

**"Clubhouse Road"  
or  
"It Ain't Easy Bein' Green"**



*It's not that easy bein' green;  
Having to spend each day the color of the leaves.  
When I think it could be nicer being red, or yellow or gold-  
or something much more colorful like that.*

*It's not easy bein' green.  
It seems you blend in with so many other ordinary things.  
And people tend to pass you over 'cause you're not standing out like flashy sparkles in the water- or stars in the sky.*

*But green's the color of Spring.  
And green can be cool and friendly-like.  
And green can be big like an ocean, or important like a mountain, or tall like a tree.*

*When green is all there is to be  
It could make you wonder why, but why wonder why? Wonder,  
I am green and it'll do fine, it's beautiful!  
And I think it's what I want to be.*

The Holmes Paving Company is proposing to construct a gravel driveway to reach the new Muppet Clubhouse for limited use during PBS pledge drives. The driveway will use an existing 50-foot wide easement over the abutting property, be within 200 feet of a vernal pool and 50 feet of a wetlands area and will impact approximately 1,640 square feet of wetlands. Sherlock Hemlock, owner of the Holmes Paving Company, has applied for a special exception under section 1208 of the Greenborough Zoning Ordinance.

**Roles:** (in the order of their appearance)

**Guy Smiley, Greenborough ZBA Chairman** (Paul Sanderson) - The extremely enthusiastic ZBA chair is passionate about running an organized meeting, often yelling excitedly at applicants and waving his microphone around and repeatedly banging his gavel.

**Sherlock Hemlock, Applicant** (Chris Northrop) - owns the Holmes Paving Company. Sherlock is always searching for new and greater opportunities but always seems to concentrate on little clues and overlooking the big ones.

**Dr. Bert Weegigem, NH Certified Wetlands Scientist** (Chris Boldt) world renowned expert in the functional classification of wetlands. Was once quoted as saying, "It's a piddling matter but someone has to do it."

**Dr. Ernie Twiddlebug, NH Certified Field Biologist** (Ben Frost) - Known far and wide throughout the northeast as THE preeminent authority in small little creatures. Has been known to actually want to be a salamander.

**Betty Lou, Disapproving Abutter** (Kim Hallquist) - Betty has lived in Greenborough all her life and prides herself on knowing everything about everything. She is in possession of a NHAS fact sheet that she will distribute that recommends a 100-foot buffer of natural vegetation be maintained around a vernal pool. (And she is reported to own many, many dolls...)

**How the session will proceed:**

12:45 - welcome, introductions, ground rules

12:50 - the case

1:10 - questions from each board (one from each board until everyone has had a turn, then a second round)

1:30 - deliberations

1:45 - reports of decisions/general discussion

2:00 - the end!

**Facts:**

- The subject driveway is in the Wetlands Conservation District
- A driveway is allowed in the WCD by special exception
- The planning board, conservation commission and health officer have all reviewed the proposal and have no objections
- The only evidence in support of, and in opposition to, the application is that which is presented in the role play and in the distributed materials
- All SE criteria of Sec. 1208.1 have been met except item "b" (*Hint: focus on that!*)
- The application is for a special exception for a driveway in the WCD and no variances are required
- The hearing has been properly advertised, all abutters and required parties have been notified, all fees have been paid
- There is no defect with the application
- All other local, state and federal permits, as applicable, have been received
- There are no ownership issues
- There are no easement issues

## 1200.00 WETLANDS CONSERVATION DISTRICT

1200.01 Purpose and Intent. The purpose of this ordinance is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to be subjected to high water tables for extended periods of time. It is intended that this ordinance shall:

- a. Prevent the development of structures and land uses on and around naturally occurring and artificial wetlands, because those structures and land uses may contribute to pollution of surface and groundwater by sewage or toxic substances.
- b. Prevent the destruction of, or significant changes to, natural and artificial wetlands. These wetlands provide many functions such as flood protection, ground water recharge, pollution abatement, and water storage for later discharge to enhance stream flow during dry periods.
- c. Protect unique, ecologically sensitive and unusual natural areas.
- d. Protect wildlife habitats, wildlife corridors and maintain ecological balances.
- e. Protect potential water supplies and existing aquifers (water-bearing stratum) and aquifer recharge areas.
- f. Prevent expenditure of municipal funds for the purpose of providing and/or maintaining essential services and utilities, which might be required as a result of misuse or abuse of wetlands.
- g. Encourage those low-intensity uses that can be harmoniously, appropriately and safely located in or near wetlands.

## 1204.00 Wetlands Conservation District Boundaries

The limits of the Wetlands Conservation District are hereby determined to be wetland areas and surface waters of 2,000 square feet or more in size; or wetland areas of any size if contiguous to surface waters such as lakes, ponds and streams; other areas subject to high water tables for extended periods of time; and the adjacent buffers. In all cases where the Wetland Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

## 1205.00 Permitted Uses.

Uses permitted in the Wetland Conservation District are those specific uses which, 1) will not require the erection or construction of any structures or buildings, 2) will not result in a major alteration of the natural surface configuration by the addition of fill or by dredging and, 3) otherwise are permitted by this zoning ordinance.

