



## **TOWN OF NORTHBRIDGE CONSERVATION COMMISSION**

**7 MAIN STREET  
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### **Meeting Minutes October 10, 2012**

Andrew Chagnon, Joy Anderson, Cheryl Peckham, Terry Bradley and John Brown were present. Richard Lajoie was absent. Barbara Kinney, Administrative Assistant was also present.

Mr. Brown opened the meeting at 7:06PM.

Motion made by Mr. Chagnon and seconded by Mr. Bradley. The Conservation Commission voted 5-0 to incorporate the September 12, 2012 notes into these meeting minutes.

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

None

#### **(248-590) Transmission Line in Existing ROW (Vicinity of Main Street and Lasell Road)**

Proposed work includes the construction of a new 345-kV overhead transmission line and associated support structures within an existing right-of-way. Portions of the work will be in jurisdictional areas. The applicant is New England Power Company d/b/a National Grid represented by BSC Group, Inc., 33 Waldo Street, Worcester, MA 01608.

Dan MacIntyre and Erin Whorinski of National Grid and Paul Knapik of BSC Group were present. Mr. Knapik stated that this is the same project that was presented to the Conservation Commission several months ago. In Northbridge there is 1,300 linear feet of disturbance along Main Street / Lasell Road. It will cross Steamburg Brook. There are no proposed structures in the wetlands located in Northbridge. Any work will be done with temporary swamp mats. More extensive work will be done in neighboring Sutton.

There will be conversion of wetlands, but no loss of wetlands. They are proposing enhancement plantings for wildlife. Plantings will include high bush blueberry, elderberry, sumac, winterberry, etc. Some (not many) red maples with a 6-8 inch diameter breast height (DBH) are to be removed.

Construction will start in 2014. They are requesting an Order of Conditions for 5 years. There is also permitting being obtained in other towns and they are requesting the 5 years for them as well. They anticipate all permits by January 2014 with construction starting in the Spring of 2014. It will take a couple of days to clear the right-of-way and one day to string the lines, but they will not be back-to-back. The building of the structures to hold the lines will be in between, however, that construction will be in Sutton. Mr. Bradley commented that they should try to avoid the sensitive times of the year.

There will be +/-10,000 square feet of clearing to the Bordering Vegetated Wetland (BVW). Mr. Bradley asked if the area has been cleared in the past and it was explained to the Conservation Commission that it has been maintained in the past, but maybe not to the full right-of-way. They will need to clear the full right-of-way now.

The monitoring will be done by BSC Group and the reports will be sent to the Conservation Commission. The wetlands are flagged and Mr. Knapik will check if the limit of clearing has been flagged as well.

Mr. Chagnon recommended a site walk before the Conservation Commission makes a decision. The site walk has been scheduled for Saturday, October 13, 2012 at 8:30AM. The attendees will need to park along Lasell Road.

Motion made by Mr. Chagnon and seconded by Mr. Bradley. The Conservation Commission voted 5-0 to continue the Public Hearing to October 24, 2012 at 7:10PM.

**(248-584) Douglas Road (Map 3, A.P.O. Parcel 121)**

Proposed delineation of wetlands using 50% or more wetland indicator plants, saturated / inundated conditions and hydric soil indicators. The applicant is Douglas Road Industrial Realty Trust represented by Andrews Survey & Engineering, Inc., PO Box 312, Uxbridge, MA 01569.

Motion made by Mr. Chagnon and seconded by Ms. Anderson. The Conservation Commission voted 5-0 to continue the Public Hearing to October 24, 2012 at 7:20PM per the request of the applicant.

**(248-591) Douglas Road (Map 3, Parcels 119, 120, 122, 123)**

Proposed grading, site clearing, drainage and erosion control measures to create a gravel storage area within a wetland buffer zone. The applicant is Douglas Road Industrial Realty represented by Andrews Survey & Engineering, Inc., PO Box 312, 104 Mendon Street, Uxbridge, MA 01569.

