

# HUDSON CONSERVATION COMMISSION

OCTOBER 15, 2007

## MEETING MINUTES –Final

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Below is a listing of minutes for the Hudson Conservation Commission. Minutes are not a verbatim record of each meeting, but rather represent a summary of the discussion and actions taken at the meeting. All Conservation Commission meetings are televised live and repeated during the following week on HCTV, cable television channel 22. Official copies of the minutes are available to read and copy at the Town Engineer's Office during regular business hours (Monday through Friday, 8:00 A.M. to 4:30 P.M.). Should you have any questions concerning these minutes or wish to see the original recording, please contact the Town Engineer's Office at 603-886-6008.

A regular meeting of the Hudson Conservation Commission (HCC) was held on Monday, October 15, 2007 at 7:03 P.M. in the Community Development Room of Town Hall. Chairman Rumbaugh presided.

Members of the Commission present: Ken Dickinson (7:11 P.M.), Michelle Champion, Tim Quinn, Linda Kipnes, Jim Battis, Bob Haefner and Suellen Quinlan (Alternate)

Members of the Commission absent: Ray Orner (Alternate)

Member of Town Staff present: Gary Webster (Town Engineer's Office)

Also in Attendance: Joanne & Adam Sgouros (43 Cottonwood Drive), Tobin Farwell (Farwell Engineering Services, 275 Wadleigh Falls Road, Lee, NH), Pete Steckler (Environmental Scientist, Vanasse Hangen Brustlin, Inc. Six Bedford Farms, Suite 607 Bedford, New Hampshire 03110)

**ADDITIONS OR DELETIONS TO THE AGENDA** - None

**PUBLIC INPUT RELATED TO NON-AGENDA ITEMS** – None, closed at 7:05 P.M.

### 1. OLD BUSINESS

**A. Case Tax Map 203 Lot 42**, Joanne & Adam Sgouros of 43 Cottonwood Drive request a WSE to construct a retaining wall within the Wetlands Conservation District. Mr. Tobin Farwell of Farwell Engineering Services represented the homeowners and presented highlights of the plan including: a request to disturb the wetland buffer adjacent to the Merrimack River; the backyard has a pool, shed, gazebo, landscaping, and retaining walls; and, at the edge of the backyard is a 15 foot drop-off. Mr. Farwell said the house was built in 1967 and the pool and structures were added in 1997. Due to the steepness of the grade and flooding in the last couple of years, the soil is settling towards a small tributary to the Merrimack River. The homeowners want to construct a retaining wall to retain the current edge of the backyard and to stabilize the pool area, shed area, and the gazebo. The new retaining wall will connect to an existing retaining wall along the property line. The construction will only impact the wetland buffer. The wall will have an under drain to allow the existing ground water to leach out and back into the drainage area. A site walk was completed on September 19, 2007.

Mr. Farwell responded to several concerns brought up at the site walk. First, the total estimated impact to the buffer is 3,500 sq. feet, with no impact to the wetlands. Second, the wall is 102 feet long and 1 foot wide at the top. Third, a contractor has not been hired, but below is the general construction process:

- a. Install a silt fence utilizing BMP for sedimentation control and a visible barrier to the contractor.
- b. Remove a portion of existing wall on the west side of the house to gain access to the site.
- c. Build a temporary ramp to get machinery to the site.
- d. Remove the gazebo and pool shed (temporary).
- e. Begin excavating at the eastern side of the site with an appropriate sized machine and putting the dirt in a dump truck at site, which will later be returned as fill.
- f. Working east to west, excavate the trench.
- g. Construct retaining wall, set the forms for the footings and rebar.
- h. Set and pour the retaining wall.
- i. Set the under drain at the bottom at the retaining wall.
- j. Backfill to the appropriate elevation.
- k. Restore area with native plant species.

Ms. Quinlan asked if the gazebo and shed will be permanently removed. Mr. Farwell replied that the structures will be returned to their former positions.

Mr. Quinn asked how he would get the equipment to the site. Mr. Farwell reviewed the construction process and noted that the pool is in the wetland buffer and that the closest point for the footing to the wetland is seven feet.

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**Old Business Continued: (43 Cottonwood Drive)**

Chairman Rumbaugh noted that K. Dickinson arrived at 7:11 P.M. and is seated for this case.

Mr. Webster, the Town Engineer's Office representative asked if the construction will be on the upslope. Mr. Farwell indicated yes and the elevation at the bottom of the footing is 100 feet and will be back filled to 106 feet on the brook side.

