

SOUTHBOROUGH CONSERVATION COMMISSION  
THURSDAY, JANUARY 25, 2007  
TOWN HOUSE 2<sup>nd</sup> FLOOR MEETING ROOM  
MEETING MINUTES

The Conservation Commission of the Town of Southborough held a meeting on Thursday, January 25, 2007 at 7:30 p.m. at the Town House 2<sup>nd</sup> floor meeting room.

Members present were: John Leeds, Rhonda Russian, Richard Upjohn and Mark Possemato.

Absent were: Louis Bartolini, Ann Leavitt and Phil Bevins.

The meeting commenced at 7:30 p.m. with John Leeds as chairperson.

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**CONTINUED NOTICE OF INTENT – 5 PRENTISS STREET, ASSESSORS MAP 2, LOT 78:**

Mr. Leeds opened the hearing at 7:30 p.m. Present for the hearing was homeowner Cynthia Moore. The Commission had continued the hearing pending Board of Health approval. They were informed that the Board of Health had approved the septic plans for the property on 1/17/07. Mr. Leeds closed the hearing.

Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve a standard Order of Conditions (-38h).

**CONTINUED NOTICE OF INTENT – 170 WOODLAND ROAD, ASSESSORS MAP 9, LOT 110:**

The hearing was continued to 2/15/07 at the written request of the applicant.

**CONTINUED NOTICE OF INTENT – 2 WOODLAND ROAD, ASSESSORS MAP 38, LOT 12:**

The hearing was continued to 3/8/06 at the written request of the applicant since the data requested of the applicant by the Commission is still unavailable.

**CONTINUED NOTICE OF INTENT – 20 LEARNED STREET, ASSESSORS MAP 47, LOT 54:**

The applicant did not appear for the scheduled 8:15 p.m. hearing. The Commission waited until 8:30 p.m. before Mr. Leeds opened the hearing for the purpose of continuing it to 3/8/06.

**CONTINUED NOTICE OF INTENT – 244 BOSTON ROAD (LOT A), ASSESSORS MAP 48, LOT 18:**

The applicant did not appear for the scheduled 8:30 p.m. hearing. The Commission waited until 8:35 p.m. before Mr. Leeds opened the hearing for the purpose of continuing it to 3/8/06.

**CONTINUED NOTICE OF INTENT – 185-191 MILL STREET, MARLBORO, ASSESSORS MAP 91, LOT 6 (SOUTHBOROUGH) AND ASSESSORS MAP 104, LOT 31 (MARLBORO):**

Mr. Leeds explained to those in attendance that the Commission lacked a quorum due to Ms. Russian's prior recusal from this hearing, so it would not be able to be concluded this evening. Mr. Leeds then opened the hearing at 8:45 p.m. Ms. Russian recused herself from the hearing. Mr. Leeds opened the floor to Mike Sullivan of Connorstone Engineering.

Mr. Sullivan stated that the Marlboro Town Engineer had completed his review; the Marlboro Conservation Commission had closed their hearing and had issued an Order of Conditions for the

project. Mr. Sullivan said that the building, parking and drainage remained the same with minor revisions which included monitoring wells and regular inspection of same per Marlboro's request. Also included on the revised plans at the request of the Marlboro Conservation Commission were details about: dewatering materials, a wash area for concrete trucks away from wetlands, and a 2<sup>nd</sup> sedimentation basin just during construction, buoyancy calculations.

