

HUDSON CONSERVATION COMMISSION

APRIL 9, 2007

MEETING MINUTES – Draft

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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 and shown on public television channel 22. Official copies of the minutes are available to read and copy at the Community Development 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 Community Development Office at 603-886-6005.

A regular meeting of the Hudson Conservation Commission (HCC) was held on Monday, April 9, 2007 at 7:04 P.M. in the Community Development Room of Town Hall. Chairman Rumbaugh presided.

Members of the Commission present: Bob Haefner-Vice Chairman, Ken Dickinson (7:25 p.m.), Jim Battis, Michelle Champion, Tim Quinn, and Phil Cassista (Alternate)

Members of the Commission absent: Linda Kipnes, Suellen Quinlan (Alternate), and Ray Orner (Alternate)

Members of the Staff Present: Tom Sommers (Town Engineer)

Member of Board of Selectmen Present: Ken Massey (BOS Liaison)

Also in Attendance: Nicolas and Marisol Yassmine (33 Bush Hill Rd), Ricky and Janet Mitchell (68 Greeley St), Leo Garneau (Northeastern Consulting Forestry Services, Lowell, MA), Mr. Beauregard (13 Williams Rd), Jean Serino (118 Robinson Rd)

Seating of Members: Phil Cassista will take the place of Ken Dickinson until 7:32 p.m. at which point Phil was seated for Linda Kipnes

1. **ADDITIONS OR DELETIONS TO THE AGENDA** – None

2. **PUBLIC INPUT RELATED TO NON-AGENDA ITEMS**

None, closed at 7:06 P.M.

3. **NEW BUSINESS**

A. **Case Tax Map 159 Lot 7**, Ricky & Janet Mitchell (applicants), 68 Greeley Street, Hudson, NH, request a Wetlands Special Exception for intrusion of a house addition into the wetland buffer located at 68 Greeley Street.

Mr. Sommers commented that Mr. and Mrs. Mitchell were very cooperative and granted a drainage easement to improve drainage on Greeley St. The addition will intrude into the buffer only 4-5 ft. The homeowners also face a second issue of setback requirements because their home is close to the road and they don't have a lot of room. Wetlands and buffers are well defined on property.

Vice Chairman Haefner asked the applicant for a description of the addition. Mr. Mitchell replied that the addition will be a family room.

Chairman Rumbaugh asked the applicant if he will be adding a deck on to the back of the addition. Mr. Mitchell replied no.

Mr. Quinn asked the applicant how far the addition is into the buffer. Mr. Mitchell replied that the intrusion is 6 ft, which is approximately the size of the bathroom.

Mr. Battis asked the applicant for clarification on the dimensions of the addition. Mr. Mitchell replied that the dimension would reduce to 20 ft on the far corner if he removes the bathroom.

Vice Chairman Haefner asked if Glover Brook floods on a regular basis. Mr. Mitchell replied that it never floods.

Mr. Quinn asked the applicant if the shed on the property was in the buffer. Mr. Mitchell indicated yes and that the shed was on the property when he bought the house. Mr. Quinn commented that if in the future, Mr. Mitchell plans on replacing the shed, he would require either a WSE or place it outside of the buffer.

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Case Tax Map 159 Lot 7 Continued:

Ms. Champion inquired about the size of the addition. Mr. Mitchell replied that the additional footage is for a bathroom. Ms. Champion reminded the other board members that our ordinances do not allow for an addition to the home as a permitted use for special exception.

Mr. Quinn commented that in previous discussions with the ZBA Chairman that the ZBA has never allowed a structure to be built in the wetland buffer.

Mr. Cassista asked the applicant if he has incurred a lot of money in the design of the addition and would he incur a hardship to modify the plans. Mr. Mitchell confirmed that he is the designer of the addition.

Mr. Sommers commented that even if Mr. Mitchell reduces the size of the addition, he would still need to work in the buffer and would need a special exception.

Ms. Champion commented that the ZBA might be more amendable to a temporary intrusion into the buffer rather than the precedent of a living structure in the 50 ft setback.

Mr. Sommers again commented on the cooperative nature of the applicant in granting a drainage easement to the Town.

