

Conservation Commission



19 WASHINGTON STREET
SHERBORN, MASSACHUSETTS 01770

November 4, 2010
Sherborn Town Hall
7:00 P.M.
Minutes of the Meeting

Members Present: Michael Lesser (arrived at 7:15), Steve Gaskin, Susan Tyler, Will Willis, Andrea Stiller, Kelly McClintock, Bridget Graziano (Administrator/Agent)

Guests: Stephen O'Brien, Barry O'Donovan, Catherine Wiseman, Carl Shedd, Brian Bigelow, Lawrence Rubin, Liz Panagoulas, George Fiske

Call to Order: Mr. Gaskin called the meeting to order at 7:06 P.M.

Requests for Determinations of Applicability

84 South Main Street- (Proposal to demolish portion of existing dwelling and construction of an addition)- The Agent reported a wetland resource is present approximately 90 feet from the limit of work, she noted that the addition itself is outside the buffer zone. She then recommended a Negative-3 Determination with the following conditions: (1) a limit of work barrier must be established using erosion controls, (2) equipment must be stored outside the project zone during non-operational hours, and (3) all materials shall be stockpiled on the western portion of the property outside the 100' buffer zone. Mr. Gaskin moved to approve the Agent's recommendation of a Negative-3. Ms. Stiller seconded and it was voted to approve 5-0. Mr. Lesser was not present for this vote.

119 Maple Street- (Proposal to perform soil testing and installation of a septic system)- The Agent reported that wetlands lie S.E. and S.W. of the project site, but that work will take over 200 feet from the wetland. She recommended a Negative Determination. Mr. Gaskin moved to approve the Agent's recommendation of a Negative Determination. Ms. Stiller seconded and it was voted to approve 5-0. Mr. Lesser was not present for this vote.

133 South Main Street- (Proposal to construct a two car garage with associated driveway)- The Agent reported that a wetland resource is present on the property, but that it is about 400 feet from the project location. She recommended a Negative Determination. Mr. Gaskin moved to approve the Agent's recommendation of a Negative Determination. Mr. Willis seconded and it was voted to approve 5-0. Mr. Lesser was not present for this vote.

41 Old Orchard Road- (Proposal to perform soil testing in the 50 to 100 feet buffer zone- continued from 10/21/10, 8/19/10, 8/4/10)- Liz Panagoulis, the property owner was present. The Agent presented the proposed project detailing that the soil testing would take place 75 feet from the wetland resource. It was noted that possibly the old system could be removed and a new one placed in the same location, which is outside the buffer zone, but this process may be financially unattainable. It was noted that all of the buffer zone is currently unaltered forest. The Commission and Agent proposed the following conditions: (1) work will not take place in the 50 foot no alteration zone, (2) trees larger than two inches in diameter shall not be removed and vegetation along the slope must be re-established for stabilization of slope to be determined by Agent post-testing, (3) access for soil testing in buffer zone shall be from Old Orchard Road, and (4) no machinery should be stored in 100 foot buffer zone. Mr. Gaskin moved to approve the Agent's recommendation of a Negative-3 Determination. Mr. Willis seconded and it was voted to approve 6-0.

16 Prospect Street- (Proposal to demolish shed and construct a new 20' x 20' shed in its place and construct another 20' x 20' shed- continued from 10/21/10)- Brian Bigelow, applicant and property owners representative was present. Mr. Bigelow stated that he altered his original proposal and is now proposing to build a single shed of 20' x 30' to replace the current barn of 10' x 12'. The existing shed is 23 feet from the wetland, and the new shed will not be any closer to the wetlands resource and the expansion will be in altered buffer. He noted that the proposed shed will be placed on concrete footings and all work shall be done with the use of hand tools or hand held machinery and no stockpiling of any materials in the 100' buffer zone or wetland itself Mr. Bigelow stated that the property owner would be willing to mitigate for the proposed work. He asked if the Commission had suggestions for mitigation area. It was discussed and found that the following would be appropriate mitigation: (1) approximately 480 square feet of altered buffer (lawn) will be converted back to natural buffer zone through plantings and (2) the plantings and proposed mitigation area shall be approved by the Agent in conjunction with the property owner or its representative. Mr. Lesser moved to approve the proposed project as a Negative 3 Determination. Mr. Gaskin seconded. Upon discussion, it was clarified that the applicant shall submit a revised plan to show the location of the new shed, mitigation area with native plantings, and other items discussed. The project site will be accessed through the driveway and no parking shall be allowed within the 100 feet buffer zone except in the existing driveway during daily operational hours. The motion was then voted for approval 6-0.

