

Conservation Commission



19 WASHINGTON STREET
SHERBORN, MASSACHUSETTS 01770

September 17, 2009

Sherborn Town Hall

7:30 P.M.

Minutes of the Meeting

Members Present: Susan Tyler, Carl Shedd, Michael Lesser, Andrea Stiller, Bridget Graziano (Agent/Administrator), Steve Gaskin (Chair)

Members Absent: Rob Eckert, Will Willis

Guests: Paul Saulnier, Scott Myers, Kevin Batt, Jennifer Hawkins, Jonathan Hall, Carole Marple, Elliot Taylor, Margaret Robinson, Anthony Conigliaro, Scott Sherman, Howard M. Fisher, and Gayle Edgar

Call to Order: The meeting was called to order at 7:35 P.M.

Discussion #1 – Sherborn Meadows LLC Enforcement Order

Kevin Batt, Attorney, presented. The Order of Conditions was last amended on August 24, 2006. Since OOCs only last for three years, it is now expired yet Sherborn Meadows is not in compliance with the stipulations of the OOC. Bridget reported that she cannot extend an expired OOC but that the DEP said that a non-punitive Enforcement Order could rectify the situation. Specifically, the Barrier Planting Maintenance Plan under condition 32b, which states that failed plantings must be replaced with new ones as soon as possible, still needs to be met. Other stipulations are listed on the August 20, 2009 Draft Attachment to an Enforcement Order. It was noted that Sherborn Meadows should also be submitting an annual invasive species report. Bridget and Kevin will be in touch regarding the final Enforcement Order.

Public Hearing #1 – 34 Farm Road

The Commission considered a proposal by Oxbow Associates, Inc. to fill an existing cesspool and install a septic system within the 100' buffer zone of a Bordering Vegetated Wetland and the 200' Riverfront Area of an unnamed perennial stream, at 34 Farm Road shown on Assessor's

Map 11, Lot 121. Scott Smyers of Oxbow Associates and Paul Saulnier, the septic engineer for the property, presented. It was noted that a green card (sent on September 3, 2009) from the Dahls was not returned. Elliot Taylor stated that the hearing should not go forward. Margaret Robinson of 28 Farm Road stated that the Dahls are often in Florida and that their house is for sale. Paul Saulnier noted that the Sherborn Post Office is supposed to return the original notice letter if a resident's mail is not picked up, but that it hardly ever does. Scott Smyres presented Bridget with the certified mail receipt to document the letter was sent to the Dahls. The Commission decided to go forward with the hearing on this note.

There is a limited location along the property line to install the septic system (the cesspool did not pass the Title V Board of Health inspection) due to wetlands and the well location, so the applicant is requesting permission to do the installation in the proposed area. Approximately 14 trees will be removed during the project. The main mitigation proposed is to seed and stabilize the area, which will prevent erosion. However, it was noted that an improved septic system can also be seen as mitigation. The Commission questioned if the 6" thick concrete slab on the property can be removed, but Paul Saulnier explained this would create additional disturbance. The slab could instead be buried with dirt and then stabilized with seeds and vegetation. Michael asked why the septic system cannot be placed where the concrete slab is. Paul answered that the test hole hit the ledge under the concrete slab. Demarcating the area between the Southwest corner of the proposed septic field and the northeast corner of the house and allowing this area to function as an undisturbed buffer zone was discussed. This area and the slab area is significantly larger than the to-be disturbed area of the project's septic field that is in the buffer area. It was noted that all vehicle access is restricted to the east side of the property and that there should be no stockpiling in the buffer zone. Steve moved that the Commission close the hearing. This was seconded and accepted unanimously.

Steve moved that the Commission approve the project based on the following findings and conditions:

- that the project improves the situation on the property by replacing a failing cesspool in the 0 to 50-ft part of the buffer and riverfront area;
- that while the project is exempt under the Rivers Protection Act of 1996, it is regulated under local and state by-laws for buffer zone reasons;
- that the project managers have placed the septic system as far from the unnamed perennial stream as possible while maintaining Title V distance from drinking water well;
- that there is an alteration of the buffer zone (50-100' part) where the septic field will replace a naturally forested buffer area and as mitigation:

(i) the entire concrete slab (south of proposed septic field) will be covered with dirt with holes made for drainage and that this area will be planted with some shade mix and/or native plants to be approved, and

(ii) that the area south of a line from the SW corner of the new septic field and the NE corner of the house be left to become natural buffer area with possibly some plantings and meadow mix to be approved.