Mr. Battis asked the Town Engineer a question about the 50 ft setback for the house on the road. Mr. Sommers commented that this lot is grandfathered for a 30 ft setback, as long as the addition does not protrude in front of the house.

MOTION by T. Quinn to provide a favorable recommendation for a Wetlands Special Exception to the project known as Case 159/7 located at 68 Greeley St with the following stipulations:

1. Build new structure entirely outside of the wetlands buffer.
2. Use of construction equipment will be allowed to be used in the wetland buffer with subsequent restoration following NH Best Practices as applicable as follows: Best Management Practices to Control Non-point Source Pollution: A Guide for Citizens and Town Officials, NH Department of Environmental Services, 1994.

SECONDED by M. Champion. **MOTION CARRIED** (6-0)

- B. **Case Tax Map 216 Lot 14**, Etchstone Properties, Inc., 179 Amherst Street, Nashua, NH, request a Dredge & Fill application review for asbestos mitigation located at 200 Lowell Road.

Mr. Sommers received a call from the project engineer and confirmed that the dredge and fill application to the State is the same as the special exception granted by the HCC to the applicant last year, therefore the applicant declined to appear before the HCC.

The HCC declined to send comment to NH DES on this project.

4. OLD BUSINESS

- A. **Case Tax Map 185 Lot 5**, Nicolas and Marisol Yasmine (applicants), request a Wetlands Special Exception for intrusion of a shed, 15 ft. encroachment into the Wetland Conservation District located at 33 Bush Hill Road Hudson, NH.

Chairman Rumbaugh reported that a site walk was completed on March 24, 2007, six members in attendance.

Ms. Champion asked for clarification of the communication between the town and the applicants with regards to the building permit.

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Case Tax Map 185 Lot 5 Continued:

Mr. Battis asked Mr. Sommers to explain the building permit process. Mr. Sommers replied that he was unable to give a complete answer because his department is a small part of the process. His department is involved with driveway, sewer, and water permit issues.

Mr. Battis stated that his concern was that the applicant did not receive a copy of the drawing that shows the location of the shed and the delineation of the wetlands buffer. Mr. Battis observed that there is a flaw in the process and that similar instances have occurred in the past.

Mr. Quinn agreed with Mr. Battis that there is a problem with the process, but his primary concern with this case is the number of wetland violations incurred by the homeowner on this property.

Mr. Cassista asked if the remediation work from the first violation was ever completed. Chairman Rumbaugh indicated no and commented that this was not relevant to the discussion of the shed.

Mr. Dickinson asked the applicant if he got bids on the cost to move the shed. Mr. Yassmine replied yes and that it would cost him \$2,800 to relocate the shed. Mr. Dickinson commented that this would be useful information to the ZBA

MOTION by M. Champion to provide an unfavorable recommendation for a Wetlands Special Exception and request that the shed be moved outside the wetland buffer. **SECONDED** by T. Quinn.

Discussion on the Motion: Mr. Battis is unable to support the motion for the following reason – the purpose of the buffer is to protect the wetlands, but within the topography is a crest between the wetlands and the shed, which allows the water to drain towards the road behind the house and away from the wetlands. Therefore, he does not see any adverse effects on the protection of the wetland from the location of the shed.

Mr. Massey asked why the HCC was deliberating on the issue, since the applicant received a building permit from the Town. Mr. Quinn replied that the HCC started to tract WSE and upon inspection of this property, Mr. Quinn and Vice Chairman Haefner discovered a shed in the wetland buffer and made a complaint to code enforcement.

MOTION FAILS (3-4)

MOTION by J. Battis to provide a favorable recommendation for a Wetlands Special Exception for the reason that the very special conditions of drainage at this location, where the flow of the water will drain in the opposite direction of the wetlands of which the wetland buffer is trying to protect. **SECONDED** by K. Dickinson.

Discussion on the Motion: Mr. Dickinson asked the maker of the motion if he would consider adding the stipulation that the planting specified on the approved remediation plan dated August 2004 from the first violation be completed. Mr. Battis agreed to the addition.

Chairman Rumbaugh asked the maker of the motion if he would consider adding the stipulation that the shed remain forever on cinder blocks. Mr. Battis agreed to the addition.

