

PEPPERELL CONSERVATION COMMISSION

Minutes – January 5, 2010

The Pepperell Conservation Commission (PCC) held a regularly scheduled meeting under the Massachusetts Wetlands Protection Act, MGL Ch. 131, §40 and the Pepperell Wetlands Protection By-Law. The meeting was held in the Library at 7:00 p.m.

Members present: Elliott presiding, Rand, Rice, Sauer, and Steeves; members absent: Moody and Masterson.

7:00 p.m. Public Forum re *Open Space & Recreation Plan*, Chapter 9, Action Items, update

Fifteen people signed the attendance sheet for the public forum. Fisher counted 27 people in attendance. Elliott opened the meeting by explaining that an up-to-date Open Space and Recreation Plan is necessary for the Town to be eligible for LAND grants (formerly called Self Help Grants). Handouts listing the 5 goals of the existing Plan with their objectives were circulated. Elliott asked for comments from the attendees about what actions the Town could take to implement the goals and objectives.

Russ Schott said that he had read the 2005 Plan and was concerned that so many people who answered the survey did not know about important parcels of Town-owned Conservation Land. He suggested that the Conservation Commission could do a better job of publicizing the lands that the Town already owns. He also said that more needs to be done about the damage caused by All-Terrain Vehicles being used, despite the rules against them, on Conservation Land. He suggested more and better signs.

Tony Beattie suggested that another approach would be to create space where ATVs would be allowed. Schott said that he had asked the land manager of the Nissitissit River Wildlife Management Area to allow ATVs on one trail. The manager had said that this approach had been tried on several other state-owned sites, and that it did not work to keep ATVs out of sensitive areas. Several other people offered explanations of why controlling ATVs and snowmobiles was difficult. Nancy Fox suggested that education was an important component.

Sauer said that it might be possible for the ATV community to “police itself” via an organization of enthusiasts, in much the same way that the horseback riders associated with the Pepperell Horse Owners Association (PHOA) have done. He asked if an ATV group was a possibility. Tony Beattie said that maybe the Grange could facilitate a meeting.

Beattie also suggested that the Grange might be interested in helping set up a community garden or farm. Fisher said that this suggestion could address the difference in awareness between adults and middle-schoolers of the open space value of farmland, which was noted in the survey results in the 2005 Plan. Further ideas about trails management were explored in the next discussion.

7:20 p.m. Discussion of how to set up volunteer trails program

Fisher said that the Commission had decided recently that she could set up a volunteer program for trails maintenance. She had drafted a plan, based on the trails volunteer program at Beaver Brook. In that program, there are 2 types of volunteers. Monitors, to each of whom a specific length of trail is assigned, commit to walk “their” trail once a month and report any problems. Maintainers agree to be

on-call for work on specific problems and to attend, as they can, group work days. Fisher said that, if the Commission agreed to this suggestion, she would be willing to coordinate with the Nashoba Conservation Trust (NCT) for monitoring and maintenance of their trails also. The NCT board members present agreed.

Sauer asked board members of the NCT what had happened to a similar program begun by the Trust a number of years ago. Paula Terrasi said that the Trust had lost focus. Carrie Wilpolt suggested that monitoring reports and volunteer sign-ups should be as easy as possible and available on-line. Tony Beattie suggested getting middle-school kids involved. Rand said that he could contact teachers about that. It was observed that having a contact person such as Fisher would be helpful in sustaining a volunteer program.

After some discussion of possible problems the Commissioners agreed that Fisher could go ahead and set up the program as she had drafted it. There was a suggestion that it would be fine if more than one person were assigned to a particular trail.

7:35 p.m. Public Hearing re NOI filed by Brian Doak for construction of a garage at 8 Powhatan Road

Brian Doak and Jeff Chabot, who will be building the addition, attended the hearing. Under the Pepperell Wetlands Protection Bylaw, the Commission determined that the project area involves BVW, and the proposed activity must meet the 50' setback requirement to the fullest extent possible as a lot created before May 6, 2002. Doak described his property, saying that a catchbasin on the street collects water which is directed to the replication area shown on his plan. He said that there was no wetland beyond the replication area and that his entire backyard is a lawn. Fisher explained that she had supplied Doak with the as-built plan of his property from 1993 to use as a base map for this project. She said that the plan actually shows a BVW that extends along the replication area and down into the backyard, and although she could not confirm the boundaries of that wetland on her site visit because of snow & ice, mowing, and a layer of loam that Doak had applied to part of the backyard last fall, she believed that a wetland connection from the street to the back of the property still existed. Fisher recommended that the wetland should be delineated. The Commissioners explained to Doak that an area can still be a jurisdictional wetland even if it is mowed, and water is not visible on the surface.

