

SOUTHBOROUGH CONSERVATION COMMISSION  
THURSDAY, MARCH 29, 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, March 29, 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, Mark Possemato, Louis Bartolini and Phil Bevins.

Absent was: Ann Leavitt

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

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**CONTINUED NOTICE OF INTENT – 40 SOUTHVILLE ROAD (SOUTHVILLE BUSINESS PARK), ASSESSORS MAP 4, LOT 30:**

Mr. Leeds opened the hearing at 7:40 p.m. Mr. Leeds read into the record a letter submitted by Martin Loiselle of Capital Group Properties dated 3/29/07 asking for a continuance to the last meeting in May 2007. Mr. Leeds acknowledged and read into the record a memo from Conservation Administrator Beth Rosenblum addressed to the Commission and dated 3/28/07 summarizing the issues raised over the past 2 years of hearings on this proposal and citing specific Wetlands Protection Act and local bylaw regulations on the ability of Commissions to deny projects.

Mr. Possemato said it was not appropriate to deny the project at this point in time and was willing to wait for the applicant to provide the requested information. Mr. Bevins reiterated his assertion that that project is too much for too little space, the site is not a valid one for the proposed project, and he won't be swayed by any new information presented by the applicant. Mr. Upjohn and Mr. Bartolini both agreed with Mr. Possemato. Ms. Russian said there has been no closure on the project, many designs presented, the applicant refused the peer review request by the Commission, but agreed to give one final opportunity to the applicant and insisted on a 3<sup>rd</sup> party peer review. Ms. Russian suggests the Commission not accept the applicants request to continue the hearing to May and instead ask them to appear at the next meeting on April 19, 2007. Mr. Bartolini agreed with Ms. Russian. Mr. Leeds then asked the Commissioners if Mrs. Russian's suggestion to approve a continuance only to the next meeting was acceptable to them. Mr. Possemato made a motion to move to continue the hearing to April 19, 2007, seconded by Mr. Bartolini and approved 6-0 by the Commission.

Frederica Gillespie of 78 Southville Road, a direct abutter to the project, stated the abutters have been caused a hardship by the constant continuances. Ms. Gillespie read a letter she wrote dated 3/29/07 into the record requesting the Commission deny the permit application. Mr. Possemato said the local wetlands bylaw does not impose any deadlines. Ms. Russian acknowledged the abutters concerns as articulated in Ms. Gillespie's letter and reiterated she is not willing to concede the continuance request and will demand action within 21 days. Mr. Leeds said he was willing to consider amending the bylaw to add deadline language. Joseph Maiella of 26 Constitution Drive asked if the applicant could use the argument that no deadline exists in the bylaw against the Commission. Ms. Russian clarified that the Commission has other legal avenues under the bylaw and the Wetlands Protection Act to deny projects; such as that information the Commission requested has not been provided, or that an independent engineering study requested by the Commission was not allowed by the applicant. Mr.

Maiella asked if at the next meeting the information has not been provided, can the Commission deny the project. Ms. Russian replied yes, the applicant has the burden to prove the project complies with state and local wetland laws. Ken Kahn of 15 Liberty Drive and member of the Master Planning Committee said there is an enormous advantage to the applicant to coordinate any plans with the Master Plan new villages plan, and asked how this could be communicated to Capital Group. Ms. Gillespie stated that would be the purview of the Planning Board when the project is in front of them. Mr. Leeds continued the hearing to 4/19/07 at 8: 45 p.m.

