

SOUTHBOROUGH CONSERVATION COMMISSION
THURSDAY, JANUARY 3, 2008
TOWN HOUSE MEETING ROOM, 2ND FLOOR
MEETING MINUTES

The Conservation Commission of the Town of Southborough held a meeting on Thursday, January 3, 2008 at 7:30 p.m. at the 2nd floor Town House Meeting Room.

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

Members Absent: Ann Leavitt and Louis Bartolini.

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

**CONTINUED STORMWATER MANAGEMENT PERMIT AND NOTICE OF INTENT –
BARTOLINI BUSINESS PARK, 276, 278 AND 280 TURNPIKE ROAD, ASSESSORS MAP 26,
LOTS 12, 13 AND 14:**

Mr. Leeds opened the hearing at 7:35 p.m. Present was Peter Bemis of Engineering Design Consultants, and Jack, David, Michael and Anthony Bartolini. Ms. Russian introduced Erik Mas of Fuss & O'Neill, who performed the engineering peer review for the Commission. Mr. Mas presented the results of the Fuss & O'Neill findings in a letter Report which was distributed, and highlighted some of those findings. Mr. Mas detailed the application materials that Fuss & O'Neill had reviewed, and acknowledged that none of the comment letters from the Town Engineer and Larry Beals or the response letters from Mr. Bemis had been included in the materials sent to review. Mr. Mas raised questions about the stream status, and stated that no documentation by the applicant was included within the application materials disputing the USGS status of perennial, yet the plans show the stream to be intermittent. Mr. Mas said the site drains to a tributary of the Sudbury Reservoir and is thus considered an Outstanding Resource Water under MA Water Quality Standards (314 CMR 4.00). Mr. Mas stated that under Standard 6 of the MA Stormwater Management Policy, the project discharges to a "critical area" and has special regulatory requirements. Mr. Mas said there were no test pit locations included at the Extended Basins, so he was unable to accurately determine the depth to high water. Mr. Mas said without this data to show otherwise, the basins may intercept high groundwater and it is unclear if the required 2' separation is provided, and recommended more test pit information be supplied by the applicant.

Mr. Mas stated the distance between the proposed underground recharge system and Basin #1 is very close and could cause the basin to intercept groundwater. Mr. Mas recommended the applicant perform a groundwater mounding analysis. Mr. Mas said the top of the side slope for proposed Detention Pond 1 is steeper than required under the Stormwater Management Policy Handbook and an analysis is needed. Mr. Mas stated the DEP 25% TSS credit cannot be claimed as has been done since that credit is already factored into the 70% removal credit for the extended detention basin system, and asked the applicant to provide clarification whether the basins have been counted toward recharge credit.

Mr. Mas also stated DEP may require underground injection control, and the area for the recharge system should be demarcated or over-excavated prior to construction and included in the SMP and SWPPP. Mr. Mas said sweeping of the site needs clarification and frequency information, and the snow stockpiling areas need to be identified on plans due to the wetland resource areas nearby. Mr. Mas said the O&M inspection schedule had discrepancies, the Title V requirements of minimum setbacks from BVW are not being met, and the site is challenging with wetlands on 3 sides.

Mr. Leeds opened questions to the Commission. Mr. Upjohn stated the Commission members have agreed previously the USGS map was in error and the stream is intermittent, and asked how that affected the ORW designation? Mr. Mas replied that it still applies. Mr. Possemato expressed disappointment that all of the public hearing documents and correspondence had not been included in the materials reviewed by Fuss & O'Neill, and said the Report is flawed without that data review. Mr. Possemato questioned if Fuss & O'Neill had contacted the applicant's engineer during the review process to address some of the concerns being raised in advance of today's hearing, and felt that communication between those parties needs to occur. Applicant Jack Bartolini concurred his expectation was Fuss & O'Neill would communicate with Mr. Bemis as issues arose during their review process. Mr. Bevins said the volume of technical information contained in the application needed analysis and found the Report to be helpful. Mr. Bevins invited the applicant to reconsider the depth of the proposed development, and wants the applicant to have adequate time to address all of the issues raised in the Report. Ms. Russian commended Fuss & O'Neill on the quality of the Report, and said that it strikes at the heart of the Commission's concerns. Ms. Russian agreed the site is challenging and the Report highlights the numerous issues of concern to the Commission. Ms. Russian said valid issues have been raised, and inquired how the applicant wished to respond?

