

**TOWN OF ACTON
CONSERVATION COMMISSION
Minutes
October 3, 2018
7:15 PM
TOWN HALL - 472 MAIN STREET
ROOM 204**

COMMISSIONERS PRESENT: Terry Maitland, William Froberg, Amy Green, Jim Colman, Tim McKinnon, Jennifer Stoltz, Susanne Flint

NATURAL RESOURCES DIRECTOR: Tom Tidman

RECORDING SECRETARY: Fran Portante

VISITORS: David Cowell, Greg Gould, Scott Hayes, Dan Gannon, David Winders, Paul Duren, Dan Carr

7:15 Request for Determination: 461 Massachusetts Avenue

The project is for loaming and seeding an area within 100 feet of wetlands.

A number of commissioners had participated in the site walk for this property. David Winders presented the request as owner/applicant. He pointed out the area for clearing and planting. He would like to finish the clearing and landscaping that had never been completed under the original Order of Conditions issued when the home was constructed. The Order required that boulders be installed along the 50 foot buffer zone, and that had been done. The area had never been loamed or seeded as had been planned. Jennifer asked when this work would begin and Mr. Winders said it would begin before winter. Ms. Green pointed out that the Order had expired and a new RDA had been filed. The Commission discussed the issue of the Order having expired which was being presented as approved but unfinished. Mr. Colman pointed out that the boulder wall was substantial and satisfactory so he was comfortable allowing this exception to compliance with the new regulations. He viewed the wetlands as being well protected. Also, the overgrown area was mostly herbaceous weedy plants. No trees would need removal. Mr. Winders said the area was already prepped for loaming and seeding. When asked by Mr. Froberg about the amount of loam, he responded that 4 to 6 inches would be applied.

Decision: Mr. Colman moved to issue a **Negative 3** determination, meaning the work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent. An additional Finding of Fact was added stating that this determination was based on consideration of the previous Order of Conditions that had approved this work which was never completed. Ms. Stoltz seconded the motion and it passed unanimously.

7:30 Notice of Intent: 173 Willow St

The project is the construction of a porch within the 75 foot no-build zone to Bordering Vegetative Wetland.

Dan Gannon from Stamski & McNary presented the project. The applicant is proposing to add a 38 foot long porch. This is a non-conforming lot, with existing structures 23 feet from wetlands. The proposed porch would be 63.9 feet from wetlands. Ms. Green asked how high the porch would be. Mr. Gannon said it was a one story porch, with piers in front. There were questions from the Commissioners about the plan, and Dan pointed out on the accompanying plan where the driveway would be. Ms. Green asked if the lawn extended down to the wetlands, and how the contractor would be accessing the house. Would he drive around without impacting the wetlands, since there were wetlands on both sides of the house? Mr. Colman asked if wetlands on both sides were from the same system. As per this instance, the Commission discussed other instances where a wetland system was on both sides of a property. Mr. Gannon was asked where the septic system was, but he wasn't sure. Mr. Froberg asked if the porch would sit on sona tubes, what material would be used and if it would be elevated. Mr. Gannon said it would not be touching the area around it. But it was pointed out that there were stairs on the plan which indicated an elevation change. Mr. Froberg would like a picture of the finished project. Ms. Green asked, since it was low to the ground, would there be dirt under the porch? The Commissions wanted to see how the entrance to the porch would work. Dan would provide a more detailed plan. He also offered to provide a picture of the finished project.

Decision: Ms. Green moved to issue a standard **Order of Conditions**, waiving conditions 18 and 19 of the Town of Acton Bylaw, and adding a special condition that a revised plan be submitted to the Conservation Agent showing the proposed location of the steps to the porch and that they not extend beyond 8 feet from the edge of the porch. Ms. Stoltz seconded the motion and it passed unanimously.

Request for Determination: 149 Central Street; the applicant requested the meeting be continued to 10/17/2018.

8:00 Notice of Intent: 61 Central Street

The project is the construction of a garage addition, drainage and driveway improvements, removal of hazardous trees and buffer zone restoration within 100-ft of a bordering vegetated wetland.

Scott Hayes, principal of Foresite Engineering, presented for the client. A position letter was handed to the Commission which they reviewed prior to Scott's presentation (see attachment 1). He pointed out that the house was built in 1953. There is a gas station across the street. The site has both BVW and an intermittent stream on the site. The applicant would like to build a garage, replacing existing driveway and fix some drainage problems. There is an existing

garage under the house but it's too low for his vehicles. The proposal is to remove the driveway turnaround, thereby reducing impervious cover. The area between the driveway and the brook is currently lawn. No drainage mitigation currently exists. The applicant is proposing to install a drywell, drainage structures, a catch basin to improve drainage flow. Downspouts would also be installed to tie into this drainage system. Included in the proposed project was a restoration area that would replace the lawn area with a naturalized buffer zone between existing lawn and the down-gradient resource area. Mr. Hayes contended that these demonstrated improvements compensated for the proposed construction of the garage on the previously existing driveway. His office contended that the garage is a "like activity" to the existing driveway, and is eligible to be treated as such.