Mr. Leeds asked for comments from the Commission. There were none. Mr. Leeds opened up questioning to the floor. Jack Barron of 11 Sadie Hutt Lane asked whether any Southborough roads were planning to be used during and after construction. Mr. Sullivan responded that he saw no reason why that would occur, and stated that the Commission may be able to place a restriction on this. Mr. Barron requested that the Commission place a restriction to limit access to the property through Phipps Road and Sears Road during construction. Mr. Sullivan reminded the audience that the only work proposed in Southborough is an overflow pipe and a few parking spaces. Don Folkes of 22 Stowe Road asked for the deed to include maintenance of drains, and asked to restrict parking in the field. Mr. Sullivan said that an Operation and Maintenance Plan will be filed with the Order of Conditions. Mr. Possemato stated that if during construction, vehicle access were to occur from Southborough, the applicant would need to present the Commission with wetland mitigation practices which would need to be approved in advance. Mr. Barron asked what could be built on the Southborough land. Mr. Sullivan said that whatever the present zoning and the Conservation Commission would allow. Lisa Keefe of 10 Stowe Road stated she understood that no work could be done on the Southborough portion of the property. Mr. Sullivan asked that since the hearing could not be closed this evening due to the lack of a quorum, and since all the data has been presented, that it be continued to the earliest available timeslot at the next meeting.

The hearing was continued to 2/15/07 at 7:15 p.m.

**NOTICE OF INTENT – 13 PARMENTER ROAD (PARMENTER MEADOWS), ASSESSORS MAP 96, LOT 1:**

Mr. Leeds opened the hearing at 9 p.m. Present were Ben Stevens of Trask Development, Bruce Saluk of Saluk Associates, and Brian Butler of Oxbow. Mr. Butler gave an overview of the history of the property and the ORAD the Commission issued in 2005. He stated that this Notice of Intent (NOI) is for the Stormwater management system, and additional NOI's will be presented for each house lot in the future. Mr. Butler stated the Stormwater outlet will be about 30' away from the edge of the bordering vegetated wetland and described the Stormwater system and grading. Mr. Saluk then described the development site; a total of 11.1 acres; 1.1 acres of the property will be upland open space. He explained the drainage, the intermittent designation of Angelica Brook in this area, and the wetlands. He said there were good soils in the area, the drain system is designed for 100% buildout, and the drainage area is 15.7 acres with relief out towards wetlands area. Mr. Saluk described the catch basins, the profile of the road, and drainage. He said the project will consist of a minimum amount of earth work, there will be 4 deep sump catch basins flowing to its own water quality inlet and flowing into a 19,000 gallon tank which will also help with fire protection. The discharge will be into a subsurface drain system which will be both a detention/retention system. The Cultech system will contain 244 units, 6 1/2' long surrounded by stone. He stated water will need to reach a height of 9" before exiting the system (retention) and then will percolate into ground (detention). The system will discharge 30' before entering wetlands and there will be no direct discharge into Angelica Brook. Mr. Saluk said that each roof will have an individual dry well system, and that the system being proposed will provide 8 times the amount required by DEP.

Mr. Upjohn inquired which trees would need to be removed. Mr. Stevens said he is proposing to remove remnants of a stone wall in the corner of the lot and rebuilding it, and removing some trees at the rear. Mr. Upjohn asked whether the storage area needs to be built up and would it be flush with the

ground. Mr. Saluk responded it would need to be built up between 4-5 feet, and will be covered by lawn and not visible. Mr. Upjohn expressed concerns about the location of the haybale line and said that the grading runs up to it. He would like to see the haybales moved. Mr. Possemato asked that since the Cultech system would be within Lot 4, he wanted to know who would have responsibility to maintain. Mr. Saluk and Mr. Stevens responded that there would be a maintenance easement on Lot 4, and the intent is to have a homeowners association take over responsibility. Mr. Stevens stated it was the Planning Board who had requested the system to be oversized with no infiltration but still meeting DEP standards. Mr. Possemato asked whether town water would be used and whether all the calculations were maxed out. Mr. Stevens and Mr. Saluk responded that the development will use well water, and the calculations would allow maximum build out of the property. Mr. Saluk then described the construction sequence proposed and offered to schedule a pre-construction conference. Ms. Russian asked about the Planning Board approval dates, and the status of the septic systems. Mr. Stevens said the plans were first filed with the Planning Board last summer, and definitive approval was given in December 2006. Regarding the septic systems, Mr. Saluk stated that layouts are complete, setback requirements have been met, and all will be outside of the buffer zone. Mr. Possemato asked if anything was allowed to be placed on top of the Cultech system. Both Mr. Saluk and Mr. Stevens answered that no trees or structures are allowed, but the system is durable enough to drive over. They added that a shed may be allowed and there would be no mosquito problems. Ms. Russian asked about the life expectancy of the system, to which Mr. Saluk replied that since this system will only be treating clean water and will not have bio material, he estimates about 50 years. Mr. Leeds then opened the questioning to the audience.

