

SOUTHBOROUGH CONSERVATION COMMISSION
THURSDAY, MAY 10, 2007
TOWN HOUSE 2nd FLOOR MEETING ROOM
MEETING MINUTES

The Conservation Commission of the Town of Southborough held a meeting on Thursday, May 10, 2007 at 7:30 p.m. at the Town House 2nd floor meeting room.

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

Absent: Ann Leavitt, Mark Possemato and Louis Bartolini.

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

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

Mr. Leeds opened the hearing at 7:45 p.m. Present for the hearing was property owner Charles Scott and Environmental Engineer Robert Murphy. Mr. Murphy stated he had revisited the site, and has submitted revised plans. Mr. Murphy said he has included the pocketed Isolated Land Subject to Flooding and they are hydrologically connected. He agrees now that the wetlands follow the stone walls as Mr. Upjohn indicated. He stated the USGS Stream Stats show a .26 square mile watershed and he spoke with DEP to confirm this number. Mr. Upjohn agreed the plan revisions presented do reflect his prior issues.

Lisa Braccio of 13 Oregon Road said that under the Rivers Protection Act, three definitions of a perennial stream are listed. Since intermittent status of stream has not been proven, the stream is perennial. Melanie Scott of 1 Austin Kelly Lane asked for a definition of intermittent stream. Chuck Scott said he lived adjacent to the stream in question for 30 years, and it dried up every summer. Ms. Braccio acknowledged it may have dried up in the past, but does not now. Peter Fucci of 10 Oregon Road said since 2003, he has never seen it dry up, and the property adjacent to the stream has never perced.

Ms. Russian thanked all in attendance for their participation and comments, and admitted that resource areas can change with development. Ms. Braccio thanked the Commission for their attention. Mr. Leeds closed the hearing.

The Commission deliberated the stream status. A Commissioner indicated that USGS maps show the stream as perennial. A Commissioner said the testimony of the abutters is hearsay. Mr. Upjohn made a motion to approve the delineation as represented on the revised plans dated 4/25/07. The motion did not receive a second. Upon motion by Ms. Russian, seconded by Mr. Bevins, the Commission voted (3-1 with Mr. Upjohn voting nay) to include in the ANRAD findings that the stream is perennial as shown on the USGS map. Upon motion by Ms. Russian, seconded by Mr. Upjohn, the Commission voted (4-0) the wetland boundaries are accurate as depicted on revised plans dated 4/25/07, and to reject the applicant's contention that the stream is intermittent.

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

Mr. Leeds opened the hearing at 8:10 p.m. after researching the legalities of the Wetlands Protection Act statute regarding opening a hearing without the presence of a quorum. Four commission members were present; however, since Ms. Russian was asked to recuse herself from the hearing, only 3

members remained. Mr. Leeds determined that the hearing could be opened and information presented, but it could not be closed or a vote taken without a quorum. Present for the hearing was Tim Paris of Connorstone Engineering and Martin Loisselle of Capital Group Properties.

The Commission reviewed the new plans submitted by the applicant with revisions dated 4/30/07 and more recently, dated 5/9/07. The first plan revision (4/30/07) addressed the issue brought up at the prior hearing regarding the significance of the second smaller building to the overall project. The applicant chose to eliminate this building from the proposal. The latest plan revision (5/9/07) corrected the size of an outlet pipe as noted during a review performed by Town Engineer John Woodsmall of the proposed plans and drainage calculations.

Mr. Leeds read into the record a letter from abutters Joe and Lily Maiella. Barry McCarthy of 47 Southville Road asked how gas and oil leaks would be handled. Mr. Paris responded that there would be catch basins with traps on the impervious surface with no direct impacts to the soil, and vehicles parked long term will be inside the garage and not outside. Mr. Paris explained the primary use of the building is for contractors, and each space will be sublet. Mr. McCarthy asked the commission whether restrictions could be imposed on the types of businesses that are allowed to use the building. Mr. Leeds replied that was outside the Commission's jurisdiction; it is a zoning issue. Ken Kahn of Liberty Drive read a letter into the record. Mr. Leeds read the Town Engineer's comments about stormwater into the record. Mr. Leeds continued the hearing to 5/31/07 at 7:30 p.m.

