

SOUTHBOROUGH CONSERVATION COMMISSION
THURSDAY, JUNE 10, 2010
TOWN HOUSE MEETING ROOM, 2nd fl.
MEETING MINUTES

A large, stylized stamp with a checkmark in a box followed by the word "APPROVED" in a bold, sans-serif font, tilted at an angle.

The Conservation Commission of the Town of Southborough held a meeting on Thursday, June 10, 2010 at 7:30 p.m. at the Southborough Town House, 2nd floor meeting room.

Members Present: Dick Upjohn, Russ Gregory, Chris Molinaro, Mark Possemato (arrived at 7:45 p.m.) and John Leeds

Absent: Rhonda Russian and A.J. Purcell

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

CONTINUED NOTICE OF INTENT - JOSEPH AND NANCY BAPTISTE, 58 DEERFOOT ROAD, ASSESSORS MAP 43, LOT 26:

Mr. Leeds opened the public hearing at 7:33 p.m. Mr. Upjohn recused himself from the hearing as an abutter to the project. Representing the property owner was Peter Bemis of Engineering Design Consultants.

Mr. Bemis stated he had installed new wetland flags as requested, the house and septic system have been staked, and reiterated his request seeking a waiver of the local filing fee, and pointed out that the abutter in attendance at the last meeting was not present to voice further objections. Seeing no comments from commission members or the audience, Mr. Leeds closed the hearing.

Upon motion by Mr. Leeds, seconded by Mr. Molinaro, the Commission voted (4-0 with Mr. Upjohn recused) to approve a standard Order of Conditions (+38h). The Commission then considered the request for a waiver of the local filing fee. Upon motion by Mr. Molinaro, seconded by Mr. Leeds, the Commission voted (4-0) to deny the requested waiver, primarily due to the fact that this project had been previously approved and permitted, and the applicant would have saved the cost of a new filing had they requested an Extension of the original Order of Conditions before it was allowed to expire.

CONTINUED NOTICE OF INTENT – ESTATE OF ELINOR GARFIELD, 84 MAIN STREET, ASSESSORS MAP 53, LOT 1:

Mr. Leeds opened the public hearing at 7:45 p.m. Representing the applicant was Peter Bemis of Engineering Design Consultants. Also present were individuals representing the realtor and the bank.

Mr. Bemis showed historic photos with the intention of demonstrating why the isolated wet area should be considered non-jurisdictional. Mr. Bemis said his goal is to protect the historic trees on the property, and admitted that it is unfortunate some have already been lost due to neglect. Mr. Bemis also presented documents from the Southborough Historical Society outlining the history of former property owner Joseph Burnett, and the property's connection with famed landscape architect Frederick Law Olmstead. Mr. Bemis said he had consulted with Arborist James Carney of Harvard regarding the health of the remaining trees on the site. Mr. Bemis would like the Order of Conditions to state that the isolated wetland is non-jurisdictional and is not protected as a wetland under the Wetlands Protection Act.

Mr. Leeds opened the discussion to commission members and added that he wished to wait until the full board is present to make a final decision on the isolated wetland issue. Mr. Upjohn confirmed that the line of trees were not planted with the wetland present and added he would like to see the Beech tree preserved. Mr. Upjohn agreed that the runoff from Deerfoot and Main Streets have created the

wetlands however the wetlands are there now where previously they did not exist and stated this is a wetland and is protected under the bylaw. Mr. Upjohn said the Town proposal for Main Street improvements should improve the drainage and will change the direction of runoff into this area. Mr. Molinaro agreed with Mr. Upjohn that the wetland exists today and is regulated under the local bylaw. Mr. Possemato said the situation is difficult since the wetland did not exist when the trees were planted and they will not live in continued wet areas. Mr. Possemato concurred that the wetland is protected under the bylaw, and admitted he is conflicted by these competing issues. Mr. Gregory said he would be disappointed to see the Beech tree fail, adding it is magnificent as well as irreplaceable. Mr. Gregory said the other trees are not as important as the Beech tree. Mr. Possemato said the Commission's job is to manage critical resources, of which both the isolated wetland and the Beech tree are.

Mr. Bemis said the late homeowner did not keep up with maintenance of the site. Mr. Molinaro said that filling the wetland will not prevent further runoff from saturating the site. Mr. Bemis said the issue needs to be dealt with on both fronts; reduce hydrology in the area and work with the Town to improve the street drainage. Mr. Bemis stated that what is at issue is to protect the tree from destruction. Mr. Leeds re-stated that he wants all members to be present for a vote on this important issue. Mr. Bemis said he was hoping to have the issue closed tonight, and added the Planning Board had approved a 3 lot ANR plan for the site, and the family wants the trees to be preserved. Mr. Leeds persisted that all 7 members be present to make this important decision. After consultation with his colleagues, Mr. Bemis agreed to continue the hearing.

