

SOUTHBOROUGH CONSERVATION COMMISSION
WEDNESDAY, MARCH 14, 2007
TOWN HOUSE 2nd FLOOR MEETING ROOM
MEETING MINUTES

The Conservation Commission of the Town of Southborough held a meeting on Wednesday, March 14, 2007 at 7:30 p.m. at the Town House 2nd floor meeting room.

Members present were: John Leeds, Rhonda Russian, Richard Upjohn, Mark Possemato (arrived at 7:35 pm), Ann Leavitt and Phil Bevins (arrived at 7:45 pm).

Absent was: Louis Bartolini

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

CONTINUED NOTICE OF INTENT – 13 PARMENTER ROAD (PARMENTER MEADOWS), ASSESSORS MAP 96, LOT 1:

Mr. Leeds opened the continued hearing at 7:30 p.m. Ms. Russian disclosed that project abutter Karen Muggeridge had called her at home to speak about the project; that Karen indicated she was unable to attend tonight's hearing; and she would have a representative present on her behalf. Mr. Leeds disclosed that messages from Ms. Muggeridge were left on his home phone as well, and that he had not returned the calls.

Present for the hearing was applicant Ben Stevens of Trask Development and Brian Butler of Oxbow Associates. Mr. Butler presented an overview of the property and the Stormwater management system that is being proposed. Mr. Butler reminded the Commission of their request that all relevant additional information be submitted by all parties at least one week prior to the continued hearing, and stated that additional information had not been presented by the abutters. Mr. Butler submitted a letter summarizing this and asked the Commission to close the hearing and issue an Order of Conditions. Ms. Russian read the letter into the record. Mr. Leeds acknowledged comments from the audience.

Kerry Kimball of 17 Parmenter Road asked why Angelica Brook was not shown on the left side of the map presented. Mr. Butler stated that since Angelica Brook was not considered Riverfront Area, the 200' buffer zone does not apply and was therefore not illustrated on the plans. Patrick Garner, wetland scientist, hydrologist and MACC consultant, listed his qualifications and indicated that he had been hired by Bill Pezzoni and Karen Muggeridge to offer an opinion on the status of Angelica Brook. Mr. Garner stated his position that although the Order of Resource Area Delineation (ORAD) the Commission issued in 2005 did not address the status of Angelica Brook, he asserted the brook is considered a perennial stream today, and the conditions to remove it from perennial status have not been presented or met. Mr. Garner showed a marked up copy of the Trask Development plans indicating the 200' Riverfront Area and stated that the Stormwater structures and a few of the proposed house lots are within the Riverfront Area. He also stated that if the Commission stands with its original opinion that the brook is intermittent, the decision would be appealed to DEP and the process will be extended. Mr. Garner reiterated that under the Wetland Regulations, Angelica Brook is a perennial stream.

Mr. Leeds stated that the Notice of Intent hearing had been before the Commission for 7 weeks since January 7th, and questioned why new information was being shown at this point in the process

disputing the data already before the Commission. Ms. Russian asked why a written submission hadn't been presented earlier by the abutters or their representatives. She stated that the prior written submission (from the 2005 Order of Resource Delineation hearing) had been distributed after the hearing had been closed and the appeal period had expired. Ms. Russian reiterated that the Commission had asked for all parties to submit their data prior to the hearing and not at the hearing.

Mr. Garner claimed he was not made aware of the deadline request to submit information, and stated the issue remains about the stream status. Mr. Pezzoni said he thought the abutters had presented all technical data from the past hearings. Mr. Garner stated the Commission had never made a formal decision on the stream status, and that an omission is not a finding. One of the Commissioners asked how the original permit was allowed to be issued without a designation being made. Mr. Possemato said the decision considered a 2001 Marlboro Conservation ruling, DEP Riverfront amendments and contradictory statements from an abutter. Mr. Upjohn chronicled the development of Angelica Lane and Pine Hill Road, and reminded all that a determination of the brook as intermittent was already made. Mr. Upjohn stated the Commission is being asked to reconsider that the area between specific points is now perennial and he is unwilling to change his original vote. Mr. Garner stated the Regulations now offer a broader definition of Riverfront Area, and urged the Commission to apply those Regulations to this project.

Mr. Stevens stated the StreamStats done recently and presented confirm intermittent status. Mr. Stevens said the application process was done correctly and included the science behind the designation. Mr. Pezzoni said the prior Commission decision could not be appealed because the Riverfront Area issue was not specified. Mr. Garner countered that the scientific evidence presented by Oxbow confirms the Riverfront Area determination, and meets 2 of the criteria used to determine perennial status: 1) watershed size must be at least ½ square mile and 2) there is a predicted flow rate greater than or equal to 0.01 cubic feet per second at the 99 percent flow duration using the USGS StreamStats. Mr. Garner stated that all evidence under current regulations indicate this is a perennial stream. Mr. Butler stated that on 1/25/07, a StreamStats analysis at Pine Hill Road shows no flow at the 80% duration. Ms. Russian suggests the hearing be continued to 3/29/07 in order to review the additional information presented. Mr. Stevens does not concur with the proposed continuance. Mr. Pezzoni asked for the new data to be accepted while the hearing is still open. The Commission agreed to accept it. Mr. Leeds then closed the hearing.