Karen Muggeridge of 15 Parmenter Road read from prepared remarks, and commended Mr. Stevens for the state of the art system. She asked that the record show that Attorney Bill Pezzoni and Patrick Garner could not attend the hearing, and that 100% of the immediate abutters are in agreement about the following: granting permission for this project would be in violation of the Riverfront Act and the 200' buffer. The abutters believe that Angelica Brook is perennial, not intermittent. Ms. Muggeridge said that the Order of Resource Area Delineation (ORAD), WPA Form 4B issued in 2005, clearly stated that: "...This Order does not, however, determine the boundaries of any resource area of Buffer zone to any resource area **not** specifically noted above, regardless of whether such boundaries are contained on the plans attached to this Order or to the Abbreviated Notice of Resource Area Delineation." The conclusion therefore, according to Ms. Muggeridge, is that since the designation of Angelica Brook is not specifically addressed in the ORAD, then it should be considered to be perennial. She stated that the clerical technicality of the omission on the form is unfortunate, and she has repeatedly attempted to get it reconciled, to no avail. She referenced the letter from wetland scientist Patrick Garner dated 7/20/05 and sent to the Commission via Mr. Pezzoni as further evidence of the perennial designation, and added that the most recent MA GIS quad map and Stream Stats gave further evidence that the brook is perennial. In addition, she pointed out that once the ORAD issued by the Commission expired, the Angelica Brook designation reverts to perennial status.

Mr. Leeds asked for Ms. Muggeridge's comments to be shared with the Commission and the applicant. Ms. Muggeridge agreed to re-type them and to turn them in to Ms. Rosenblum for distribution. Thad Soule of the Open Space Preservation Commission inquired about wildlife habitat issues, disturbance and impacts within the 100' buffer zone. Mr. Butler stated the disturbance would be about 20,000 square feet (or 1/2 acre), and that Appendix A was not required in this case and did not feel it necessary to examine habitat disturbance issues. Ms. Muggeridge read the last paragraph of Mr. Garner's 7/20/05 letter into the record: "Although in late 2004 the applicant asked the ConCom to conduct a new analysis of the river, my review of the 1/20/05 ORAD issued by the ConCom finds that the ConCom did not do so. Therefore, my opinion is that any decision by a party to proceed with design under the presumption that the brook is intermittent is mistaken, and subject to the likelihood of not prevailing under appeal." Ms. Muggeridge then distributed Mr. Garner's C.V.

Mr. Stevens distributed a memo from Ms. Rosenblum to the Planning Board dated 5/12/05 that states in part: "The Commission agreed that they do not consider the portion of Angelica Brook covered under the ORAD to be riverfront and therefore is not subject to the Rivers Protection Act and does not need to be listed under "Other Resource Area" on the ORAD. The Commission believes it to be intermittent..." Harry Kimball of 17 Parmenter Rd. asked if the applicant had any documentation informing him that the brook is intermittent and requested clarification on which areas of the brook are considered intermittent and which perennial. Ms. Russian stated that this issue was discussed extensively during the ANRAD process, the Commission affirmed the 1998 DEP decision, and she felt the issue was previously decided. Mr. Butler stated that he had run Stream Stats that morning and it showed "0" flow. Ms. Muggeridge reiterated that the ORAD form was not filled out correctly to support the Commission's position.