Mr. Leeds continued the hearing to 7/1/10 at 8:30 p.m.

NOTICE OF INTENT – RALPH ELLIS, 130 MAIN STREET, ASSESSORS MAP 52, LOT 5:

Mr. Leeds opened the public hearing at 8:25 p.m. The application was filed for the upgrading of a portion of a culvert that runs under Route 30 and 130 Main Street within Riverfront Area and Bank. Present for the hearing was applicant Ralph Ellis and engineer Dan Feeney from Beals and Thomas.

Mr. Feeney explained the past flooding issues on the site and the inadequate pipe sizing and detailed the proposed solution for the replacement of pipes with a larger one and the installation and ownership by Mass Highway of a manhole for cleaning and maintenance of the culvert. Mr. Feeney said the work is being proposed during the dry weather months of July and August, and if needed, water can be pumped around the area of work. Mr. Feeney referenced the comments received by Town Engineer John Woodsmall, who requested that a MA DEP Stormwater Report be completed. Mr. Feeney said the Stormwater standards are mostly not applicable to this project, and added that the Commission could condition this as a Special Condition. Mr. Feeney acknowledged receiving comments from MA DEP Wetlands Division that a 401 Water Quality Certificate may not be required if the Commission concurs.

Mr. Upjohn said there are 3 properties affected by this application (130 Main, 136 Main and 107 Main St., and Mass Highway overseeing Route 30) and that 1 of the 3 trees listed on the plans no longer exists. Mr. Molinaro asked for verification that all the paperwork is properly in place between all the stakeholders involved, and concurred with the Town Engineer's request that the applicant provide the additional supporting documentation. Mr. Gregory stated that during construction, he wants the site to be stabilized adequately at night to accommodate storm events.

Mr. Leeds closed the hearing. The Commission agreed to write the Order of Conditions at their next meeting and to include Special Conditions as discussed.

CONTINUED STORMWATER MANAGEMENT PERMIT AND CONTINUED NOTICE OF INTENT – CAPITAL GROUP PROPERTIES, STONEBROOK VILLAGE, 0 OREGON ROAD, ASSESSORS MAP 15, LOT 16:

Mr. Leeds opened both continued hearings concurrently at 8:40 p.m. Present for the hearings were Martin Loiselle of Capital Group Properties and Rich Mainville of Connorstone Engineering.

Mr. Mainville said the plans have been revised and responses written to Mr. Woodsmall's and Ms. Chagnon's comments. Mr. Upjohn noted that a children's play area was now being proposed on top of the septic system, which had previously been proposed as a meadow. Mr. Loiselle and Mr. Mainville concurred that the area will now be a 16,000 square foot play area. Mr. Upjohn said that access to the play area is adjacent to the detention area, and said again that he felt the project is too dense for the site. Mr. Molinaro spoke to concerns he has regarding the construction sequencing and that the issue raised at prior meetings about the 200+ truck trips backing onto the site from Oregon Road in order to bring in the needed volume of fill had not been addressed. Mr. Loiselle replied that during the ZBA process, Mr. Depietri had stated the fill would be brought in over a period of 3–4 days. Mr. Molinaro felt that schedule was unrealistic, and asked how the children at the active day care next door to the site would be protected during construction. Mr. Leeds opened the hearing to audience questions.

Peter Fucci of 10 Oregon Road asked how children at the daycare (some might have asthma) would be spared from the dust generated during construction. Mr. Leeds replied this is not a conservation issue. Karen White of 23 Meadow Lane said when there was construction nearby to her home, her son had to be hospitalized due to the dust and the site not being properly watered down. Lisa Braccio of 13 Oregon Road showed commissioners a hydrology and topography map of the adjacent SOLF property which showed that wetlands are closer to the proposed septic leach field than shown on the applicant's plans. Mr. Upjohn admitted that he never crossed the stone wall to the SOLF property during his site visit to verify whether the wetlands extend beyond the site. Paul Barlow of 33 Edgewood Road said the proposed leaching field is upslope of the wetlands and asked if runoff will drain into wetlands and what impact that may cause. Ms. Braccio said she has looked at utility company maps of the area, and they show that almost 100% of the proposed project is within the 100' buffer zone. Ms. Braccio added that the rock pile present on the site behind the proposed #5 and #6 lots is within the 20-foot NDZ and should not be moved since it serves as wildlife habitat. Ms. Braccio said the proposal for the site is too dense and overbuilt, and fears that the children living there will encroach on environmentally sensitive areas.