**NOTICE OF INTENT – 205 TURNPIKE ROAD (CURTISS GARDEN CENTER), ASSESSORS MAP 36, LOT 17:**

Mr. Leeds opened the hearing at 8:05 p.m. Present for the hearing was property owner Kathy Curtiss and her son, and engineer Bob Drake. Mr. Drake described the site and existing conditions, and stated the initial process began in May 2005 to determine whether multiple uses were allowed on the site. Mr. Drake stated that a Special Permit from the Zoning Board of Appeals was received with some restrictions imposed, and the Site Plan was reviewed under the Planning Board. Ms. Russian disclosed her relationship to the ZBA chairman Sal Giorlandino and offered to recuse herself from the hearing. Mr. Drake said that would not be necessary. Mr. Drake stated a 25 foot strip of land was purchased by Curtiss for access/egress onto Middle Road and for additional parking capacity. Mr. Drake explained why he submitted 2 packages to the Commission and what information was contained in each. Mr. Drake said the septic could not be expanded under the new Title V requirements and this factor limits the size of the project proposal. Mr. Drake described the proposal to create additional parking, expand the driveway, rearrange the front parking area, and improve the site access/egress. He stated there will be no drainage structures on Route 9, all runoff will be directed to the tributary stream, the site is within the 100 year flood plain, it is flat and the soils are well-draining. Mr. Drake is proposing to bring the site into Best Management Practices (BMP) compliance by using in-line storm filters and infiltration chambers and will be able to infiltrate storms over 25 years. He stated the resource areas are bordering vegetated wetland and a tributary stream to the reservoir considered to be Riverfront Area. He said the adjacent site on Middle Road is the drainage system for a 40B project, new haybales will be added along the edge of pavement at the 20' No Disturb Zone, no runoff is being sent into the wetlands but into the north basin and the new paved areas on the site will contain all new runoff.

The Commission asked why 54 parking spaces were needed, to which Mr. Drake replied that zoning and land use imposed that number of spaces. The Commission asked if perc testing had been done, and Mr. Drake responded yes, the site perched at 100 min/inch; it will not have 2 feet of clearance at drainage basin as is ideal but the Planning Board consultant agreed it would be adequate. Mr. Bevins asked about the overflow for the chambers. Mr. Drake replied there was none, the chambers would be cleaned regularly, and the parking lot will flood during the 25 year storm event. Mr. Drake stated an Operations and Management Plan is included in the application, and is the responsibility of Kathy Curtiss to clean out twice/year and to inspect after significant storm events. Mr. Bevins asked if the catch basins will have hydrocarbon separators. Mr. Drake said the standard hooded type was proposed to take care of particulate matter; no long term storage of vehicles is planned, and the catch basins are not discharging directly to a resource area. Mr. Drake said the in-line chamber being proposed will be used with insertable removable filter and is rated for 80% TSS. Mr. Bevins mentioned a product called "snout" that should be considered. Ms. Russian asked if a construction sequence has been supplied. Mr. Drake stated it was listed on the new plans provided, and added that near sensitive areas the intent is to use pavers for better infiltration, and showed the Commission which areas will be hard-topped and which will not.

The Commission said that most of the work proposed is within the 100' buffer zone, and asked why parking was not proposed behind the building. Mr. Drake said this will provide single directional flow around building. Ms. Russian asked for confirmation that the limit of haybales will not impinge on the

20' no touch zone. Mr. Leeds asked if the audience had any questions. Seeing none, Mr. Leeds continued the hearing to 4/19/07 at 8:15 p.m.

**CONTINUED ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION – 15 OREGON ROAD, ASSESSORS MAP 15, LOT 16:**

Mr. Leeds opened the hearing at 8:45 p.m. Present for the hearing were Charles Scott and engineer Bob Murphy. Mr. Murphy distributed a Delineation Field Form to the Commission, described the soils on the site and explained how the edge of the bordering vegetated wetland (BVW) was determined. Mr. Upjohn agreed with the main wetland line as depicted on the plans, but has not performed a site visit yet to review the wetlands at the rear of the property.

Paul Bourdon of 61 Breakneck Hill Road said the stream in question, historically known as Falls Brook, drains under the MA Turnpike and via a culvert drains into the Town Forest. Leo Buck of 7 Oregon Road said during his 23 years at this site, the stream has run year round, there is constant moving water in it. Charles Scott said he formerly lived at 10 Oregon Road and the brook dried up every summer. Peter Fucci, the present occupant of 10 Oregon Road for the past 4 years, said the stream had never dried up since moving in. Thad Soule of 26 E. Main Street said DEP uses data collected through USGS map review. On the letter sent to the Commission issuing a File Number for the proposal, MA DEP had indicated the Commission needed to verify whether Riverfront Area was in the vicinity or not.

Mr. Possemato asked for the applicant to produce an update to the plan showing the stream, and requested Stream Stats, flow stats and drainage area calculations. Lisa Braccio of 13 Oregon Road asked if stream will be delineated as it exists today. Ms. Russian replied the applicant will be required to do that. Mr. Buck invited anyone interested to walk the stream from his property. Ms. Gillespie stated that under Stormwater Phase II all culverts are required to be mapped. Ed Estella of 21 Woodland Road said that Fuss & O'Neill have located all culverts in town and DPW should have the data. Mr. Leeds continued the hearing to 4/19/07 at 8 p.m.