Paul Hutnak of Andrews Survey & Engineering gave a brief history that a Request for Determination of Applicability (RDA) was filed and the Conservation Commission issued a positive determination. The applicant then appealed the decision to the Department of Environmental Protection (DEP) where the positive determination was upheld. That decision was appealed to an adjudicatory hearing. A meeting was scheduled with DEP for a settlement. Mr. Hutnak stated let's call it a riverfront area so what can be done in the outer 100 feet of the riverfront area. They are looking to disturb 5,000 square feet PLUS drainage and a limited project of an access road.

JH Engineering is reviewing the project for the Planning Board. Revised plans will be submitted and a meeting with Jeff Howland will be scheduled. They propose stormwater, the access road and 4,600 square feet of disturbance. The area will be gravel and vehicles, recycling (no hazardous waste), and / or dumpsters may be parked there. The slopes will be rip rapped. They will be outside the 35 foot buffer of the wetland at the rear of the property and they will stay within the outer 100 feet of the riverfront. The Conservation Commission suggested a site walk.

Mr. Bradley asked if the disturbance could be moved further away than the 35 feet from the wetland. Mr. Hutnak stated no because of the topography of the property.

Mr. Chagnon wanted to know if an alternatives analysis was discussed at the settlement meeting and apologized that no one from the Conservation Commission was able to attend the meeting. Mr. Hutnak stated that this proposal is permissible and the alternative analysis would be to do nothing with the property. Mr. Hutnak stated that per the Safety Committee, the additional access to the site would be better because Berkowitz Trucking would have a through pattern for traffic. Mr. Hutnak will get the date of the Safety Committee meeting to Ms. Kinney so she can obtain the meeting minutes.

The Conservation Commission wanted more detail of what the site will be used for. Mr. Hutnak stated that it could be part of eliminating offsite storage for Berkowitz Trucking. Berkowitz Trucking has 12 towns of recycling now (it was not that much a year ago) and they are looking to pick up more towns. Mr. Chagnon stated that the Conservation Commission is looking for trip counts, etc. and he does not see justification for the expansion because they are operating in a smaller footprint now. Also, there is no definite use of the property as it could be dumpsters, recycling, parking vehicles, etc.

Mr. Bradley needs justification to push the footprint to the maximum (as close to the rear wetland as possible and as far into the riverfront area as possible).

Motion made and seconded. The Conservation Commission voted to have JH Engineering do the peer review for the Wetlands Protection Act, Town of Northbridge Bylaw, a Limited Project, +/-5,000 square feet of disturbance, alternative analysis (if needed), etc.

This project will be reviewed by the Earth Removal Board. However, the Conservation Commission representative will not be able to attend the meeting.

A site walk has been scheduled for Tuesday, October 16, 2012 at 5:30PM.

Motion made by Mr. Chagnon and seconded by Mr. Bradley. The Conservation Commission voted 5-0 to continue the Public Hearing to October 24, 2012 at 7:25PM.

**(248-589) Church Street Extension Wetland Crossings (Map 28, Parcel(s) 6, 7, 72, 73 & 74)**

Proposed construction of two limited project roadway crossings to access upland areas and includes associated grading, retaining walls, utilities, and paving. Crossing #1 has 24,330 square feet (sf) of Bordering Vegetated Wetland (BVW) fill and 770 cubic yards (cy) of Bordering Land Subject to Flooding (BLSF) fill. Crossing #2 has 430 sf of BVW fill. Totals of 27,990 sf BVW replication and 1,210 cy BLSF compensatory storage are proposed. Also, a 40 linear foot intermittent stream crossing is proposed. The applicant is Osterman Propane represented by Heritage Design Group, One Main Street, Whitinsville, MA 01588.

Mark Anderson of Heritage Design Group requested a continuance at the September 12, 2012 meeting and Mr. Brown explained that the meeting cannot be formally opened without a quorum and all items will be continued to this meeting. The Conservation Commission accepted the documents submitted by Mr. Anderson at that meeting.

Mr. Chagnon recused himself. Mr. Anderson stated that they are working with Paul Knapik of BSC Group on the peer review. The October 9, 2012 letter states that there are two outstanding issues of the large wetland crossing of 26,000 square feet and the permitting of many different agencies, such as MEPA, Army Corps. Of Engineers, Department of Environmental Protection, 401 Water Quality, etc.

