

SOUTHBOROUGH CONSERVATION COMMISSION
THURSDAY, APRIL 19, 2007
TOWN HOUSE 2nd FLOOR MEETING ROOM
MEETING MINUTES

The Conservation Commission of the Town of Southborough held a meeting on Thursday, April 19, 2007 at 7:30 p.m. at the Town House 2nd floor meeting room.

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

Absent: Ann Leavitt and Louis Bartolini.

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

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

The property owner, Robert Heavey, did not show up for the hearing. In his absence, the Commission reviewed the outstanding issues and agreed they still had concerns regarding the wetland flagging and stream delineation, that information requested to be provided by Mr. Heavey had not been presented, the flood plain was not shown on the plan, and the plan was not signed or stamped. The Commission asked Ms. Rosenblum to check with the Health Agent to comment on the completeness of the septic installation. Mr. Upjohn made a motion that upon the failure of Mr. Heavey to respond to previous orders by the Commission, fines were to be assessed at \$100 per day starting on April 20, 2007. Prior to receiving a second on the motion, Ms. Russian suggested an amendment to the motion; given the failure to comply with special conditions of the Order of Conditions and subsequent conditions, the Commission will begin to impose fines at an Administrative Enforcement Hearing scheduled for the next meeting on May 10, 2007; the fines could run at a minimum of \$100 per day; and all testimony will be taken under oath. Mr. Upjohn seconded the amended motion, and the Commission voted (4-0-1 with Mr. Bevins abstaining as an abutter), to accept Ms. Russian's amended motion.

REQUEST FOR DETERMINATION OF APPLICABILITY – 14 RICHARDS ROAD, ASSESSORS MAP 9, LOT 7:

Mr. Leeds opened the hearing at 7:55 p.m. Present were homeowners Travis and Jennifer Hansen. Ms. Russian gave an overview of the Commission's role and jurisdiction in the approval process. Ms. Hansen described the proposed work to add a mudroom between the garage and house, to create a crawl space by raising the garage and porch and to expand the deck and rearrange the chain link fence around the property. The Commission stated the work is unlikely to have any effect on the adjacent stream as the area is very flat. Upon motion by Mr. Upjohn, seconded by Mr. Possemato, the Commission voted (5-0) to issue a Negative Determination with no erosion controls needed.

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

Mr. Leeds opened the hearing at 8:05 p.m. Present were property owners Charles and Melanie Scott and environmental engineer Bob Murphy. Mr. Murphy discussed the new plans he submitted that show the topography and the stream. He stated he walked the stream to confirm whether it crosses under the MA Turnpike, and said that it does before reaching Oregon Road. Mr. Murphy said he had done drainage calculations of the stream and it is only .28 square mile, not the ½ square mile required to confirm Riverfront Area under the Wetlands Protection Act. Mr. Murphy claimed the stream is intermittent.

Mr. Upjohn raised questions about the isolated wetland in the rear of the property, and said that some of the stone walls on the property were not shown on the plans and should be. Mr. Upjohn said the Wetland Flag (WF) line B5-B4 does not accurately reflect the conditions he viewed on the site; the wetland goes directly up to the stone wall yet the WF's are 3-6" away. He also stated the wetland is wider than shown on the plans, it extends along stone wall north 120-130' before hitting SOLF (Southborough Open Land Foundation) property, and further east. Mr. Upjohn pointed out on the plans where he felt the wetland line should be placed, and stated he felt the stone walls delineate the wetland boundary. Mr. Murphy said he found some areas where pockets of isolated wetlands existed, but said they were separate and not hydrologically connected and therefore not shown on plan.

Mr. Possemato asked whether the stream drainage calculations included both north and south of the MA Pike and if USGS StreamStats were used. Mr. Murphy responded that both north and south were considered in the calculations, and since the area did not calculate ½ square mile, he used Terrain Navigator rather than StreamStats. Mr. Possemato stated he wants to see official data from the USGS StreamStats server including flow rates. Mr. Murphy explained how he arrived at his figures, stated he did not get flow rates but just looked at area, and said the stream showed evidence of drying up. Mr. Scott stated the stream dried up every summer when he lived on Oregon Road, and the neighbors can confirm this. Mr. Possemato asked if the neighbors were in attendance who had witnessed the stream drying up. Mr. Murphy said they were not needed to be there since the watershed is less than ½ square mile and does not meet the riverfront definition. Ms. Russian said the wetland flags are not accurate and need review. Mr. Scott said he had researched Conservation Commission records on Brookside Extension which indicated the stream was intermittent. The Commission announced this was not relevant since that permit was issued in 2001-2002 and the regulations have changed since then.

