

**MINUTES**

**CALL TO ORDER**

Meeting called to order by Ms. Robb at 7:05 p.m.

**ATTENDANCE**

**Present:** Robb, Baker, Allen, Gerber, Kaplan (arrived at 7:08), Stein  
(Manire-Gatti absent)

**Staff:** Ziomek, Ciccarello

**Others:** Mark Stinson, Bruce Griffin, Rich Brazeau, Ron LeVerdier, Bill Garrity, Pete Westover,  
George Teter, Buzz Wagner

**CONSERVATION COMMISSION'S ACTION**

**Approve Minutes**

No action.

**PERMITS/CERTIFICATES**

**Request for Determination (RFD08-1107) – Richard Brazeau for DCR for construction of two vehicle storage garages with parking areas and associated grading at 51 Military Road, Amherst (Map 28A, Parcel 3).**

- Opened the public hearing at 7:30 p.m.

Rich Brazeau presented for the Department of Conservation and Recreation. DCR wishes to construct two vehicle storage garages with parking areas on their property at 51 Military Road. He noted that part of the project falls within the 100' buffer zone.

**VOTED** unanimously (6-0), to continue the public hearing to April 9, 2008 at 7:50 p.m.

**Notice of Intent (NOI 08-1105) – Andrews & LaVerdiere for construction of a climate controlled storage facility on Meadow Street, Amherst (Map 4D, Lots 1 & 2).**

- Opened the public hearing at 7:40 p.m.

Bruce Griffin of NEEI presented for the applicants Leigh Andrews and Ron LaVerdiere. Bill Garrity, who developed the site plan and Ron LaVerdiere were also present. They are proposing to place the buildings outside the resource area. A stormwater management plan will be required for the driveway and parking area. Both the parking area and stormwater management area will be within land that is subject to flooding. A sewer line that will connect to an existing sewer line is the only actual proposed impact to the wetlands and will be filed as a limited project. Compensatory storage will be created for some minor changes within land subject to flooding – primarily on a berm that is created when the infiltration basin is constructed. Wetland impacts will be restored immediately upon the completion of connecting the sewer line.

There was discussion about the FEMA delineations and wetland boundaries. Stephanie indicated that since this is a new submission, the wetland boundary on the original plan is no longer valid. She recommended that a site visit with a peer reviewer be scheduled, rather than scheduling a separate site visit for just the Commission and then another site visit for a peer reviewer. That way all the parties

would be on hand to re-examine the boundaries at the same time. Mr. Griffen requested that the same peer reviewer be used as last time, as he would be familiar with the site. Stephanie indicated that the peer reviewer was Art Allen.

Bruce Griffen requested that the hearing be continued for at least a month. Nicki requested that the Commission get written responses to DEP comments. The Commission indicated that they were comfortable with using Art Allen again for the peer review. Stephanie asked if Art Allen is not available, would NEEI be comfortable with having someone from Tighe & Bond do the peer review; Bruce indicated that they would be fine with them.

**VOTED** unanimously (6-0), to continue the public hearing to April 23, 2008 at 7:15 p.m.

**Notice of Intent (NOI 08-1106) – Andrews and LaVerdiere for construction of an office building on Meadow Street, Amherst (Map 4D, Lots 3).**

- Opened the public hearing at 8:18 p.m.

Bruce Griffin presented the proposed construction of an office building on the other parcel on Meadow Street. He reviewed the resource areas that are present on the site – the same drainageway intermittent stream coming down from the properties to the west and joining Mill River and the associated BVW. Applicants are proposing to use the land that is higher than is outside all resource areas to build the office building. There will be some parking and grading within land subject to flooding; there will be a stormwater management system in a couple of different places – building rain gardens next to the building, a detention basin and a filtration basin and again, a sewer line connection to an existing manhole, which does cross a bit of BVW and will be impacting riverfront area as well. The riverfront area also contains some of the stormwater management system. There will be some changes in the plan, because even though the stormwater regulations were in place the technical guidance was not available when this was filed. They are also anticipating that there will be some changes to the footprint. They will address these issues and then present them to the Commission or peer review. There will be compensatory storage, but it doesn't have a totally unrestricted hydraulic connection to the flood waters. So that is one of the issues that will have to be addressed.

