

SOUTHBOROUGH CONSERVATION COMMISSION
THURSDAY, JULY 22, 2010
TOWN HOUSE MEETING ROOM, 2nd fl.
MEETING MINUTES

 APPROVED

The Conservation Commission of the Town of Southborough held a meeting on Thursday, July 22, 2010 at 7:00 p.m. at the Southborough Town House, 2nd floor meeting room.

Members Present: A.J. Purcell, Dick Upjohn, Russ Gregory, Mark Possemato (arrived at 7:15 p.m.), Rhonda Russian (arrived at 7:30 p.m. and departed at 10 p.m.) and John Leeds
Absent: Chris Molinaro

The meeting commenced at 7:00 p.m. with Mr. Leeds as chairperson.

Mr. Leeds opened the meeting at 7:05 p.m.

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

Mr. Leeds opened the continued hearing at 8:00 p.m. Present were Bill Depietri and Marty Loisel from Capital Group, and Rich Mainville from Connorstone Engineering. Mr. Mainville stated that the Commission had asked the applicant to present a waiver request from the local bylaw at their last meeting, and this has now been submitted to the ZBA. Mr. Mainville said the erosion controls have been updated.

Ms. Russian stated that the process for requesting a waiver of a local bylaw under a 40B project is to seek the waiver from ZBA, who then asks the relevant board or committee to offer their opinion on the requested waiver. Mr. Mainville showed on the plans the specific areas where the waiver of the 20-foot No Disturb Area is being requested. Mr. Depietri formally proposed a minor modification to the plans to relocate the decks at #5 and #6 from the rear of the house to the side and slightly rotating these house locations. Commissioners asked about the plans for accessing and servicing the septic system, and whether any additional wildlife habitat area is being considered now that the wildlife meadow about the leach field is being turned into a children's play area. Mr. Depietri replied there are no additional plans for habitat, and Mr. Mainville responded to the septic questions. Mr. Possemato asked about fencing around the stormwater basin. Mr. Mainville said it will only hold water for 24 hours following a storm. Mr. Depietri said he is willing to install a post/rail fence but not a chain link fence if the Commission requests one. Mr. Upjohn asked if any lawn area was proposed behind any of the units. Mr. Depietri replied there will be crushed stone under the decks, and mulch beds beyond that. Mr. Upjohn asked about demarcating the 20-foot No Disturb Area on the ground. Mr. Depietri said he had used a post/rail fence at a project in Hopkinton, and would be willing to do it on this project. The Commission said it was most important to delineate the 20-foot No Disturb Area around the units, and this restriction should also become a part of the Master Deed for each property. Mr. Purcell suggested also using boulders behind the fence for further demarcating the area. Mr. Depietri stated he would agree to that condition, and also to place markers on trees if requested.

Ms. Russian pointed out that the Operations and Maintenance (O&M) Plan does not have a quantifying definition of what a major storm event consists of, and the language in the O&M Plan that refers to inspection after a storm event needs to be changed from "annually" to a specific storm measurement. In addition, Ms Russian asked that the Reports that are to be submitted to the Commission come in at a minimum of once/year, preferably by a specified date. Ms. Russian also clarified that the request to consider a waiver of the stormwater volume of the project is under the Stormwater Management

Permit and not under the Wetlands Protection Act Regulations. Mr. Mainville agreed that the WPA does not regulate stormwater volume, only rate, so the waiver request is only under the SMP. The Commission agreed that the measurement for storms is to be "3-inches over a 24-hour period" and the Report must be submitted annually by October 30th whether or not the stormwater volume measurement is met.

Mr. Leeds opened up the hearing to questions from the audience.

Frederica Gillespie of 78 Southville Road asked who will prepare and be accountable for the Stormwater Reports once Capital Group Properties has sold all of the units. Mr. Depietri replied that Capital Group will turn everything over to the Condo Association within 2-3 years after project completion, and that the Conservation Commission can set consequences within their permit approvals if Reports are not submitted. Ms. Russian said a note in the Master Deed can be required in perpetuity, and can be included in the special conditions of both the SMP and the Order of Conditions that will run with the land and can include enforcement actions under the Commission's jurisdiction.

Lisa Braccio of 13 Oregon Road asked about stormwater volumes and how an absorption rate could be determined without having a wetland delineation done of the adjacent SOLF property. Mr. Mainville explained that despite the project adding more water to the existing flow; it is doing it at a lower rate since the water is being absorbed slower despite the volume being greater through the use of the stormwater devices. Ms. Braccio pointed out a discrepancy of the square feet of project disturbance between the Carr Labs Report and the waiver request submitted to the ZBA, which has a lower number, and asked about the 3 trees mentioned in the Carr Report as being important for wildlife habitat and that one of these trees will be removed by the project as well as the wildlife meadow which was for mitigation, and asked if there was any additional mitigation being planned to replace this deficit. Mr. Mainville said the discrepancy in the disturbance number is because the plans have been revised since the Carr Report, and the number is lower than it had been. Mr. Depietri spoke to the tree removal issue, and said the ZBA wants trees planted, and he intends to save as many trees on the site as possible. Ms. Braccio expressed concern about long term detrimental effects to her property from this project.

