

**MINUTES- 4 June 2007
Hopkinton Town Hall, Room 211**

**Called to Order: 7:30 PM
Adjourned: 10:20 PM**

Members Present: Robert Murphy, Jack Speranza, Michael Carmody, David Teitelman, Steven Radel, Ellen Chagnon: Conservation Scientist, Don MacAdam: Conservation Administrator

Members Absent: Jeffrey Barnes, Craig Nation

**7:30 PM Bethoney, 182 & 184 Fruit Street
Violation Hearing**

Doug Resnick, Attorney; Don Provencher, Provencher Engineering; Chris Bethoney, Bethoney & Burton Builders; Bill Woodward, wetland consultant

Ms. Chagnon provided an overview of the wetland violation, stating that sediment eroded from Lot C during the 17 May 2007 storm event and was deposited via an existing culvert to the wetland buffer zone on the MA Department of Conservation and Recreation (DCR) property located across the street.

Mr. Resnick presented drainage plans that were produced for the Planning Board and provided an overview of the site conditions. Mr. Resnick stated that Mr. Bethoney was on site during the storm event and did not observe the erosion. Mr. Resnick stated that Mr. Bethoney observed that the DPW performed street sweeping which may have added to the amount of sediment that the DCR property received. Mr. Resnick stated that Fruit Street receives significant sanding due to icing conditions. Mr. Resnick stated that Mr. Bethoney has enhanced the erosion controls on-site since being contacted by the Conservation Office.

Ms. Chagnon noted that, while all the sediment currently deposited on the state property did not originate from this event, some of the sediment should be removed to protect the resource areas if it is allowed by DCR. Mr. Resnick stated that Mr. Bethoney is interested in using a vacuum truck to do the work. Ms. Chagnon agreed it would be an adequate tool for removing the sediment. Mr. Provencher proposed the construction of a vegetated swale and a settling area.

Mr. Bethoney stated that he will be ready to landscape the parcels within four to six weeks. A discussion was held regarding stabilizing the site immediately.

A discussion was held regarding any action the Commission may take. Mr. Speranza stated that the site is outside the Commission's jurisdiction and is not sure that an ERO is necessary in this particular instance. Mr. Murphy stated that the erosion event has brought the site into the Commission's jurisdiction. Mr. Speranza stated that run-off reaching the state property is not a new situation. Ms. Chagnon stated that the flow of water off the property has been a constant but that siltation from the open sites currently under development is a new problem and subject to Commission jurisdiction. Ms. Chagnon stated that she had communicated with Mr. Bethoney,

prior to the start of the site work, regarding previous site history and the threat of sediment eroding off the steeply-sloped site during construction.

The Commission determined to have Ms. Chagnon review the site with Mr. Woodward relative to the necessary erosion control measures.

7:45 PM **Massachusetts Turnpike Authority, I-90 East & West** **RDA 2007-7**
(7:55 PM) **Request for Determination of Applicability**

Rick McCullough, Massachusetts Turnpike Authority

Mr. McCullough presented an overview of the proposed herbicide spraying program for the portions of the Mass. Turnpike, I-90 within Hopkinton. Mr. McCullough presented a site plan and stated that they are utilizing the Mass GIS DEP Wetlands data layer for their wetland delineation of the area in the immediate vicinity of the guardrails where the spraying will take place. Mr. MacAdam stated that the scale of the plans submitted is not large enough to allow identification of the wetlands and that the Mass GIS DEP Wetlands data layer notes the following language "The wetland boundaries shown on this map have been determined by photographic interpretation. They do not represent, and should not be used as wetlands delineations under the Wetlands Protection Act". Mr. McCullough stated that their wetland staff performed a visual inspection of the area, and noted their findings in the Yearly Operating Plan, and delineated portions of the roadway from previous filings with the Commission.

Mr. Speranza made a motion to close the hearing and issue a Determination of Applicability subject to the submittal of a site plan at a readable scale and copies of the referenced wetland delineation information within two weeks. The motion was seconded by Mr. Teitelman and it passed unanimously.

8:00 PM **Gassett, 30 Front Street** **DEP File No. 188-1370**
(8:15 PM) **Abbreviated Notice of Resource Area Delineation – continuation**

Joseph P. Marquedant, J.D. Marquedant & Associates; Jerome Carr, Carr Research Laboratory; Brian Gassett, applicant

Mr. Marquedant presented an amended resource area plan and provided an overview of the delineation work that has been performed on the property.

