/or maintenance, the applicant or current owner shall submit a signed agreement between the applicant or current owner and a company who has been contracted to clean and maintain such structures on the project.
 - As-Built plans signed and stamped by a registered professional engineer, architect, landscape architect or land surveyor and a written statement from such professional certifying substantial compliance with the Plans and describing what deviation, if any, exists from the Plans approved in the Order. This plan shall include at a minimum:
 - All wetland resource area boundaries with associated buffer zones and regulatory setback areas taken from the plan(s) approved in the Order.
 - Locations and elevations of all stormwater management conveyances, structures and best management designs, including foundation drains, constructed under the Order within any wetland resource area or buffer zone;
 - Distances from any structures constructed under the Order to wetland resource areas – “structures” include, but are not limited to, all buildings, septic system components, wells, utility lines, fences, retaining walls, and roads/driveways;
 - A line delineating the limit of work – “work” includes any filling, excavating and/or disturbance of soils or vegetation approved under the Order;
 - Wetland resource replication areas constructed under the Order.
19. Prior to issuance of Certificate of Occupancy, all planting outlined in Mitigation/Planting Plan Addendum #2 dated 3/9/12 must be installed.

MOTION: Andrew Mankin that we close the public hearing.

SECOND: Jessica Dezieck

VOTE: 6-0, all in favor.

MOTION: Andrew Mankin that we approve the NOI with the conditions as read by Agent Sewall.

SECOND: Jessica Dezieck

VOTE: 6-0, all in favor.

7:30 NOI – Maple Avenue, Map 30, Lot 45, DEP file # 167-0343, filed by George Beebe, continued. The proposed project will provide flood protection and bank stabilization along

approximately 600 feet of the left bank of the Green River while providing excess compensatory flood storage.

David Shannahan recused himself.

George Beebe was not present at the meeting. Agent Sewall has spoken to him and he would like to keep the NOI open for the two years permitted since he was last present at the meeting. Agent Sewall will look up the date when he was last present.

MOTION: Andrew Mankin that we continue the public hearing until April 25th at 7:30 in Town Hall.

SECOND: Jessica Dezieck

VOTE: 5-0, all in favor.

7:45 NOI – 55 Hurlburt Road, filed by Paul and Maureen Hickey. The proposed project involves the construction of a single family home and associated septic, potable water well, driveway, and yard. The applicant proposes to mitigate the altered bank of the intermittent stream prior to construction.

Agent Sewall stated that the DEP wants the Commission to issue an enforcement order with the OOC that sites this plan, the restoration plan, because the enforcement order has specific dates that things have to be done by. The DEP has offered to help with the wording. They'd like us to issue them both at the same time.

Andrew Mankin stated that 2 separate issues are at hand: the enforcement order of the restoration of the disturbed area, and the NOI of the wetland crossing and building in the buffer zone.

Sarah Schultz and Kate McCormack agreed. Kate McCormack explained that they have already decided that they will come before the Commission in multiple meetings. Their goal for the March 28th meeting was to identify what will be necessary so that Sarah Schultz can return to the office and tweak the material for the submittal for the OOC based on the requirements of the enforcement order.

Sarah Schultz stated that the proposed work includes removing both culverts and restoring the stream bank. All stones in the stream bank will be removed all hand, and all riprap will be removed. The areas where the channel has been dug down will be restored to their natural level, and gravel will be added to level the stream off and to make sure that the side slopes are level. The channel will be between 1 foot and 18 inches. Erosion control fabric will be laid on top of the gravel and on top of the slopes only where necessary. Live plantings are proposed on the top of the bank slopes and in the stream channel. The idea is to make the area back into a hydraulic wetland, as the water no longer makes the area a wet meadow because the stream is so deep.

Andrew Mankin questioned what will happen to the area when it does flood, and what effect the changes will have on the neighboring property. Sarah Schultz explained that she is unsure how the stream previously affected the neighboring property. David Shannahan contributed that it will be difficult to determine where the bottom of the stream previously was, and that the level should be close to the level of the ground of the neighboring property. Because there is no water movement in that area, it could be asking for trouble in terms of mosquitoes and ticks.

Andrew Mankin added that we do not want to have an adverse effect on the neighbor's property. Agent Sewall stated that there is a large portion of mowed wetland, and it is difficult to create a restoration plan because that area might be full of invasives. Andrew Mankin added that we would like to see a reestablishment of the wetland, and perhaps the plan should include a two year monitoring period that would be directed at trying to keep invasive species out while reestablishing native plant species.

Jessica Dezick stated that she would prefer to see the whole area restored instead of planning for a driveway through the area. David Shannahan argued that he didn't feel that was fair, and Kate McCormack stated that the DEP was somewhat clear that the plans should be created simultaneously. The driveway is not going to be a paved surface. Andrew Mankin added that at the time of the NOI, the Commission will want to see an engineered plan for the driveway which should include the transfer of hydrology from one side of the wetland to the other.