Meme Luttrell of 19 Oregon Road asked for clarification of the requested waivers and about lawn being replaced with fencing. Leo Buck of 7 Oregon Road asked whether special controls about salt usage, etc. could be placed on a private road. Mr. Depietri said he will agree to use an environmental friendly product such as Magic Salt rather than salt or sand. The Commission added that no plowing of snow into the detention basin would be allowed either. Bill Sines, SOLF Trustee, said that SOLF believes there are wetlands within 20-feet of unit #15, and that SOLF will not take any responsibility for the increase or decrease in the size of these wetlands due to the proposed project, and that SOLF has requested a surety bond or other guarantee associated with the stormwater aspects of the project as well as regular, annual inspections.

Mr. Purcell asked Mr. Depietri if all of the Commission's Special Conditions would be transferred to the Condo Association. Mr. Depietri replied they will be included in each Deed and recorded with the Condo Association documents, and added that Capital Group will stay involved for 18 months in the property after the last sale. Mr. Sines said that SOLF property next to the Kallander Road playing field has been damaged, and Ms. Gillespie said that SOLF does not have the resources to follow up if damage or violations occur. Ms. Gillespie asked if the volume increase is over the entire site or for one catch basin. Mr. Mainville replied it is the entire site and described the flow of water from off-site onto the site's series of stormwater devices. Ms. Russian asked when the increase in volume would occur. Mr. Mainville said there will be a slight increase during the 2 year storm and up. Mr. Depietri said that all water will be treated.

Mr. Depietri asked for the hearing to be closed pending submission of revisions within 7 days. Ms. Russian stated the hearing should be continued until the next meeting so the Commission can review the plan revisions, and summarized the items that were discussed that need to be included on the revised plans to be submitted: the waiver previously requested for #5 and #6 is no longer needed and should be removed from the waiver request; the revised deck locations for #5 and #6 need to be shown on the plans; a permanent boundary, fence and boulders at the 20-foot No Disturb Area must be shown on the plans; the Stormwater O&M Plan and Report definitions must be updated with additional language and definitions as discussed; snow melt alternative treatments must be stated in O&M Plan; no snow plowing into detention basin must be shown on plans and stated; and that all specified Special Conditions and other requirements included in the SMP and Order of Conditions permits run with the land and in perpetuity.

Mr. Upjohn stated that no extraneous information will be heard at the next meeting; the discussion will center on the requested plan revisions and concessions.

At 9:10 p.m., Mr. Leeds continued both hearings until August 3, 2010 at 8:30 p.m.

NOTICE OF INTENT – MAXINE BELLEW, 36 FISHER ROAD, ASSESSORS MAP 72, LOT 5:

Mr. Leeds opened the hearing at 9:10 p.m. The application was filed for the construction of a septic system partially within the buffer zone to BVW. Present for the public hearing was property owner Maxine Bellew and Mike Sullivan of Connorstone Engineering. Mr. Sullivan gave an overview of the project, and said the new system will be installed within the existing lawn area, and it has been approved by the Board of Health. Mr. Upjohn and the Commission concurred this was very straightforward, and suggesting moving some of the haybales back a few feet. Mr. Sullivan agreed. Mr. Leeds closed the hearing.

Upon motion by Mr. Upjohn, seconded by Mr. Possemato, the Commission voted (5-0) to approve a standard Order of Conditions (-38h) with Special Condition to move the haybales on the westerly side out 5-feet past the over-dig.

STORMWATER MANAGEMENT PERMIT – NEW ENGLAND PRIMATE CENTER, HARVARD UNIVERSITY, ONE PINE HILL DRIVE, ASSESSORS MAP 95, LOT 1:

Mr. Leeds opened the public hearing at 9:30 p.m. Present on behalf of the applicant were Vivienne Esrig of Harvard Medical School, civil engineer Matt Brassard, and architect George Berg. Mr. Berg stated that the haybales had been pulled back as requested, the SWPPP had been filed, and the site staked. Seeing no questions, Mr. Leeds closed the hearing at 9:35 p.m. The Commission agreed to review a draft Decision and vote on approval at their next meeting.