Mr. Murphy said he will add the stone walls to the plans and recheck the wetland flags in the areas of concern. Mr. Bevins stated additional wetland flags need re-checking. Mr. Leeds opened up questions from the audience. Leo Buck of 7 Oregon Road reiterated his statement from last meeting; has owned the property since 1982 and has never witnessed the stream drying up, it flows constantly. Lisa Braccio of 13 Oregon Road attests that the stream has never dried up in the past 5 years. Sheila Fucci of 10 Oregon Road said she contacted mosquito control who refused to perform work since the stream was always flowing. Laurie Bourdon (formerly of 14 Oregon Road) stated she thought it was the applicant who needed to prove the stream was not intermittent, to which the Commission concurred. Mr. Leeds continued the hearing to 5/10/07 at 7:45 p.m.

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

Mr. Leeds opened the hearing at 8:40 p.m. Mr. Russian stated the hearing was continued to allow the Commission the opportunity to review the new information presented at the last hearing. There were no questions from Commission members or the audience. Mr. Leeds closed the hearing.

Upon motion from Mr. Upjohn, seconded by Ms. Russian, the Commission voted (5-0) to issue a standard Order of Conditions (-38h) and granting the applicant a waiver of the local bylaw 20' No Disturb Zone due to the fact that the project is dealing with previously impervious areas and given the current configuration constraints of the lot.

CONTINUED NOTICE OF INTENT – BREAKNECK HILL CONSERVATION LAND, ASSESSORS MAP 20, LOT 28A:

Mr. Leeds opened the hearing at 8:45 p.m. Present for the hearing was Laurie Bourdon of the Stewardship Committee and engineer Peter Bemis. Mr. Bemis distributed a letter listing costs and donated services, new plans and summarized the past hearings and issues to date. Mr. Bemis suggested the Commission consider a new arched spanned chamber called Storm Tech for the stream crossing, rather than a culvert since it would reduce the impacts to the brook and is a more natural agricultural-

type crossing. He said the weight would hold a large vehicle. Mr. Bemis said it is one half the cost of standard pipe and would rest on concrete pre-cast bounds on each side with trap rock around it. Mr. Bevins pointed out presently there is no way to fight a brush fire on the property since no vehicles can access the fields except through the adjacent Harding property. Ms. Bourdon stated the cost to the Commission for the project would be around \$9,180 since much of the labor and materials would be donated. Mr. Bemis described the replication area and the process to construct it. Ms. Bourdon said the Stewardship committee applied for a \$1,000 grant from the Appalachian Mountain Club to pay for some of the wetland plants to be used to re-vegetate the replication area. Mr. Bemis said the root stock is expected to be good, the costs listed are only estimates and both he and Ms. Bourdon are trying to piggyback the numerous volunteer opportunities offered. Ms. Bourdon stated at the very least, the Commission should grant approval for the water line to be installed. Mr. Upjohn asked whether the Commission had funds to cover these costs. Ms. Rosenblum said there was at least \$25,000 in the Conservation Fund, and would get the exact numbers from the town accountant. Freddie Gillespie of the Stewardship Committee said there might be some monies left over from the Breakneck Hill CPA project that could also be used for wetland plantings. Mr. Possemato said this would be a great Eagle Scout project. Mr. Leeds closed the hearing.

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

Mr. Leeds opened the hearing at 9:05 p.m. Present for the hearing was Bill Depietri and Martin Loiselle of Capital Group Properties, Tim Paris of Connorstone Engineering and Scott Goddard of Carr Research. Ms. Russian read a letter from Capital Group dated 4/12/07 into the record.

Mr. Depietri stated he currently had a lawsuit before the Zoning Board of Appeals on another property and asked Ms. Russian to disclose her relationship with the ZBA. Ms. Russian disclosed that her husband Sal Giorlandino is the current chairman of the ZBA and offers to recuse herself from the hearing. Mr. Depietri accepts Ms. Russian's offer to recuse herself. Ms. Russian recused herself from the hearing.