CONTINUED NOTICE OF INTENT – 170 WOODLAND ROAD, ASSESSORS MAP 9, LOT 100:

Mr. Leeds opened the hearing at 8:15 p.m. Ms. Russian read into the record: 1) memo from John Woodsmall (Town Engineer) dated 3/8/07; 2) letter from Peter Bemis dated 3/13/07; and 3) memo from John Woodsmall dated 3/14/07. Present for the hearing was Peter Bemis of Engineering Design Consultants on behalf of property owner Joseph Tassia. Mr. Bemis gave an overview of the newest plan revisions and stated he wanted to bring closure tonight to what has been a 5 month long hearing process. Ms. Russian wanted to state for the record that the late submission letter by Mr. Bemis was not the fault of the applicant but resulted from delayed notification by Commission staff. Mr. Bevins restated he feels the project is too big for the space allotted. Ms. Russian said given the limitations of the lot, she agreed with the town engineer of its best design use.

Tom Faherty of 168 Woodland Road asked for copies of the memos and plans distributed this evening, said he would like an independent engineer to review the latest plans, and asked Mr. Bemis for a status of the soil samples. Mr. Bemis stated the soils confirmed the resource areas and were consistent with the vegetation. Mr. Faherty reminded the Commission of the wetness issues and expressed concerns about the absorption rate since trees will be removed and the area paved. Ms. Leavitt inquired where the water would be pumped to. Mr. Bemis responded that water would be pumped onto the ground

and reintroduced into the groundwater. He stated improvements will be made to the property by this plan revision and be paid for by property owner Tassia. Bob Rancatore of 166 Woodland Road said that his first 9 years in his home he had no problems with water in his basement, and as growth has occurred in the area, he now has water in the basement and has spent thousands of dollars on improvements. Mr. Rancatore expressed concern that science may be inconclusive on the water issue and felt that the groundwater level is the main culprit. Mr. Bemis stated the project would not negatively affect the abutters. Mr. Leeds closed the hearing.

Upon motion by Mr. Upjohn, seconded by Ms. Leavitt, the Commission voted (4-2 with Mr. Bevins and Mr. Upjohn voting against) to approve a standard Order of Conditions (+38h) with a Special Condition to request an engineered As-Built once the property is developed and to include all of the information and correspondence submitted, including the Town Engineer's comments, in the permit.

CONTINUED NOTICE OF INTENT – 244 BOSTON ROAD (LOT A), ASSESSORS MAP 48, LOT 18:

Mr. Leeds opened the hearing at 8:50 p.m. Present were property owner Matt Jackson and environmental engineer, Robert Murphy. In a reversal of a previous assertion, Mr. Murphy now claims the stream on the site is a river, despite the fact the USGS map shows it as intermittent. He also said the data from the FIRM maps on flood plain information on this site was not accurate. Mr. Murphy also said that he and Mr. Jackson have decided to change tactics for the development of the property. The plans for constructing a single family home are being scrapped, and since Mr. Jackson has frontage on Route 30 and an easement, an alternative plan for 2 house lots outside the wetland buffer zone but within the 200' Riverfront Area will be presented and asked for the hearing to be continued. Mr. Murphy performed an Alternatives Analysis on the property and determined this to be the most appropriate use. Mr. Murphy claimed the site had been adversely affected by all the construction in the area and the Route 30 Bridge that crosses the river on the site is likely to collapse soon. Ms. Russian said the Commission needed evidence of the easement. Mr. Upjohn asked that the project be withdrawn, and a new Notice of Intent submitted. He concurred that given the site's limitations, this new proposal makes the most sense. Mr. Murphy then asked the Commission for the project to be withdrawn without prejudice.

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

Mr. Leeds opened the hearing at 9:05 p.m. Present for the hearing was property owner Charles Scott and representatives Daniel Murphy and Robert Murphy. Mr. Robert Murphy stated that due to limitations of the lot and Title V requirements, Mr. Scott's intention is to develop as a single house lot. Mr. Upjohn said he failed to find about 1/3 of the flags in the field; key stone walls are missing from the plans; the roadway should stay on the uphill side. Ms. Russian noted the plans presented are dated 2005, and asked whether the delineation was done then. Mr. Murphy said he felt that flags were being removed and he has re-flagged the site twice. He stated the site still needs to be perc tested so has not sought Board of Health approval yet. Mr. Murphy also said the location of the house and septic system would be entirely outside of the wetland buffer zone. Mr. Possemato asked for the soil borings data to be presented and distributed.

