

SOUTHBOROUGH CONSERVATION COMMISSION
THURSDAY, JULY 10, 2008
TOWN HOUSE MEETING ROOM, 2nd fl.
MEETING MINUTES

The Conservation Commission of the Town of Southborough held a meeting on Thursday, July 10, 2008 at 7:20 p.m. at the Southborough Town House, 2nd floor meeting room.

Members Present: John Leeds, Rhonda Russian, Phil Bevins, Mark Possemato (arrived at 7:35 p.m.), A.J. Purcell, Russ Gregory and Richard Upjohn.

The meeting commenced at 7:20 p.m. with John Leeds as chairperson.

CONTINUED ADMINISTRATIVE ENFORCEMENT HEARING – 20 LEARNED STREET, ASSESSORS MAP 47, LOT 54:

Mr. Leeds opened the hearing at 7:20 p.m. The Enforcement Order was issued because some of the Special Conditions imposed under the Order of Conditions were not being adhered to. Present for the hearing was Matt Jackson of Boston Road Realty Trust. Mr. Jackson said he had installed 3 rows of haybales and silt fencing in one area and the rain was presenting a real challenge for him. He said he needed to reseed in some spots but felt he was able to contain the runoff. Mr. Jackson said grass is starting to grow. The Commission agreed to leave the Enforcement Order in place until the end of the month to verify that growth has stabilized the property adequately. Mr. Leeds continued the hearing to 7/31/08 at 7:30 p.m.

CONTINUED NOTICE OF INTENT – WOODLAND MEADOWS, 84 TURNPIKE ROAD, ASSESSORS MAP 38, LOT 10:

Mr. Leeds opened the hearing at 7:30 p.m. Mr. Bevins recused himself as an abutter. The applicant brought a stenographer to document the proceedings. Ed Estella of 21 Woodland Road made a request to the chair that the applicant's representatives announce the date of the plans referenced during their presentation. Present for the hearing was Mark Kablack, attorney for the applicant; Robert Heavey; and George Connors and Tim Paris of Connorstone Engineering.

Mr. Kablack distributed a letter dated 7/10/08 (today) regarding the handling of applications under Comprehensive Permit review. The letter stated that local bylaws such as Southborough Wetlands Bylaw and the Stormwater and Erosion Control Bylaw get shifted to the jurisdiction of the Zoning Board of Appeals (ZBA). The letter expressed an expectation for the Commission to report their findings to the ZBA on stormwater issues. Ms. Russian asked how this relates to the waiver requests from local permits the applicant has filed with ZBA. Mr. Kablack replied that the waiver requested was of stormwater volume, and added he is preparing documentation to verify evidence for the current wetland delineation. Mr. Kablack disputed assumptions made by Ms. Russian and Daniel Hill (an attorney engaged by abutter Roger Challen who submitted a comment letter) to halt further discussion of the issue until it is resolved.

Mr. Leeds questioned the reason for the wetland finger being removed from the current plans, and said the previous wetland line had been accepted by the Commission, the applicant and his engineer for a previous application. Mr. Kablack replied the technical delineation of the BVW is accurate as presently shown. Mr. Paris said soil testing conducted on the site allows a reduction in size of the infiltration system, which will be outside the Zone A. Mr. Paris added the existing culvert will remain and a box culvert will be installed over it and the work within the parking area along Woodland Road can be considered to be redevelopment.

Mr. Upjohn said wetland issues have arisen in the past on this site and at his insistence, the Commission required an independent wetland delineation for a recent application. Mr. Upjohn has kept copious records during the entire course of his 30+ year tenure on the Commission, and he referenced his notes while summarizing past issues since 2005 on the site. Mr. Upjohn stated the Sanford 2007 wetland delineation confirmed the Commission's assumptions about the wetland finger, that early plans presented for the 40B development showed the Sanford wetland line with the building placed on the wetland finger and the need for wetland replication. Mr. Upjohn said he was surprised when plans were presented that showed no wetland filling and a new wetland line. Mr. Upjohn asked why there are no flags on the site that show the new wetland line, and said he finds it hard to accept the new line and is unable to confirm it without flags shown in the field. The Commission expressed their frustration with the numerous plan revisions, and is perplexed why the wetland finger that was shown a short time ago has now disappeared from the plans. Mr. Upjohn said if the wetland finger was conceded, then the applicant must replicate.