Mr. Bemis said the test pit was not done since that area has been filled, and said the infiltrative recharge area and 100' setback rarely gets applied. Mr. Bemis addressed the mounding issues, and offered to place a barrier if the Commission requires it. Mr. Bemis and the applicant agree to extend the SMP deadline to February 15, 2008 to address the items raised in the Report. Mr. Mas stated the groundwater mounding analysis would be useful as are the test pits and groundwater elevations. Mr. Bemis said the erosion control barriers are in place, and will dig test pits as requested. Ms. Russian restated for the record that the applicant and the Commission have agreed to extend the NOI decision and SMP deadline to 2/15/08. Mr. Leeds opened questions to the audience.

Peter Dowd, an abutter at 135 Deerfoot Road, asked the Commission for the peer review to be broadened to include a study of the wetland resource areas and the fill on the site. Ms. Russian explained the Commission had discussed the scope of work for the peer review at prior meetings and agreed to limit it after determining that the stormwater and groundwater issues were most important. Mr. Possemato said DEP had reviewed the wetland boundary when they issued their Certificate of Compliance on the Superseding Order of Conditions for the site. Mr. Leeds ended discussion at 8:15 p.m., and continued the hearing to 1/24/08 at 7:30 p.m.

CONTINUED STORMWATER MANAGEMENT PERMIT AND NOTICE OF INTENT – RASIAH SELVAAYAGAN, 43 & 45 TURNPIKE ROAD, ASSESSORS MAP 39, LOTS 16 & 17:

Mr. Leeds opened the hearing at 8:15 p.m. Present was property owner Rasiah Selvaayagan and Peter Bemis of Engineering Design Consultants. Mr. Bemis reviewed the Town Engineer's comments, and agreed to incorporate those details as requested. Mr. Leeds closed the hearing.

NOTICE OF INTENT – KRISTIN LUDWIG, 7 HICKORY ROAD, ASSESSORS MAP 42, LOT 21:

Mr. Leeds opened the hearing at 8:20 p.m. The application is to construct a single family home and septic system within the 100' buffer zone, and a driveway crossing over previously disturbed bordering vegetated wetlands. Present for the hearing was property owner Kristin Ludwig, attorney Flood and engineer Tom DiPersio, Jr. Mr. DiPersio gave an overview of the existing site conditions; the applicant owns the adjacent property at #9 and wants to develop this lot for herself; the proposal for a wetland crossing; and the request for a waiver of the 20' No Touch Area. Mr. DiPersio has proposed a 2:1 replication area within existing lawn area, and said the septic will be a Presby system using a pump chamber due to the slope it will be constructed on.

Ms. Russian inquired why the project does not qualify for a SMP, and added the site needed to be staked in the field. Mr. DiPersio said the project is exempt from a SMP since it will not disturb over 15,000 square feet within the sloped area. Mr. Upjohn raised concerns about where the wetland drains to. Ms. Russian stated the lot was reconfigured in 2007 and whether a hardship was created as a result of this reconfiguration. Mr. Bevins asked whether the applicant had considered a common driveway using the existing adjacent driveway to avoid a wetland crossing. Mr. DiPersio replied this had not been explored. Mr. Bevins explained why this option should be considered. Mr. DiPersio said the lawn is already disturbed area. Mr. Possemato said the Commission may ask that an Alternatives Analysis be completed. Mr. Bevins said the trees and slopes on the site present challenges. Mr. Possemato said the new reconfiguration of the lot requires a wetland crossing which created the hardship, and the WPA does not allow for approval in this event.