DiscussionsDiscussion 1- Lawrence Rubin's introduction as Advisory Committee Liaison for the Conservation Commission and presentation of FY12 budget

Mr. Rubin reported that Town boards should use the FY12 Budget Guidelines (not distributed at this time) of the Advisory Committee when drafting the budget for next year. He agreed to meet with Mr. Lesser and the Agent to discuss budgeting parameters for FY12 budget.

Discussion 2- 36 Farm Road issued Violation Notice

Mr. Barry O'Donovan and Ms. Catherine Wiseman the property owners were present. The Agent stated she had sent a letter of violation on October 14, 2010, requesting the presence of the Mr. O'Donovan at this meeting because Mr. O'Donovan had not responded to letters or phone message regarding alteration of riverfront after the initial site visit. She explained that she noticed the vegetation removal in the 200 foot riverfront buffer zone on the O'Donovan property in August 2010. The Agent spoke with Mr. O'Donovan and set up a site visit, where she measured the distance from the alteration to the riverfront, finding it took place in the riverfront without Commission approval. Mr. O'Donovan stated that he stopped cutting after being notified. The Agent recommended a non-punitive Enforcement Order to rectify the alteration of riverfront through planting of vegetation. The owners agreed to develop a plan and schedule a site visit with the Agent to incorporate the plan into the enforcement order.

Public HearingPublic Hearing 1- 193 Forest Street presentation by Norfolk Ram representing the O'Brien, Glen, and Tarnell parties

Mr. Gaskin opened the hearing for the sole purpose of continuing it until the November 18, 2010 meeting with the applicants permission. Mr. Stephen O'Brien was present as the applicant and property owner. The Agent reported that since the MA Department of Environmental Protection did not issue a file number for this hearing, the hearing should be opened in order for it to be continued. She noted that the Commission can open the hearing without green cards due to the above circumstances. Mr. Gaskin asked Mr. O'Brien if he would be willing to continue the hearing until November 18th, in order for a DEP # to be properly issued. He agreed and signed a 21-day waiver. Mr. Gaskin moved to continue the hearing until November 18, 2010 because the Commission needs a DEP file number to close a hearing. Mr. Lesser seconded, and it was voted 6-0.

Request for an Emergency Certification for 193 Forest Street:

Stephen O'Brien, property owner of 193 Forest Street requested to discuss a proposal for groundwater monitoring with the Commission at a contaminated site of 193 Forest Street. Mr. O'Brien explained to the Commission that it is imperative to complete groundwater

testing for the contaminated site on his property, to determine if Contaminants of Concern are flowing into drinking water (private wells) and Farm Pond (GW-1). The Commission discussed the installation of monitoring wells and surface water testing at the site and how this meets the criteria for an Emergency. The Commission issued the following findings for the issuance of an emergency certification: (1) possible flow of Contaminants of Concern into groundwater used for drinking through private wells or Farm Pond (which is designated for public drinking should the town not be able to drink groundwater), (2) this potential for contamination of drinking water is a threat to public health, and (3) the information is time sensitive and the results of this testing may result in findings that require immediate action. Mr. Gaskin moved to find potential for contamination of groundwater used for public consumption through private wells a public health threat worthy of issuing an Emergency Certification for the installation of monitoring wells and surface water testing. Mr. McClintock seconded and it was voted to approve 6-0.