The applicant is asking for a waiver from the 2:1 ratio to a 1:1 ratio on replication. They are donating 26 acres to the Department of Conservation and Recreation (DCR), which will allow the bikeway to come through the upland instead of down the tow path. Also, there will be a wood turtle habitat area created on the 26 acres. Approximately 48,000 square feet will be clear cut, stumped and graded for the construction of the turtle nesting area. The soil there is ideal for the habitat. The construction will be supervised by a consultant and monitored for five years including the replication area.

The next waiver that the applicant was asking for is regarding the 2 ½ inch caliper trees. However, they wish to rescind that request and will go with the recommendation in the letter from BSC Group dated August 29, 2012.

The Conservation Commission discussed the turtle habitat area and where the replication area(s) would be.

Mr. Bradley stated that the applicant needs another justification to the waiver because they are still losing wetland and the applicant needs to do the turtle habitat anyway. Mr. Anderson stated that the applicant is only required to donate five acres of land, but the agreement between DCR and the owner/applicant is for 26 acres. Mr. Anderson believes it is a reasonable request as they are only talking about +/-10,000 square feet of disturbing a natural vegetated area.

Mr. Knapik said that most issues that were brought up have been addressed. He reviewed the bylaws and regulations, etc. with regard to the wetland crossing. They will be clearing very large trees in a wooded swamp. He is concerned with the construction, such as the staging of trees, etc. No contractor has been hired yet, but the contractor will need to coordinate with the Conservation Commission. A site walk will need to be done and a phasing plan in place. This could be indicated in the special conditions of the Order of Conditions. Before construction begins, exploratory test pits should be done to confirm the hydrology and tweak the grading, etc. jointly by BSC Group and EcoTec. There are some connections between the wetlands as shown on the right side of the plans for the replication area. The idea is to avoid segmentation of the wetlands with the crossing / roadway that abuts / follows the railroad tracks.

Per Mr. Knapik, there are vernal pool habitats and emerging marsh in that area, but it was dry this past Spring as it was dry everywhere this past Spring. He is suggesting that the replication area be eliminated there (shown at bottom of plans) and to provide an upland buffer instead to protect this area. Instead additional square feet should be added to the other replication area.

Special conditions should include a phasing plan, confirmation of hydrology, etc. The 1:1 replication does meet the Wetlands Protection Act (WPA) standards and it should function well at that level. Also, there will be five years of monitoring which should give the 1:1 replication plenty of time to establish. Usually a 2:1 replication is done because part of it

usually fails and is only monitored for two or three years. The waiver should be stated in the Order of Conditions and include details of why it is allowed including the donation of 26 acres of land, 5 year monitoring, and creation of turtle habitat.

Mr. Knapik offered to help write the special conditions and this would be paid for through the consultant fees. The draft of the special conditions would be discussed at a future meeting before being finalized. The general consensus is that the 1:1 replication would be fine in this case.

The site walk has been scheduled for Saturday, October 13, 2012 at 11:00AM.

Motion made by Ms. Peckham and seconded by Mr. Bradley. The Conservation Commission voted 4-0-1 (Mr. Chagnon abstained) to continue the Public Hearing to October 24, 2012 at 7:30PM.

**(07-RDA-2012) Lot C-R Rebecca Road (Camelot) (Map 16, Parcel 237)**

Proposed construction of a single-family dwelling with associated grading located within the 100 foot vegetated wetland buffer zone but outside the 50 foot buffer zone offset. Erosion control barrier will be placed at the edge of disturbance to prevent any unfiltered runoff from draining to the wetlands. The applicant is J & F Marinella Dev. Corp. represented by Heritage Design Group, 1 Main Street, Whitinsville, MA 01588.

Mark Anderson of Heritage Design Group stated that the proposal is to construct a single-family dwelling and driveway outside of the 50 foot buffer but within the 100 foot buffer zone. The dwelling will have public water and sewer. The wetland markers are shown on the plan.

Motion made by Mr. Chagnon and seconded by Mr. Bradley. The Conservation Commission voted 5-0 to issue a negative determination.