Dan Kerner of 5 Hickory Road said the additional impervious area created by the proposal will cause additional runoff onto his property, and asked if calculations had been done. Mr. DiPersio said roof water will be collected and he doesn't expect runoff to be significant. Mr. Bevins said the amount of wooded area being cleared for the septic system will create additional runoff, and suggested that subsurface drainage systems be included in the plans. Mr. DiPersio said he could include that in the front of the house, but there was not enough separation at the rear for infiltration.

John Walsh of 4 Hickory Road said the wetland continues across Hickory Rd. and there are existing drainage and culvert problems. Mr. DiPersio offered to perform a drainage analysis of pre and post conditions. Michael Poole of 6 Hickory Road said the right of way for the culvert is underneath his driveway, and expressed concerns about the low water table and flooding due to unintended consequences of the project. Mr. Poole also asked about the flow of water and how it will be absorbed. Ms. Russian suggested the applicant contact DPW about the issues being raised by the abutters regarding flooding and the culvert. Shafik Fann of 25 Flagg Road said he has a pond behind his home in the woods and is concerned how additional water will impact it. Mr. DiPersio explained the performance standards that must be met require the rate of flow not to be increased.

Ms. Russian explained the Commission was unable to confirm the wetland boundaries due to the snow cover; the SMP potential applicability; the possible issue of a self-created hardship; and how avoidance of a wetland crossing should be explored. She explained the SMP process to the abutters and the applicant's claim to have not triggered the thresholds, and informed the applicant that the SMP Checklist must be completed. Mr. Upjohn restated the applicant has requested a waiver of the 20' No Touch Area. Mr. Bevins suggested the Commission ask the Town Engineer to review the application for SMP applicability and other water issues (including the culvert) of concern. The Commission agreed to pursue this with the Town Engineer. Mr. Leeds ended the discussion at 9 p.m., and continued the hearing to 1/24/08 at 8:15 p.m.

REQUEST FOR DETERMINATION OF APPLICABILITY – STEVE AND MARY HILL, 40 EDGEWOOD ROAD, ASSESSORS MAP 16, LOT 7A:

Mr. Leeds opened the hearing at 9 p.m. The application is to determine if a proposed living room/garage addition is within an area subject to the Wetlands Protection Act or the Southborough Wetlands Bylaw. Present for the hearing was property owner Steve Hill, and contractor Bob Nolette. Mr. Nolette explained the project proposal. Mr. Upjohn agreed the proposed addition is outside the buffer zone, but the sole access along the long and narrow driveway is directly adjacent to BVW. Mr. Upjohn is concerned about protecting the wetlands from the heavy equipment being brought in for the work and the fill being taken out. Ms. Russian said the area is environmentally sensitive and the lot is pre-existing to the local Bylaw and the 20' No Touch. Upon motion by Mr. Upjohn, seconded by Mr. Possemato, the Commission voted (4-1 with Ms. Russian voting nay) to issue a Negative Determination provided that a line of haybales and silt fence is installed along the length of the driveway.

NOTICE OF INTENT – JOHN F. ROONEY, III, 35 EDGEWOOD ROAD, ASSESSORS MAP 16, LOT 40:

Mr. Leeds opened the hearing at 9:25 p.m. The application is to expand the driveway and garage, and to construct a family room with an attached porch and deck within the buffer zone to bordering vegetated wetland. Present for the hearing was engineer Bob Drake and contractor Bill Piccardi. Mr. Drake gave an overview of the property and the proposed work, and stated the original wetland delineation was done in 2001 for the pool installation. Mr. Drake said the proposal would add about 400 square feet of impervious surface in the front of the house, and 200 square feet at the rear. Mr. Drake stated the wetland delineation was done with snow cover on the ground, after a Field Data Survey Form was first done under clear weather conditions. Mr. Drake said the shed and batting cage have encroached on the adjacent town property and will be removed. Mr. Drake said there will be no infiltration of roof runoff due to the proximity to the septic system and the runoff will cross 100' of lawn.

