

**CONSERVATION COMMISSION  
AMENDED AGENDA  
MAY 20, 2009**

7:30 Notice of Intent - 98 Newtown Road - W & D Al-Atraqchi (010, 011)

JF Basnett Co., Inc. - Stamski & McNary - proposed replacement of an existing culvert with a bridge over an intermittent stream servicing the single family home.

7:40 Notice of Intent - 80 Hammond Street - D. Young (020 - 021)

Stamski & McNary - proposed razing of the existing dwelling and construction of a new single family dwelling with associates utilities, driveway and grading within 100' of a wetland.

Certificate of Compliance - 89 Newtown Road - 85-1008 (030)

Certificate of Compliance - 98 Newtown Road - 85-982 (040)

Certificate of Compliance - 13 Robert Road - 85-41  
(Robert Rd & Parker St. Lot 13) (050)

MINUTES

May 6            forthcoming

**CONSERVATION COMMISSION  
MINUTES  
MAY 20, 2009**

**COMMISSIONERS PRESENT:** Terry Maitland, Janet Adachi, Julia Miles, Bill Froberg, Linda Serafini, Fran Portante, Patty Lee

**ASSOCIATE:** Toni Hershey

**CONSERVATION ADMINISTRATOR:** Tom Tidman

**RECORDING SECRETARY:** Andrea Ristine

**VISITORS:** Jim Basnett, George Dimakarakos, Steve Holton, Elizabeth Packard, Gail Backus

7:30 Notice of Intent - 98 Newtown Road - W & D Al-Atraqchi - DEP File #85-1018 - (010, 011)

JF Basnett Co., Inc. - Stamski & McNary

Jim Basnett presented plans for the proposed removal of the existing driveway's culvert and stone retaining wall, installation of a truss bridge over an intermittent stream and restoration of the area under the proposed bridge servicing the single family home. Proposed headwalls for the bridge will presumably be pre-cast concrete. He intends on doing the work in July (driest season); homeowners will be away for a week when he plans on removing the culvert and placement of the new headwalls and bridge. The intent is to have natural looking headwalls faced with stone.

Upon query by Ms. Adachi, Mr. Basnett stated that the headwalls will be new, based on soils he does not anticipate digging more than 48" but he won't know until they break ground.

Upon query by Mr. Maitland, Mr. Dimakarakos reported that the resource area is an intermittent stream with associated Bordering Vegetated Wetland (BVW); the intermittent stream has little flow due to its small drainage area.

Upon query by Ms. Portante, Mr. Basnett stated that during the headwall construction the house will be accessed over the dry stream bed; he plans on digging two trenches and place the headwalls.

Upon query by Ms. Lee, Mr. Dimakarakos reported that culvert is not in failure, the owners wish to replace it with the bridge for aesthetic purposes.

Upon further query by Ms. Portante, Mr. Dimakarakos reported that the inner headwall would be done first; Mr. Basnett stated that there would be no passage over the stream bed during the headwall construction; the owners will be gone for one week in order to allow him to do this portion of the work.

Upon query by Ms. Miles, Mr. Dimakarakos stated that if the excavated material is suitable it will be used on site to back fill the headwalls; excavated wetland soils will be used to reclaim the disturbed areas around the bridge crossing. They will be removing material not filling. Any stockpiling will be temporary and excess will be hauled off site

Upon query by Mr. Tidman, Mr. Dimakarakos stated that with the culvert in place equipment can reach over the crossing to the other side.

Upon query by Mr. Tidman, Mr. Dimakarakos stated that during the dry season groundwater will be below grade and he does not think that dewatering the work area will be necessary; if it is haybles will be installed.

Upon query by Ms. Lee, Mr. Basnett stated after the culvert removal and placement of the bridge foundation excavated materials will be hauled off site.

Upon query by Mr. Tidman, Mr. Dimakarakos stated that placement of haybales at the toe-of-slope is not proposed but the Commission could require it as a special condition.

Upon query by Ms. Lee, Mr. Dimakarakos stated that the new wetland ground elevation will be five feet below the proposed bridge.

Upon query by Steve Holton from 106 Newtown Road, Mr. Dimakarakos stated that the proposed bridge crossing will not change the intermittent stream flow; the existing culvert to be removed is oversized, the new crossing will be larger and will not restrict flow.

Upon query by Mr. Maitland, Mr. Tidman reported that the basketball court project is complete and the OOC can be released.

7:55 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Decision – 98 Newtown Road - DEP File #85-1018

Ms. Lee moved that the Commission issue an OOC with the following special conditions:

1. The culvert replacement shall occur during the dry season when the intermittent brook is not flowing.
2. Siltation prevention devices, acceptable to the Commission or its Agent, shall be placed at the toe-of-slope base until the area of activity is stabilized. Stabilization netting shall be used on the restored slopes.
3. In the event that dewatering is necessary water shall be pumped into a containment basin acceptable to, and monitored by the Applicant's engineer. In the event dewatering is required, the Applicant or its agent shall notify the Commission or its Agent.

Ms. Adachi 2<sup>nd</sup>, unanimous.

8:02 Notice of Intent - 80 Hammond Street - D. Young - DEP File # 85-1017 (020 - 021)

George Dimakarakos from Stamski & McNary presented plans for the proposed razing of the existing single-family dwelling and construction of a new single-family dwelling with associated utilities, driveway and grading within 100' of a wetland.

