

CONSERVATION COMMISSION  
MINUTES FOR  
OCTOBER 3, 1990



**MEMBERS PRESENT:** Andrew Sheehan, Ann Shubert, Charlotte Timlege, John Chalmers, Peter Shanahan (8:10)

**CONSERVATION ADMINISTRATOR:** Tom Tidman

**RECORDING SECRETARY:** Andrea MacKenzie

**VISITORS:** Rob Duncan, Mr. & Mrs. Duncan, Sue Beveridge, Harry Donahue, Dean Charter, Kevin Sweeney, Charles Ross

7:32 Mr. Sheehan called the meeting to order.

**BUSINESS**

**Eagle Scout Presentation - Rob Duncan - Troop 284**

Rob Duncan reported that he has completed his project, which was to construct a boardwalk at Grassy Pond Conservation Area. He was to connect with the boardwalk that was built last winter by inmates from MCI Concord. Rob's boardwalk is 110' in length in one section, and he also completed a section from last winter that was 36', built with pressure treated pine. The total cost of the materials was \$485.00, of which he raised half, and the project took 167 total man hours.

The Commission thanked Rob Duncan for his time and effort on a job well done.

7:45 **Acton Arboretum Oversite - Harry Donahue, Sue Beveridge**

Harry Donahue reported to the Commission that the Arboretum Committee has formed a non-profit corporation, Friends of the Acton Arboretum (F.A.A.), and is here to ask the Conservation Commission to recognize and accept the F.A.A. in place of the Arboretum Committee. The F.A.A. has passed a set of bylaws that is to be recorded with the Secretary of State. This would give them non-profit status by the Internal Revenue Service.

The Conservation Commission would still be directing expenditures and approve planting schemes as in the past. In forming the F.A.A., funds donated would go into a special fund for the Arboretum, and not the general fund for the Town.

Mr. Chalmers moved to accept the formation of the Friends of the Acton Arboretum, a non-profit organization, to replace the Arboretum Committee. Ms. Timlege seconded the motion. The motion passed unanimously.

Mr. Donahue informed the Commission of upcoming events, and projects such as the donation of a 24' Cork Tree, a Yellowwood tree, plans for trails to the apple orchard, and a kiosk.

Sue Beveridge reported that the Women's Club had a garden show, and the herb garden took first place; and the herb garden will be on exhibit at the Worcester Flower Show.

8:14 **REPORT** - Milldam Road Access Easement - Dean A. Charter

Dean Charter, Municipal Properties Director, reported to the Commission that the Town has an access easement to Nashoba Brook Conservation Area next to 3 Milldam Road. As the Commission knows there is 150 acres of conservation land that was donated, and is connected to Spring Hill Conservation Area. This easement is near the Potato Caves. The deed for 3 Milldam Road has specific mention of a 15' wide easement for pedestrian access and maintenance vehicle access. The owner, Mr. Buck, has planted trees in the middle of the easement, that will mature and block the easement, and contends that the Town has no rights to access through his lot as a result of one of the Planning Board meetings. Mr. Charter did some research, which the Commission received, and among other things he found the minutes of the Planning Board only releasing the developer from making the trail himself. This decision by the Planning Board did not remove the easement or the Town's rights to create a trail on this easement. Mr. Charter would like to put a sign on the street right-of-way, and a woodchip trail, and is asking the Commission to support the protection and development of this easement.

Mr. Charter also feels that in the future, if a developer offers an easement, the Commission should try to get ownership instead. That way there is no question on the Town's rights.

Mr. Shanahan moved that the Conservation Commission support Dean Charter, and the Municipal Properties Department to protect the Conservation Commission's legal rights to access the property. Mr. Chalmers seconded the motion. The motion passed unanimously.

8:39 **NOTICE OF INTENT** - 157 Great Road

Mr. Sheehan opened the hearing under MGL Chapter 131, Section 40 of the Wetlands Protection Act, and the Town of Acton Bylaw for the construction of a commercial building, parking area and detention structure, within the 100' buffer zone.

Mr. Harry Donahue, of Acton Survey & Engineering, reported that this lot has three structures existing, all of which will be removed in two phases, and one building will be constructed on the site. The site has a vegetated wetland bordering an intermittent stream. It is 8' wide, flat and muddy on the Southeast corner of the site. There is a proposed detention basin on the site. Grading for the detention basin will be 10' from the edge of wetland. The detention basin is designed for the 10 year storm, and will eventually drain to the intermittent stream.

Pavement for the dumpster pad at its' closest point, will be 30' from the edge of wetland; the edge of the proposed parking lot, at its' closest point to the wetlands is 49'. The parking lot is designed with a berm on the edge, so as not to discharge runoff directly into the wetland. The proposed building is approximately 90' from the edge of wetland.