Discussions

Discussion 3- 15 Jackson Road presented by Ben Robin regarding an Expired Order of Conditions

Ben Robin was not present to discuss mitigation regarding uncompleted work stipulated in the Order of Conditions (OOC) issued August 17, 2006. The Agent reported that on January 8, 2009 she sent a letter to the property owner notifying him that the Certificate of Compliance would expire in August 17, 2009 and again in July 28, 2010 that in fact it had expired. Mr. Robin had agreed to attend the November 4th meeting to discuss his non-compliance with Condition #4 of his OOC and was looking for advice from the Commission on how to proceed with getting a Certificate of Compliance, since he had not completed all the requirements under the Order. Condition #4 states “Remediation of existing conditions: a trench drain utilizing crushed stone, and three Highbush Blueberry plants shall be installed at the end of the existing driveway to prevent direct run-off into the BVW. This condition shall remain in perpetuity”. It was discussed and determined that the applicant would have to complete either condition #4 or propose something comparable based on existing site conditions. Any new work in the buffer would have to be completed under a non-punitive Enforcement Order since the original Order had expired. The Commission discussed possible remediation locations on the property. The Agent was asked to issue and enforcement order for work that Mr. Robin proposes to complete in place of the original condition

Discussion 4- George Fiske

- 18 North Main Street Order of Conditions: Mr. Fiske requested to discuss his current Order of Conditions (OOC). The Agent explained to Mr. Fiske that the previous amendment to the Order does not add another 3 years to the 18 North Main Street OOC, which Mr. Fiske thought to be true. She explained it is due to expire November 21, 2010. The Commission asked the Agent to meet with Mr. Fiske to review the property for Certificate of Compliance.

- Hidden Meadow and Schoolhouse Lot Land Management: The Commission discussed reimbursement of the Sherborn Land Trust for the cost of mowing Hidden Meadow with Mr. Fiske.
- Restoration of the Barber Reservation Barn: Mr. Fiske stated that he is applying for restoration work through the North Bennett Street School and believed he will be approved for their help in 2011. In addition, Mr. Fiske explained that the kids from North Bennett Street School complete the work, but the applicant supplies the materials. He happily told the Commission that an anonymous donor had donated the funding for the materials. Mr. Gaskin commended Mr. Fiske for his initiative.
- The Grange Fair Plans: Mr. Fiske noted that the prospective date for the Grange Fair is September 17, 2011 and that it is proposed to be held at Barber Reservation.

Discussion 5- Violations

- 3 Wildwood Drive- The Agent reported that 10 pine trees were cut in the buffer zone of an intermittent stream on this property. She completed a site visit on October 27, 2010 with the property owner present. The owners agreed to a non-punitive Enforcement Order with a native planting plan to remediate for the cutting. Mr. Gaskin moved to ratify the Enforcement Order as drafted. Mr. McClintock seconded and it was voted to approve 6-0.
- 57 & 61 Harrington Ridge Road (potential violations)- The Agent reported that she saw pink flags on both the properties, indicating possible tree removal. She has contacted both parties and completed a site visit to 61 Harrington Ridge Road with the property owner present on October 27, 2010. Mr. Gardener of 61 Harrington Ridge Rd. agreed to only removed trees outside the 100' buffer zone and submit an Request for Determination of Applicability for any trees inside the buffer zone. Mr. Hanmer of 57 Harrington Ridge Rd. has not responded to the Agents phone call and letter, but she noted he had removed many of the flags. She agreed to return next week to make sure not trees were removed; the trees marked for removal were in the 100' buffer zone.

Approval of Meeting Minutes

The Commission discussed October 21, 2010 minutes amendments. Mr. Gaskin moved to accept the October 21, 2010 minutes as amended. Mr. Lesser seconded and it was voted to approve 5-0; Mr. McClintock abstained because he was not a Commission member at the time of the meeting.

The Agent stated that the April 15, 2010 minutes have been approved but have not been voted to be released. She noted that the property discussed in executive session during that meeting was also discussed by the BOS in Executive Session. Mr. Gaskin moved to release the minutes of the April 15, 2010 executive session to the public record since there is currently no pending litigation. Mr. Lesser seconded and it was voted to approve 4-0 by a roll call vote- Ms. Stiller- yes, Mr. Lesser-yes, Mr. Gaskin-yes, Mr. Willis-yes;

Ms. Tyler abstained because she was not present at this meeting. Mr. McClintock abstained because he was not a Commission member at the time of the 4/15/10 meeting.

