

**ACTON CONSERVATION COMMISSION**  
**MINUTES**  
**August 19, 2015**  
**7:15 PM**  
**TOWN HALL - 472 MAIN STREET**  
**ROOM 204**

**COMMISSIONERS PRESENT:** Terry Maitland, Tom Arnold, Andrew Magee, Amy Green, Jim Colman, Paula Goodwin

**RECORDING SECRETARY:** Fran Portante

**VISITORS:** Doug Halley, Linda McElroy, Janet Adachi, Bettina Abe, Laurence Ullman, Rich Harrington, Susan Rubel, Peter Conant

**7:15 Presentation:** Trail Through Time

Doug Halley and Linda McElroy gave a "Power Point" presentation of the Kiosks in place or planned that mark the TTT. Two years ago they had presented the status of this 2 mile trail loop which runs along the east and west banks of Nashoba Brook. This presentation brought the Commission up to date on the status of the site and the work that had been done and is planned. Large glossy representations of the kiosks were placed around the meeting room and Doug mentioned which were in production and which were still in the planning stage. He pointed out that there was a need for more kiosks on the west bank to draw people in and retain interest. Mr. Halley also noted that decisions about the dam, whether to restore or breach, is still undetermined and, until that decision is made, they will hold off on the construction of the observation platform that is in the design plan. Linda spoke directly to the Commission about her commitment to the project and her desire to see a restored and operating mill and dam.

**7:30 Enforcement Order:** 34 Robbins Street

Bettina Abe brought the Commission up to date on the existing status of this issue. The Planning Department has been in contact with the property owner, informing him that the dwelling, being in a 100 year floodplain, may also have incurred a zoning violation. The owner has hired an environmental engineer, and the Commission awaits the filing of a Notice of Intent.

**7:45 Abbreviated Notice of Wetland Delineation:** 12 Powder Mill Road

The request is for the confirmation of the bank of Ripple Pond which is associated with Powder Mill Dam behind the property of 12 Powder Mill Road.

Rich Harrington from Stamski and McNary presented for the applicant, Joseph Maillet. As presented, the property of issue had been delineated (flags #1A & #1 - #8) by B&C

Associates as Edge of Bank. It is located approximately 35-50 feet from the rear property line and projects a 100 foot Buffer Zone onto the property. Ripple Pond is the second largest impoundment along the Assabet River. The applicant was seeking confirmation that the high water line of the Assabet River was located at the low level of Ripple Pond and that the delineated Edge of Bank did not represent riverfront. Mr. Harrington provided data to demonstrate the fluctuation of the levels of the pond which are controlled by the Powder Mill Dam.

Mr. Colman, pursuant to his site visit of the location, had contacted the Wetlands Program Chief, Michael Stroman regarding the regulations for waterways and impoundments in general. He cited the response from Mr. Stroman as justification for the Commission's position that the Assabet River is considered riverfront for its entire length. Peter Conant, principle architect for a project under consideration, contended that the explanation provided by DEP was confusing and left him and his clients in a difficult position. He understood the regulations to support his contention that the impoundment, Ripple Pond, would not be considered Riverfront.

Mr. Magee noted precedent in previous filings brought before the Commission, where the Assabet River was considered riverfront along its entire length. The Ripple Pond impoundment, a small impoundment, performed like a river, having directional movement and no noticeable temperature stratification. Therefore, he pointed out, regardless of the DEP explanation of the regulations, Ripple Pond exhibited decidedly riverine characteristics, which supports the same position taken by the Commission, that the Edge of Bank as delineated would be considered "Riverfront" and the 200 foot Riverfront jurisdictional area is applicable.

The Commission also pointed out that deeming this to be Riverfront area did not preclude development of the property, and it was up to the applicant and his representatives to present a plan that would be suitable for consideration.

The hearing was closed at 8:35.

**Decision:**

Mr. Magee moved to issue an Order of Resource Area Delineation as follows:

The Commission finds that Wetland Flags #1A and #1 through #8 represent the Bank of River at this location and includes the following Findings of Fact:

1. The Bank, as flagged, #1A and #1 - #8, represent the Mean Average High Water Mark of the Assabet River at this location.
2. The Commission finds that the Assabet River at this location is subject to the provisions of the Rivers Act.
3. No determination was made regarding the floodplain length.

Mr. Colman seconded the motion; vote was unanimous.

**8:40 Quail Ridge Conservation Restriction Approval**

Mr. Colman presented the final Conservation Restriction documents, accepted by Pulte Homes, to be approved and signed by the Commission and subsequently the BoS. The

final wording regarding the possible return to a natural state should the Golf Course cease to operate had been worked out and accepted by all parties.

Mr. Arnold congratulated and thanked Mr. Colman on the success of this long term effort. The other members of the Commission readily agreed that he had done an outstanding job in bringing this to fruition.

**Decision:** Mr. Colman moved to approve the Conservation Restriction as presented with Pulte Homes of New England. Mr. Magee seconded, vote unanimous.

**Certificate of Compliance:** Septic, 137-155 (151) Pope Road, DEP #85-378

**Decision:** Mr. Magee moved to issue the Certificate of Compliance, Mr. Colman seconded, unanimous vote.

**MINUTES:** August 5, 2015: Pending

**Meeting adjourned: 8:50**



Terry Maitland  
Chairperson

**ACTON CONSERVATION COMMISSION**  
**Amended AGENDA**  
**Aug. 19, 2015**  
**7:15 PM**  
**TOWN HALL - 472 MAIN STREET**  
**ROOM 204**

7:15 **Presentation:** Trail Through Time  
Doug Halley and Linda McElroy presenters

7:30 **Enforcement Order:** 34 Robbins Street

7:45 **Abbreviated Notice of Wetland Delineation:** 12 Powder Mill Road

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8:00 ***Quail Ridge Conservation Restriction Approval***

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Certificate of Compliance:

Septic, 137-155 (151) Pope Road, DEP #85-378

**MINUTES:**

August 5, 2015: Pending

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