Ms. Robb indicated that they will be advocating an independent peer review and written comments from DEP. Mr. Griffen requested that this be continued to allow that all of these issues be addressed.

**VOTED** unanimously (6-0), to continue the public hearing to April 23, 2008 at 7:45 p.m.

**Notice of Intent (NOI 08-1108) – The Evelyn Rackliffe Trust for construction of a single family house in the buffer zone located at 460 Pine Street, Amherst (Map 6A, Parcels 20 & 26).**

- Opened the public hearing at 8:29 p.m.
- Closed the public hearing at 8:50 p.m.

Nicki Robb left the meeting at 8:28 p.m.; Liv Baker assumed role of chairing the meeting.

Bruce Griffin presented for the applicant. Donna Nodruf, trustee for the Evelyn Rackliffe Trust and Jim Smith, the surveyor were also present. Driveway for the house is to come in from Pine Street and will skirt closely to the BVW and will come up to a building envelope on the northwest corner of the

property. The BVW line has been previously been approved. The plan is somewhat inaccurate in that the wetland does come out a little further than depicted – the correction was given to the Conservation Commission – it changes the location of the 40’ and 50’ setback lines as shown on the plan and squeezes the house building envelope slightly. However, the other issue there is also a clay tile pipe that follows down thru the middle of a low lying mown lawn and ends up in the wetland. All of the stormwater from Pine Street gets directed to a well and then to the pipe that takes it to the wetland. This is considered a jurisdictional waterway and they are not proposing to alter it.

Harvey Allen noted that there is a healthy sugar maple on town property that will have to be removed to accommodate the driveway and that will require approval by the Tree Warden and Public Shade Tree Committee. Dave Ziomek urged the applicant to contact the Tree Warden sooner rather than later, as it isn’t a given that the removal of the tree will be approved.

Donna Nodruf, trustee for the Evelyn Rackliffe Trust, will follow up on the tree removal and asked if they would be allowed to replace the tree with a couple more trees. Dave Ziomek responded that the Tree Warden would be able to answer those questions. Ms. Nodruf also questioned whether the pipe could be removed, as was suggested by Guilford Mooring, DPW. Guilford suggested removing the pipe and moving it to the far end of the property and giving an easement to the Town to install an open swale and drain, that would not impact the wetland. Ms. Ciccarello responded that it is up to the Commission to decide if they will allow the pipe to be removed as that is their jurisdiction. Ms. Ciccarello noted that the new owner or DPW will have to submit a Notice of Intent, just as Ms. Nodruf is doing now for the house construction; a separate application will have to be done for the removal of the pipe. It is not something the Commission can approve at this meeting.

**VOTED** unanimously (5-0), to close the public hearing and to issue an Order of Conditions with Special Conditions as outlined by the Wetlands Administrator.

**VOTED** unanimously (5-0), to approve the Special Conditions with minor restrictions as discussed as follows:

- 1) Before any construction begins, the applicant shall submit a detailed plan with the actual house footprint to the Conservation Commission for review. The plan shall include pre- and proposed construction topographical contours.
- 2) Erosion control shall be installed as close to the house construction location as possible – no closer than forty (40) feet to the wetland edge.
- 3) Erosion control shall be installed as close to the driveway construction location as possible– no closer than twenty (20) feet to the wetland edge with the exception of the location by Flag #6.
- 4) Silt fence and straw bales shall be installed along the entire length of the wetland side of the project area from Pine Street to the proposed house location.
- 5) Silt fence shall be dug in at least six inches below the ground. Straw bales shall be installed on the construction side of the silt fence directly abutting one another. Each straw bale shall be double staked in place.

