



CITY OF DOVER

## CONSERVATION COMMISSION MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Conference Room – 288 Central Ave, Dover, NH  
Meeting Date: **Monday, August 4, 2008**  
Meeting Time: **5:30 pm**

Commission Members Present: Tom Fargo, Chair; Bill McCann, Vice Chair; Britt Schuman; Alban Lobdell; Marcia Colbath; Chris Hunt  
Staff Present: Dean Peschel, CSD Environmental Projects Manager

1. Approval of minutes from July 7, 2008 meeting.

Chairman Fargo distributed draft minutes via e-mail prior to the meeting. Fargo noted a small change under the July agenda item dealing with authorization to expend Conservation Funds to survey the Day property conservation easement boundaries in conjunction with the NHDOT acquiring the easement. The expenditure authorized by the Commission was \$3,000. **Bill McCann moved to approve as amended; seconded by Britt Schuman. All voted in favor with Marcia Colbath abstaining as she was not present at the July meeting.**

2. RE: Map 22, Lot 41-5: Considering an application by Pashalis and Hefila Doukas, 10 Nantucket Court, Dover for an after-the-fact City of Dover Conditional Use Permit to fill within the 50-foot wetland setback, at the subject address, to extend the lawn and create a garden.

Chairman Fargo gave a brief overview of the reasons for the application. Fargo stated that a portion of the wetlands buffer had been filled when the owners accepted some fill in early July from the Henry Law Avenue reconstruction project. The owners' intent was to level out their back yard to make it more usable. Chairman Fargo passed around copies of the subdivision plan and foundation certification plan for the Commission to review.

Present at the meeting was Hefila Doukas. Mrs. Doukas explained that they wanted to spread the fill to level their back yard in preparation of creating a garden and play area for their children. They were advised by a neighbor that they might need a City permit and subsequently contacted Commission Chairman Fargo.

Chairman Fargo described the conversations he had with Mr. and Mrs. Doukas and read into the record the following four e-mails that more fully describe the application. Fargo stated that he had only sent copies of the e-mails to Bill McCann and Marcia Colbath in late July so that they could finalize the agenda for today's meeting while he was out of town. The e-mails were purposefully not sent to a quorum of Commission members to avoid any potential violation of RSA 91-A, NH's Right-To-Know Law. Printed copies of these e-mails were shared with the Doukas' prior to their submittal of the Conditional Use Permit application.

-----Original Message-----

**From:** Thomas Fargo [mailto:thomasfargo@comcast.net]  
**Sent:** Wednesday, July 09, 2008 9:58 AM  
**To:** Parker, Christopher G.; Bird, Steve L.; Clark, Thomas L.; Woodruff, Bruce  
**Cc:** Steele, Doug; Peschel, Dean  
**Subject:** Doukas, 10 Nantucket Court Wetland Buffer Encroachment

Gentlemen,

RE: Map 22, Lot 41-5, 10 Nantucket Court

Today I met with Pashalis (Patrick) Doukas to review and discuss the City of Dover wetlands setback requirements relative to the above-referenced property. Mr. Doukas recently accepted a couple of truckloads of soil fill from contractors working on the Henry Law Avenue reconstruction with the intent to level out his back yard to create a



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lawn. A portion of the filled area is within 50 feet of wetlands delineated during the development of the Krup subdivision plan in 2004 (File #04-07?). I provided Mr. Doukas with a copy of the subdivision plan and also the foundation certification for 10 Nantucket Court dated July 15, 2005 (for Baboo Realty, LLC).

I informed Mr. Doukas and his wife that they would need a City of Dover Conditional Use Permit to (extend the) fill and create a lawn within the wetland setback area. I also advised them that they should place a silt fence around the down-slope side of the soil pile to prevent soil runoff into the wetlands while they are in the process of obtaining the permit. I suggested that they should scale back their plans to create a lawn up to the wetlands boundary, perhaps leaving a 15 to 20-foot undisturbed area adjacent to the wetland.

I instructed Mr. Doukas that he should contact the Planning Department to obtain the permit application materials, and that I would (by this e-mail) inform Planning and Inspection staff of our discussions.

Tom Fargo

-----Original Message-----

**From:** Bird, Steve L.

**Sent:** Wednesday, July 09, 2008 10:22 AM

**To:** 'Thomas Fargo'; Parker, Christopher G.; Clark, Thomas L.; Woodruff, Bruce; Jones, Rick

**Cc:** Steele, Doug; Peschel, Dean

**Subject:** RE: Doukas, 10 Nantucket Court Wetland Buffer Encroachment

If the pile of soil is already within the 50-foot wetland buffer, then we should inform the owner that this constitutes a zoning violation so that he does not go any further. If we allow this to happen on this lot, then everyone on the street will want the same thing. Is this an issue that the Zoning Administrator should be the lead on?

