

SOUTHBOROUGH CONSERVATION COMMISSION  
THURSDAY, FEBRUARY 25, 2010  
TOWN HOUSE MEETING ROOM, 2<sup>nd</sup> fl.  
MEETING MINUTES

A diagonal stamp with a checkmark in a box followed by the word "APPROVED" in a bold, sans-serif font.

The Conservation Commission of the Town of Southborough held a meeting on Thursday, February 25, 2010 at 7:30 p.m. at the Southborough Town House, 2<sup>nd</sup> floor meeting room.

Members Present: Dick Upjohn, (arrived at 7:40 p.m.), A.J. Purcell, Russ Gregory, Chris Molinaro and Rhonda Russian.

Absent: Mark Possemato and John Leeds

Also Present: Ellen Chagnon, Conservation Scientist Consultant

The meeting commenced at 7:30 p.m. with Ms. Russian acting as chairperson.

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**EXECUTIVE SESSION WITH SPECIAL TOWN COUNSEL TO DISCUSS PENDING LITIGATION:**

Ms. Russian opened the public meeting at 7:30 p.m. By roll call vote, the Commission moved to enter into Executive Session with Special Town Counsel Barry Bachrach at 7:30 p.m. By roll call vote, the Commission moved to exit Executive Session and re-enter into public session at 8:20 p.m.

**CONTINUED NOTICE OF INTENT – MARILYN GREEN, DEERFOOT REALTY TRUST, 75 DEERFOOT ROAD, ASSESSORS MAP 34, LOT 55:**

Ms. Russian opened the hearing at 8:20 p.m. Present for the hearing was property owner Marilyn Green. Ms. Russian noted the plans have been revised as requested by the Commission. Seeing no comments from Commissioners, Ms. Russian closed the hearing.

Upon motion by Mr. Upjohn, seconded by Mr. Molinaro, the Commission voted (5-0) to approve a standard Order of Conditions (-38h) with additional Special Conditions that included: 1) Annual mowing in the fall season completed by October 30 and only in the field area outside the 20-foot No Disturb Area and the edge of lawn; 2) stone construction entrance; 3) street sweeping as needed; 4) concrete markers placed as shown on plans shall be observed and maintained in perpetuity; 5) no landscaping or temporary or permanent structures shall be placed outside the edge of lawn (inner riparian zone); and 6) no disturbance within the 20-foot No Disturb Area.

**CONTINUED ADMINISTRATIVE ENFORCEMENT HEARING AND CONSIDER THE REQUEST TO AMEND THE ORDER OF CONDITIONS – SAGE INVESTORS, 154 MAIN STREET, ASSESSORS MAP 51, LOT 30:**

Ms. Russian opened the hearing at 8:25 p.m. Mr. Gregory recused himself from the hearing. Present for the hearing were developer Chris Christopher and engineer Peter Bemis.

Mr. Bemis discussed the restoration plans for the site and requested a waiver from the Southborough Wetlands Regulations, Section 3.2.3 (20-foot No Disturb Area) for the septic pump and chamber already installed (total of 32 square feet). Mr. Purcell asked whether the fence was still being requested. Mr. Bemis said that request has been withdrawn. Mr. Upjohn asked whether the area behind the boulders will be allowed to grow naturally. Mr. Bemis replied it will. Mr. Upjohn said the shrubs should be placed at the 20-foot No Disturb line, rather than at the wetland edge as proposed. A discussion ensued among the Commission about the placement of the shrubs and boulders. Ms. Russian reminded the Commission about ensuring consistency with other issued Orders of Conditions regarding the placement of permanent markers at the 20-foot No Disturb line. Mr. Molinaro suggested the boulders should be moved to the 20-foot No Disturb line with shrubs interspersed among them, and the area where the boulders are currently shall be allowed to grow naturally. Mr. Purcell concurred,

and added the area where the boulders are being removed from should be loamed and seeded. The Commission concurred, and stated that no mowing will be allowed in the 20-foot No Disturb Area. Ms. Russian and Mr. Upjohn said they are both willing to allow for the “flex” line (or waiver of the 20-foot No Disturb Area) at the site where the septic infrastructure had been installed. Mr. Molinaro and Mr. Purcell agreed.

The Commission asked Mr. Bemis to provide a full-sized stamped plan illustrating what the Commission had just approved and upon recommendation from Ms. Chagnon, agreed that it needed to be recorded at the Registry of Deeds since it differs from the plan on record that was originally approved.