**(248-592) Sutton Street Roadway & Infrastructure Improvements (Maps 12, 13, 18, 19, 20, 22A, 25)**

Proposed roadway reconstruction and infrastructure improvements on Sutton Street for approximately 11,200 feet from the Sutton / Northbridge town line to Providence Road (Route 122). The applicant is the Town of Northbridge represented by AECOM, 250 Apollo Drive, Chelmsford, MA 01824.

John Schoenfeld and Donald Schall, Wetland Scientist, of AECOM gave an informal presentation of the Sutton Street project on September 12, 2012. Mr. Chagnon wanted to know if there were any significant changes in the wetlands since the project was last approved and if there are any changes to the project. Mr. Schoenfeld reported that there are no changes in the wetlands and the change(s) to the project is the road is wider, but there are no greater impacts to the wetlands than the last approval. There is one section of wetland that they will move to the other side of the wetland by replication. The Conservation members present compared the last approval to the new project in front of them.

At this meeting, Mr. Schoenfeld and Mr. Schall gave a brief recap of the project. The roadway and infrastructure improvements will be from the Sutton town line to Route 122. The reconstruction will include drainage improvements, sidewalks in some areas, and

water and sewer upgrades to the existing lines. The wetland flagging was done in the Fall of 2011. Mr. Schoenfeld explained what is proposed around each wetland and intermittent streams. The drainage along one of the wetlands will include replacing the existing structure(s).

The financing of the project will be handled by the Town of Northbridge for the design and the State will pay for the construction. The timeframe is the advertising for Bid in 2013 and construction starting in the Spring of 2014 with completion in two years (2016). The proposed plans are essentially the same as what has been approved in the past.

The Conservation Commission wanted to know if the residents have been notified and permission given to do the replication area / work on private property(s). Mr. Schoenfeld stated that Ted Kozak, Town Manager, and Jim Shuris, DPW Director, are working on that and will confirm the status with them. The response from Natural Heritage Endangered Species Program (NHESP) has not been received yet.

Motion made by Mr. Chagnon and seconded by Mr. Bradley. The Conservation Commission voted 5-0 to continue the Public Hearing to November 14, 2012 at 7:10PM.

### **Minutes**

#### May 9, 2012

Motion made by Mr. Chagnon and seconded by Mr. Bradley. The Conservation Commission voted 3-0-2 (Ms. Peckham and Ms. Anderson abstained) to approve the minutes of May 9, 2012 as written.

#### June 13, 2012

Motion made by Mr. Chagnon and seconded by Ms. Anderson. The Conservation Commission voted 3-0-2 (Mr. Bradley and Ms. Peckham abstained) to approve the minutes of June 13, 2012 as written.

#### July 11, 2012

Due to the lateness of the meeting, these minutes were tabled to the next meeting.

#### August 8, 2012

Due to the lateness of the meeting, these minutes were tabled to the next meeting.

### **Old / New Business**

#### Purgatory Road (West End) – Potential Bylaw Violation

The following is the informal discussion from September 12, 2012 and Mr. Chagnon read into these minutes the prepared draft of that informal discussion:

Andrea Fease of 248 Purgatory Road is concerned with tires, etc. that has been brought onto the West End property from elsewhere.

A resident stated that the owner is continuing to work on a peddle car track, tents, fencing and signs near the water.

Linda Dzicek of 2024 Quaker Street and 16 Carr Street (Sutton) has the same concerns with everything so close to the water.

Herman Nydam, Burdon St, stated that he has pictures of the dump and run that keeps going on. The property owner dumps then lets it grow in and then dumps again, etc. Mr. Nydam believes that it is so far out of hand. He brought with him pictures of his back yard. Mr. Nydam then started with accusations that he has been bullied and / or threatened. Mr. Chagnon stated that it should be reported to the police and is beyond the purview of the Conservation Commission. Everyone started to get into a heated argument and Mr. Chagnon stated that if it continues he will ask everyone to leave. Mr. Chagnon reminded everyone that if it is beyond the rules / regulations of the Wetlands Protection Act, the Conservation Commission has no authority to take action. Mr. Nydam then stated that there is 500 feet of rocks, stumps, etc. over the bank and Mr. VandenAkker does what he wants.