**ENFORCEMENT ORDER – 2 WOODLAND ROAD, ASSESSORS MAP 38, LOT 12:**

Mr. Leeds opened the hearing at 9:10 p.m. New wetland delineation plans for the property were distributed dated 1/26/07, not stamped, drawn by Connorstone Engineering. Present was property owner Robert Heavey. Ms. Russian detailed the list of issues prompting the enforcement order and suggested the Commission review the new plans against the Sanford Ecological report. Mr. Heavey showed much older plans that referenced an area labeled "edge of pavement" where the vehicles are presently being parked. Mr. Estella of 21 Woodland Road said the flood plain on the site should be the area of focus. Ms. Russian asked Mr. Heavey to present a statement from Sanford Ecological that they agree with the delineation as represented on the Connorstone plans dated 1/26/07 and if they do not concur, the Commission asked for Sanford to submit their own plan. In addition, Ms. Russian stated that if flood plain is on the property, it needs to be shown on the plans. Mr. Estella asked the Commission to require there be no co-mingling between equipment owned by the tenant (Iron Horse Tractor) versus the owner (Mr. Heavey). Ms. Russian also asked Mr. Heavey to provide an update of all the septic related issues as detailed on the enforcement order including a listing of the soils on site (both excavated and remaining) and to provide a response to the special conditions violated listed in the enforcement order. Mr. Leeds continued the hearing to the next meeting (4/19/07 at 7:30 p.m.) for a status update to address the issues raised, and to allow the commissioners to perform a site visit.

## Other Business:

### 1) Meeting Minutes:

- a. Minutes of 1/25/07 were reviewed. Upon motion by Mr. Upjohn and seconded by Mr. Bartolini, the Commission voted (6-0) to approve them as written.
- b. Minutes of 2/15/07 were reviewed. Upon motion by Mr. Upjohn and seconded by Ms. Russian, the Commission voted (6-0) to approve them as amended.

### 2) Order of Conditions:

- a) **13 Parmenter Road (Parmenter Meadows), Map 96, Lot 1:** The Commission discussed the status of Angelica Brook in the section closest to the proposed development of the Stormwater structure. Mr. Leeds stated he felt the stream was intermittent at the section in question. Mr. Upjohn made a motion to reconfirm the Commission's earlier decision that the section of Angelica Brook above Angelica Lane is intermittent. The motion was seconded by Mr. Bartolini and the Commission voted (4-2 with Mr. Possemato and Mr. Bevins opposing). Mr. Possemato stated that since DEP changed their definition of Riverfront in 2002, he feels that Angelica Brook is a river above Angelica Lane and that given the information provided by the abutter's representative (watershed area is in excess of ½ square mile), regardless of the flow, this section is not intermittent and is clearly a river in the area in closest proximity to the project.

Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (5-0-1 with Mr. Possemato abstaining) to approve a standard Order of Conditions (+38h) with the following special conditions specific to the Stormwater management system:

- The Cultec groundwater recharge chambers must have oil separators and filters in them;
- A pre-filtration system must be included at the beginning of the chambers;
- A Maintenance Schedule for the filters to be inspected and cleaned every 6 months with a Report filed with the Southborough Conservation Office must be adhered to.
- The above conditions are not intended to replace the Construction and Post Construction Stormwater Maintenance Plan listed under Appendix A and contained in the Stormwater Management Report.

- 3) **Stormwater Regulations next steps:** The Commission agreed to hold a special meeting on May 17, 2007 at 7:30 p.m. solely for review and approval of the Stormwater Regulations.
- 4) **179 Parkerville Road:** A request was made by the homeowner to remove 2 trees on the property. Ms. Rosenblum shared her thoughts after visiting the site, and showed pictures she had taken of the trees and their relationship to the wetlands. Mr. Leeds, Mr. Upjohn and Mr. Possemato agreed to visit the site over the weekend.
- 5) **106 Southville Road:** Ms. Gillespie expressed concerns that the restoration ordered by the Commission was not adequately being followed. She stated the stream bank continues to deteriorate. The Commission said they believed the restoration plan was being followed, and agreed to visit the site to address her concerns.

Upon motion by Mr. Upjohn, seconded by Mr. Bartolini, the Commission voted (6-0) to adjourn the meeting at 10:15 p.m.

Respectfully submitted,

Beth Rosenblum  
Conservation Administrator