Administrator/Agent's report

- **Survey of conservation land-** Each member was assigned a parcel and assigned a deadline of December 2, 2010 for completion of survey.
- **Pine Hill fencing for garden-** The Agent reported that fencing will be installed in a non-intrusive manner, in a non-jurisdictional area.
- **Rising Tide extension, delineation check, and site visit-** The Commission discussed progress on the Rising Tide proposal presented during the 10/21/10 meeting.
- **Transfer station rat traps-** The Commission discussed the use of chemical rat traps in the ground in the 100' buffer zone to wetland resource.
- **Conservation Commission service survey-** The Agent reported that she has drafted an optional survey for applicants. The survey answers will provide feedback to the Commission.

Adjournment: There being no other business to attend to, Mr. Gaskin moved to adjourn at 9:57 P.M. Mr. Lesser seconded and it was voted to approve 6-0.

Respectfully submitted,

Suzanne Trainor
Minutes Clerk

Documents Presented at the November 4, 2010 Public Meeting

All documents shall be kept in the Conservation Commission Office files

Request for Determination of Applicability

- 16 Prospect Street: Titled Plan “Plot Plan of Land in Sherborn, MA” by Schofield Brothers of New England, Inc., dated August 31, 2009 (with hand drawing) and Titles Plan “Plot Plan of Land in Sherborn, MA” by Schofield Brothers of New England, Inc. dated September 28, 2010
- 84 South Main Street: Titled Plan “84 South Main Street Residence” by Amy Davis (hand drawn) dated, October 14, 2010
- 119 Maple Street: Titled plan “Application for Soil Testing and Evaluation” by CIVILized Solutions, dated October 15, 2010.
- 133 South Main Street: Titled Plan “Friskey Residence Garage Renovation” by Richard Renner Architect, dated May 26, 2008.
- 41 Old Orchard Road: Titled Plan “Application for Soil Testing and Evaluation” by CIVILized Solutions, dated July 7, 2010.

Discussion 2: 36 Farm Road

- Pictures taken by Bridget Graziano, Agent on August 31, 2010 at site visit

Discussion 3: 15 Jackson Road

- Final Order of Conditions, DEP # 283-291, issued August 17, 2006, pg. 6
- Titled Plan by GLM Engineering, dated

Discussion 4: 18 North Main Street

- Letter titled “Certificate of Compliance for DEP file no. SLB-04-01 by Bridget Graziano, dated July 29, 2010
- Letter for Amendment to the Order of Conditions, by Sherborn Conservation Commission, dated May 15, 2008
- Amended Order of Conditions, DEP # SLB-04-01, signed by Commission on May 15, 2008
- Titled Plans “Fiske Property” (Existing Drainage Plan, Sketch 1), by Beals & Thomas, dated June 29, 2004
- Titled Plans “Fiske Property” (Proposed Drainage Plan, Sketch 2), by Beals & Thomas, dated June 29, 2004

Discussion 5 Three Wildwood Drive

- Enforcement Order Form 9A issued by Bridget Graziano, dated November 3, 2010.
- Enforcement Order attachment issued November 3, 2010
- Titled plan “Mitchell Briskin, 3 Wildwood Drive” by Weston Nurseries, dated October 31, 2010

Administrator/Agent Report:

- Sherborn Parcel Characterization Form
- Conservation Land Management Worksheet
- Email correspondence from Peter Freeman of Freeman Law Group, LLC to Bridget Graziano, Agent, titled “Whitney Farm”, dated November 4, 2010
- Letter correspondence from Meridian Associates, Mark Beaudry to Chairman of Conservation Robert Eckert, titled “Whitney Farm, 59 Whitney street, Sherborn, MA, MAI Protect No. 8101, MA DEP file # 283-264
- Sherborn Conservation Commission service survey

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