Linda Serafini abstained from the hearing stating that she is a direct abutter to this property.

Mr. Dimakarakos stated that BVW surrounds three sides of the lot, the existing house is 47.19' from wetlands and the new proposed home will be no closer to wetlands than the existing. The proposed septic system will be in front of the proposed house adjacent to the street; the existing shed will remain. Currently the existing house is uninhabited due to a historic house fire; a site walk was conducted on May 19<sup>th</sup>. Mr. Dimakarakos stated that it is his belief that under the Acton Wetland Protection Bylaw, Section 8.3 the proposed new home as shown, 47.20' from wetlands, is permissible as it is a like use. A stone infiltration trench along the proposed driveway will reduce runoff from pavement and will be 75' from the edge of wetlands. The limit of the yard will be the proposed limit of work as shown on the plan, 26' at the closest point to wetlands.

Upon query by Mr. Maitland, Mr. Dimakarakos noted examples of similar situations permitted by the Commission:

9 Railroad Street - 2001 – an old storage building was razed and a new one constructed in its place; buildings were further away, the driveway was less than 25' from wetlands and was the focus of the setbacks under the Bylaw.

Upon query by Ms. Lee & Ms. Miles, Mr. Dimakarakos stated that the building locations on Railroad Street are not relevant to the argument for 80 Hammond Street; it was the driveway replacement off Railroad Street that was non-conforming.

4 High Street – had an existing industrial building 10-12' away from wetlands; the old building was removed and several new buildings were constructed within the 75' at pre-existing non-conforming distances without a request for waiver, riverfront was involved, BVW was a separate resource area, all performance standards were met.

Upon query by Ms. Miles, Mr. Dimakarakos stated that the 4 High Street proposal met river front standards and the Bylaw.

Ms. Adachi noted that the Applicant should submit a written request for a waiver under the Bylaw; the Commission may approve the request but it is discretionary.

Ms. Miles stated that she interprets the Bylaw differently; this proposal is not altering a pre-existing structure, there is nothing "existing" if the structure is removed.

Mr. Tidman stated that his recollection of the intention of the Bylaw setback revisions focused on existing houses that would not be able to have additions due to the setbacks but if an existing house, was for example 22' off wetlands, the owner could add on to the house maintaining the same non-compliant distance for a like structure/addition. Mr. Tidman stated that he can see the Applicant's argument written in the project narrative.

Ms. Adachi stated that adding onto an existing house is not the same as building a new structure after demolition; if it is demolished it no longer exists. If permitted by the Commission it will be setting a precedent.

Mr. Maitland stated that this is an existing lot with an abandoned house that is constrained with wetlands, tight septic and house location; not allowing the reconstruction proposal would be considered a taking.

Ms. Adachi asked that the Applicant submit a written request for a waiver under the Bylaw setbacks; she understands that this is a homeowner not a new development but would still be precedent setting. Ms. Miles agreed that it is a significant issue.

Ms. Adachi stated that she feels that it would not be a taking, the existing house footprint could be used, this is being enlarged which would increase impacts. Increased surface the same distance from wetland as the existing is not considered an improvement.

Upon query by Mr. Maitland, Mr. Dimakarakos reported that the Applicant has an approved Septic Permit for a four-bedroom home.

Mr. Maitland asked Mr. Dimakarakos to evaluate the design to see if there was any potential to maneuver the house farther from wetlands. Mr. Dimakarakos agreed to investigate.

Mr. Tidman noted that this property has an un-inhabitable single-family house (SFH) and the proposal is to replace it with another SFH.

Elizabeth Packard from 76 Hammond Street stated that she looks at this site everyday, the property has been on the market for years. Although she understands the issues under the Bylaw, this is the owner's first viable chance to sell the property and feels that the owner has been more than inconvenienced.

The Commission asked the Applicant to make their best effort to maneuver to meet Zoning and Title 5 requirements and help Commission get to an agreeable position to approve the proposal and still meet the interests of the Bylaw.

Gail Backus from 81 Hammond Street stated to the Commission that he was disappointed to see the near death of the previous occupants of the house from the historic house fire and he looking forward to seeing the house rebuilt and occupied; he hopes to see the Commission issue a favorable decision.

Upon agreement by the Applicant Mr. Maitland continued the hearing to June 3<sup>rd</sup> at 7:40 PM.

Certificate of Compliance - 89 Newtown Road - 85-1008 (030)

Mr. Tidman reported that the septic system replacement is complete and ready for a certificate. Ms. Miles moved that the Commission issue a Certificate of Compliance as recommended; Ms. Serafini, unanimous.

Certificate of Compliance - 98 Newtown Road - 85-982 (040)

As stated earlier this evening, Mr. Tidman reported that the project is complete and the site is stable. Ms. Lee moved that the Commission issue a Certificate of Compliance as recommended; Ms. Miles 2<sup>nd</sup>, unanimous.

Certificate of Compliance - 13 Robert Road - 85-41  
(Robert Rd & Parker St. Lot 13) (050)

Ms. Ristine reported that this is an old OOC dating back to 1979; the subdivision has long since been completed and there are no wetlands associated with this lot; Ms. Adachi moved that the Commission issue a Certificate; Ms. Lee 2<sup>nd</sup>, unanimous.

9:10 Meeting adjourned.

  
\_\_\_\_\_  
Terrence Maitland  
Chair