Mr. Upjohn suggested the solution is to ask DEP to reaffirm their 1998 decision. Ms. Russian said that DEP would not offer an advisory opinion. Mr. Possemato said that when the 1998 DEP decision expired, it did not mean that the brook reverted to perennial, and since the past determination holds, it needs to be proven to be perennial. Ms. Russian said that when the Commission decision was made, it was determined that BVW existed, and that the brook was not perennial. Since it was intermittent, it was not a resource area that needed to be noted on the form. Mr. Butler added that the Commission is in the position to decide the stream status. Mr. Possemato stated that any decision made on this application by the Commission can be appealed within 10 days. Ms. Muggeridge asked for copies of a decision by the Marlboro Conservation Commission on the status of Angelica Brook, and stated she had been counseled by DEP that the ORAD should have clearly addressed the Angelica Brook determination and asked whether she should file a Request for Determination. Mr. Stevens agreed to share the Marlboro Order of Conditions as requested and stated that only Commission members and staff are allowed on the site.

The hearing was continued to 3/8/07 at 7:30 p.m.

#### **Other Business:**

1. **Update on 88 & 90 Turnpike Road Septic Installations:** JoAnn Teachout is no longer employed by Connorstone Engineering and will not be providing updates to the Commission.
2. **Meeting Minutes:**
  - a. The minutes of 12/14/06 were reviewed. Upon motion by Mr. Upjohn and seconded by Ms. Russian, the Commission voted (4-0) to accept the minutes as amended.
  - b. The minutes of 1/4/07 were reviewed. Upon motion by Mr. Upjohn and seconded by Ms. Russian, the Commission voted (3-0-1 with Mr. Leeds abstaining) to accept the minutes as amended.
3. **136 Marlboro Road:** The Commission discussed the progress of the work on the site. They admitted they had expected the cut vegetative materials to have produced a greater volume of wood chips than it did, and expressed their desire for the homeowner to not do anything further on the property until it is time to plant in the springtime.
4. **Certificates of Compliance:**
  - a. **35 Ted Lane:** Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve a Certificate of Compliance as requested.

- b. **31 Sears Road:** Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve a Certificate of Compliance for the soccer field as requested. The Commission discussed the request for a certificate of compliance for the wildlife pond on the property, and after discussion amid differing viewpoints, decided to wait until the spring to revisit as the ground was not completely stabilized
5. **Sign Payables:** The Commission signed the payable forms for the MACC Environmental Conference in March.
6. **CPA updates:** The Commission's representative to the Community Preservation Committee (CPC), Mr. Upjohn, informed the members that the CPC has expressed concern that the sign at Chestnut Hill Farm does not include mention of the CPC or that CPA funds were used in part for the CR purchase. Ms. Rosenblum stated that the present sign is temporary, the new one will indicate that CPA funds helped finance the CR purchase, and that the \$25,000 Conservation Commission Fund warrant article for annual town meeting will include the financing for the permanent sign. Mr. Upjohn also stated that there was a bonding discrepancy for the Chestnut Hill Farm; town meeting had agreed to fund a 20 year bond, but the town actually took out a 10 year bond. Mr. Upjohn informed the Commission that CPA matching funds will likely decline to 75% next year and to 40% in following years based on the number of towns who have passed CPA and the declining state matching funds.
7. **Brewer Estates, Definitive Subdivision Plan:** The Commission was asked by the Planning Board to comment on the proposed plans for a 5 lot subdivision off Boston Road. The Commission reviewed the plans and asked if the original filing to the Planning Board was prior to or after the passing of the Stormwater and Erosion Control Bylaw. The Commission members expressed concerns about the steep grades and the extensive proposed cuts, the amount of fill and alteration, and the water flow on the site. They also read a letter from Public Health Director Paul Pisinski, who voiced similar concerns. The Commission determined that they would not have wetlands jurisdiction of the site except for Lots 1 and 2. They felt that Lot 5 showed the greatest amount of cuts of the slope, yet Mr. Pisinski considers Lots 1 – 4 to be the most serious. The Commission stated that they may disagree with the Board of Health on this detail.

Upon motion by Mr. Upjohn, seconded by Mr. Possemato, the Commission voted (4-0) to adjourn the meeting at 10:20 p.m.

Respectfully submitted,

Beth Rosenblum  
Conservation Administrator