Sarah Schultz explained that the actual driving surface, which is a gravel travel surface, is a foot above the wetland. Beneath the gravel is fairly large track rock.

Chairman Kinne asked Sarah Schultz to come back to the next meeting with information on how she is going to restore the wetlands and keep the water flow under the driveway, since the driveway will cut off a lot of wetlands to its east. Jessica Dezieck asked if there are alternate house sites, and Sarah Schultz answered that there are not.

Andrew Mankin stated that as part of the enforcement order we could establish no-mow zones, and then as a second phase we would see how those zones come up this growing season, and based on what the engineer sees they would submit a plan to us saying whether the areas need to be restored or if they are doing well.

Agent Sewall agreed and stated that if this property is exchanging hands she would like to pass on with the deed a full delineation of the wetlands on this site. Kate McCormack stated that that was not customary, and is very burdensome, a huge expense, and no other owner will ever see it. She stated that she does title searches all the time and has never recommended that a client purchase a property with an OOC that hasn't been released, as it's a flaw on the property.

Agent Sewall stated that the DEP instructed her that a letter stating that an enforcement order was listed on the property can be listed with the deeds.

Andrew Mankin told Sarah Schultz to take another look at the property with the idea of trying to get all wetland restored to a healthy wetland. If that means taking out invasives right away, then Sarah Schultz should include that in her plan.

Sarah Schultz stated she would include the no-mow zone, the removal of invasives, the restoration of the stream bank, and will wait and see on the rest.

Chairman Kinne told her that she can communicate with Agent Sewall at any time. Agent Sewall added that at some point the nondisturbance zone will need to be marked. Andrew Mankin presented the markers and explained that the no-mow zone would need to be marked. Andrew Mankin also explained that with a restoration plan there is a 2-year growing season during which the area needs to be monitored and kept healthy, with a minimum 75% growth rate. He encouraged Sarah Schultz to include an analysis as to why the house can't be built in any other area of the property.

MOTION: Andrew Mankin that we continue the public hearing until April 25th at 7:00

SECOND: Jessica Dezieck

VOTE: 6-0, all in favor.

MISCELLANEOUS

1. Approve February 22, 2012 meeting minutes.

MOTION: Andrew Mankin that we approve the February 22, 2012 minutes.

SECOND: Jessica Dezieck

VOTE: 6-0, all in favor.

2. 20 Berkshire Heights Enforcement Order review of restoration plan with Berkshire Engineering

Andrew Mankin stated that the no-mow zones are in question, and that he feels that there should be a no-mow zone buffer going down the intermittent stream, marked with a boundary so that we don't run into the problems that are a current issue. The markers being posted at the edge of the no-mow zone is very important.

Jessica Dezieck questioned if the Commission could send a letter attached to the deed. Agent Sewall will do so with all enforcement orders from now on, as she wasn't previously aware that it was an option. Eric Hardcastle stressed the fact that the current owners had been unaware that they were violating any orders when they began working on the property.

Andrew Mankin stated that 20 feet on the right hand side, 50 feet on the left hand side, and all of the wetlands need to be marked with markers. Rocks, or an unpenetrable barrier, are another option for delineation.

David Shannahan identified that there would be need for some exempt activity, such as the creation of a walking path in the future, or invasive removal, and urged the Commission to be more specific in the definition of no-mow.

Nick Anderson stated that the area has been maintained as a field, as the owners purchased it as a parcel with 3 building lots on an open meadow. He stated that because of their financial investment in the property, they are unlikely to see the no-mow zone as being the best plan for their property, and will likely go to the DEP for approval rather than comply with the Commission.

Chairman Kinne stated that she thinks the Commission should stick with what they've come up with, allowing for mowing once a year in the buffer. Andrew Mankin added that if the clients wanted to come back to the Commission with a revegetation plan to manage the invasive species problem, he would be open to that with the idea that the plan would be maintaining the buffers.

Jessica Dezieck stated that she is not keen on the idea of mowing even once a year. Agent Sewall specified that the owners can go in and remove invasives by hand any time they want to, and that when you mow once a year, you're not stopping the invasives from being present. The owners may choose to go in and maintain the area for aesthetic reasons.

Evan Hardcastle stated that the no-mow zones will play a significant role in terms of the clients' cooperation, and the clients are just as frustrated as the Commission. Evan Hardcastle stated that the 50 foot no-mow zone is basically eliminating the capacity for a second home. Andrew Mankin responded that it is the Commission's job to protect the wetlands resource areas.

Evan Hardcastle explained that the current plan is to run the water into the stream, and David Vigneron stated that he was happy with that solution. The dye was observed in the stream further down the street, and Evan Hardcastle had spoken with David Vigneron after the dye test.