This was seconded. Upon discussion, Susan recommended that instead of requiring the last set of plantings the Commission should focus on protecting the 50' no alteration zone. Steve amended the motion such that: the concrete slab is covered with fertile dirt to a depth that meadow can grow, strawbales are used, and the owner demarcate the Southwest corner of the septic field with rocks of about 3' in length every 6 or 8' going down to the house and that this area south of the demarcation can be mowed twice per year (once on spring and once in the fall)

if the applicant wishes or otherwise left alone. The amended motion was accepted unanimously. Andrea abstained from voting because she missed most of the hearing.

Discussion #2- 30 McGregor Drive Violations

Anthony Conigliaro of 30 McGregor Drive appeared before the Commission. Bridget reported that she observed vegetation removal in a wetland located in a small upland area along the [portion of the Bay Circuit Trail] trail. Anthony stated that he was not aware that his activities were illegal and that he simply wanted to clear the area to plant newer, non-scraggly pine trees. Bridget and Anthony will devise a plan under a non-punitive Enforcement Order to rectify the area. This plan will include the plantings of white pine, red maple, sweet pepper bush, native ferns, and other species to mimic nearby areas that have not been cleared. The planting layout will also have a natural appearance. Additionally it will provide for cleaning up chipped wood (from when the trees were cut down) so new growth is possible, removal of woodpiles, and no ongoing maintenance.

Discussion #3 – Vote to record Enforcement Order for 237 Washington Street prior to approval for clean up

The Commission has been fining Louis Recine as part of an Enforcement Order since July 23, 2009, for stockpiling of materials in the buffer zone as part of an illegal transfer station. He was previously issued a violation notice in May 11, 2009 and failed to respond. Other town boards are also involved. The Commission discussed their next step to ensure that the area is cleaned up and protected as required under the Wetlands Protection Act. It was noted that Mr. Recine sent an August 12, 2009 letter to the Town indicating that he will undertake the clean up in 60 days. The Commission's concern for working with Mr. Recine as soon as possible is to see that the clean up is done using Best Management Practices to prevent sediment from entering the wetland resources areas and other environmental damage. Steve moved that if Town Counsel allows it, the Commission will record the Enforcement Order with the Registry of Deeds. Susan seconded this motion. Upon discussion, Michael asked if there are enforcement order equivalents from other town Boards that should be done at the same time. He noted that Mr. Recine has never responded to the Conservation Agent/Administrator. The motion was then accepted unanimously.

Discussion #4 – Jonathan Hall restoration of buffer zone

The Commission requested that Jonathan Hall submit a Notice of Intent for a plan to restore buffer area land that he illegally cleared. Jonathan reported that he did not know what he should put in the NOI. Steve then suggested that the Commission could add an attachment to the enforcement order detailing a restoration plan. Jonathan agreed to this suggestion. The order will require that the buffer meadow area be marked off and maintained with limitations as to chemical use. It can be mowed twice a year at specified times and inspected periodically. No manure is to be used in the meadow area. Jonathan agreed to draft a final restoration plan and meet with Bridget for approval. Once a final plan is approved, she will draft an attachment letter to reflect the changes to the enforcement order in accordance with the agreement between the Commission and Mr. Hall.

Discussion #5 – Open Meeting Law Presentation

Carol Marple, Town Clerk, gave a presentation about the Open Meeting Law.

Discussion #6 – Jennifer Hawkins 111 Coolidge Street

Jennifer Hawkins urged the Commission to protect the natural environment regarding activities at 111 Coolidge Street. She believes the property is not a farm but an industrial business. She cited clearing animal habitat for increased hayfield as an area of concern, as well as cutting trees along Coolidge Street. She also gave examples of cutting done along a vernal pool and the possibility that the property owners are draining bodies of water. The Commission noted that the property owners have considerable latitude to cut down trees and drain water through agricultural exemption laws. It is, however, within the Commission's jurisdiction to require proof that 111 Coolidge Street qualifies for an agricultural exemption. Ms. Hawkins was welcomed to continue the discussion at future meetings, as there was little time allotted for the discussion at this meeting, due to the late request to be on the agenda.