- 6) Erosion control shall be continually monitored at the start and end of each construction day.
- 7) Additional silt fence and straw bales shall remain on site in the event that the erosion control is in need of repair. Any breaches in the erosion control shall be repaired immediately.
- 8) At least a twenty (20) foot undisturbed vegetated buffer shall remain along the wetland boundary with the exception of the location by Flag #6. No work – including mowing - will be allowed in this buffer.
- 9) No heavy machinery may be operated on the wetland side of the erosion control.
- 10) Erosion control shall serve as the limit of work.
- 11) No construction materials may be stored on the wetland side of the erosion control.
- 12) Only environmentally friendly de-icing materials – such as magnesium chloride - may be used on the driveway. No sand or sodium chloride shall be used.
- 13) Special Condition numbers 8 and 12 shall be recorded as permanent conditions.
- 14) An “As-Built” plan stamped by a professional engineer shall be submitted to the Commission upon project completion.
- 15) Once the project has been completed, the area has been sufficiently re-vegetated and the erosion control removed, permanent markers shall be installed ten (10) feet from the wetland edge with the exception of the location by Flag #6 to clearly identify a permanent buffer.
- 16) No Certificate of Compliance shall be issued without the installation of permanent markers demarcating a ten (10) foot no-disturbance boundary with the exception of the location by Flag #6.

**Notice of Intent (NOI 08-1109) – Gordon Hall for clearing of brush and invasive shrubs and vines in the upland and buffer zone area and planting of agricultural crops and/or black walnut or other hardwood saplings located at Thrush Lane, Amherst (Map 18C, Parcels 49-66)**

- Opened the public hearing at 8:53 p.m.

Pete Westover presented for the applicant. Mr. Westover indicated that most of the vegetation that would be removed is comprised of invasive species. Otto Stein expressed concern with the runoff affecting the wetlands and wanted to know how close the plantings would be.

Stephanie Ciccarello reminded the Commission that they have already approved a Request for Determination for planting black walnuts. The proposal to plant row crops is a whole different regime for planting and harvesting and pesticide treatment, which is why the Commission requested that the applicant come back with a NOI with more information. She noted that the Commission has to stick with their previous determination for the black walnuts which is good for three years. The Commission has a proposal to plant row crops before them now, so they need specific information about what is going to be planted, when will it be harvested, how close to the boundaries, etc.

Dave Ziomek concurred with Ms. Ciccarello in that the Commission had issued a negative determination for the work for the planting of black walnuts based on the line before them. It was only when the applicant proposed row crops that the Commission required a resubmission. What is the applicant proposing to do? If we are talking about black walnuts, his understanding is that the decision has already been made by the Commission. If they are talking about row crops there are a number of questions to be asked. He expressed concern that neither Owens Pond nor the vernal pool gets due protection with either proposal.

Year one would be sunflowers. Mr. Westover noted that this is a farm area and that Mr. Buzz Wagner has raised corn on the same field. If the Commission has restrictions on herbicides, then that's what they need to hear. The applicant would like the flexibility to change the crops over the years and then possibly to put black walnuts in at some point. Ms. Ciccarello explained that the applicant needs to tell them what the proposal is so that the Commission can impose conditions accordingly.

John Gerber noted that the area no longer has ag exemption, so it no longer is farm land, and the Commission is going to work to protect the resources. He further noted that he is okay with allowing row crops in general, provided that specific conditions such as an undisturbed vegetative buffer, buffers for no herbicides, requiring a winter cover, etc.

Stephanie and John noted that the narrative was not as detailed as the Commission requires.

John noted that he can come up with a proposal, but he prefers to react to the applicant's proposal. Pete said that they did want the proposal to be as broad as possible leaving room for whatever kinds of crops are appropriate for a given year. John said the management practices are his concern. Liv Baker indicated that she would want to be most conservative depending upon what crops might be there. Harvey Allen noted that he is not concerned with herbicides, but he is concerned about pesticides and wondered if sunflowers needed them. Mr. Wagner said not unless there is a problem.

John Gerber also noted that there is a lack of a surveyed plan and that they need some survey points on the plan. Peter said the reason there are no survey points is that when they came in for the determination, the Commission said it was okay not to survey, but to indicate on the map approximately where the boundary is. John responded that it had to do with the perception that they were going to plant trees. Now they want to plant sunflowers and he wants to know where the limit of work is going to be. Mr. Westover indicated that there are flags in the field, which Mr. Gerber pointed out will move once they clear the field. Mr. Westover said it makes sense to put in permanent markers, and asked if the Commission wants a survey or GPS points.

Dave Ziomek had two question regarding setbacks – particularly in the West end of the pond – what is the setback for the clearing up to the pond? Mr. Westover indicated that there is a setback of 10 feet, so 5 -15 from that line. Mr. Ziomek questioned what the Commission wants to do about the vernal pool that sits in the middle of the field? John – 25 feet of undisturbed vegetative buffer from the line. Mr. Ziomek than asked for clarification about the 25 foot buffer, is that for just the vernal pool or all the wetlands. John indicated all the wetland boundaries – all the resource areas.

