

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, Feb. 25, 2008

Present: Greg Topham, Chairman; John Sklenak, Vice-Chairman; Parker Coddington; Richard Bell; Ethan Jessup; Debbie Dineen, Coordinator; Victoria Parsons, Technical Assistant

WPA & Bylaw Notice of Intent: 11 Normandy Dr.

Present: Mary Seigel, Tony Bernstein, Mike Marotto

Mrs. Seigel explained they want to construct an addition onto the rear of their house. They discovered their property has a conservation restriction and much of their rear lawn area is located within the restriction. They are proposing the house addition and riverfront restoration in the area subject to the conservation restriction (CR). The CR will be placed along Hop Brook. They will replant around edges of the lawn and allow the CR area to revert to a meadow which will be mowed once a year in the late summer. Stone walkways and a bench will be located within the CR, with the goal of restoring the landscape back to more natural vegetated state. Natural plantings will be provided to separate the CR area from the area of residential use.

The addition will have only a 4' frost wall underneath. Excavated soils will be used in the landscaping.

R. Bell moved to close the hearing. G. Topham 2nd; unanimous in favor

R. Bell moved to issue the Order as discussed. P. Coddington 2nd; unanimous in favor .

Miscellaneous:

Minutes

On a motion by R. Bell, 2nd by J. Sklenak, the Commission voted unanimously in favor of approving the Minutes of 1/28/08.

WPA & Bylaw Notice of Intent: Nashawtuc Country Club Herbicide to Ponds (cont.)

Present: Rick Shultz

Mr. Schultz explained that the pond at hole #16 is located entirely in Concord based on latest survey done for Nashawtuc Country Club (NCC). NCC is just beginning a master plan process for the renovation of entire golf course. They would prefer not to spend the funds on an alternative such as dredging as the pond could be eliminated, moved, or redesigned as part of the Master Plan. The Towns of Sudbury & Concord will be part of the planning process. The Club will be investigating water use and alternatives to chemical treatments as part of this process.

J. Sklenak questioned if the planning process might consider dredging and establishing planted "shelves" in the pond as biofilters. Mr. Schultz responded that design would definitely be explored as it was used at the Concord Country Club very successfully in sensitive areas when he was the manager at that facility.

D. Dineen recommended issuing an Order of Conditions for one year only with a one year option to extend contingent upon: 1) receipt of the new survey of the Town boundaries; 2) the new Master Plan acknowledges the sensitive nature of the property and alternatives to chemicals are fully explored and documented; and 3) no use of any herbicides containing glyphosate is permitted (some of the cattail may be removed by mechanical or hand-pulling).

The Commission voted unanimously in favor of closing the hearing and issuing the Order as discussed.

Executive Session: Nashawtuc Country Club and Macone property

Mr. Schultz requested an Executive Session with the Commission to discuss on-going litigation and a possible land swap. On a motion by R. Bell, 2nd P. Coddington, the Commission voted by roll call vote to enter Executive Session.

Mr. Schultz explained the NCC land is being used by Mr. Macone as part of his equipment storage area. The NCC land also contains a r.o.w. or easement to the U.S. Fish and Wildlife Service to access their riverfront parcel through the NCC land in this location. The NCC is considering a possible land swap of the USFW r.o.w. or easement to USFW in exchange for other property of USFW adjacent to the Club. This way the NCC will not have to continue enforcement issues with Mr. Macone.

The Commission voted unanimously by roll call vote to exit Executive Session and return to the regular meeting.

WPA & Bylaw Notice of Intent: 1030 Concord Rd.; Macone Violations

Present: Mark Burke; Brad Holmes; Lester Garvin; Douglas Macone

Mr. Holmes explained that the Macone property has been in agricultural use since the 1950s. It was purchased by Douglas Macone in 1974 and has been maintained significantly in the footprint as when he purchased it. Both the MESA and NHESP exemption were accepted.

The base plan from Schofield Brother was used to create the plan submitted with the NOI. A different wetland delineation for riverfront area was added, however the bordering vegetated wetland is unchanged from the Schofield plan. The riverfront mean annual high water was determined by visible changes using aerial photography to determine bankfull conditions. This was represented by the change from the channel to the floodplain. Aerial photos from 1993, 1995, and 2007 were used for this analysis. There was no riverfront area wetland resource prior to 1996.

The agricultural use of the property consists of agricultural fields, stockpiles of different soil types used in road work for the farm roads and compost. This soil is also used in Mr. Macone's gravel business. The buildings include storage units for hay and sheds for farm equipment. A horse paddock is shown outside resource areas. The site consists almost entirely of agricultural use; grandfathered areas, and exempt areas.

The proposal is to remove non-operable vehicles; remove vehicles stored in the riverfront area, and to install erosion control around the non-stabilized stockpiles of soil.

Atty Burke agreed to provide copy of the steno minutes being taken tonight by a court reporter.

Lester Garvin, aerial photo interpretation expert, explained that the Sudbury

Assessor's maps show the historic extent of channels used to help define the riverfront mean annual high water. Using the 1993, 1995, and 2007 aerial photos it was clear the soil stockpiles and some of the vehicles are now located within resource areas. The trailers & storage units on western side are within wetlands jurisdictional areas. Most of the vehicles on site are registered vehicles. Mr. Macone has 70 employees and 30-40 of the cars belong to the employees, depending on the time of year.

Mr. Holmes noted that the site was previously altered in the areas of riverfront and buffer.

Mr. Macone identified the agricultural uses of the property in detail. He grows hay for sale, for his horses, and for use in his excavation business. He trains horses for resale for several purposes, including riding programs for handicapped children. He stores hay in some of the trailers. He believes the Pantry Brook dam backs water up and makes his hayfield wetter than they were before the installation of the dam. The stockpiles of soil are used to make compost for the hay fields.

The Commission asked Mr. Macone to provide documentation of these uses, particularly to demonstrate that he is selling agricultural commodities. Mr. Macone and his attorney agreed to do so.

The Coordinator suggested a hearing continuation to April 10 with a site walk of the property prior to this date and after snow melt. All parties agreed.

(Note: Atty. Burke retained a stenographer and agreed to provide a transcript of this hearing to the Commission. This transcript will be an addendum to these minutes.)

The meeting adjourned at approximately 10:20pm.