Ms. Champion voiced her concern that the HCC is sending mixed messages with regards to the application of granting WSE. In this case, we are rewarding someone who did not comply with the conditions of the WSE as specified in the October 4, 2004 ZBA decision and punishing someone by a denial of a WSE who follows the legal process.

Vice Chairman Haefner agreed with Ms. Champion's viewpoint, but has an issue with the role of Community Development in this matter.

Mr. Dickinson commented that he will support this motion because the effort to move the shed is more than fixing the problem.

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Case Tax Map 185 Lot 5 Continued:

Mr. Quinn asked the maker of the motion if he would consider adding the stipulation to allow construction equipment in the wetland buffer and that the area subsequently restored. Mr. Battis agreed to the addition.

Mr. Quinn further commented that he would vote against this motion for 2 reasons: the approval of the shed in the wetland buffer would establish a new precedent, and the existing condition is a violation from the first incident.

MOTION FAILS (2-5)

MOTION by M. Champion to provide an unfavorable recommendation for a Wetlands Special Exception for reasons cited in the first motion. **SECONDED** by T. Quinn. **MOTION CARRIED (5-2)**.

- B. Case 134,135,143,144-3,5,20,2,3 Tim Sundstrom (applicant), Peter Heller (owner), John Berrigan (owner) would like to sell land to the Town of Hudson to create a conservation corridor along Robinson Pond on properties located at 16, 20, 46, 58 Robinson Rd and 25 Robinson Pond Dr.

Chairman Rumbaugh reported that the Town Attorney will meet with the HCC at the beginning of the May 14, 2007 meeting.

MOTION by Vice Chairman Haefner to defer the matter until the May 14, 2007 meeting. **SECONDED** by P. Cassista. **MOTION CARRIED (7-0)**.

5. VIOLATIONS

- A. 13 Williams Drive (pending code enforcement case)
Mr. Leo Garneau, Wetland Scientist from Northeastern Consulting Forestry Services, Lowell, MA represented the homeowner, Mr. Beauregard (13 Williams Dr). His purpose at this meeting was to report on the remediation plan in response to the timber cutting in the wetland buffer and intermittent stream area on the property. The Town hired Normandeau Associates to investigate the incident. The homeowner hired Mark West of West Environmental (Lee, NH) to create a remediation plan. Mr. Garneau has been hired to oversee the restoration. He asked to be put on the May agenda and request a site walk. Members received a copy of the remediation plan written by West Environmental.

Mr. Quinn asked what kind of equipment would be needed to cut up and remove the logs. Mr. Garneau replied that a chain saw and a small bucket loader would be used in the area.

Due to the severity of the violation, Mr. Massey suggested the HCC have Normandeau Associates review the remediation plan at the applicant's expense.

Mr. Sommers commented that the remediation plan developed by West Environmental is sufficient and the engineering department will provide oversight on the project.

MOTION by J. Battis to conduct a site walk scheduled for Saturday, 4/14/2007 at 8:30 A.M. for the purpose of viewing the property prior to providing a recommendation. **SECONDED** by M. Champion. **MOTION CARRIED (7-0)**.

MOTION by T. Quinn to allow for partial restoration of the affected area at 13 Williams Dr. with seeding of the upland areas to prevent further erosion. **SECONDED** by M. Champion. **MOTION CARRIED (7-0)**

6. APPROVAL OF MINUTES

- A. **MOTION** by Vice Chairman Haefner to accept the 2/22/2007 minutes as amended. **SECONDED** by T. Quinn. **MOTION CARRIED (7-0)**.

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APPROVAL OF MINUTES Continued:

- B. **MOTION** by Vice Chairman Haefner to accept the 3/12/2007 minutes as amended.
SECONDED by T. Quinn. **MOTION CARRIED** (7-0).

7. COMMUNICATIONS

From: NH DES – William A. Thomas
Re: File #2007-00201 W/S Development Associates. LLC
Received 3/19/2007. No Action Taken

From: Gove Environmental Services, Inc. – Jeffrey R. Cantara
Re: NH DES Wetland Bureau File # 2007-00201 Permit Review Extension
Received 3/19/2007. No Action Taken

From: NH DES – Alternation of Terrain Program
Re: Alteration of Terrain Permit Application #070328-01, Hawkview Estates
Received 4/3/2007. No Action Taken

From: Town of Hudson – Stephen A. Malizia, Town Administrator
Re: Availability to Attend April Conservation Commission Meeting

From: Mr. Joseph De Carolis
Re: Conservation Commission Interest to Purchase Property on Kimball Hill Rd
Received 3/29/2007. Chairman Rumbaugh to write a letter to Mr. De Carolis requesting a site walk of the property.
Ms. Champion will speak to SPNH on the steps to purchase conservation property.