There was no contention over the delineation. Asked if the stream floods into the lawn, it was described as cresting but not fully covering the lawn. The property sits high in the watershed. There isn't much alternative to siting the garage. Mr. Colman asked why the garage couldn't be moved closer to the house. If it were attached, setbacks could be increased. He would like to see increased setback. He also cited the "Like Structures" policy that did not equate a driveway with a structure like a garage. Mr. Hayes said there was little alternatives. Mr. Hayes contended the garage was an improvement over existing pavement, but Mr. Colman maintained improvement was minimal.

Mr. Duren, the owner, maintained that a garage situated near the house would be an obstacle to moving equipment and trailers. Mr. Hayes pointed out that the Commission has the ability to grant relief for these circumstances. Mr. Colman wanted to see alternatives. Mr. Maitland pointed out that pavement is not the same as a structure. Mr. Froberg concurred that the policy makes a distinction between pavement and structure. Ms. Green noted that the proposal had some public benefit. Mr. Colman disagreed, but Mr. Froberg saw a net improvement to the resource area. Mr. Hayes asked what could be done to the plan to make it acceptable? Mr. Maitland pointed out the Commission had made such exceptions in the past but had been "burned" when the subsequent actions of the applicants far exceeded the intention. Therefore, the Commission has to give this proposal serious consideration.

Mr. Hayes expressed his frustration as a designer. Mr. Colman reiterated the position of the Commission and asked for a new plan. Mr. Hayes said he would try another approach. Mr. Maitland said he appreciated Mr. Hayes's attempt to improve the site but not enough to allow for an exception.

The Hearing was continued to October 17, 2018 at 8:00PM

8:15 Notice of Intent: 6 Colonial Path

The project is the construction of a retaining wall on a single-family home lot. The project will occur within the 100 foot Buffer Zone to Inland Bank associated with an

intermittent stream. Portions are also proposed within setback zones prohibited under the Acton Bylaw, for which a waiver is being requested.

David Cowell from Hancock Associates presented for the applicants. The project is the construction of a retaining wall to mitigate the erosion of a steep bank that has encroached to within 5 feet of a rear deck on the dwelling. Given the proximity to Inland Bank, he is also asking the Commission for a waiver of setback requirements. The rear of the lot abuts the recently constructed Assabet River Rail Trail (ARRT). A man-made channel providing stormwater drainage for the trail runs along the toe of the slope. This has now been jurisdictionally classified as an intermittent stream. The house, built in 2007 prior to the ARRT construction, had no resource areas associated with the site. It now has areas within the 50 foot 'no disturb" zone and the 75 foot "no build" zone. A request for a waiver to build a retaining wall is needed since slope erosion has increased in severity over time. The closest point to the dwelling is 5 feet.

A pre-filing meeting was held with Mr. Cowell, Tom Tidman and Amy Green to explore options. They were seeking a permanent solution to prevent further erosion that would affect the house. Alternatives were explored: vegetation was considered too risky given the loose soil conditions on the slope; erosion control blankets and geogrids were not designed for such a steep grade; a retaining wall in excess of 4 feet high would require a structural engineer. The choice of a retaining wall, 4 feet high or less, for the shortest length possible, was the most practical solution. The gradient slope was already vegetated with mostly invasive species. The plan would be to remove the invasive material, build the wall, back fill with material that provides maximum drainage features (see attachment at end of this document.) It was also agreed that, rather than extending the lawn, a native flower planting bed would be installed from the edge of existing lawn to the wall. As a requirement, it would be maintained in perpetuity.

Mr. Colman asked about backfilling the wall and Mr. Cowell explained that fill would be added up to the top of the wall, leveled to the top of the slope. He pointed out the area on the map and presented existing conditions photos to support his description. These have been included and stored with the other filing documents. Mr. Froberg asked how deep the wall would be implanted and Mr. Cowell said it would be 2 feet below the surface. Mr. Cowell reviewed the plans in detail with the Commissioners, pointing out the mitigation area, proposed planting area and the details of the wall construction. Mr. Froberg asked if it was necessary to build the wall 4 feet high. Could it be 3 feet? Mr. Cowell showed additional photos of the ARRT wall down gradient from this property. This was left as an item to explore. Ms. Green asked about the material used for the wall and its structural integrity.

