

MINUTES

CALL TO ORDER

Meeting called to order by Mr. Kaplan, Vice-Chair at 7:04 p.m.

ATTENDANCE

PRESENT: Allen, Gerber, Hamin, Kaplan (VC), Stein, Walker

ABSENT: Angus

STAFF: Ziomek, Ciccarello

CONSERVATION COMMISSION'S ACTION

Approve Minutes

Minutes of the August 12, 2009 meeting to be reviewed at the September 9, 2009 meeting.

PERMITS/CERTIFICATES

Notice of Intent (cont'd from 8/12/09) – Donald E. Perron for construction of a storage garage within the riverfront area located at 311 Belchertown Road (Map 18A, parcel 11).

- Opened the public hearing at 7:23 p.m.
- Closed the public hearing at 7:29 p.m.

Chuck Dauchy presented for the applicant.

VOTED unanimously (6-0), to close the public hearing and to issue an Order of Conditions.

Request for Determination – The Hopbrook Meadow Homeowners Association for routine mowing in a bordering vegetated wetland (Map18C, parcel 167).

- Opened the public meeting at 7:30 p.m.
- Closed the public meeting at 7:34 p.m.

Amy Carlson presented for the applicant.

VOTED unanimously (6-0), to close the public meeting and to issue a negative determination for the work with the special condition that mowing occur between August 31st and October 1st only.

7:40 PM – Request for Determination – Beverly Barstow for repair of an existing septic system located in the buffer zone of bordering vegetated wetlands at 417 Bay Road (Map 30A, parcel 24).

- Opened the public meeting at 7:43 p.m.
- Closed the public meeting at 7:49 p.m.

Alan Weiss presented for the applicant.

VOTED unanimously (6-0), to close the public meeting and to issue a negative determination for the work.

Request for Determination – South Middle Street, Inc. for construction of a single-family house and driveway located in the buffer zone of bordering vegetated wetlands (Map 26A, parcel 47)

- Opened the public meeting at 7:50 p.m.
- Closed the public meeting at 8:03 p.m.

Gloria McPherson and Chuck Dauchy presented for the applicant.

VOTED (4-0-1), Allen, Gerber, Kaplan and Stein voted “Aye,” Hamin abstained and Walker recused himself due to a potential conflict of interest, to close the public meeting and to issue a negative determination for the work. The applicant was reminded to notify the Wetlands Administrator when the erosion control is in place, prior to any work being done.

Notice of Intent – Tofino Associates for construction of a single-family house located in the buffer zone of bordering vegetated wetlands located at Lot 46 Hawthorn Road (Map 21D, parcel 164).

- Opened the public hearing at 8:05 p.m.

VOTED (5-0), Allen, Gerber, Hamin, Stein and Kaplan voted “Aye,” Walker recused himself due to a potential conflict of interest to continue the public hearing, at the applicant’s request, to September 23, 2009 at 7:30 p.m.

Notice of Intent (Cont’d from 5/27/09)– Amherst Department of Public Works for roadway reconstruction and drainage improvements partially in, and in the buffer zone of, bordering vegetated wetlands and bank resource areas (Route 116 - Atkins Corner adjacent to Map 25B parcel 5).

- Opened the public hearing at 8:12 p.m.

VOTED unanimously (6-0), to continue the public hearing, at the applicants request, to September 9, 2009 at 7:30 p.m.

MISCELLANEOUS UNTIMED ITEMS:

Discussion and Vote regarding issuance of an Order of Conditions with Special Conditions to Andrews and LaVerdiere for construction of an office building on Meadow Street, Amherst (Map 4D, Lot 3).

VOTED unanimously (6-0), to issue an Order of Conditions with Special Conditions as drafted by the Wetlands Administrator.

This Order of Conditions and its accompanying Special Conditions pertains to the construction of an office building 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.

Proposed work will directly impact Bordering Vegetated Wetlands, Bordering Land Subject to Flooding and the Riverfront Resource Area.

