

**MINUTES**

**CALL TO ORDER**

Meeting called to order by Mr. Gerber at 7:00 p.m.

**ATTENDANCE**

**PRESENT:** Allen, Gerber, Kaplan, Stein, Robb – arrived at 8:30 p.m.

**ABSENT:** Baker

**STAFF:** Ziomek, Ciccarello

**OTHERS:** Stephanie O’Keeffe, John Nicolau, Ron LaVerdiere, Bruce Griffin, Jan Servaes, Tanya Cushman, Ward Smith, Peter Wells, Rob Quinn, Alice & Seymour Epstein, Chuck Dauchy, Paul Cole, Jody Doele, Mark D’Urso, Heather Colson, Carol Gray,. Bob Stover, Nancy Hamel

**CONSERVATION COMMISSION’S ACTION**

**Approve Minutes**

**VOTED** unanimously (4-0), to approve the Conservation Commission minutes of August 13, 2008 as amended.

**Committee Appointments**

**VOTED** (3-0-1), Allen, Gerber, Kaplan, voted “Aye” and Stein abstained to appoint Otto Stein as the Conservation Commission representative to the Public Shade Tree Committee with a term to expire June 30, 2011.

**VOTED** (3-0-1), Gerber, Kaplan, Stein voted “Aye” and Allen abstained as the Conservation Commission representative to the Hitchcock Center for the Environment with a term to expire June 30, 2011.

**Informal Discussion RE: Future property use - 35 South Orchard (Map 26B, Parcel 131)**

Mr. Nicolau requested that the Commission move the discussion to the September 10, 2008 meeting.

**VOTED** unanimously (4-0), to move the discussion regarding future property use of 35 South Orchard Street (Map 26B, Parcel 131) to September 10, 2008 at 7:05 PM.

**PERMITS/CERTIFICATES**

**Request for a Certificate of Compliance – 323 Potwine Lane**

**VOTED** unanimously (4-0), to issue a Certificate of Compliance for 323 Potwine Lane.

**Request for Determination RFD08-1127 – Amherst Conservation Department for selective removal of vegetation within the dam spillway at Puffer’s Pond located on Mill Street (Map 5B, parcel 16).**

- Opened the public meeting at 7:30 p.m.
- Closed the public meeting at 7:35 p.m.

Dave Ziomek presented.

**VOTED** unanimously (4-0), to close the public meeting and to issue a negative determination for the work.

**Discussion RE: Special Conditions – NOI08-1105 – Meadow Street storage facility.**

John Gerber indicated that he would like to write a letter to the Planning Board encouraging maintenance of the intermittent stream.

**VOTED** unanimously (4-0), to issue an Order of Conditions with Special Conditions as agreed upon.  
Order of Conditions - Special Conditions – NOI08-1105

Issued to: Leigh Andrews and Donald LaVerdiere

For: construction of a storage facility on Meadow Street

Date of Issuance: September 4, 2008

This Order of Conditions and its accompanying Special Conditions pertains to the construction of a storage facility located on a previously farmed lot. As the land has not been in agricultural use for a period greater than five years, agricultural exemptions no longer apply. There is an existing drainage swale (intermittent stream) which serves to drain water from three adjacent farms. The owner has made a verbal agreement that another entity may propose and conduct maintenance of the swale. It is understood that any work on the aforementioned intermittent stream will require the filing of a separate Notice of Intent.

1. Conditions #1-#20 on pages 1& 2 of this form shall be followed in their entirety.
2. Before any site work begins, the applicant shall record the Order of Conditions at the Hampshire County Registry of Deeds within the chain of title for this property and submit proof of recording to the Commission.
3. No activity may proceed until the applicant has received all other permits required by law, including but not limited to any permit required by Health Inspections, Planning Board, Zoning Board of Appeals, Department of Environmental Protection, and/or the Army Corps of Engineers.
4. Before any work begins on the site, a performance deposit of \$2,000 shall be submitted to the Commission. The deposit will be returned with any accumulated interest upon completion of the project to the satisfaction of the Commission, together with the issuance of a Certificate of Compliance.