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

Mr. Leeds read into the record a letter received from Mr. Heavey dated 4/26/07 stating his inability to attend the hearing and asking for a continuance. Upon motion by Ms. Russian, seconded by Mr. Upjohn, the Commission voted (3-0, Mr. Bevins recused himself as an abutter) to continue the administrative hearing to 5/31/07.

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

Mr. Leeds read into the record an email from Mr. Peel to Ms. Rosenblum dated 5/8/07 stating he would be out of town and unable to attend this hearing, as would his engineer, and asking for a continuance. Upon motion by Ms. Russian, seconded by Mr. Upjohn, the Commission voted (3-0, Mr. Bevins recused himself as an abutter) to continue the hearing to 5/31/07.

NOTICE OF INTENT – RICHARDS ROAD AT CORDAVILLE ROAD (DPW), ASSESSORS MAP 8, ROADWAY RIGHT OF WAY:

Mr. Leeds opened the hearing at 8:50 p.m. Present for the hearing was John Woodsmall, Southborough Town Engineer. Mr. Woodsmall stated the project will include the widening of Cordaville Road and signalization at Richards Road. He said there has been a high incidence of traffic accidents at this intersection. Mr. Woodsmall stated the improvements were part of Capital Group Properties mitigation for 136 Turnpike Road, and there would be a widening of all four legs of the intersection. He showed the Commission a set of hybrid plans for the project; some drawn by Carr Research, some by McManus and others by Jillson Associates. Mr. Woodsmall indicated the resource areas affected by the project are a perennial stream and top of bank.

Mr. Woodsmall said the closest encroachment to a resource area is 5' on the northeast corner, where a guardrail will be pushed back as well as a 6 ½ foot expansion of roadway from the existing curb line. Ms. Russian said the project will need a variance from the local bylaw 20' No Disturb area. Mr. Woodsmall does not anticipate any work on the stream bank, and stated the drainage at the intersection will be improved through a series of deep sump catch basins with trash hoods. Although the project is adding impervious within the No Disturb area, the resulting water quality will be improved. The

construction will start this summer after the school term ends. The Commission expressed concerns that tree cutting had been started prior to the project being approved. Mr. Woodsmall said there was a miscommunication and no further trees would be cut. Mr. Leeds continued the hearing to 5/31/07 pending receipt of a formal variance request from the 20' No Disturb area.

Other Business:

1) Meeting Minutes:

- a. Minutes of March 29, 2007 were reviewed. Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve the minutes as amended.
- b. Minutes of April 19, 2007 were reviewed. Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve the minutes as amended.

2) Municipal Certification for Chestnut Hill Farm Parcel B Conservation Restriction:

Christa Collins of Sudbury Valley Trustees (SVT) explained the history of Parcel B and the concerns the town had over its former uses. Ms. Collins explained that a Restrictive Covenant will be placed on the area of concern and a Conservation Restriction (CR) placed on the remaining 22 acres. Public access will be limited. The Restrictive Covenant has already been executed by the Beals Trust and SVT. Ms. Collins will be appearing before the Board of Selectmen on May 22, 2007 for their approval. Upon motion by Ms. Russian, seconded by Mr. Upjohn, the Commission voted (4-0) to endorse the project and sign the Municipal Certification for said parcel.

3) Certificates of Compliance:

- a. **11 Barn Lane** – Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve a Certificate of Compliance.
- b. **9 Schipper Farm Lane (Lot 7)** – The Commission agreed that Special Condition #1 (the installation of a boulder barrier at the 20' No Disturb Zone line) had not been completed so a Certificate of Compliance could not be issued at this time. A letter indicating same will be sent to the applicant.
- c. **81 Deerfoot Road** – Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve a Certificate of Compliance.
- d. **6 Wells Lane (Builders Lot 3, Edgewood Road)** – The Commission discussed several items that required attention prior to the issuance of a Certificate of Compliance. A letter will be sent to the applicant indicating what issues remained that needed correcting (no ground cover, area not seeded, rear shows signs of erosion, new set of haybales needed).