Dan Kaplan asked about access to the field. Mr. Westover said that they were assuming that they would be coming in from around the pond as farmers have been doing for years. It is an established farm road. Dave asked whether access from Old Farm Road is no longer viable. Pete said that it is very close to the

wetland and they would have to cross the wetland at one point. It would be preferable to come in on the established farm road. Mr. Ziomek indicated that he would like to talk with Doug Hutcheson, the Land Manager, about access and would like to defer that discussion.

Mr. Westover asked if the Commission could issue its conditions under the assumption that access will be available. Otherwise they will have to ask for more in terms of wetland alterations. Ms. Ciccarello said that they can come back with an RFD for limited access and asked how many times they would need access in a year. Mr. Wagner indicated that they would need to access the fields about ½ dozen times per year. Pete was concerned about the delay that filing another RFD would cause, as the applicant wants to move ahead with planting for this season. Mr. Ziomek indicated that he would prefer the Commission not condition with the presumption of access. He wants to visit the site with Dough Hutcheson, Pete Westover and Buzz Wagner before making any decisions about access. Ms. Ciccarello suggested that the Commission continue the hearing for two weeks, so that the meeting can take place at the site and Mr. Westover can come up with language to bring to the meeting as part of the application.

Mr. Ziomek raised the issue that when the clearing is done, there would be more intensive use than 6 times per year. Mr. Wagner indicated that there would be multiple trips and multiple machines needed to remove the cleared material. Mr. Westover commented that the Commission had already approved the clearing which implies the removal. Mr. Ziomek wanted to make clear that these are two separate issues – that access is not presumed and that access is up to the Town. He indicated that the Commission could go ahead with setting conditions if they chose. The Commission decided to wait until the next meeting so that the access issue and conditioning could be done at the same time.

**VOTED** unanimously (6-0), to continue the public hearing to April 9, 2008 at 8:00 p.m.

## **MISCELLANEOUS**

### **Director's Report**

Dave Ziomek noted that Annual Town Meeting begins on April 28, 2008, so work in the office has begun to gear-up in preparation. In addition to the CPA articles, the Agricultural Commission's Right-to-Farm Bylaw may also make it on the Annual Town Meeting Warrant. If it does, the Ag Commission will come before the Conservation Commission to present the bylaw.

The beaver site visit went very well and Mr. Ziomek indicated that solutions have already been found for both of the problem areas and will be ready to go in place by in June or July. A Request for Determination will come before the Commission to install a beaver deceiver at Hop Brook and Doug Hutcheson has spoken with Sunbow farmers and Bill Mitchell to discuss beaver management on Cushman Brook.

Mr. Ziomek spoke about the Hitchcock Center for the Environment and their ideas for either renovating or replacing the building. Julie Johnson, Executive Director of HCE and their building committee will come before the Commission in April or May to present their ideas for creating a green, off-the-grid," totally sustainable building.

**CPAC Update**

Liv Baker reported that the Community Preservation Act Committee met on March 25, 2008 and voted on all the proposals before them, but they will need to take another vote because the public hearing was not yet held. She noted that all of the Conservation Commission proposals for funding passed (3-2). CPAC will hold a public hearing on April 15, 2008. Dave Ziomek indicated that the staff is now charged with crafting warrant articles for these proposals for the Annual Town Meeting which begins on April 28, 2008 and that a Conservation Commission member will need to speak to the articles when they come up at Town Meeting.

**PSTC Update**

Otto Stein reported that the Committee is working on an Arbor Day celebration to be held in conjunction with Earth Day on April 26, 2008. Hope Crolius has been organizing the event.

**Mark Stinson - DEP**

Mark Stinson, a MassDEP Wetlands Circuit Rider, was on hand to offer assistance with understanding the State Wetlands Protection Act and noted that May is National Wetlands Month. He distributed information on rulings on court cases dealing with wetlands and quizzed the Commission as to whether the situations represented were either jurisdictional or non-jurisdictional.

**ADJOURNMENT**

**VOTED** unanimously (6-0), to adjourn the public meeting at 9:30 p.m.