Agent Kinne stated the conditions: a letter would be attached to the deed, a 50 foot no-mow zone on the left hand side looking uphill and a no-mow zone 20 feet on the right hand side of the intermittent stream would be created, the wetlands would be marked with markers, and mowing would be permissible in the buffer zone once a year after October 1st. No mowing may occur in the wetlands. All plantings must be completed by June 1, 2012, and the representatives must come to the Commission's May meeting with a plan for the demarcation to be discussed and improved by the Commission.

MOTION: Andrew Mankin that we approve the enforcement order with the conditions that were stated.

SECOND: Jennifer Connell

VOTE: 5-1, Jessica Dezieck opposed

3. Beebe property on Maple Ave/Removing brush along Green River David Shannahan recused himself.

Agent Sewall stated that George Beebe is within his regulations for squaring off the field until he plants it in corn, at which point it would be an enforcement order. Andrew Mankin stated that the field is within 200 feet of the river so it should be an NOI. Agent Sewall has spoken with Mark Stinson, and was told to keep very good documentation. She has taken many pictures, and if silt hits

the water, then it becomes an enforcement order. Andrew Mankin added that the Commission will need the DEP to back us up if we wait. Mark Stinson has driven by the area and has seen it. Agent Sewall will write a letter to George Beebe, include the regulations, and will send it by certified mail.

4. 389 Stockbridge Road addition of a stone terrace onto Ena Café

Diego Gutierrez presented. Ena Café wants to add additional seating outside by laying sand and paving stone down. The cafe has recently made a bank which lies in the floodplain area. Agent Sewall stated there are no exempt activities for businesses. Chairman Kinne identified that when the building was built, John Delmolino had to make a compensatory dip/depression. It appears that the bank has come up and is going to stop flood water from coming onto the terrace, which you cannot do. Andrew Mankin added that another issue if we should allow the stone terrace is that the Commission might face a problem if the property owner approaches years later wanting to add on to that area. If we allow that activity, and they were to build some sort of structure, that would definitely require an NOI. Andrew Mankin added that because the applicant is requesting to bring in stone, this might need to be an NOI, as material would be brought into a resource zone.

David Shannahan stated that we should find the record of when John Delmolino was required to create a depression in the ground. Agent Sewall added that John Delmolino was only supposed to use 10% of that lot, and the property in question is part of that lot. Jessica Dezieck advised Diego Gutierrez that if any work is being done in a resource area, it is always good to come back with improvements.

5. Signing of lost OOC's for 389 Stockbridge Road and Benedict Pond

John Delmolino lost the paperwork for his OOC, so the OOC was resigned. The paperwork for Benedict Pond was also resigned.

6. Brownson property at 434 Stockbridge Road oxbow cleanup update

Chairman Kinne stated that she, Agent Sewall, and Andrew Mankin had gone out to visit the site and that it is going to be great. They were very impressed with it, and Berkshire Natural Resources would like to purchase it.

7. Monument Mills

Agent Sewall had visited Monument Mills and stated that nothing new has come up.

8. Meadow Lane enforcement

Andrew Mankin had followed up with the enforcement and stated that it had been cleaned up well.

9. In January Agent Sewall received a request from a lawyer looking for the file on the Nolan property on Blue Hill. She copied the file and sent it to the court. The court has requested that Chairman Kinne be present for the hearing. Chairman Kinne will speak with Kevin O'Donnell about the issue.

10. McAllister wetland delineation

Agent Sewall stated that Foresight never put together an estimate, and that she is impressed with the estimate from Emily Stockman. Chairman Kinne suggested that we go with Emily Stockman, and all members were in favor.

11. Great Barrington Community Preservation Act presentation

Shep Evans, Dale Abrams, Rob Hoogs and Tim Geller presented information about the Community Preservation Act. Dale Abrams explained that the goal of the act is to help communities preserve character and to protect farmland and open space. The act has to go to a town meeting and ballot vote, and does establish a surcharge on the taxes. Once it is adopted, the town established a committee to work with the applications that come in. The town has total control over how the money is used. Rob Hoogs pointed out that the act makes the town eligible for the state to meet the money raised through the tax. Dale Abrams added that larger projects can be funded by using CPA bonds and paying for things over time. Tim Geller stated that town boards are being asked to take a stand on the act, and that writing letters of support would be appreciated.

A motion was made to close the public hearing.

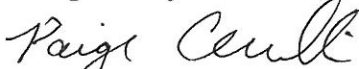
MOTION: Andrew Mankin that we close the public hearing.

SECOND: Jessica Dezieck

VOTE: 6-0, all in favor.

The meeting adjourned at 9:21 pm.

Respectfully submitted,


Paige Cerulli, Secretary