Ms. Russian disclosed that she filed a Disclosure Statement with the town since she is an employee of MA DEP. Ms. Russian said the Commission was still waiting for confirmation of the DEP approved wetland line and that additional material referenced in a letter from Connorstone had not been provided. Ms. Russian questioned whether the parking lot being redeveloped was on the same parcel as the development proposal, and asked if a septic permit from the Board of Health had been applied for. Mr. Paris replied the permit will not be requested until the wetland line is confirmed. Ms. Russian said the Town Engineer's comments need to be addressed, as do the letters from Patrick Garner and Daniel Hill, and confirmed the project cannot be evaluated without the wetlands being flagged. Mr. Upjohn added the corners of the building and the retaining wall should be staked in the field. Ms. Russian asked Mr. Challen to copy the applicant on all materials he submits to the Commission.

Mr. Kablack said the issue regarding the wetland finger as opposed to what exists in the field is a jurisdictional one related to the DEP issued Administrative Consent Order with Penalties (ACOP) from 1998. Ms. Russian said that Sanford applied current standards of evaluating wetlands when the line was delineated. Mr. Kablack replied that the ACOP supersedes all else, and reiterated that the issues are: 1) discrepancy over 2,400 square feet versus 8+ acre site and 2) stormwater analysis – the Commission should continue their review and report back to ZBA. Ms. Russian pointed out the 2,400 square foot finger has numerous implications on the plan design of the project. Mr. Kablack reminded the Commission they can only review materials that are before them. Mr. Possemato said that minimizing the importance of the wetland finger is inappropriate due to the numerous implications. Roger Challen of 29 Oak Hill Road asked for the courtesy of sharing materials. Mr. Kablack said the date listed on his 7/10/08 letter regarding the ACOP should be changed to 1998, from 2008.

At 8:30 p.m., Mr. Leeds continued the hearing to August 21, 2008 at 7:45 p.m.

CONTINUED NOTICE OF INTENT – 0 FIRMIN AVENUE, ASSESSORS MAP 48, LOT 27:

Mr. Leeds opened the hearing at 8:30 p.m. Present for the hearing was Brandon Li of Kelly Engineering. Mr. Li stated Framingham Conservation Commission approved the project and issued an Order of Conditions on 6/8/08. Mr. Li said Framingham had added plantings for restoration of the area, silt fence and a wildlife habitat evaluation. Mr. Leeds closed the hearing.

Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (7-0) to approve a standard Order of Conditions (+38h) to be consistent with the Framingham Order of Conditions, General Conditions, to the extent of its applicability to Southborough's local bylaw and the Wetlands Protection Act.

**CONTINUED NOTICE OF INTENT – SANDY’S SCHOOL, 206 TURNPIKE ROAD,
ASSESSORS MAP 28, LOT 3A:**

Mr. Leeds recused himself as an abutter and designated Ms. Russian acting chair. Ms. Russian opened the hearing at 8:35 p.m. Present for the hearing was Peter Bemis of Engineering Design Consultants. Mr. Bemis apologized for the delay, stating it was due to a misunderstanding regarding abutter notifications being sent out. Mr. Bemis said the entire activity is within the 100’ buffer zone, the fence was already installed, and suggests the entire fenced-in area be mulched to eliminate the need for maintenance. Mr. Upjohn said it makes sense to mulch the entire area and suggested granting a waiver of the 20’ No Touch Zone and that an erosion control barrier would not be needed. Ms. Russian closed the hearing.

Upon motion by Mr. Upjohn, seconded by Mr. Gregory, the Commission voted (6-0-1 with Mr. Leeds abstaining) to approve a standard Order of Conditions (-38h) with Special Conditions that no erosion controls are necessary and that mulch be placed within entire fenced-in area. Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (5-1 (nay - Mr. Bevins) -1 (abstain - Mr. Leeds) the following Special Conditions under the local bylaw: a waiver of the 20’ No Touch Zone for the fence installation and for the mulch placement. Mr. Leeds returned at the conclusion of the hearing.