Chabot said that the garage addition would be built on existing paved driveway, and there would be no other changes to the lot. Elliott asked where the doors to the new garage would be located and how the driveway would be configured. Doak said that he had not yet decided where the doors would be, but that there would be no changes to the existing driveway. Elliott said that if the doors were on the wetland side of the new garage, there would not be enough room to turn into the garage unless the driveway were expanded toward the wetland. Doak said that there was a parking area on the edge of the driveway, not shown on the plan, which would be available for turning into the garage. Elliott said that he thought the Commission needed to see a plan with accurate details, including the entire existing driveway and any proposed changes and grading, and possibly a wetland delineation. He also said that he was concerned about the reported filling. Doak said that he had done no filling, just applied a layer of loam to smooth out the bumps on his back lawn. Rand explained that placing any material on the surface of land is "filling," no matter what the material is. Rice said that the bumps might have been the result of the area being a wetland. Doak said that he was concerned about the cost of a delineation.

Elliott suggested that if the doors to the new garage were to be on the front of the addition and the driveway were not expanded toward the wetland, then the project would be no closer to the wetland than existing conditions. He said that he felt that in that case, a delineation might not be needed. With some hesitation a majority of the rest of the Commissioners agreed. Elliott said that the Commission would still need an accurate plan for the proposed addition, driveway, and grading. Rand suggested that the existing gravel parking area that Doak mentioned could be abandoned and allowed to re-vegetate as a protection for the wetland. The hearing was continued to January 19, 2010 at 7:30 p.m.

7:45 p.m. Public Hearing re ANRAD filed by Laurie & John Blagdon for review of the wetland resource boundaries at 25 Heald Street

Jack Visniewski and Laurie & John Blagdon attended the hearing. Visniewski said that Mike Turgeon had done the delineation and that he and Fisher had reviewed it before the recent snow storms. Turgeon and Fisher had agreed on the site visit to add one more flag, and Visniewski had submitted a revised plan. Visniewski said that the biggest question on this site was whether the ditch shown on the plan between a wet area in the center of the lot is hydrologically connected to the wetland on the eastern property line. Fisher said that she and Turgeon had examined several soil samples within the ditch and she was satisfied that the ditch is not a wetland connection, as shown on the plan. Rice asked if the isolated wetland looked like a vernal pool. Fisher said she did not think so. On a motion from Elliott, seconded by Rand, all

VOTED: to issue an ORAD certifying that the wetland delineation shown on the revised plan is accurate.

8:00 p.m. Public Meeting re RDA filed by Jayron Realty, Inc. for landscaping associated with a single family house at 18 Emerson Circle

Joe Peznola, Kevin and Jaron Slattery attended the meeting. Because Emerson Village was a 40B project, the Pepperell Wetlands Protection By-Law did not apply. The Comprehensive Permit, Special Condition #20, however, did contain a 50' no-disturbance area next to wetlands except for work associated with restoration of disturbed areas. After restoration the 50' buffer would still apply.

Peznola said that there is already an Order of Conditions, 259-707, covering the construction of the subdivision roadway and drainage structures. He said that there was already an erosion control barrier in place on this lot which was put in to cover the roadway construction. Peznola said that this property had recently been contracted for by a buyer, and the house plan is different than shown in the original layout plan. In addition, the foundation is no longer within the 100' buffer. He said that they had filed the RDA for the landscaping that would be done in the backyard for this house. Fisher said that she had done a site visit and found that the erosion barrier was in place, and the foundation was already constructed. She said that equipment used to construct the foundation had entered the buffer zone, but that no harm had been done. Fisher asked how much filling they were planning to do behind the house. Peznola said about 3 feet, but that it would not extend higher than the erosion control barrier. He pointed out that the subdivision plans include a drainage swale crossing transversely across the backyard. K. Slattery pointed out that besides the 3' of fill within the backyard, there would also be additional fill around the back of the foundation to stabilize it. On a motion from Elliott, seconded by Rand, all

VOTED: to issue a Negative 3 & 6 Determination.