4) Informal Discussion with Town Engineer John Woodsmall about Main Street

Improvements: Mr. Woodsmall explained that since 1996, the town has been trying to accumulate state highway monies (known as TIP) for improvement projects, but the state standards cannot be met. The estimated cost for the improvements is \$2.6 million and the town has collected less than half of that through Chapter 90 monies. The town is now trying to obtain state funding and has submitted a Project Need Form to Mass. Highway for funding. The scope of work is Main Street from Sears Road to Park Street and the town will need to pursue takings for the Library property, Community House, and others. Mr. Woodsmall explained the work will include new and improved drainage structures, a new sidewalk between Deerfoot and Parkerville Roads, roadway widening, turn lanes and new curbing. Of concern to Conservation are wetlands and a brook in the vicinity of Deerfoot and Parkerville Roads. Mr. Leeds asked when the work would start. Mr. Woodsmall replied that numerous approvals are needed first, and the realistic time frame is 2009-2010. Ed Estella of 21 Woodland Road expressed concerns about flood plain issues at the Fay School.

- 5) **Informal Discussion with Dan Feeney of Beals & Thomas about EMC peer engineering review scope of work:** The Commission reviewed the letter from Leigh A. Gilligan, a partner with McCarter & English representing EMC dated May 9, 2007. The letter was written in response to one sent by the Commission regarding the revised proposed engineering scope of work submitted by the town's consultants Fuss & O'Neill (F&O). EMC had objected to the original scope of work, the Commission had asked F&O to revise it based on the comments received from EMC, and this letter from Ms. Gilligan was in response to that revision. Ms. Gilligan's letter stated the scope of the peer review activities is "grossly over-inclusive and remains unacceptable to EMC."

Ms. Russian asked Mr. Feeney if there was anything EMC was not objecting to. Mr. Feeney listed the items EMC wished to have removed from the scope of work that included reviews of the Conservation Restriction, the field visit and the Stormwater management system. Mr. Feeney allowed that buffer zone review could remain in the scope of work, but since roadway expansion only was being proposed and not lot development, the rest of the review was premature. He stated that since EMC has no immediate plans to develop, it would make more sense to have individual lot development reviews by F&O when needed. Ms. Russian expressed concerns about the impacts of the roadway to the No Disturb area, and asked to receive in writing exactly what EMC will allow to remain in the scope of work rather than what they want to be removed from it, and to specify what they are willing to pay for. Ms. Russian asked for copies (formal and informal) of the submittals to the Westborough Conservation Commission, as well as any meeting minutes. Mr. Upjohn stated he is not objecting to the wetland line, but it is vital for the vernal pool to be investigated and proved for any future plans. Mr. Feeney stated that EMC does not consider this to be relevant to their submittal, and asked for it to be removed. Mr. Feeney started listing the other items that EMC wanted removed from the scope of work, and Ms. Russian asked instead to have EMC respond in writing using the Task Authorization form, and detailing exactly which items they were willing to include and to pay for and which they wanted removed. She also stated she felt the tone of the letter received from McCarter & English bordered on antagonistic, and does not find it helpful from a process perspective for achieving compromise and a good working relationship. The Commission asked Mr. Feeney to have a copy of the Notice of Intent sent to Fuss & O'Neill, and indicated that since F&O is being used by both Southborough and Westborough, there should be a way to build upon prior work and do some overlapping. Mr. Feeney replied that requested information will be submitted.

- 6) **Continued Notice of Intent – Breakneck Hill Conservation Land:** Upon motion by Ms. Russian, seconded by Mr. Bevins, the Commission voted (4-0) to approve a standard Order of Conditions (-38h) with additional special condition under the local bylaw that "wetland replication will be provided at a 2:1 ratio as indicated on plans and agreed to by applicants".
- 7) The Commission asked to have an update by the property owner at the next meeting on the status of the plantings at 136 Marlboro Road.

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

Respectfully submitted,

Beth Rosenblum
Conservation Administrator