Ms. Russian said with snow on the ground, the Commission can't confirm the wetland lines. Mr. Possemato feels the work proposed does not require confirmation of the line. Mr. Drake confirmed the wetland line has not changed since the 2001 designation. Mr. Upjohn said the lawn is within the 20' No Touch Area and would not have been allowed under the Southborough Wetlands Bylaw. The house was constructed prior to the Bylaw being enacted. Mr. Drake said the homeowners would like to do the work this winter, and suggested installing a post and rail fence along the 20' line so that approval could be granted tonight. Mr. Bevins said the fence would be very close to the house. Mr. Upjohn agreed that preserving and delineating the 20' No Touch would be a special condition as part of the approval. Mr. Leeds said he would like to see the ground without snow cover before closing the hearing. Mr. Possemato disagreed, and said the Commission could place further expectations on the property under a Certificate of Compliance if needed. Mr. Upjohn concurred. The Commission inquired whether a DEP File # had been issued yet. Ms. Rosenblum informed the Commission it had not. Mr. Leeds ended discussion at 9:45 p.m. and continued the hearing to 1/24/08 at 8:30 p.m.

OTHER BUSINESS:

1. Meeting Minutes:

- Minutes of 11/15/07 were reviewed. Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve the minutes as written.
- Minutes of 11/20/07 were reviewed. Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve the minutes as written.
- Minutes of 12/6/07 were reviewed. Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve the minutes as written.

2. Certificates of Compliance:

- a. **290-698 – 79 Deerfoot Road:** Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (4-0) to approve a Certificate of Compliance.
- b. **290-800 – 16 Mt. Vickery Road:** The commission delayed the vote until able to perform a site visit when the property is not under snow cover, and continued it to 1/24/08.
- c. **290-837 – 17 Rockpoint Road:** The commission delayed the vote until able to perform a site visit when the property is not under snow cover, and continued it to 1/24/08.

3. **License Agreement Renewal with the Breakneck Hill Cow Fund:** Present for the discussion was Laurie Bourdon and Chris Molinaro of the Cow Fund. Ms. Bourdon explained the need for more permanent fencing to contain the cows and would run along the path and the trailhead. Ms. Bourdon said the fencing will not cross over any trails, and there will be no cost to the town or to the Commission. Ms. Russian said Town Counsel had approved the proposed changes to the License Agreement regarding the fencing and the water line. Mr. Bevins asked

about the gravel that was spread alongside the new driveway, and said the area is inappropriate as a parking area since it is adjacent to wetland resources. He asked for the gravel to be removed to prevent cars from parking there. Ms. Bourdon agreed to do this. Upon motion by Ms. Russian, seconded by Mr. Upjohn, the Commission voted (5-0) to renew the License Agreement with the proposed changes.

4. **Decision and Vote on Order of Conditions for 154 Main Street:** The Commission discussed the application and their reservations about the project and the location. One felt the applicant had not met the requirements, and another was concerned about the amount of fill being brought in. There was debate about whether there was adequate justification for denial of the project, with the majority agreeing there was not. Upon motion by Mr. Upjohn, seconded by Mr. Possemato, the Commission voted (4-1 with Ms. Russian voting nay) to approve a standard Order of Conditions (-38h).
5. The Commission discussed the proposed (3) **Planning Board Warrant Articles** to accept gifts of land that would be placed under the care, custody and control of the Conservation Commission. The Commission agreed to accept the responsibility for the Orchard Road and Breakneck Hill Road open space parcels since there are wetland resources present on those properties, but rejected the Vickery Hill Lane parcel since no wetland resources exist there.
6. **18 Mount Vickery Road:** The Commission discussed the abutter's complaints of the erosion controls being out of compliance with the Order of Conditions issued for the property. The property owner has subsequently installed additional haybales along the driveway, and the Commission agreed this was an adequate measure for compliance.

Upon motion by Mr. Bevins, seconded by Mr. Upjohn, the Commission voted (5-0) to adjourn the meeting at 10:20 p.m.

Respectfully submitted,

Beth Rosenblum
Conservation Administrator