8:10 p.m. Informal Discussion re Emerson Village filings

Peznola had submitted the following list of 3 questions for discussion:

1 .The interpretation of the extent of work covered under the base Order of Conditions.

Elliott said that the original Order only covered the construction of the roadway and drainage structures.

2 .The division of work covered under the pending Notice of Intent filed by Stantec for the DPW well project.

Peznola said that the subdivision plans included a swale across the backs of the lots on the southern property line, as mentioned above for #18 Emerson Circle, for cross drainage. Plans for that swale originally had it ending adjacent to the pump station proposed for the new Town well. Peznola said that he had spoken with Stantec, the Town's consultant re the development of the new well, and he was satisfied with the adjustments made to their plans. He mentioned that a small part of the swale crosses over the 50'-buffer line. He said that it was shown like that on the original plans, but not focused on at the hearings. The Commissioners agreed that this was not a problem.

3. The timing of filings and approvals for NOI's as they relate to the timing of sales commitments through delivery of units.

K. Slattery and Peznola were concerned that if they needed to file Notices of Intent for each lot as it was sold, there would be a 3-month delay before they could begin construction. Fisher said that it does not take that long in Pepperell, and they do not need to wait until each lot is sold before applying anyway. Slattery said that he thought he needed to know which house design would be built before applying. The Commissioners agreed that that is not necessary, but that applications can be submitted for a general house footprint. Peznola suggested that if they applied for the "worst case scenario," meaning the largest footprint in the closest position to the wetland, any change would be an improvement. The Commissioners agreed. Fisher also said that she had discussed which lots might need NOIs with J. Slattery earlier in the day. She said that she thought only the lots which had a significant amount of 50' buffer on the lot itself needed an NOI. Other lots with buffer zone work could be handled under an RDA. The Commissioners agreed.

K. Slattery was also concerned about the issuance of Certificates of Compliance (C of C). He said that if a house is finished and ready for its closing outside of the growing season, he was worried that he would not get a C of C in time for the closing since the ground would not be considered stabilized. The Commissioners said that many local builders were able to close without a C of C as long as they take the responsibility to get one via an agreement with the new owners. Fisher said she knew that sometimes the buyers held back a little money. Slattery said that he did not believe that the mortgage companies would accept this, but since only a few of the lots would need to file NOIs, he might be able to reserve those lots to be sold only at the most favorable times.

Conservation Administrator's Report

Fiscal Year 2011 Budget

Fisher reported that the Finance Committee had requested that each Town department draft 2 possible budgets for FY11. One should be a level-funded budget; the other, a 5% bottom line

reduction. Since wages were the only line item in the Conservation Department budget, Fisher said that it was a matter of just doing the math. She said that the Finance Committee also wanted a memo describing the effects of each budget proposal. She said that the Finance Committee wanted the departments to assume that Step Increases that are due would be granted, and, therefore, since she is due for a Step Increase, even a level-funded budget would be a reduction in hours.

Fisher said that the final decision about what the Conservation Administrator's hours would be rested on the Commission's decision about how much to take from the WPA Filing Fee Account, if anything, to add to the budget that is voted at Town Meeting. The Commission agreed to discuss this at a later time.

Other Business

Upon a motion by Elliott, seconded by Rand, it was

VOTED: to approve the minutes of November 17, 2009 as amended.

Upon a motion by Elliott, seconded by Rand, with Steeves abstaining, it was

VOTED: to approve the minutes of December 1, 2009 as drafted.

Upon a motion by Elliott, seconded by Sauer, with Rand and Rice abstaining, it was

VOTED: to approve the minutes of December 14, 2009 as drafted.

Fisher reminded the Commissioners that she would be on vacation on February 2nd, when a Commission meeting is scheduled. She said that Peggy Mazzola might be able to take minutes that evening, but if not, a member of the Commission could do it instead. Fisher said Mazzola would know if she would be available by the next ConsCom meeting.

The meeting adjourned at 9:30 p.m.

Respectfully submitted,

Ellen L. Fisher