Mr. Cowell noted that mitigation plantings, the cross-sectional detail of the wall, and the consideration of safety issues associated with the height of the wall, were needed. A continuation would be planned and he would send the additional material to the Commission prior to the hearing.

Mr. Maitland announced the Hearing would be continued to October 17, 2018 at 8:15PM.

8:30 Amended Notice of Intent: 85-1216, Newtown Road Culvert Replacement

Request for Amendment to Order of Conditions, DEP file no. 85-1216. The original project was to replace a culvert on Newtown Road, near Simon Willard Road. Due to difficulty with acquisition of the proposed replacement pipe, three separate circular reinforced pipes are proposed. All other aspects of the project remain the same.

Dan Carr presented for the Town of Acton. The original project was to replace an arched corrugated metal culvert on Newtown Road. The existing culvert (which is collapsed at this time) was 40" x 65". A direct replacement was proposed and approved with the Order of Conditions. However, they were unable to procure the replacement pipe and have revised the solution to use a combination of three pipes, 2 pipes, each 27 inches in diameter and 1 pipe 26 inches in diameter. These have the same overall shape and throughput. While not an exact replacement, it is functionally equivalent.

Conant Brook flows through the culvert, which is full almost year round. The road is within the 10 year flood zone. There should be no detrimental impact. This is the most reasonable solution since the installation of a box culvert would require that the entire road be raised. Ms. Green raised concerns about the restriction to wildlife. Mr. Carr pointed out that stronger pipe was required since the pipe was about a foot below the road surface. Ms. Flint asked about wildlife passing since the road was low but it was pointed out that water on both sides of road also offered opportunity for wildlife movement. Dan presented several illustrations and graphs to support the design changes. Dan also pointed out that a diversion pump was included in the plan should it be needed.

An abutter remembered a time when the area was dry enough to walk across, in the 90's. But he now sees flooding and would like assurance that this flooding won't get worse as a result of this installation.

Decision: Ms. Stoltz moved to approve the **Amended Order of Conditions**. Mr. Froberg seconded the motion and the motion was approved by the Commissioners present. [Note: Mr. Colman was not present for the vote.]

8:45 Request for Determination: Road Resurfacing for 2018 2

Resurfacing Joseph Reed, Deacon Hunt, Mallard, Spencer and Durkee roads. The streets will be milled and leveled as well as being resurfaced. Some of the work will occur in the buffer zone of Bordering Vegetated Wetlands.

Mr. Tidman presented this project on behalf of the Acton Engineering Department. The Town had enough budgeted funds to include 6 more roads to this year's list of roads to be resurfaced. He also noted that, for these 6 roads, any existing wetlands were in the rear of the properties, not along the roads. The Commission also discussed having a generic Road Resurfacing filing request that could simplify this annual process.

Decision: Ms. Green moved to issue a **Negative 3** determination, meaning the work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent. Mr. Colman seconded the motion and it passed unanimously.

Certificate of Compliance:

85-0973: 149 Central Street: not ready for Certificate.

Commuter Rail Projects as follows:

85-1038: Double Track and Bridge Rehabilitations

Decision: Mr. Froberg moved to issue a Certificate of Compliance, Mr. Colman seconded the motion and it passed unanimously.

85-1068: Track and Signal Work

Decision: Mr. Froberg moved to issue a Certificate of Compliance, Mr. Colman seconded the motion and it passed unanimously.

85-1070: South Acton Commuter Rail Station Improvements

Decision: Mr. Froberg moved to issue a Certificate of Compliance, Ms. Stolz seconded the motion and it passed unanimously.

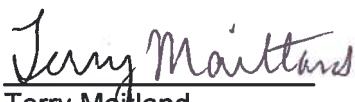
85-1153: Culvert Repair Mile Post 25.93

Decision: Mr. Froberg moved to issue a Certificate of Compliance, Ms. Stolz seconded the motion and it passed unanimously.

Minutes: September 19, 2918, reviewed by JS, AG, TM

Decision: Ms. Green moved to accept the minutes of September 19, 2018. Mr. Colman seconded the motion and it passed unanimously.

Meeting adjourned at 9:50PM



Terry Maitland
Chairperson



16 Gleasondale Rd., Suite 1-1
Stow, Massachusetts 01775
Phone: (978) 841-2350
Fax: (978) 841-4102
www.foresite1.com

October 3, 2018

Acton Conservation Commission
Acton Town Hall
472 Main Street
Acton, Massachusetts 01720

RE: 61 Central Street DEP File No. 85-1242

Dear Commissioners,

Our office represents Paul Duren, owner of 61 Central Street, on the Notice of Intent filed for proposed site improvements at this address. Proposed site activities include construction of a garage, modification of existing paved driveway to improve drainage and access to this garage, and drainage improvements to the site.