Mr. Possemato asked how the buildings will be constructed so close to the 20-foot NDZ. Mr. Mainville said that construction will occur within the 20-foot NDZ, with orange fence placed 5-feet down gradient and erosion controls placed at edge. Mr. Mainville said the outlet for the detention basin is within the 20-foot NDZ too. The Commissioners all want to see the 20-foot No Disturb Zone (NDZ) respected, and since the applicant is proposing activity within this area, a waiver from the local bylaw must be formally requested with the reasons explained why it is needed. Mr. Molinaro asked for a report detailing the construction sequence, and how each construction activity will impact the wetland resource areas on the site. Mr. Possemato said the elevations within the 20-foot NDZ will be altered through site grading.

Bill Sines, representing SOLF, said he had walked the property and observed standing water nearby the proposed development on the SOLF property. Mr. Sines said the land trust has a fiduciary responsibility to the state and is concerned that the outflow of stormwater from the site will cause an increase of water flow onto the SOLF property. Mr. Sines said that SOLF wished to be indemnified and held harmless from future lawsuits and asks the applicant for a surety bond or guarantee to ensure that proper maintenance is performed on their site so as not to adversely affect the SOLF property. Frederica Gillespie of 78 Southville Road made reference to Ellen Chagnon's comments and said there

is concern about breakout from the proposed septic system and whether runoff will impair water quality to receiving stream and adjacent property wetlands. Ms. Gillespie showed the National Resource Conservation Service soils map for the area, and said that Whitman Loam is hydric and unsuitable for the proposed uses and asked how the soil would handle the proposed discharge of 4,200 gallon/day. Mr. Mainville replied that soil testing was done on the site and the Board of Health has approved it. Mr. Mainville said that test holes are only required on the site itself, and the barrier around the septic had been extended as previously requested. Ms. Gillespie said the meadow that was being proposed previously as a corridor for wildlife habitat is being eliminated and agreed that children will end up playing in the 20-foot NDZ.

Pamela Saitta of the SOLF Board spoke about the hydrological impact of the proposal to the property and that the applicant had requested a waiver from the SMP in order to increase the volume of runoff from the site. Ms. Saitta said that the water should be managed onsite and the waiver should be denied. Mr. Mainville said the increase in volume is small, and there is a lot of infiltration with more going into the ground than running off site. Mr. Mainville added that although the runoff volume has increased, the rate has decreased. Mr. Possemato said that there will be more water flowing off site but at a slower rate, and asked if a fence was being proposed around the detention basin since children will now be walking around it in order to access the proposed play area. Mr. Mainville replied no. Mr. Possemato asked if there was any way to contain all the water on the site, or to state that it is impossible to do so. Mr. Mainville said it is close to impossible due to the high groundwater and the basin bottom is close to groundwater.

Arthur Bergeron of Mirick, O'Connell and representing the daycare center owner said that local bylaw permit waivers are determined by ZBA under a comprehensive permit, and asked if the applicant had requested waivers from the ZBA. Ms. Braccio asked where the water from basements will be pumped to when they flood with water. Ms. Gillespie referenced the approval letter from MassHousing for the project, and said the letter stated the applicant must demonstrate compliance with all statutory and regulatory conditions and restrictions related to drainage and conservation issues, recommended that a connection be made between the site and the SOLF land, and due to the vast wetland resources that LID techniques be employed. Leo Buck of 7 Oregon Road asked if anything is allowed within the 20-foot NDZ. The Commission replied that if a waiver was granted, only temporary disturbance would be allowed within the 20-foot NDZ. Ms. Saitta said the applicant should explore ways to keep all water on site. Ms. Braccio asked if there was any recourse if the water flow from the site increased to abutting properties and caused additional flooding.

At 9:50 p.m., Mr. Leeds continued the hearing to July 22, 2010 at 8 p.m.

OTHER BUSINESS:

1. **Request for a Certificate of Compliance - 4 Prentiss Street (DEP File # 290-729):** Upon motion by Mr. Upjohn, seconded by Mr. Gregory, the Commission voted (4-0 Mr. Possemato was not present for the vote) to approve a Certificate of Compliance.
2. **Meeting Minutes:** The Commission reviewed the meeting minutes from 4/29/10. Upon motion by Mr. Upjohn, seconded by Mr. Molinaro, the Commission voted (5-0) to accept as written.
3. **Chestnut Hill Farm:** Town Counsel suggested the Commission invite the new owners of the property (The Trustees of Reservations) to a future meeting for an introduction to the Commission and for a discussion of their plans for the property.

4. **Fay School:** Ms. Rosenblum informed the Commission of the recent erosion and runoff issues as a result of recent storm events. The Commission gave their permission to issue an Enforcement Order if deemed appropriate.
5. **Woodland Meadows:** ZBA chair Sam Stivers asked the Commission for final comments on the proposal and to provide specific responses to the requested waivers and whether any special conditions or requests should be included in the decision.

Upon motion by Mr. Upjohn seconded by Mr. Gregory, the Commission voted (5-0) to adjourn the meeting at 10:30 p.m.

Respectfully submitted,



Beth Rosenblum
Conservation Administrator