Steve Bird  
City Planner

-----Original Message-----

**From:** Peschel, Dean [mailto:D.Peschel@ci.dover.nh.us]

**Sent:** Wednesday, July 09, 2008 11:33 AM

**To:** Bird, Steve L.; 'Thomas Fargo'; Parker, Christopher G.; Clark, Thomas L.; Woodruff, Bruce; Jones, Rick

**Cc:** Steele, Doug

**Subject:** RE: Doukas, 10 Nantucket Court Wetland Buffer Encroachment

I agree with Steve's assessment.

Tom are you advocating reducing the buffer from 50 feet to 15 or 20 feet? If so what is the rationale? How will the rest of the Commission likely weigh in on reducing the setback?

Dean

-----Original Message-----

**From:** Thomas Fargo [mailto:thomasfargo@comcast.net]

**Sent:** Wednesday, July 09, 2008 7:26 PM

**To:** 'Peschel, Dean'; 'Bird, Steve L.'; 'Parker, Christopher G.'; 'Clark, Thomas L.'; 'Woodruff, Bruce'; 'Jones, Rick'

**Cc:** 'Steele, Doug'; rpmjcole@comcast.net

**Subject:** RE: Doukas, 10 Nantucket Court Wetland Buffer Encroachment



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Gentlemen, In Reply:

My suggestion that the Doukas' scale back their "plans" was simply a suggestion as to what they might propose in a Conditional Use Permit application. If the owner was to comply with zoning code, i.e. remove the fill from the wetlands buffer, then no CU permit would be needed. The extent to which the wetlands buffer may be filled (in conformance with zoning regulations and any permit) will depend on conditions suggested by Conservation Commission and approved by the Planning Board.

Regarding Steve's comment about if the City "*allow(s) this to happen on this lot, then everyone on the street will want the same thing*"; I think we all expected homeowners on the west side of Nantucket Court would be filling the wetlands setback areas (with permits or otherwise) when the subdivision plan was approved. Just look at how much "usable land" was left behind each house on the approved plans. We are just kidding ourselves to assert that landowners will understand and abide with land use restrictions shown on the subdivision plans, when they own the land and will want to make it usable. Nantucket Court is only one development where unrealistic expectations were built into the approved site plans. We recently had similar issues on Cardinal Drive.

Tom

Chairman Fargo suggested that since the meeting agenda was light, the Commission could use the time available and conduct a site review at 10 Nantucket Court to observe the property and partially filled wetlands buffer. After further discussion, the Commission agreed to suspend discussions on the Doukas application, finish the agenda, then reconsider that application at 10 Nantucket Court.

Further consideration of the application by Pashalis and Hefila Doukas, at 10 Nantucket Court.  
The Commission members reconvened to view the property and fill placed within the wetlands buffer. Chairman Fargo placed a 50-ft tape measure showing the setback distance from the approximate wetlands boundary (shown on the subdivision plan) to the pile of fill. There were discussions about the suitability of the fill material, its erodability, potential impacts to downstream areas, and concerns about regulatory precedence.

**Al Lobdell made a motion that the Commission not endorse the application for a City of Dover Conditional Use Permit with the understanding that the Code Enforcement Officer would seek removal of the fill material from the wetlands buffer, should the Planning Board agree with the Commission's recommendation. Bill McCann seconded the motion. The vote was 5 to1 in favor of the motion, with Chairman Fargo opposed.**

### 3. Other Business:

- Discussion of Commission's work with the Planning Board Environmental Subcommittee regarding possible changes to Dover zoning regulations. Tentative meeting scheduled for Thursday, August 7<sup>th</sup> at 9:00 AM has been postponed. Tom Fargo and Al Lobdell will represent the Commission in discussions with this Planning Board subcommittee.
- Update on efforts to designate the Cochecho River into the NH Rivers Management and Protection Program. Chairman Fargo noted that the Commission's letter of endorsement was submitted to the NHDES at the Public Hearing in Rochester on July 23<sup>rd</sup>. That same evening, the Dover City Council unanimously passed a resolution also endorsing the river's designation.
- Update on remedial activities at the former Dover municipal landfill, Tolend Road. Dean Peschel described to the Commission recent efforts to remediate groundwater contamination under and



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surrounding the Tolend Road landfill. The City, as one of the “responsible parties”, has been conducting pre-design investigations to address a contamination “hot spot” in the northwest quadrant of the landfill. The plan is to remediate residual solvent contamination with active soil vapor extraction techniques. Pumping and treating of groundwater contamination in the southern plume area is ongoing since the spring thaw. Water is pumped to a tank then transferred by truck to a discharge to the City’s wastewater treatment plant. The responsible parties are moving forward with an original plan to capture the more diffuse groundwater contamination through pump and treat techniques, rather than the more experimental air sparging techniques approved by the USEPA. Chairman Fargo asked about the bankruptcy and financial commitments of Collins & Aikmen, representing the obligation of the former Davidson Rubber Co. to contribute to the clean-up. Dean responded that Collins & Aikmen has committed to provide its share of the clean-up costs.

3. Adjournment:

Meeting adjourned from the 10 Nantucket Court location at approximately 6:30 PM