ADMINISTRATIVE ENFORCEMENT HEARING – DAVID BRINKMANN AND NICOLE PARKER, 154 MAIN STREET, ASSESSORS MAP 51, LOT 30:

Mr. Leeds opened the hearing at 9:40 p.m. The hearing was to address the violations documented in an Enforcement Order issued on July 1, 2010. Present for the hearing was Nicole Brinkmann, who fully accepted responsibility for the mowing within the 20-foot No Disturb Area. Ms. Brinkmann said there was a tick infestation on her property, both her daughter and dog had been bitten by ticks, and she had been advised by an expert to mow the area in order to keep the vegetation under control which would in turn keep the infestation down. Ms. Brinkmann also informed the Commission of the situation she and her husband are presently in with the developers since moving from Philadelphia and buying the home. Commissioners Russian, Purcell, Gregory and Possemato voiced their opposition to imposing fines in this circumstance. Commissioners Upjohn and Leeds felt a \$50 fine was appropriate. Upon motion by Mr. Purcell, seconded by Ms. Russian, the Commission voted (5-1 with Mr. Upjohn

voting nay) to impose no fines and to remind the homeowners they can no longer mow or spray the 20-foot No Disturb Area.

CONTINUED NOTICE OF INTENT – STEPHANIE SLACK AND KATHLEEN RALICKI, 227 PARKERVILLE ROAD, ASSESSORS MAP 7, PARCEL 16, LOT 2B :

Mr. Leeds opened the public hearing at 9:55 p.m. Present for the hearing was Peter Bemis of Engineering Design Consultants and property owners Stephanie Slack and Kathleen Ralicki. The hearing was continued from the prior meeting to wait for the Planning Board to approve the subdivision of the property which would create a unique lot for #227. Without that being done first, the lot could not be legally recorded. Seeing no questions from the Commission or the audience, Mr. Leeds closed the hearing.

Upon motion by Mr. Upjohn, seconded by Mr. Possemato, the Commission voted (5-0) to approve a standard Order of Conditions (-38h) with additional special condition that permanent markers shall be installed at the edge of the 20-foot No Disturb Area.

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

Mr. Leeds opened the public hearing at 10:00 p.m. Representing the applicant was Peter Bemis of Engineering Design Consultants. Mr. Bemis restated that the issue that remains here is that approximately ½ acre of roadway drains to the property and the low spot that it drains onto is acting as a stormwater detention basin. Mr. Bemis said he has performed perc test, and found the soil to be overburdened with organic debris which water cannot penetrate. Mr. Bemis admitted that at present, the drainage cannot be stopped coming on to the property since the roadway improvements will not happen until 2015 at the earliest. Mr. Bemis presented a plan to construct a stone swale and a stone lined basin.

The Commission asked for specifics of proposal, whether or not they could restrict further development of the site, and agreed that they would have to give up jurisdiction of the isolated wetland under the local bylaw in order for this proposal to proceed. The Commission confirmed that the proposal was essentially an O&M Plan for an unplanned and unpermitted Stormwater basin. The Commission asked Mr. Bemis if the plan he was proposing would work since he did not include engineering calculations, and asked how much water the basin would be able to hold and if it could take the total flow from the pipe in the stone wall. Mr. Bemis said 2-feet of water perced in 20 minutes, and said the property owners are willing to permanently restrict the area shown in red on the plans. The Commission debated the merits of continuing versus closing the hearing and additional information to be provided by Mr. Bemis. Upon motion by Mr. Purcell, seconded by Mr. Possemato, the Commission voted (4-1 with Mr. Upjohn voting nay) to close the hearing. The Commission agreed to postpone a vote on the Order of Conditions until next meeting when Mr. Bemis will present the legal restriction zone language.

OTHER BUSINESS:

1. **Interview with Conservation Scientist Consultant candidate:** The Commission interviewed Chris Lucas of Lucas Environmental and his associate Bob Ingram for the part time Conservation Scientist Consultant position.
2. **4 Barn Lane:** Mike Sullivan of Connorstone was present for the discussion. The Commission was asked to sign off on the building permit when it was noticed that there were stormwater management basins on the rear of the property that might be regulated under the WPA. Following a site visit, it was confirmed that wetlands vegetation is growing in the basins. The

Commission read from the Stormwater Regulations under the WPA that stated that maintenance of stormwater systems does not require a Notice of Intent, and concluded that if maintenance to remove the vegetation was to occur, then the area would not be jurisdictional and the building permit could be signed without the requirement of having to first file a Notice of Intent.

3. **97 Mount Vickery Road:** Mike Sullivan of Connorstone was present for the discussion. The Order of Conditions expired on July 21, 2010 yet work on the site was not concluded. Members of the Commission inspected the site to determine whether the site was in compliance with the Order and whether to allow the developer to continue work or require a new Notice of Intent. Several abutters were present for the discussion. Mr. Purcell commented on the status of the project and the issues that were discovered at the site visit. After several minutes of discussion without resolution, the Commission concluded that the item would need to be placed on the next meeting agenda.
4. **Woodland Meadows:** The Commission quickly reviewed the most recent plan revisions for Woodland Meadows along with John Woodsmall's comments. The Commission agreed to draft a memo to the ZBA verifying the concerns raised by Mr. Woodsmall, and asking for additional information to be provided by the applicant.

Upon motion by Mr. Gregory, seconded by Mr. Purcell, the Commission voted (5-0) to adjourn the meeting at 10:50 p.m.

Respectfully submitted,



Beth Rosenblum
Conservation Administrator