Richard Araujo of 156 Main Street asked the Commission to include additional grading of the front yard since his lot next door is now being flooded. Mr. Bemis stated that he and Mr. Christopher have a side agreement with Mr. Araujo to work towards a solution to this problem, and this is outside the issue presently before the Commission.

Ms. Russian asked the Commission to consider the imposition of fines as defined under the local Regulations. Mr. Bemis said he does not feel an infringement of the resource area has occurred, and asked that no fine be imposed. Ms. Russian read into the record Section 7.6 (f) of the Regulations regarding violations which occur on a project where an Order of Conditions exists and where alterations have occurred to the 20-foot No Disturb Area. Section 7.6 (f) states that “alteration of [the] twenty (20) foot No Disturbance area . . . : at the discretion of the Commission, [the Commission may impose] an amount up to and including \$250.00 per violation. Restoration of the area to its pre-existing condition may, at the discretion of the Commission, be required under a Restoration Administrative Order.”

Ms. Russian suggested imposing a \$250 fine, to which Mr. Upjohn agreed. Mr. Molinaro also agreed to the fine and felt it is required under the circumstances, however minimal. Mr. Purcell agreed that the Commission is obligated to follow the local Bylaw and Regulations. Mr. Christopher stated he had no problems with the fine, and reminded the Commission that no disturbance of the wetlands occurred during construction of the site.

Upon motion by Mr. Upjohn, seconded by Mr. Purcell, the Commission voted (4-0) to impose a civil administrative fine of \$250. Ms. Russian summarized the conditions being required under the Restoration Administrative Order: a) boulders and shrubs to be placed at the 20-foot No Disturb line; b) a waiver of the 20-foot No Disturb Area is being granted for the 32 square feet area that contains the septic pump and chamber; c) the boulders shall be moved from their present location at the edge of BVW to the 20-foot No Disturb line; d) the area presently holding the boulders shall be loamed and seeded; and e) no mowing shall be allowed within the 20-foot No Disturb Area. Upon motion by Mr. Upjohn, seconded by Mr. Molinaro, the Commission voted (4-0) to the above conditions as stated by Ms. Russian.

Ms. Russian continued the hearing to 3/18/10 for submission and approval of a revised plan. Mr. Gregory rejoined the Commission.

**NOTICE OF INTENT – ANUPAMA SEHGAL, 9 RED GATE LANE, ASSESSORS MAP 42, LOT 23:**

Ms. Russian opened the hearing at 8:55 p.m. The application was filed for the construction of an in-ground pool within the buffer zone to bordering vegetated wetland. Present for the hearing was Michael Burke, P.E., representing the applicant.

Mr. Burke said the proposed pool will be approximately 56-feet away from the BVW and about 25-feet from the existing home, and some trees will need to be removed. A couple of Commissioners inquired whether the pool could be moved closer to the home and further away from the wetlands. Ms. Russian said a special condition regarding the backwashing of water from the pool into the wetlands will need to be included in the Order of Conditions. The Commission was informed that a DEP File # had not yet been issued, and decided to continue the hearing rather than close it until one was issued. Ms. Russian continued the hearing until March 18, 2010.

**NOTICE OF INTENT – CHARLES BLACK, KENDALL HOMES, 7 WILLIAM COLLEARY LANE (LOT 4), ASSESSORS MAP 46, LOT 18:**

**NOTICE OF INTENT – CHARLES BLACK, KENDALL HOMES, 4 WILLIAM COLLEARY LANE (LOT 2), ASSESSORS MAP 46, LOT 1:**

Ms. Russian opened both hearings concurrently at 9:10 p.m. The applications were filed for the construction of single family homes with driveways, septic system, grading and utilities within the buffer zone to bordering vegetated wetland. Representing the applicant was Michael Sullivan of Connorstone Engineering.

Mr. Sullivan explained the subdivision approvals already obtained from the Planning Board and what permits were still needed from the Conservation Commission. Mr. Sullivan indicated that the roadway and stormwater structures have been reviewed and permitted by the Commission; the 4 bedroom home, septic and driveway proposed for Lot 4 (#7) are all within the 100-foot buffer zone; there is high groundwater at the proposed septic area and it had to be raised to accommodate this; a retaining wall detail was added to the revised plans distributed tonight based on Ms. Chagnon's comments. Mr. Upjohn asked that the house corners and driveway be staked on the lot. No further comments were received from the rest of the Commission. Ms. Russian read into the record a letter from Assessor Paul Cibelli addressed to Beth Rosenblum regarding the non-recording of the subdivision at the Registry of Deeds.

