



## **TOWN OF NORTHBRIDGE**

# **CONSERVATION COMMISSION**

**7 MAIN STREET  
WHITINSVILLE, MASSACHUSETTS 01588  
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### **Meeting Minutes May 25, 2011**

Andrew Chagnon, Cheryl Peckham, Diane Schotanus, and Bill Freer were present. Wyatt Mills, John Brown and Terry Bradley were absent. Barbara Kinney, Administrative Assistant was also present.

Mr. Chagnon opened the meeting at 7:10PM. We were waiting for a quorum.

#### **Citizen's Forum**

There was no one present for Citizen's Forum.

#### **(03-RDA-2011) 68 Brian Circle (Map 18, Parcel 96)**

Proposed cutting of trees and leveling of ground to install a 24 foot above ground swimming pool on the side of the dwelling. The applicant for this project is Julie Costanza.

Mr. Freer filled the Conservation Commission in on what was discussed at the site walk and which trees they would like to remove. The Conservation Commission wants them to use silt fencing for erosion controls with no hay bales needed. The owners will need to call for an inspection once the silt fence is installed and before the swimming pool is started.

Motion made by Ms. Peckham and seconded by Mr. Freer. The Conservation Commission voted 4-0 to issue a negative determination with the above conditions for 68 Brian Circle.

#### **Metacomet Land Trust Presentation – Presentation/Discussion**

Lisa Moczynski and Laurie Salmon from the Metacomet Land Trust (Metacomet) explained to the Conservation Commission that Northbridge has no land trust; however, Metacomet has included Northbridge in the towns that the trust serves. The Conservation Commission has limited experience with Metacomet from working with them in the past. Ms. Moczynski explained that Whitinsville Water Company has large holdings in Sutton and Northbridge and they have worked with them on trails, etc.

Metacomet works with towns in a limited capacity on donations of land to the town and they get involved with purchase and sale agreements on Chapter 61A properties. Their biggest function is to educate landowners on what choices are available to preserve their open space land.

Metacomet are stewards of conservation restricted land. 90% of the Massachusetts language is boilerplate with specifics on the property/owner basis. Metacomet helps with the wording of the specifics. Northbridge has an Open Space Bylaw so there is an option

to have a percentage of a property remain as open space. Metacomet likes to be involved from the beginning / planning stages of the project. They are looking for contiguous areas of open space and not small pockets. Metacomet assisted Millbury in a friendly purchase through state grants to complete a sale. Metacomet can help with fundraising efforts and writing grants.

Mr. Chagnon wanted to know if any land is donated directly to the Metacomet Land Trust. Ms. Mosczynski stated that there is a mix of things that can be done and some do include Metacomet ownership in fee. However, the most common is the Conservation Commission owning the land and Metacomet monitoring the compliance with the regulations.

The Conservation Commission wants to know how Metacomet can help them regulate the open space and educate the public. Metacomet is sponsoring a workshop on June 2, 2011 and they invited the Conservation Commission and it is also open to the public. Ms. Salmon explained that Metacomet is working on a letter to introduce themselves to Millbury and Northbridge as they are the newest towns to be included in Metacomet. They also would like to work on a letter with the Conservation Commission to reach out to the large landowners and residents that this is an available option. Ms. Salmon then handed out brochures on Metacomet to the Conservation Commission.

The Conservation Commission would like to review the open space plan and come together again (possibly with the open space committee too) to discuss available opportunities.

## **Minutes**

April 27, 2011

There was no quorum to approve these minutes.

May 11, 2011

There was no quorum to approve these minutes.

## **Old / New Business**

Burdon Pond/West End Dairy LLC – Discussion

Mr. Chagnon spoke to Mr. Mills prior to the meeting and stated that he understood there are two main concerns that were discussed at the last meeting: the agricultural designation and the water withdrawal. There is a letter in the Conservation Commission packets from the Department of Conservation and Recreation (DCR) dated May 23, 2011 that maps out the size of the pond. Howard Fease, 248 Purgatory Road, stated that there is filling in of the pond going on at the West End Dairy, LLC property. Ms. Peckham recapped from the last meeting that the concern is that there was work done along the edge of the pond with no erosion controls so dirt and silt entered the pond.