Vallerie Leslie of Burdon Street (Sutton) made a complaint back in 2010 for the corn maze and this is a continuation of this.

Howard Fease of 248 Purgatory Road stated that he has pictures from 2008 and 2009 showing that quite a bit of altering has been done.

Greg VandenAkker of 419 Purgatory Road looked at the pictures presented. Mr. Fease requested that the flood plain maps be looked at too.

Mr. Chagnon wanted to know if Mr. VandenAkker was amenable to a site visit with the Conservation Commission. Mr. VandenAkker stated that the Conservation Commission is always welcome to come. He is not sure where to begin on this discussion. These issues have been addressed previously. The Conservation Commission, the DEP and the Army Corps. Of Engineers have been out to the site and there have been no violations. Mr. VandenAkker stated that the tires in the photos and that the residents state are 40 feet from the pond, are actually 86 feet from the pond. The work done in the Spring was inspected by Wyatt Mills and the pipe is 75 feet away from the pond. The tractor tire mountain has been completed and this a permitted use by the Planning Board under Agri-Tourism. The peddle carts are closer to the edge of the pond but are made of waddles (the same material used for erosion controls).

Ms. Dzicek stated that she owns a large area of property and the mosquitoes are horrible, so her property cannot be used for grazing. The pond is just a large mud bog. She wants to know what happens to the wildlife and she cannot use her property as a farm even though she is under Chapter 61A. Mr. Chagnon stated that he will take a look at this when the Conservation Commission does their site walk.

The site walk has been scheduled for Monday, September 17, 2012 at 6:00PM.

On October 10, 2012 the discussion continued. The site walk was done and the members present walk the length of the bank on Mr. VandenAkker's property. Mr. Chagnon stated that tires typically breed mosquitoes. However, these tires are filled with sand so there is no possibility of mosquitoes. The Conservation Commission reviewed the area / project and there are no concerns under the Wetland Protection Act and the Town of Northbridge Bylaw. There are no signs / evidence of violation(s) that they could see. No soils and / or rocks dumped in. The area is a field and the sand is +/-100 feet from the wetland. Mr. Chagnon looked at Google earth and scrolled through the years. He was unable to see any significant change to the shoreline. However, some years are hard to see because of

the time of year that the aerial was taken and the water level has changed through the years (higher or lower). FEMA has designated part of the property in the 100 year floodplain and it varies along the edge of the pond. The tires are along the fringe of the 100 year floodplain. There is no threat to the resource area.

The Conservation Commission discussed whether a Request for Determination of Applicability (RDA) should be filed after the fact, just close this concern, or file a Notice of Intent after the fact. Mr. Chagnon is confident that if an RDA was filed that a negative determination would be issued. Mr. Bradley states that if anything is filed now (after the fact), he does not see any benefit and recommends just closing the matter. Mr. Chagnon stated to Mr. VandenAkker that most of his field is in 100 feet of the bank of a Bordering Vegetated Wetland and any work to be done requires him to come before the Conservation Commission in the future. It is in everyone's best interest. The other Conservation Commission members agreed.

#### (248-499) 2040 Providence Road – Informal Discussion

Glen Krevorsky of EBT Environmental gave an informal presentation on September 12, 2012 of what they would like to do at this site. Mr. Chagnon reminded him that he will need to come to the October 10, 2012 meeting as there is no quorum on September 12, 2012. The solid waste has been cleaned up. The people present at the site visit walked all along the river. There is a birch stand where they would like to create a picnic area. They would also like to install a boat ramp and walking trail. They also looked at the south end of the property near Mr. Knott's abutting property as a possible area to use. Mr. Krevorsky will also speak with the DPW Sewer regarding the sewer easement(s). Mr. Chagnon stated that there is a picnic area / walking trails over the sewer easement at the Church Street landing to Rice City in Uxbridge.