Lisa Braccio of 13 Oregon Road presented a USGS map of the area, pointed to a perennial stream on the abutting (Buck) property, and wants to make certain it is protected as Riverfront Area. Mr. Murphy said wetland flags 1, 2 and 3 are located at the edge of recently filled wetland. Mr. Leeds continued the hearing to 3/29/07 at 8:30 p.m.

**REQUEST FOR DETERMINATION OF APPLICABILITY – 6 LYNBROOK ROAD,
ASSESSORS MAP 51, LOT 10:**

Mr. Leeds opened the hearing at 9:25 p.m. Present on behalf of the homeowner was York Osorro of Northeast Construction, who described the proposed home addition and 3rd garage bay within the Riverfront Area. Mr. Upjohn stated the area is flat and relatively enclosed, and suggested issuing a Negative Determination with no erosion controls needed. The other Commissioners concurred.

Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (5-0-1 with Mr. Bevins abstaining), to issue a Negative Determination.

Other Business:

1. **Meeting Minutes:** Item was tabled to next meeting.
2. **Extension Request** for 9 Mount Vickery Road DEP File # 290-376): Peter Bemis, representing Bartolini Builders, reiterated that the reason for the original application was to improve the drainage on Mount Vickery Road, and the work will be starting this spring. Upon motion by Mr. Upjohn, seconded by Ms. Leavitt, the Commission voted (6-0) to approve a one-year extension.
3. **Informal Discussion** with David Morgan of Southborough Open Land Foundation (SOLF): Mr. Morgan showed the Commission an area map and pointed to SOLF property off Sears Road with access between 14 Sears Road and a wet meadow. He stated SOLF's goal is to create a trail link to Chestnut Hill Farm, and is seeking permission and advice to do brush-cutting. Mr. Bevins asked how many trees and brush are being proposed to be removed. Mr. Morgan replied a minimum 8 foot swathe. Mr. Upjohn said parts of the trail will be within the wetland buffer zone. Mr. Russian explained the 20' No Disturb Zone and said that work within the buffer zone needs to be approved through the Notice of Intent process and that one will need to be filed for permission to brush cut the trail.
4. **Order of Conditions:**
 - a) **20 Learned Street:** Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (6-0) to approve a standard Order of Conditions (+38h) with the following Special Conditions:
 - As agreed to by the applicant, haybales will be installed on both sides of Learned Street.
 - As agreed to by the applicant, silt bags will be placed in the nearby catch basins, inspected weekly and cleaned when full.
 - As agreed to by the applicant, a stone apron consisting of a six (6) inch layer of two-three (2-3) inches of stone or trap rock shall be constructed at the construction site entrance for the purpose of containing silt and mud on the site, and maintained in good working order, throughout the entire time period of the construction process.
 - As agreed to by the applicant, a temporary parking area for construction vehicles and contractors will be constructed at the site of the demolished house, using gravel as the base.
 - Constant monitoring of the site by the applicant or his representative is required to prevent mud and silt from being tracked onto the street. All efforts to contain runoff, silt and mud from exiting the work site must be taken. If this does occur, it must be corrected immediately, or consequences will be imposed.

- b) **185-191 Mill Street, Marlborough (Fore Kicks):** Upon motion by Mr. Upjohn, seconded by Ms. Leavitt, the Commission voted (5-0-1, Ms. Russian was recused) to approve a standard Order of Conditions (+38h) with the following Special Condition:
 - Access to the construction site in Marlborough via Phipps Road in Southborough will be restricted. No vehicles associated with the construction or development of the site in Marlborough will be permitted to access the site using Phipps Road.
- c) **Fireworks** at Breakneck Hill Conservation Land: A request was made by the Summer Nights Committee to explore using Breakneck Hill to launch the fireworks display. By unanimous consent, the Commission denied the request.
- d) The Commission asked Ms. Rosenblum to inform Ben Stevens of Trask Development to keep the dirt off the road at the Middle Road construction site and to reinstall haybales on both sides of Middle Road near the detention basin and the stream.
- e) The following items were tabled due to time limitations:
 - 1) Preliminary Review of NOI filing for 205 Turnpike Road
 - 2) Stormwater Regulations discussion
 - 3) Review process for the EMC Conservation Restriction

Upon motion by Mr. Bevins, seconded by Ms. Leavitt, the Commission voted (6-0) to adjourn the meeting at 10:10 p.m.

Respectfully submitted,

Beth Rosenblum
Conservation Administrator