Mr. Paris reviewed the changes made to the plans; the smaller building has been reduced on the east side, 2 garage bays have been eliminated and it is now 3 bays. Mr. Paris restated information contained in a letter to the Commission dated 6/26/06 about the stream on the property being intermittent and stated there was no significant wildlife habitat on the site. Mr. Goddard of Carr Research said NHESP questions were answered by the letter they submitted, and he had done an evaluation and there were no presumed rare species on the site. He completed and submitted a Wildlife Habitat form Appendix A as requested and said the site does not meet any triggers for significant impacts to habitat such as dead trees greater than 18" with nesting cavities. Mr. Possemato stated the latest plans submitted are not stamped and asked the applicant where he'd been the past year during all the continuance requests. Mr. Depietri responded he was pulling together information and trying to save the second building. Mr. Possemato asked whether it was worth keeping given the reduced size and construction expense and asked if it was significant to the project. Mr. Upjohn said the rest of the property is previously disturbed except for where the smaller building is being proposed. Mr. Depietri said the smaller building was significant enough for him to keep and asked the Commission to focus on the larger building. Mr. Depietri said he felt he had responded to all of the Commission's requests for additional information. Mr. Leeds asked for questions from the audience.

Frederica Gillespie of 78 Southville Road offered a comment related to NHESP. She stated her experience with Natural Heritage is an area is only shown on their maps if it has been reported, and not being shown on the map does not mean it doesn't exist. Ms. Gillespie stated she felt a complete and comprehensive wetland habitat study should have been done, not the perfunctory one that was presented. She also said that the last minute notification by the applicant of the numerous continuance requests to the Commission was unfair to the abutters who were attempting to follow the public

hearings process. She further stated the information requested by the Commission and provided by the applicant was supplemental and much was previously submitted and not new information as requested. Ms. Gillespie said this was enough for the Commission to deny the permit.

Mr. Upjohn suggested continuing the hearing to the next meeting so that Mr. Depietri can consider all his options. Mr. Leeds said the Commission had asked for an independent review of both wildlife habitat and Stormwater issues. Mr. Depietri responded that Carr Research had performed the habitat studies requested and that SEA had performed peer review for the Planning Board 2 years ago on the Stormwater and drainage issues. Ms. Gillespie said the plan presently before the Commission had not been shown to the Planning Board and hence, SEA's prior review is not relevant. Mr. Possemato suggested having the Town Engineer review both the SEA data along with the new plans. Mr. Depietri agreed. Mr. Leeds continued the hearing to 5/10/07 at 8 p.m.

Other Business:

- 1) **Emergency Certification request:** Town Engineer John Woodsmall appeared before the Commission to request an Emergency Certification to perform emergency roadway repair and stream bank stabilization on Willow Street. He stated that erosion has created an unsafe situation and the Department of Public Works intends to stabilize the stream bank using a series of granite curbing. The Commission stated they consider the stream to be perennial. Upon motion by Ms. Russian, seconded by Mr. Upjohn, the Commission voted (5-0) to classify the repair work on Willow Street as emergency, to sign the Emergency Certification permitting the work to proceed, and to exempt the DPW from the standard Notice of Intent filing deadline.
- 2) **Meeting Minutes:** Minutes of the 3/14/07 meeting were reviewed. Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (5-0) to approve as written.
- 3) **Cross Country Race at Breakneck Hill Conservation Land:** Upon motion by Ms. Russian, seconded by Mr. Bevins, the Commission voted (4-1 with Mr. Upjohn voting against) to allow the race to proceed as proposed on May 3, 2007 at noon.
- 4) **EMC Project and discussion of peer review Scope of Work:** The Commission reviewed the comments made by Daniel Feeney of Beals & Thomas in response to the Fuss & O'Neill proposed scope of work for reviewing the EMC Notice of Intent proposal. After some discussion, the Commission agreed to eliminate the review of the wetland delineation and flagging since an ORAD had recently been extended, but insisted that all other items remain as recommended by Fuss & O'Neill. In addition, the Commission will ask Fuss & O'Neill to include a review of the proposed Conservation Restriction included in the Notice of Intent filing as part of their Scope of Work. A letter will be drafted to Beals & Thomas indicating the Commission's position.
- 5) Mr. Possemato said he would be absent from the next Commission meeting

Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (5-0) to adjourn the meeting at 10 p.m.

Respectfully submitted,

Beth Rosenblum
Conservation Administrator