Mr. Chagnon stated that the Department of Environmental Protection (DEP) reviewed the agricultural designation concern and determined West End Dairy, LLC is in compliance. They also reviewed both pumps and determined they are in compliance with the water withdrawal rules.

Vallarie Leslie, 37 Burdon Street (Sutton) stated that in looking at the sanitary survey it states that the first pump is in danger of exceeding the limit. She wants to know how they

can possibly have a second pump. It was then explained to her that the sanitary survey is for the potable water (well) and not the pond. The potable wells onsite have restrictions on what can be withdrawn from them but are not the same as the pond. Greg VandenAkker, West End Dairy, LLC, stated that the sanitary survey is occasionally done for the drinking water and this is routine. He then stated that DEP has been back to his site since then and has taken everything into account (mini-golf, corn maze, etc.) and found it to be in compliance. Mr. VandenAkker submitted a letter to the Conservation Commission from DEP dated October 18, 2010 for the file that was sent to Mr. Fease addressing the irrigation concerns and Mr. VandenAkker is found to be in compliance.

Mr. Chagnon then inquired as to why Mr. Fease would want to raise the pond level. Mr. Fease stated that last year the pond went dry and he is just exercising his rights by using water levels that the DCR state they should be. The pond should not dry out during the summer months. DCR states that the maximum is 3.3 feet; however, he must balance that out with the current level so abutting home(s) will not be flooded.

Mr. VandenAkker stated that he has a problem with the water height. Mr. Fease repaired the concrete and installed a flashboard. However, a second flashboard has been added this spring and he asked Mr. Fease to lower the water level. Mr. Fease then installed a third flashboard to raise the water level even higher and now the water is overflowing the bank and flooding Mr. VandenAkker's field(s). The pond is at the maximum of water that it can contain. Any rainfall will overflow the pond even further.

Mr. Fease stated that he has water rights and anyone with questions will need to contact Attorney Virostik as it must be determined by jury. The pond is two feet below what the maximum is allowed. It is a smaller pond than what is has been historically according to the research done by Mr. Fease.

Mr. VandenAkker is leveling / filling in his land because it is still so wet. There are about 10 trees that are in the water now. The Conservation Commission stated that this is not in their jurisdiction; however, Mr. VandenAkker may have legal recourse.

Mr. Chagnon reviewed correspondence received and questioned Mr. Fease regarding a letter from DCR. Mr. Fease stated they are working with DCR on addressing the issue.

Mr. Chagnon suggested that the two parties (Fease and VandenAkker) work together to come to a solution. If this could not be done, it may have to be settled legally between the two parties.

The Conservation Commission reminded Mr. VandenAkker that he is required to let the Conservation Commission know about any clearing, filling, excavation, etc. to discuss it beforehand. The Conservation Commission will let Mr. VandenAkker know if it is within their jurisdiction and what would need to be filed, if anything.

Mr. Chagnon reminded everyone that many of these concerns are related to land ownership and are not within Conservation Commission jurisdiction and it must be worked out between the owners.

Mr. Chagnon will do more research and speak with Mr. Mills and / or Mr. Nadeau at DEP regarding the pump determination. The discussion will be continued to the next meeting.

(248-469) Marston Heights (Hills Condo Lot 2) – Request for Certificate of Compliance

This will be continued to the next meeting as there are two outstanding issues to be addressed first. The area in question still needs loam and seeding and the water line issue needs to be resolved.

**Other**

The Conservation Commission members present performed *administrative tasks* (signed Orders, etc.) that were needed.

Motion made by Ms. Peckham and seconded by Mr. Freer. The Conservation Commission voted 4-0 to adjourn the meeting at 8:37PM.

Respectfully submitted,

DATE APPROVED: September 14, 2011

Barbara A. Kinney  
Conservation Administrative Assistant