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 entitled " Amherst Enterprise Office Building, Amherst Enterprise Park" Amherst, Massachusetts, prepared for Leigh F. Andrews and Donald A. Laverdiere by Garrity & Tripp, dated February 13, 2008 with revisions dated 1/27/09 ,**

(Page 2 – Special Conditions - Andrews & LaVerdiere NOI08-1106)

June 11, 2009 and July 29, 2009 and information submitted to the Commission in the Notice of Intent, and to these special conditions:

- a. **As per the Amherst Town Engineer, final plans submitted to the Commission shall include:**
 - (1) **A 50 ft wide sewer easement should be provided around the existing sewer**
 - (2) **A 50' wide drainage easement will be required around the existing drainage swale from Meadow Street to the Mill River.**
- b. **Permanent markers shall be installed indicating the extent of the constructed compensatory storage area so as to prevent the future filling of this location. The markers shall be written with the words "Compensatory Storage Limits – No Fill Allowed".**
- c. **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.**
- d. **Mowing shall not occur between April 15th and July 15th so as not to interfere with grassland and other early successional bird species.**

- e. All work in streams shall occur during low/no flow periods between July 1st and October 1st only.
- f. An annual Pollution Prevention Plan report shall be submitted to the Conservation Commission.
- g. 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.
- h. 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.
- i. 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 (Page 3 – Special Conditions - Andrews & LaVerdiere NOI08-1106)
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.
- j. 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.
- k. 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.
- l. 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.
- m. During construction the applicant shall ensure that fine-grained soils are prevented from leaving the site or migrating into wetland resource areas via unfinished drainage and stormwater structures.
- n. A gravel construction pad shall be installed at all entrance/exit points to the construction site to assist in keeping sediment on site.
- o. The owner shall maintain an operation and maintenance log that includes inspections, repairs, replacement and disposal (indicating type of material being disposed and its location) according to Standard #9 of the Massachusetts Stormwater Standards Manual Volumes 1-3.
- p. Strawbales shall be used in lieu of haybales to prevent the spread of invasive seed stock.
- q. An as-built plan shall be submitted to the Commission and to the engineering department upon completion of this project. The as-built plan must be tied in to the US State Plane 1983 Coordinate System, Mass Mainland 2001 zone, under the NAVD88 datum, feet. Existing town control points should be identified on this plan.

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.

(Page 4 – Special Conditions - Andrews & LaVerdiere NOI08-1106)

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 silt fence.

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.

MISCELLANEOUS

Land Manager Position

Dave Ziomek reported to the Commission that he has gotten the go-ahead from the Town Manager's office to advertise the Land Manager position.

Forever Farmland Signs

Mr. Ziomek noted that he spoke with the Select Board and got their approval to go forward with the Kestrel Trust's Forever Farmland signs. He will send out a letter with Briony Angus and Ruth Hazard's signatures to request that all Amherst APR farmers participate. Pat Wagner suggested getting the signs up for the October 3rd 250th Anniversary event.

Open Space and Recreation Plan

Dave met with the State Program Representative who reviews them and is happy to report that Amherst got excellent reviews. One of the best they have ever seen! Amherst is now eligible for all grants, etc. associated with it. He noted that Planning and Conservation Departments are very busy working together to secure a number of grants – watershed protection, energy grants, etc.

Olendzki Project Grant

Dave met with State representative and noted that Amherst has hit every benchmark and we are currently waiting to see if we receive that grant.

Appraisals

Many in the works – Andrews/LaVerdiere property, Cole property on Rte. 116, Apple Brook, and land along the Cushman Brook are some the areas under appraisal.

Puffer's Pond

Dave noted that it had been a pretty successful summer season at the Pond. They have gotten 45 "in person" surveys and 35-40 online surveys. The Puffer's Pond 2020 Committee is on the August 31st Select Board agenda to appoint the slate of members as recommended by the Commission. The kick-off meeting is scheduled for 11:00 AM on Saturday, September 12, starting at the Mill River Recreation area. Members will walk the trails from the Mill River Recreation area to the Pond.

VOTED unanimously (6-0), to recommend the following people be appointed to the Puffer's Pond 2020 Committee for a term to expire July 1, 2010: Elisabeth Hamin – Conservation Commission representative, Briony Angus – Conservation Commission representative, Aaron Hayden – Select Board representative, David Webber – Planning Board representative, Jim Patulak - LSSE Commission representative; at-large members Meg Gage, Jennifer Holme, Emlen Jones, Paris Muska, Jim Pistrang, and Evan Shopper.

ADJOURNMENT

VOTED unanimously to adjourn the open meeting at 8:40 p.m.