Ms. Champion aired her concern with the type of machinery being proposed on this site due to the fragile and unsafe conditions of the hill. Also, she suggested close supervision on the project because contractors are not always careful and this is too close to a valuable wetland. Mr. Webster recommended a small excavator and indicated that he would periodically visit the site during construction.

Mr. Dickinson asked if anyone did soil test pits. Mr. Farwell indicated no and commented that while looking at the current erosion, he did not see any bedrock.

Mr. Dickinson asked what erosion controls are in place. Mr. Farwell said the plan calls for a silt fence. Mr. Dickinson asked if he would consider a super silt fence with a wire mesh back. Mr. Webster recommended straw bales spiked in the ground behind the silt fence.

Mr. Dickinson asked Mr. Webster if he had any other construction concerns, other than the size of the equipment. Mr. Webster said he initially thought this was a free standing wall, but now understands that there will be a six foot cover on the toe of the slope to hold it and they will be cutting into the bank and not working in the toe. Mr. Farwell also indicated that the project will be done during the driest part of the year and they hope to get at least 9 months of plant growth.

**MOTION** by T. Quinn to write a letter to the ZBA in support of a favorable recommendation for a Wetlands Special Exception to the project known as Case 203-42, concerning an application by Tobin Farwell, Farwell Engineering Services, LLC 265 Wadleigh Falls Road, Lee, NH 03824 and Joanne and Adam Sgouros (owners), 43 Cottonwood Drive, Hudson, NH for a Wetlands Special Exception for intrusion into the Wetland Conservation District to construct a retaining wall, approximately two hundred feet in length at 43 Cottonwood Drive as shown on Site Plan Tax Map 203 Lot 42, Sheet number C-1, with no revisions, dated August 24, 2007 with the following stipulations:

1. Use of construction equipment will be allowed to be used in the wetland buffer with subsequent restoration.\* All restoration of the area disturbed shall comply with the latest edition of the following NH Best Practices as applicable: Best Management Practices to Control Non-Point Source Pollution: A Guide for Citizens and Town Officials (NH Dept. of Environmental Services, 1994). The Town Engineer to inspect all restoration work.
2. Restore all disturbed areas once the work is completed, as specified by a certified wetlands scientist.
3. Submit to the Town Engineer, a detailed plan for the wetlands planting restoration including location, number, and planning method.
4. Pool shed not to be used for storage of chemicals, beyond what is actively in use.
5. Submit to the Town Engineer, a complete plan for the construction process, including equipment to be used, once the contractor has been selected.
6. Straw bales to be used behind the silt fence.
7. Construction occurs only during the dry season (low water conditions).

\*Note: The letter to the ZBA incorrectly included the wetland.

Discussion on the motion:

Ms. Quinlan indicated that she will not support this motion as the pool, gazebo, and shed are in the buffer against a major brook going into the Merrimack River. Ms. Quinlan commented that the property has been expanded over and above what the parcel can hold and now the homeowners are asking the HCC to stop their overdevelopment of their parcel from draining into the brook and into the river. Essentially, we are being asked to bless this over expansion of the parcel after the fact.

Mr. Dickinson echoed Ms. Quinlan's comments and was additionally concerned with a retaining wall near an important wetland, but that the difference with this situation is that the current homeowners are not responsible for the construction on the site and that there may be a hardship with the current owner to stabilize the situation and not allow it to get worse.

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**Old Business Continued: (43 Cottonwood Drive)**

Mr. Battis commented that he will probably abstain on the vote because he was unable to attend the site walk; however, he agrees with Ms. Quinlan with the use of the area inside the buffer. However, he stated that the site will probably be better to build a retaining wall and prevent the pool from going into the wetland. Additionally, it appears to him that the gazebo and pool shed is in violation of our zoning ordinances, of which we were not asked to make a decision. Mr. Battis thinks the homeowners should come back to the HCC and request a WSE to put the structures back in the buffer. He is unsure what the procedure is to correct the violation of the pool in the buffer.

Ms. Champion felt that not doing anything or not allowing a WSE will result in a worse impact for the wetlands because if the hill collapses and the shed falls into the wetland, it will result in a much worse situation for the area.

Mr. Quinn asked Mr. Webster if he agreed that this is an improvement for the area. Mr. Webster agrees with everyone that the bank is steep and may continue to erode and that the wall will improve the situation.

Ms. Quinlan asked Mr. Quinn if he would be willing to amend the motion to include a statement that the HCC passes no comments on whether or not the gazebo and shed comport with the zoning regulations and that the ZBA would have to consider that in their decision. Mr. Quinn questioned why this is a HCC issue and not a zoning issue.