5. Before any site work begins, a site meeting scheduled by the applicant shall be held to review the Order of Conditions. Representatives of the applicant, the Commission, and the contractor in charge of site work shall be present.
6. The Wetlands Administrator shall receive forty-eight (48) hours advance notice, before the commencement of any activity within, or within the 100 foot buffer zone of, the resource area(s), including site preparation and construction.
7. Work shall conform to plans and information submitted to the Commission in the Notice of Intent, and to these special conditions:
  - a. A deed restriction, stating that all areas below the elevation of the 100 year flood (elevation 152.8) shall not be filled without the filing of a Notice of Intent, shall be recorded at the Hampshire County Registry of Deeds. Proof of recording shall be submitted to the Commission prior to work.
  - b. Mowing shall occur between April 15th and July 15th so as not to interfere with grassland and other early successional bird species.
  - c. All work in streams shall occur during low/no flow periods between July 1st and October 1st only.
  - d. An annual Pollution Prevention Plan report shall be submitted to the Conservation Commission.
  - e. The contractor(s) employed to execute earth-moving, vegetation removal, demolition, and/or motorized vehicle operation activities on the property subject to this Order must be provided a copy of this Order prior to the commencement of any such activities. Said contractor(s) may be held responsible with the applicant and property owner for violations by the contractor, and may be subject to penalties authorized by law and/or regulation for those violations.
  - f. The applicant shall take full legal responsibility for implementation of the "Operation and Maintenance Plan", as submitted within the Notice of Intent, until such time as another party or entity exerts legal responsibility and the Commission is so notified in writing. Upon this transfer of responsibility, that party shall maintain all stormwater structures within the Commission's jurisdiction. This Special Condition is ongoing and does not end upon the completion of this project or the issuance of a Certificate of Compliance.
  - g. The project conditioned by this Order is fully subject to the Massachusetts Department's Bureau of Resource Protection "Snow Disposal Guidance" (Effective Date March 8, 2001) (Guideline BRPG 01-01). All management of snow on the subject parcel(s) shall conform to this Guidance. This Special Condition is ongoing and does not end upon the completion of this project or the issuance of a Certificate of Compliance.
  - h. All wetland replication/mitigation shall be supervised by a qualified Environmental Scientist with a minimum of five years experience and shall be approved by the Conservation Commission.

- i. A Bordering Vegetated Wetland Replication Checklist (as per Appendix 3 of the DEP BVW Replication Guidelines) as well as a Monitoring Checklist (as per Appendix 4 of the DEP BVW Replication Guidelines) shall be submitted to the Commission.
  - j. Reports on all wetland replication/mitigation shall be submitted to the Commission by a qualified Environmental Scientist for a period of two full growing seasons. Reports, along with photographs, shall be submitted at the beginning and end of each growing season resulting in a total of four reports.
  - k. Strawbales shall be used in lieu of haybales to prevent the spread of invasive seed stock.
8. Work shall proceed in strict accordance to referenced plan(s) in the Permit, and to information submitted in the Application. For any change in the approved plans, the applicant shall inquire of the Commission in writing whether the change is substantial enough to require an Amended Order of Conditions or the filing of a new Notice of Intent.
  9. Before any work begins, erosion control shall be installed along the limit-of-work line. The Commission shall approve the actual location in the field. Extra materials shall be kept onsite for use as needed. Such controls shall remain in place and be maintained until all disturbed areas have been stabilized to the satisfaction of the Commission.
  10. No grading, operation of machinery, storage of materials, stockpiling of fill or brush or other work shall occur on the wetland side of the erosion control. The area between this line and the wetland edge shall be kept as a permanent vegetated buffer for the purpose of minimizing any potential negative wetland impacts.
  11. No fill or topsoil shall be stored within 20 feet of the erosion control.
  12. All disturbed areas in the Buffer Zone shall be loamed, seeded, mulched and stabilized within 48 hours of project completion.
  13. A copy of the Permit shall be kept on-site at all times during construction. All contractors and sub-contractors engaged during construction shall be provided with a copy of the Permit, and should be prepared to produce said Permit upon request of the Commission or its agent.
  14. All structures, facilities, and equipment as part of the project shall be continually operated and maintained so as to comply with the Permit. This provision applies specifically to all heavy equipment used on the project. Any leakage of oil, hydraulic fluid, gasoline, or any other pollutant must be cleaned up immediately, and the defective equipment responsible for said leaking shall be repaired immediately or taken off-site.
  15. All work shall be completed in such a manner as to prevent eutrophication or sedimentation in wetlands, water bodies, or public or private water supplies.