8. BOARD AND COMMITTEE REPORTS

- A. Board of Selectmen (K. Massey) – Mr. Massey has been reappointed to serve as the liaison between the BOS and the HCC. Additionally, he announced as part of the Volunteer Recognition Week Celebration, an ice cream social will be held on 5/3/2007 at 7:00 P.M. in the Community Center. All individuals that serve on town boards and committees will be recognized with a special recognition to volunteers with 10 years of service to the Town. Participants may bring 1 guest and he needs to know by 4/20/2007 who plan to attend the celebration.
- B. Planning Board & NRPC (S. Quinlan) – No Report
- C. Open Space Sub-Committee (M. Champion) – The committee completed the update of the maps with data provided by T. Quinn. The next step is to have NRPC update the maps with all potential open space parcels. The next meeting is 4/23/2007 and Ms. Champion will notify Priscilla in the Selectmen's Office of the date change.

9. OTHER BUSINESS

- A. Summer Intern (T. Sommers) – Mr. Sommers is in the process of hiring 2 interns for the engineering department and in the interest of efficiency, he will change some of their responsibilities to include conservation work. Mr. Quinn agreed to help Mr. Sommers with the intern program and scope of work. Mr. Sommers is aware that money will come out of the conservation budget to cover approximately four weeks of expenses.
- B. Tree Ordinance – Mr. Cassista asked this item be put on the agenda due to the interest of participants at the recent workshop of all the land use boards in Town. Jean Serino (118 Robinson Rd) gave members a summary of past efforts to pass a tree ordinance in Town and a list of citizens involved in the effort. Members received a copy of the ordinance. To get the movement started, Mr. Cassista and Mr. Quinn agreed to be the HCC liaisons. Additionally, an article will be written asking people in Hudson to join in the effort.

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OTHER BUSINESS Continued:

- C. Tracking WSE – T. Quinn commented that a report will be available next month.
- D. Prime Wetlands Study – Chairman Rumbaugh accepted comments from the members and will forward the changes to the Town attorney for final approval. Next, the Chairman will put the RFP out for bids by advertising in the paper. Special recognition to K. Dickinson, T. Quinn, and T. Sommers for their time and expertise in writing the RFP.
- D. Earth Day Activities – M. Champion wrote an article on the earth day clean-up which appeared in the HLN. The Clean-up is Saturday, 4/14/2007. Contact L. Kipnes if you are interested. T. Quinn will contact the Cable Committee to see if the clean-up can be taped.
- E. NH Lakes Association – Invoice for Robinson Pond Improvements – Chairman Rumbaugh explained that the \$1000 amount is our match to the Lake Host program at Robinson Pond. MOTION by M. Champion to pay in the amount of \$1,000.80 the invoice and charge the expense to Other Professional Services. SECONDED by T. Quinn. MOTION CARRIED (7-0).

10. COMMISSIONER COMMENTS

- K. Dickinson noted that turtle fencing is being used on retail developments in Massachusetts.
- B. Haefner will have an update on conservation signs next month..
- S. Rumbaugh announced the next meeting of the Nashaway Audubon Chapter on 4/11/2007 at the Nashua Public Library.
- P. Cassista wanted people to be aware of eagles nesting along the Merrimack River and that it is important to maintain the environmental integrity of the area.
- J. Battis plans to talk to the Community Development Department about the process for issued building permits and the stewardship program.
- M. Champion gave an update on the Growing Green workshop and noted that the most sensitive environmental area of endangered species in Hudson is along the Merrimack River, next to the Green Meadow Golf Course.

11. ADJOURNMENT

There being no further business before the Commission, Chairman Rumbaugh declared the meeting on April 9, 2007 adjourned at approximately 10:05 P.M.

Submitted,
Sandra Rumbaugh

Next Meeting: May 14, 2007, 7:00 P.M. Town Hall.