Mr. Carr stated that one of the vernal pools that was delineated immediately after a 2.5 inch rain event and then decreased in size dramatically soon after. Mr. Carr submitted a plan that depicted the portions of the vernal pool that remained viable for vernal pool species and asked if the Commission will consider using the revised delineation for the Order of Resource Area Delineation (ORAD). Ms. Chagnon stated that she observed the area over time and identified that the pool overflowed at the 310 foot elevation noted on the site plan. She stated that the pool was full and overflowing at the time of the delineation and that, according to the wetland regulations and DEP's position on a similar vernal pool at Stagecoach Heights (DEP File No. 188-1148), the extent of the vernal pool is that which was identified on 17 May 2007 (the highlighted orange line on the plan), and not the revised delineation made later on (the highlighted pink line).

8:45 PM Hakansson, 67, 71, 73 Front Street; 6, 16, 18, 20, 22, 42 South Mill Street
(8:55 PM) DEP File Nos. 188-1331 & 1332, 188-1372 to 1377, 188-1385
Notices of Intent – continuation for nine lots
8:45 PM Braim, Lots 17-22 South Mill Street DEP File Nos. 188-1378 to 1383
(8:55 PM) Notices of Intent – continuation for six lots

Tim Paris, Connorstone Engineering; John Hakansson, applicant

Mr. Paris provided an overview of the revised plan for 42 South Mill Street, Lot 2.

Mr. Paris stated that the proposed grading for the driveway easement for 44 South Mill Street, Lot 1 has been removed from within the 50-foot setback.

Mr. Paris stated that there are no revisions to the proposed plan for the following locations: 22 South Mill Street (Lot 3), 20 South Mill Street (Lot 4), 18 South Mill Street (Lot 5), 16 South Mill Street (Lot 6),

Mr. Paris provided an overview of the revised plan for 6 South Mill Street (Lot 8). Mr. Paris stated that the limit of work and proposed yard area has been reduced within the outer 50 foot buffer zone.

Mr. Paris provided an overview of the revised plan for 67 Front Street (Lot 10). Mr. Paris stated that the limit of work and proposed yard area has been reduced within the outer 50 foot buffer zone.

Mr. Paris provided an overview of the revised plan for 71 Front Street (Lot 12). Mr. Paris stated that the driveway has been relocated to the other side of the house and further away from the resource area.

Mr. Paris provided an overview of the revised plan for 73 Front Street (Lot 13). Mr. Paris stated that the house has been reconfigured and located further away from the resource area, the proposed buffer zone disturbance remains essentially the same, and a circular driveway has been located in front of the house.

Mr. Paris provided an overview of the revised plan for Lot 17 South Mill Street. Mr. Paris stated that the driveway has been relocated to the other side of the house and further away from the resource area, thereby reducing the amount of buffer zone disturbance.

Mr. Paris provided an overview of the revised plan for Lot 18 South Mill Street. Mr. Paris stated that the limit of work and proposed yard area have been reduced within the outer 50 feet of the buffer zone.

Mr. Paris stated that there are no revisions to the plan for Lot 19 South Mill Street.

Mr. Paris provided an overview of the revised plan for Lot 20 South Mill Street. Mr. Paris stated that the limit of work and proposed yard area has been reduced within the outer 50 feet of the buffer zone.

Mr. Paris provided an overview of the revised plan for Lot 21 South Mill Street. Mr. Paris stated that the turn-around area of the driveway has been reduced.

Mr. Paris provided an overview of the revised pan for Lot 22 South Mill Street. Mr. Paris stated that the turn-around area of the driveway has been reduced.

A discussion was held regarding the proposed clearing and preservation of trees six inches or greater in diameter for the “groved yard” areas and how large these areas are.

Mr. Paris provided an overview of why there was a greater amount of area within the 0-50 foot buffer than the 50-100 foot buffer zone.

A discussion was held regarding the placement of a Conservation Restriction (CR) on a parcel of land West of South Mill Street and an upland area located on various lots to the East of South Mill Street.

A discussion was held regarding 44 South Mill Street (Lot 1), which does not have a Notice of Intent filing to date. Ms. Chagnon noted that the house, septic system and driveway are identified in the cumulative plan and located within the 125-foot vernal pool buffer zones of two vernal pools. Mr. Murphy stated that the proposed development of Lot 1 and the subsequent increased disturbance that it will cause on Lot 2 is problematic in his opinion. Mr. Paris stated that they are currently reviewing alternative configurations of the lot. Mr. Paris agreed that Lot 1 is a difficult lot but hopes the Commission will allow for a fair review when an NOI is submitted for the lot.