8:54 Hearing no further information, Mr. Sheehan closed the hearing.

#### MINUTES

Mr. Shanahan moved to approve the minutes as amended for July 11, July 25, August 1, and August 15. Ms. Timlege seconded the motion. The motion passed unanimously.

9:00 RECONSIDERATION - NOTICE OF INTENT - Lots 4 & 6 Ayer Road

The applicant, Mr. Kevin Sweeney, of L & S Builders, stated to the Commission that he wishes for them to re-open the hearing for Lots 4 & 6 Ayer Road, as he has new information. Mr. Sweeney has re-drawn the lot lines for the proposed subdivision, and now complies with the new Rules & Regulations required by the Conservation Commission.

Mr. Shanahan moved to reconsider the Notices of Intent previously denied by the Commission on September 19, 1990, as the applicant has stated that there is new information. Ms. Shubert seconded the motion.

Mr. Sheehan, chairman, called a roll call vote. Peter Shanahan, John Chalmers, Ann Shubert, Charlotte Timlege, and Andrew Sheehan voted aye. The motion passes unanimously.

Mr. Sheehan re-opened the hearing under MGL Chapter 131, Section 40 of the Wetlands Protection Act and the Town of Acton Bylaw for the reconsideration of construction of two single family houses and septic systems within 100' of a wetland.

Charles Ross, engineer, reported that the lot lines for the subdivision have been re-drawn in order to comply with the new Rules & Regulations. As a result of the new lot lines, Lot 7 Ayer Road, approved by the Commission on 9/19/90, now is out of the 100' buffer zone, and requires no Order of Conditions.

Lot 3A shares a common drive with Lot 4, which is 42' from the edge of wetland.

Lot 6 the house is now set 70-75' from the edge of wetland, but the driveway is still shared by Lot 5.

The Commission required the following items:

1. New Notices of Intent with appropriate plans showing the amendments presented to the Commission at this meeting be provided;
2. A master subdivision plan be provided showing all lot configurations and locations of driveways, septic systems, houses and edge of disturbance.

3. Reference in the final deed to new owners, that a 25' natural vegetated buffer is required to be maintained.

The applicant, Mr. Kevin Sweeney agreed to the three requirements.

9:26 Hearing no further information, Mr. Sheehan closed the hearing.

Mr. Shanahan moved to approve the plans as presented for Lot 4 Ayer Road, and Lot 6 Ayer Road under the Wetlands Protection Act, and the Town of Acton Bylaw, with the additional condition that the deed reference a 25' natural vegetated buffer from the wetland, and that this reference be unalterable in the deed. Ms. Shubert seconded the motion.

Mr. Chalmers called a point of order regarding the new lot lines and the possibility of having different abutters to the project that may not have been notified.

The Commission discussed the issue, and determined that this issue is under the authority of the Planning Board.

The motion passed 3:1.

#### DECISION - NOTICE OF INTENT - 157 Great Road

Mr. Chalmers moved to issue an Order of Conditions for the plans as presented for 157 Great Road, with the additional condition that the dumpster and dumpster pad be brought outside the 40' setback from the wetland.

Mr. Shanahan seconded the motion. The motion passed unanimously.

#### ORDER OF CONDITIONS - 77 Hosmer Street

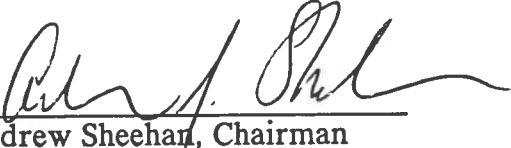
The Administrator reported that Pine & Swallow has sent a letter regarding four of the general conditions on the Order of Conditions that was issued to the Concord Auto Auction. Pine & Swallow knows as does the Commission, from the information given at the hearing and the nature of the project, that the following general conditions cannot be met:

27. All disturbed areas shall be topsoiled six inches and seeded.
30. A twenty-five setback of natural vegetation shall be maintained up-gradient from the wetland.
31. No construction, either temporary or permanent, shall occur within forty feet of the edge of wetlands. This shall include driveways; roadways; residential, commercial or industrial structures, etc..
32. There shall be no use of fertilizers, pesticides, herbicides or chemicals of any kind within the forty foot no construction zone.

The Administrator continued that Pine & Swallow would like a letter releasing them from the four above noted general conditions.

Mr. Chalmers moved to issue a letter to Pine & Swallow for 77 Hosmer Street, waiving the four noted conditions, as read. Due to the nature of the project, these conditions cannot be met by the applicant, and therefore will not be required to comply with them. Ms. Timlege seconded the motion. The motion passed unanimously.

10:13 Meeting Adjourned.



Andrew Sheehan, Chairman