**CONTINUED STORMWATER MANAGEMENT PERMIT HEARING – HARVARD
DEPOSITORY, ONE PINE HILL ROAD, MAP 95, LOT 1:**

Mr. Leeds opened the hearing at 8:40 p.m. Present was Cecelia Wan of Harvard Real Estate Services and Rebecca Bachand of Stantec. Ms. Wan stated Fuss & O’Neill had reviewed the project on behalf of the Planning Board and the Planning Board voted to approve the Site Plan Review and Special Permit on June 30, 2008. There were no comments from Commission members. Mr. Leeds closed the hearing at 8:45 p.m.

**CONTINUED NOTICE OF INTENT – ROLAND CHENARD, 10 MITCHELL STREET,
ASSESSORS MAP 47, LOT 18:**

Mr. Leeds opened the hearing at 8:45 p.m. The application was submitted to replace a septic system within the 100’ buffer zone. Present for the hearing was Liz Dupre of Clearwater Environmental Engineering. Ms. Dupre stated the haybales and silt fencing were installed as requested, the lot had been resurveyed, the topography of the site reassessed, and tree and vegetation removal reconsidered. Ms. Dupre said trees and brush will be chipped and spread. Mr. Bevins inquired about water sheeting off the property or being contained on the site. Ms. Dupre said some logs will be stacked at the bottom of the slope to slow down the flow. Mr. Bevins requested that an erosion control blanket be wrapped around the slopes. Mr. Leeds closed the hearing.

Upon motion by Ms. Russian, seconded by Mr. Upjohn, the Commission voted (7-0) to approve a standard Order of Conditions (+38h) with Special Conditions: 1) erosion control blanket must be installed on the side and rear of the slope for stabilization; 2) grinding of stumps and brush as presented during the hearing and shown on the plans; and 3) all erosion controls must be continuously maintained.

**REQUEST FOR DETERMINATION OF APPLICABILITY – 136 PARKERVILLE ROAD,
ASSESSORS MAP 27, LOT 42:**

Mr. Leeds opened the hearing at 9:00 p.m. Present for the hearing was David Morgan of DRM Design Build, and homeowner Gerard Powlen. Mr. Morgan showed pictures of the steps to be replaced, and a site plan with a GIS image superimposed. Mr. Morgan said the work would be done by hand. Mr. Upjohn said if the work was done on a dry day and hand-dug, a line of haybales might not be needed. Ms. Russian echoed that sentiment; no heavy equipment and no excavation. Mr. Possemato said haybales would kill grass underneath and does not recommend their use in this instance.

Upon motion by Mr. Upjohn, seconded by Mr. Possemato, the Commission voted (7-0) to issue a Negative Determination with the stipulation that all work be done by hand during dry conditions as represented during the public hearing.

NOTICE OF INTENT – CUMBERLAND FARMS, 344 TURNPIKE ROAD, ASSESSORS MAP 25, LOT 01:

The Applicant submitted a request for a continuance in writing to address the issues raised in the comment letter from the Town Engineer. The Commission continued the hearing to July 31, 2008.

OTHER BUSINESS:

1. **Tribute to former Commissioner Bartolini:** The Commission agreed to ask the Board of Selectmen to place the item on their earliest agenda.
2. **Next Commission Meeting:** Mr. Upjohn and Mr. Bevins stated they will not be in attendance at the next meeting.
3. **Scope of Work for peer engineering review of Woodland Meadows:** The Commission reviewed the draft scope of work and agreed to divide it into 2 phases; 1) Verify delineation; 2) Review plans and evaluate design. Upon motion by Ms. Russian, seconded by Mr. Gregory, the Commission voted (6-0-1 with Mr. Bevins recused) to ask Fuss & O'Neill to prepare a Task Authorization for the Scope of Work and to evaluate the estimate at the next meeting.
4. **Superseding Order of Conditions:** DEP has issued a Superseding Order of Conditions for the Bartolini Business Park (DEP File 290-840) that affirms the decision of the Commission.
5. **Emergency Certification:** The Commission agreed that a Notice of Intent will not be required for the roadway repair and culvert replacement by DPW on Gilmore Road.

Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (7-0) to adjourn the meeting at 10:00 p.m.

Respectfully submitted,

Beth Rosenblum