Discussion #7 – Barber Reservation Management

Bridget reported that Matthew Mayo will work with us on field management in order to balance improved hay yields and other uses and issues. [Mayo spread composted horse manure on field areas not in a buffer zone (and it was done within a week of when the manure was mistakenly stored by a resource area at the Barber Reservation. Members then discussed mowing fields in the buffer zone as well as fields out of the buffer zone. Steve proposed that Pam Merrill, DEP Circuit Rider, be contacted regarding common practices for mowing in the buffer zone. It was noted that research is needed on whether manuring fields in the buffer zone is allowed.

Comment [MCL1]: "mgmt plan" seems too broad

Approval of Minutes

There was a motion to admit the edited August 20, 2009 meeting minutes. This was seconded and accepted unanimously.

Administrator's Report

- 32 Pleasant Street Irrigation Pond- Bridget explained that Mr. Hodson-Walker submitted a request to place an irrigation pond on his Land in Agricultural Use. She visited the property and agreed the irrigation pond was to be placed in LAU and is exempt from the Wetlands Protection Act. In addition, she spoke with Dan Lenthall from Natural Resource Conservation Service, he agreed the activity was exempt under 310 CMR 10.04 (c) (1) (g).
- Conservation Agent/Administrator Vacation Oct 5-13-Bridget asked the Commission help with mail during her absence.
- MACC classes 2009/2010 – Bridget asked that the Commission sign up for new fall and winter class offered by the MACC.
- Invasive Species Alert being placed in Community Note (D/S Press)
- Ed Perry Path signs- Bridget noted that the signs state no equestrian riding or cycling. She asked the Commission if they were aware of an agreement with Ed Perry to have the paths maintained in this manner. Steve recalled of an agreement of this sort due to Ed

Perry's continued work to keep the trails clean and usable over the years. The path does travel through a sensitive wetland resources, therefore, it should be kept this way.

- 324 Western Ave Forestry Plan- Steve stated that the Massachusetts Wetlands Protection Act requires a town's Conservation Commission to review this plan prior to approval by the Massachusetts Forestry Department. Steve asked that Bridget contact the person who issued the forest management plan.
- More files than office can handle in office- The Commission will try and coordinate with other departments in town that are looking to buy new file cabinets and offer a trade.
- Stormwater management plan for town- Bridget has been inquiring about the Towns progress toward better stormwater management. The Commission would like to see the town's plan for this to be submitted to the state for approval.
- 86 North Main Street- The owner's would like to start improvement work to the house where damages resulted from a fire. The building inspector asked the Commission to sign off on the building permit, due to current outstanding wetland violations with the Commission. The Commission agreed this was outside our jurisdiction and that the homeowner is in the current act of completing restoration to the altered wetland/

Approval of Determinations of Applicability

The following Determinations were reviewed. Based on the recommendations of the Agent, the determinations were signed and approved by the Commission:

<u>Address</u>	<u>Description of Work</u>	<u>Findings</u>
22 Course Brook Road	Soil Testing	NEG
Various streets throughout Town	Crack Sealing, Chip Sealing, and Repaving	NEG
32 Pleasant Street	Produce packing barn	NEG 5
32 Pleasant Street	Construction of irrigation pond	NEG 3
2 Ward Lane	Proposed Pool House and Barn	NEG
34 Forest Street	Soil Testing	NEG
17 Brook Street	Installation of Septic System	NEG 3
148 North Main Street, Map 10 Lot 1A	Installation of Septic System and Well	NEG 3
125 Lake Street	Installation of in-ground pool, spa, and fence	NEG
191 South Main Street	Repair of existing porch, new footing & stairs	NEG
67 Brush Hill Road	Certificate of Compliance	GRANTED

There was a motion to remove the enforcement order because the resident has complied with the enforcement order. This was seconded and accepted unanimously.

53 Woodland Street

Certificate of Compliance

NOT GRANTED

Central Steel Supply Company

Enforcement Order

RATIFIED

Steve moved to ratify the Enforcement Order against Central Steel Supply Company for the damage caused by the diesel spill. This was seconded and accepted unanimously.

Adjournment: Steve moved to adjourn the meeting at 11:55 P.M. This was seconded and accepted unanimously.

Respectfully submitted,

Suzanne Trainor
Minutes Clerk

Cc: Board of Selectmen, Board of Health, Planning Board, Building Dept., Town Clerk, Town Forest, Town Counsel, Sherborn Library, Advisory Committee, D/S Press, Zoning Board of Appeals, Sherborn Garden Club, Forest & Trail Assoc., Assessor, Groundwater Protection Committee, Farm Pond Advisory Committee