Permitted uses, which may require a permit, are specifically restricted to the following:

- a. Forestry/tree farming and harvesting activities, using current recognized BMP's (e.g. Best Management Practices for Erosion Control on Timber Harvesting Operations in NH. Division of Forests and Lands, NH Dept. of Resources and Economic Development. 1996, as amended) and in accordance with Comprehensive Shoreland Protection Act (RSA 483-B), where applicable, in order to protect wetlands from damage and to prevent sedimentation;

- b. The cultivation and harvesting of crops according to recognized soil conservation practices using current recognized BMP's (e.g. Manual of Best Management Practices for Agriculture in NH. NHDA. Revised August 1998, as amended) and with diligent consideration of possible non-point source pollution caused by fertilizers, pesticides, and herbicides;
- c. Wildlife refuges;
- d. Parks and recreation uses consistent with the purpose and intent of this ordinance using current recognized best management practices;
- e. Conservation areas and nature trails using current BMP's (e.g. Best management Practices for Erosion Control During Trail Maintenance and Construction, NH Dept. of Economic Development, Concord, 1994, as amended);
- f. Open spaces as permitted or required by the subdivision regulations or the zoning ordinance.

#### 1207.00 Lot Requirements.

1207.01 Area. Wetland areas shall not be included in the calculations of minimum lot size.

1207.02 Setbacks and Buffers. Buildings must be set back seventy-five (75) feet and leachfields must be set back one hundred (100) feet from delineated wetland boundary.

1207.03 Buffers. Buffers shall be at least a fifty (50) foot wide area of undisturbed naturally vegetated upland habitat along the delineated edge of wetlands, streams and ponds, except in the case of basin marshes, fens, bogs and vernal pools that shall require at least two hundred (200) foot width. The undisturbed condition may have exceptions only where needed for the Permitted Uses listed in Section 1205.00. The Wetlands Conservation District buffers shall be encouraged, but not required next to manmade vegetated swales, roadside drainage ditches, sedimentation/detention basins, agricultural/irrigation ponds, and wetlands on prior converted cropland, except as required by nearby wetland and surface waters.

#### 1208.00 Special Exceptions.

Special Exceptions may be granted by the Zoning Board of Adjustment, after proper public notice and public hearing, for undertaking the following uses in the Wetlands Conservation District when the application has been referred to the Planning Board, the Conservation Commission and the Health Officer for review and comment at least twenty five (25) days prior to the hearing and when they meet the criteria listed in Section 1208.01:

- a. Streets, roads, bridges and other access ways and utility right-of-way easements, including power lines and pipe lines, if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the Wetland Conservation District.
- b. Water impoundments.
- c. Any use which is not otherwise permitted in the Wetlands Conservation District if it can be shown that the proposed use is not in conflict with the purpose and intent of Section 1200.01 and if the proposed use is otherwise permitted by the Zoning Ordinance.

d. Expansion of principal residential buildings, that exists as of December 29, 2000, to within twenty five (25) feet of the delineated wetland boundary with a written evaluation by a certified wetland scientist.

1208.01 Criteria for Granting a Special Exception. Special exceptions for uses within the Wetlands Conservation District may be granted provided that the following conditions are met. The burden of proof shall be upon the applicant who shall furnish such engineering and hydrological data as is reasonably necessary. Economic advantage alone is not reason for granting a special exception.

- a. The proposed use, construction and/or alteration shall be constructed in such a way that does not unduly restrict the flow of water.
- b. It can be shown that the proposed use is not in conflict with any and all of the purposes and intentions listed in Section 1200.01 of this Ordinance.
- c. The use or activity proposed and its attendant impacts cannot reasonably be avoided.
- d. The least damaging route and methodology have been selected; and that which is being proposed is the best practicable alternative available.
- e. Reasonable and acceptable impact mitigation measures have been incorporated where necessary and appropriate to minimize wetland loss or degradation.
- f. No significant impact on the aquatic habitat of rare or endangered species as listed by the state of New Hampshire or federal government will result.
- g. Adequate erosion and sedimentation control methods appropriate to the use are incorporated as detailed by the current recognized BMP's (e.g. Stormwater Management and Erosion and Sedimentation Control Handbook for Urban and Developing Areas in NH. Rockingham County Conservation District, NHDES, and Soil Conservation Service. August 1992, as amended.
- h. State wetland permits, as required, are obtained.

TOWN OF GREENBOROUGH, NH - ZONING BOARD OF ADJUSTMENT

APPLICATION FOR APPEAL

To Board of Adjustment, Town of Greenborough, NH:

Name of Applicant: Holmes Paving Company

Mailing Address: 221 b Baker Street, Londonderry, NH 03053

Owner of Property concerned: Henson Management Company, LLC

Owners Address: 12345 Sesame Street, New York, NY

Location of Property: Delund Street (Map 18, Lot 22)

Description of Property - Give frontage, sides and rear line dimensions also footage from abutters:

The lot is 1000 feet wide and reaches Delund Street via and easement over the abutting property, Map 19, Lot 332

Special Exception Requested:

To allow an access driveway within the wetlands conservation district pursuant to Section 1208 of the Greenborough Zoning Ordinance

Bring copies of all letters, plans, and other materials needed to substantiate the claims in this petition.

List names and addresses of all - any person whose property is in NH and adjoins or is directly across the street or stream from the land under consideration. This application is to be filed with \$75.00 plus \$5.00 required for each certified notification for the applicant, owner (if other than applicant) and each abutter.

Signature: *Sherlock Hemlock, Pres. Holmes Paving Company*

Date: May 2, 2009