16. Any substantial changes made or intended to be made in the plans shall require the applicant to file a new Notice of Intent or to inquire of the Commission, in writing or by certified mail, whether the change is so substantial as to require the filing of a new Notice.
17. A Certificate of Compliance shall be requested from the Commission upon completion of the proposed work. Said request shall be accompanied by a written statement from the professional who prepared the plan certifying compliance with all plans, as well as an "as built" plan.
18. The Commission reserves the right to amend this Order of Conditions if changed conditions or new information so warrants.
19. Representatives of the Commission shall have the right to inspect the premises to ensure compliance with the Conditions and the Performance Standards applying to this Order and with the Massachusetts Wetland Protection Act and the Town of Amherst Wetlands Protection By-Law.
20. This Order shall apply to every successor in interest of the property described in the Notice of Intent and accompanying plans. In the event that this land changes ownership before or during construction, the current owner shall notify the new owner of this Order by registered mail prior to the transfer of ownership and shall forward proof of this notification to the Commission.

**RE-OPEN - Notice of Intent - NOI07-1073 (continued from 6/11/08) – Paul Cole for development of an 8 lot 11-unit cluster subdivision located at 1194 West Street (Map #25B, parcel 29).**

Peter Wells presented; Chuck Dauchy responded to questions from the Commission

**VOTED** unanimously (4-0), to continue the public hearing to September 24, 2008 at 7:30 PM.

*Nicki Robb arrived and resumed chairing the meeting.*

**Request for Determination – RFD08-1126 – Jan Servaes for a family room addition to an existing house in the buffer zone of bordering vegetated wetlands located at 78 Aubinwood Road (Map 15D, Parcel 98)**

- Opened the public meeting at 8:33 p.m.
- Closed the public meeting at 8:43 p.m.

Mr. Jan Servaes presented and responded to questions from the Commission.

**VOTED** unanimously (5-0), to close the public meeting and to issue a negative determination for the work with special conditions as follows:

1. The Wetlands Administrator will be notified upon installation of erosion control prior to work;
2. Silt fence and straw bales will be used instead of hay bales; and the
3. Wetlands Administrator will conduct a final inspection before the removal of the erosion control.

**Request for Determination – RFD08-1128 – Alice and Seymour Epstein for replacement of a failing septic system within 100 feet of a pond located at 37 Bay Road (Map 25B, parcels 19, 20 & 21).**

- Opened the public meeting at 8:44 p.m.
- Closed the public meeting at 8:55 p.m.

Rob Stover presented for the applicant.

**VOTED** (4-0-1), Robb, Allen, Gerber and Stein voted “Aye,” and Kaplan abstained to close the public meeting and to issue a negative determination for the work.

**Request for an Amended Order of Conditions NOI05-1009 – Levi-Nielsen, for 650-652 South East Street (Map 17D, Parcel 24).**

- Opened the public hearing at 8:56 p.m.
- Closed the public hearing at 9:33 p.m.

Jody Doele presented for the applicant; Marc D’Urso responded to questions on behalf of the applicant. Carol Gray raised concerns regarding the work within 100’ of the certified vernal pool. Janet McGowen raised concerns about the lack of a hydrogeologic study.

**VOTED** (4-0), Robb, Gerber, Kaplan and Stein voted “Aye,” and Allen recused himself to close the public hearing and to issue an Amended Order of Conditions.

**Emergency Permit – Tillson Farm Road**

**VOTED** unanimously (5-0), to ratify the Emergency Permit issued by the Wetlands Administrator on August 25, 2008 for Tillson Farm Road.

**ADJOURNMENT**

**VOTED** unanimously to adjourn the open meeting at 9:32 p.m.