Ms. Rumbaugh commented that she spoke to Mr. Sullivan and the homeowners will have to go before the ZBA for a usage variance and that we can not do anything about it now, but that the HCC may want to include a stipulation, that in the future, any replacement of the shed and gazebo would require a WSE.

Ms. Champion asked how difficult it would be to move the shed on the side area. Mr. Farwell indicated that it would be very difficult and in either case, the shed would remain in the buffer area.

Mr. Battis asked about the second shed, which is located outside the buffer and would the homeowners consider storing all pool chemicals in that shed. Ms. Sgouros indicated yes.

Ms. Rumbaugh asked Mr. Quinn if he would consider amending his motion to include the following: a construction plan in writing to be approved by the Town Engineer, add straw bales behind the silt fence, a detailed restoration plan, and construction during the dry season (low water). Mr. Quinn agreed to the changes.

**SECONDED** by L. Kipnes. **MOTION CARRIED** (5-2-1).

Comments on the vote: Ms. Quinlan noted that our favorable recommendation to the ZBA for a retaining wall in the wetland buffer does not take into account any existing or perceived zoning violations on this plan.

**2. OTHER BUSINESS**

- A. Conservation Walks – Due to the weather and time commitments M. Champion and B. Haefner agreed to postpone all walks until next spring.
- B. Prime Wetlands Study – T. Quinn updated the HCC with the current status of the PWS. He cautioned the members that due to delays in the process, it is unlikely that we will meet the deadline for warrant article submissions. Pete Steckler, Environmental Scientist with VHB attended the meeting and presented two options to finalize the wetlands to be studied. Option A: Original 23 wetlands identified in scope of contract, plus 5 wetlands identified by the Natural Heritage Bureau database as having endangered species. Option B: All wetlands 2+ acres = 36, plus 5 wetlands identified by the Natural Heritage Bureau database as having endangered species. The additional cost per wetland is \$900. Mr. Battis asked what the advantage was with a smaller wetland. Mr. Quinn replied that the NH DES standard is any wetland greater than 2 acres. Mr. Steckler replied that 2 acres is the typical starting point and a smaller wetland may have endangered species.
- C. Budget 2009 – S. Rumbaugh presented the goals and objectives, the 2009 HCC budget, and two warrant articles. Mr. Quinn requested \$4,800 (Other Professional Services) be added to the budget for meeting minutes.

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**Other Business Continued:**

**MOTION** by B. Haefner to accept the Goals & Objectives, FY2009 Budget, and 2 warrant articles.  
**SECONDED** by T. Quinn. **MOTION CARRIED (7-0).**

3. **COMMUNICATIONS**

From: Northeastern Consulting Forestry Services, Leo Garneau  
Re: Violation of the Hudson Zoning Ordinance, 13 Williams Drive, Hudson, NH  
Received: 9/14/2007. No Action Taken

From: Town of Pelham, Deborah Waters, Pelham Forestry Committee  
Re: Forest Management – Gumpus Pond Conservation Area  
Received: 9/12/2007. No Action Taken

From: NH DES, Wetlands Bureau  
Re: Wetlands File Number 2007-02261 Tax Map/Lot # 109/19 Standard Dredge and Fill Application  
Received: 9/27/2007. No Action Taken

From: NH Dept. of Resources, & Economic Development, Shari A. Colby, Community Outreach Specialist  
Re: Grant Round 23 Federal Land and Water Conservation Fund Grant Program  
Received: 10/2/2007. No Action Taken

From: Town of Hudson, Betty Holt  
Re: Summer Interns  
Received: 9/20/2007. No Action Taken

From: NH DES, Eben M. Lewis, Wetlands Bureau  
Re: PSNH Hudson Tax Map/Lot 122/2 Wetlands and Non-Site Specific Permit 2007-01956  
Received: 9/25/2007. No Action Taken

4. **APPROVAL OF MINUTES:** Defer approval of August 13, 2007 and September 10, 2007 minutes until November 2007.

5. **BOARD AND COMMITTEE REPORTS:** None

6. **COMMISSIONER'S COMMENTS:** S. Rumbaugh reported that three positions on the Commission are up for re-appointment – 2 members and 1 alternate. Also, there is currently an open alternate position.

7. **ADJOURNMENT**

There being no further business before the Commission, Chairman Rumbaugh declared the meeting on October 15, 2007 adjourned at approximately 9:30 P.M.

Submitted,  
Sandra Rumbaugh  
**Next Meeting - November 19, 2007, 7:00 P.M. Town Hall.**