Mr. Krevorsky stated that the Department of Environmental Protection (DEP) wants the owner to give up the land in the back along the river with a Conservation restriction. Mr. Krevorsky asked how to go about giving it to the Conservation Commission. Mr. Chagnon stated that he is not sure if the Town of Northbridge would be willing to accept the restriction and that Mr. Krevorsky should also speak with the Board of Selectmen. Metacomet Land Trust, Department of Conservation and Recreation and the National Park Service are also entities that may be willing to handle the conservation restriction and Mr. Krevorsky should contact them as well.

On October 10, 2012, Mr. Krevorsky stated that he is representing Mr. Caya and Mr. Perry who are looking to buy the property. He has contacted Metacomet Land Trust and the Trustees of Preservation regarding this Conservation restriction. Metacomet Land Trust asked for more information and Mr. Krevorsky sent more plans and hopefully they will walk the site soon. He is also working with the Department of Environmental Protection (DEP) and Central MA Regional Planning Commission (CMRPC) that has done additional testing onsite. Peter Coffin of the Blackstone Headwaters Coalition has been working with him too. Mr. Krevorsky also attended a Board of Selectmen's meeting, however, the discussion was centered on Foss & O'Neill and the clean-up of the site. He understands that the Town of Northbridge may not be interested, but he needs to contact everyone who may be interested and exhaust all possible avenues.

Mr. Krevorsky gave brief summary of what is proposed to be done and where they want to place the recreational amenities (see above).



Mr. Krevorsky then explained that a conservation restriction is just an easement. There is no liability for whoever holds the conservation restriction. The owner of the property is responsible. Mr. Krevorsky also contacted the Greater Worcester Land Trust and they told him that they normally do not go that far south and referred him back to Metacomet Land Trust.

Mr. Chagnon mentioned that he believes this was offered to the Town of Northbridge previously and he remembers that the land was not developable and the Town was concerned with the liability. Ultimately, it is the Board of Selectmen's decision, but the Conservation Commission needs to make a recommendation to them. It looks like both of the previous concerns have been addressed.

Mr. Bradley wanted to know if the Town takes the conservation restriction, what the benefit to the Town of Northbridge would be. Mr. Chagnon stated that there is some value in the form of recreation. Mr. Krevorsky stated that someone needs to take the conservation restriction because it is part of the enforcement action from DEP.

Ms. Peckham wanted more information on the easement. Mr. Krevorsky stated that there is very little maintenance to the owner of the easement. It is flat land over an existing easement (sewer line).

The Conservation Commission will revisit the topic if no one else takes the conservation restriction.

(248-569) 127 South Tessier Street – Request for Certificate of Compliance  
Motion made by Mr. Chagnon and seconded by Mr. Bradley. The Conservation Commission voted 5-0 to issue the Certificate of Compliance and they signed the document.

(03-RDA-2008) Lot 1 Mendon Road – Decision of Violation  
Dominic Afonso received a violation letter in the mail and appeared before the Conservation Commission on September 12, 2012 and explained what happened. The area in question is previously disturbed and approved. The Conservation Commission will need to make a decision at their next meeting on how to proceed.

The Conservation Commission reviewed the violation and determined that no further action will be taken at this time.

(248-139) Sutton Street – Request for Certificate of Compliance  
The Conservation members want to take a look at the site before making any decision. Also, they need to check with Department of Environmental Protection because they have been involved with violations at the site in the past. This is tabled to the next meeting.

### **Other**

Mr. Freer stated that September 12, 2012 is his last meeting. Ms. Kinney reminded him that she will need something in writing from him.

Tom Frieswick attended the meeting to review whether he would be interested in filling the vacancy on the Conservation Commission. He discussed his qualifications and what he is interested in doing. The Conservation members present explained what the Conservation

Commission does and the process to be appointed to the Conservation Commission. Mr. Frieswick determined that the Conservation Commission may not be the place he would like to volunteer. He will look into other options.

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

Motion made by Mr. Chagnon and seconded by Mr. Bradley. The Conservation Commission voted 5-0 to *adjourn the meeting* at or about 10:39PM.

Respectfully submitted,

DATE APPROVED: December 12, 2012

Barbara A. Kinney  
Conservation Administrative Assistant