Ms. Chagnon noted that Mr. Hakansson had previously stated that the proposed CRs were contingent on receiving permits for all sixteen lots that were going to be submitted to the Commission. Ms. Chagnon asked Mr. Hakansson if he will go forward with finalizing the CRs if the Commission does not issue a permit to develop Lot 1. Mr. Hakansson stated that the CRs are not contingent on receiving a permit to develop Lot 1, but that he would like the opportunity to submit a proposal for Lot 1 and not include the parcel as part of the CR area.

Mr. Arthur Riseman, 16 North Mill Street, stated that he appreciates the revisions to the proposed plans but that he is still concerned with the amount of proposed disturbance. Mr. Murphy provided an overview of some of the conditions the Commission may utilize if the Commission votes to issue permits for the parcels. Ms. Chagnon noted that careful language will be required for the proposed “groved yard” areas and that two forms of permanent immovable barriers may be required on the parcels.

Mr. Riseman asked who will monitor and have jurisdiction to enforce the restrictions on the use of fertilizers, pesticides, herbicides and salt products. Mr. Murphy stated that the Commission will have jurisdiction for any violations of any ongoing conditions identified in the Certificates of Compliance.

Mr. Jeff Barton, 40 South Mill Street, asked for an explanation of what a CR is and Mr. Murphy provided an overview.

Mr. Barton stated that his property is at a lower elevation than Lot 2 and he is concerned that development may increase runoff and flooding onto his property. Mr. Murphy stated that the runoff from the roofs will be infiltrated into the ground via dry wells and long driveways may require swales to control the runoff. Mr. Barton stated that he is concerned that the amount of wetlands will increase on his property. Mr. Paris stated that his hydrologic analysis indicates that the runoff will be controlled with infiltration measures and the detention basin and that more water will be directed into groundwater.

A discussion was held regarding the conditions for placing the CR and allowing for the initiation of site construction on the lots. The Commission determined that 18 South Mill Street (Lot 5)

will not be subject to any construction restrictions associated with the finalization of the CR. The Commission determined that site work can not start on the remaining lots until a draft CR is submitted and the CR must be finalized prior to the sign off by the Commission for any Certificates of Occupancy under the Building Department and the issuance of any Certificates of Compliance.

Mr. Speranza made a motion to close the hearing for 18 South Mill Street (Lot 5) and issue an Order of Conditions with the standard and all the special conditions noted during the hearing process. The motion was seconded by Mr. Carmody and it passed unanimously.

Mr. Speranza made a motion to close the hearings for all the remaining lots filed by Mr. Hakansson and Mr. Braim and issue Orders of Conditions subject to the standard and noted special conditions and the noted CR restrictions. The motion was seconded by Mr. Carmody and it passed unanimously.

10:10 PM Mr. Radel left the meeting.

10:10 PM Commission Business

- The Commission signed the following documents:
 - Rosewood Development, 8 Glen Road (188-1215) – Enforcement and Restoration Order
 - Segars, 33 Chamberlain St (HCC-0010) – Certificate of Compliance
 - Gassett, 30 Front St (188-1370) – Order of Resource Area Delineation
 - Gassett, 0 Pond St (188-1386) – Order of Conditions
 - Ward, 207 Wood St (188-1387) – Order of Conditions
- Mr. Carmody made a motion to approve the WPA Request for Payment dated 4 June 2007. The motion was seconded by Mr. Speranza and it passed unanimously.
- Mr. Speranza made a motion to request the Board of Selectmen (BOS) to authorize the Town Accountant to transfer \$8,322.29 from the WPA Fund to the appropriate line items under 171-5422-12. The motion was seconded by Mr. Teitelman and it passed unanimously.
- The Commission unanimously determined to submit a Request for Legal Assistance to the BOS for the appeal under the Bylaw to Superior Court for E.L. Harvey, Padik Circle (DEP File No. 188-1367).
- The Commission determined to send a letter to Attorney Richard Nylen requesting legal representation for the appeal under the Bylaw to Superior Court for E.L. Harvey, Padik Circle (DEP File No. 188-1367), subject to BOS approval.
- The Commission determined to have Mr. MacAdam review the current status of 66 Saddle Hill Road in response to the letter received from the property owners and report to the Commission at the next scheduled hearing.
- The Commission determined not to act on the written request, received from the property owner of 5 Stagecoach Way, to post a bond or offer up a different property in lieu of recording the Enforcement & Restoration Order for 5 Stagecoach Way at the Registry of Deeds.

Minutes Approved: 9 July 2007