Ms. Russian asked if the proposed septic systems have been approved by the Board of Health. Mr. Sullivan replied they have been. Mr. Russian asked the audience if they had any questions. Tim Howard of 15 Foley Drive asked whether the vent pipes and mounds of the septic system will be covered and landscaped. Mr. Sullivan replied that the Planning Board requires the pipes to be landscaped, but the mounds cannot be due to the limitations of planting anything deep-rooted on top of the mounds. Mr. Howard asked about the movement of water from the site and what would the consequences be if his property becomes flooded as a result of this development. Mr. Sullivan said only a small amount of additional water from the septic system is expected and should not raise the water table in any noticeable amount. Mr. Sullivan added that the water will be directed away from the Howard property. Grace Borelli of 25 White Bagley Road asked what the grading of the septic area closest to her property will look like. Mr. Sullivan responded the common septic system for 4 of the house lots (closest to the Borelli property) will be between 3-4 feet above existing grade for the septic, and that the system for the one-bedroom house at Lot 2 (#4) since it is a tear down and replacement system, Title 5 allows it to be the same grade as presently exists. Mr. Sullivan said this septic system has not been approved yet.

Mr. Upjohn said that due to the slope adjacent to the driveway, a double row of haybales will be required. Ms. Russian asked how the open space easement is to be accessed, and noted it is within the 20-foot No Disturbance Area. Mr. Sullivan offered to install permanent monuments if needed, and agreed to check with the Planning Board on the specifics of their approvals and conditions for the open space set aside. Roger Rosenquist of 8 Birchwood Drive inquired whether the new culvert on White Bagley Road will improve area flooding. Ms. Russian continued the hearing until March 18, 2010.

## OTHER BUSINESS:

1. **Meeting Minutes:**
  - a. **January 14, 2010:** Minutes were reviewed and upon motion by Mr. Upjohn, seconded by Mr. Purcell, the Commission voted (5-0) to approve the minutes as amended.
  - b. **February 4, 2010:** Minutes were reviewed and upon motion by Mr. Upjohn, seconded by Mr. Purcell, the Commission voted (5-0) to approve the minutes as amended.
  
2. **One Willow Street, Harvey Industries - Write and Approve Permits:**
  - a. **Stormwater Management Permit:** The Commission reviewed the Decision drafted by the Conservation Administrator. Upon motion by Mr. Purcell, seconded by Mr. Molinaro, the Commission voted (4-0, with Mr. Gregory recused from voting) to approve the SMP as drafted.
  - b. **Order of Conditions:** The Commission reviewed the Order and Special Conditions as drafted by the Conservation Administrator. Upon motion by Mr. Purcell, seconded by Mr. Molinaro, the Commission voted (4-0 with Mr. Gregory recused from voting) to approve the standard (+38h) Order of Conditions and Special Conditions as drafted.
  
3. **Woodland Meadows:** The Commission discussed the ZBA request to comment on the latest submitted plans, requested waivers and other materials for the proposed Woodland Meadows subdivision under a comprehensive permit. Ms. Chagnon offered comments on the proposal following her review of the materials. The Commission reviewed the plans and associated documents, and discussed the aspects of the project that relate specifically to the Wetlands Protection Act and the Southborough Stormwater and Erosion Control Bylaw and Regulations. The Commission agreed that since a wetlands delineation was not shown on the plans, they are unable to answer definitively whether any jurisdictional resource areas are to be impacted by the proposal, and felt that a wetlands resource delineation should be required. In addition, the Commission agreed that the proposal as presented triggered the applicability of the Stormwater Management Permit in that greater than 50% of the parcel will be disturbed, and that land with 15% or great slopes will be affected. The Commission agreed that the technical and comprehensive review under the SMP process would adequately evaluate the drainage implications and impacts of the project as well as provide the mechanism to ensure protection and review during construction and appropriate operations and maintenance protocol post construction. The Commission concurred that greater detail than what has been presented is needed to thoroughly evaluate the proposed development of the site. The Commission agreed to recommend that the ZBA not grant the requested waiver from the Stormwater Management Permit requirements, and agreed to offer assistance and guidance if the ZBA chooses to oversee the SMP process themselves. A letter will be sent to the ZBA by the Conservation Administrator detailing this discussion.
  
4. Mr. Purcell indicated he will not be in attendance at the next meeting.

Upon motion by Mr. Purcell, seconded by Mr. Upjohn, the Commission voted (5-0) to adjourn the meeting at 10:00 p.m.

Respectfully submitted,



Beth Rosenblum  
Conservation Administrator