The 0.65-acre house lot is currently developed for a single-family dwelling on the east side of Central Street (house, driveway, lawn, landscaped areas, etc.). The house was built in 1953. To the west of the dwelling and lawn area there is an intermittent stream that flows southerly toward Central Street and associated bordering vegetated wetland that extend from the culvert at Central Street north and west to the Town of Acton Pacey Conservation Land.

Proposed activities includes construction of a garage on a portion of existing paved driveway and lawn area and mitigating and improving site drainage by re-grading the driveway to insure positive drainage away from structures, installing bituminous curbing along the down gradient driveway edge to direct driveway runoff to a proposed catch basin to discharge to a proposed drywell and installing gutters along the new garage roof eaves and tying them into this new drainage system. Additionally, the two downspouts on the west side of the existing dwelling that currently discharge to ground will be piped into this new drainage system. Where the existing lawn is currently right up to the edge of the wetlands and stream, a buffer zone restoration area is proposed where lawn vegetation is proposed to be removed, the underlying soil scarified and the area to be planted with high bush blueberry bushes and stabilized to create a naturalized buffer between the existing lawn and the adjacent down-gradient resource area.

Our office contends that the proposed garage is a "LIKE ACTIVITY" to the existing driveway (both used for parking of vehicles) as defined in the Acton Wetland Bylaw Regulations and is eligible to be treated as such under Section 3.3 of the Wetland Bylaw Regulations. Insofar as the

Commission may deem the activity a **NEW ACTIVITY** or **NEW STRUCTURE**, the case for this project is still provided for in Section F8.3 of the Wetland Bylaw where:

“...the Commission may permit new activity or structures as close to the edge of wetlands or vernal pools if it finds that such activity or structures will not affect the interests protected by the Bylaw no more adversely than the existing activity or structure.”

Not only does the project as proposed meet the standard established in F8.3 for deviation from setback requirements in the Bylaw, it exceeds it. The proposal activities are a substantial improvement over existing conditions by (1) proposing drainage mitigation (curbing, catch basin for sediment removal, drywell for infiltration and roof gutters being tied into this new drainage system) where there is currently none and (2) proposing buffer zone restoration immediately upgradient of the resource area boundary where currently lawn extends right up to the edge of the adjacent wetlands and intermittent stream.

Clearly the proposed overall improvement to 61 Central Street from current conditions, with respect to the interests of the Bylaw, far outweigh the detriment of granting relief to the setback requirements in F8.3 (should the Commission not find the proposed project to not be treated as a **LIKE ACTIVITY** under Section 3.3 of the Regulations) and are authorized by the Bylaw under such specific vastly improved circumstances as the case for 61 Central Street to waive such requirements. Given these specific circumstances at 61 Central Street, we request that the Commission issues an Order of Conditions for this project under the provision for such cases established in Section F8.3 of the Bylaw stated above.

We look forward to discussing the project further with the Commission at tonight's public hearing.

Respectfully,



FORESTIE Engineering Associates, Inc.
By: Scott P. Hayes, P.E.

cc: Paul Duran, owner
DNR - Central Regional Office

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AGENDA
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ACTON TOWN HALL
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Room 204**

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7:45 Request for Determination: 149 Central Street, Continued

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Minutes: September 19, 2018, reviewed by JS, AG, TM

File Home Insert

Open Page Break Table

Navigation

Start comment P

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Edit Selected... Add...

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001 - Agendas 10-3-2018	naturales	12/07/18	13 KB	  	
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011 - 461 Mass Ave As-Built RDA 2018	naturales	09/14/18	261 KB	  	
020 - 85-1243 - 173 Willow St NOI	naturales	12/07/18	9 KB	  	
021 - 85-1243 - 173 Willow St WPPlan	naturales	12/07/18	151 KB	  	
048 - 85-1242 - 61 Central St NOI	naturales	12/07/18	3 MB	  	
059 - 85-1244 - 8 Colonial Path NOI	naturales	12/07/18	2 MB	  	
060 - 85-1216 - Newtown Rd Calvert Amend NOI	naturales	09/26/18	9 KB	  	
061 - 85-1216 - Newtown Rd Calvert Amend NOI Pbn	naturales	09/26/18	401 KB	  	
070 - TOA ROAD RESURFACING RDA 2018 2	naturales	12/07/18	470 KB	  	
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85-1153 MBTA RCOC	naturales	12/07/18	167 KB	  	
85-873 - 149 Central St RCOC	naturales	12/07/18	126 KB	  	

File of Attachment

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Page 10 of 10 Word 2017

44 PM 12/07/2018