

Conservation Commission



19 WASHINGTON STREET
SHERBORN, MASSACHUSETTS 01770

June 16, 2011
Sherborn Town Hall
7:00 P.M.
Minutes of the Meeting

Members Present: Alex Dowse, Michael Lesser, Steve Gaskin (Chair), Susan Tyler, Andrea Stiller (arrived @7:17), Kelly McClintock

Guests: Peter Rovick, John R. O'Neill, Jim Lifton, Kecia Lifton, Brian Comiskey, Stephen Bender, Julia Jacobson, **Anabis Tizzano**, Anthony Tizzano, Mario Onorato, Joan Onorato, Patrick Q.

Requests for Determinations of Applicability:

256 Western Avenue – (Demolition of Barn and Horse Paddock): No one was present to represent the applicant. The Agent presented the project to the Commission. The owner is proposing to demolish the existing riding arena and replace with a new, larger indoor riding arena. The work will take place on the northwest end of property and access shall be made through the existing driveway. The closest wetland resource to the project site is approximately 400 feet away. Mr. Gaskin moved to accept the Agent's recommendation for a Negative Determination of Applicability, Mr. Lesser seconded and it was voted to approve 5-0.

Hidden Meadow – (Removal of Invasive Species): At the May 19th meeting, the Agent reported to the Commission that she had discovered Japanese Knotweed in patches on the Hidden Meadow property. The Commission asked the Agent to file a Request for Determination of Applicability to begin to remove the invasive species from the property. The Agent reported the amount of Japanese Knotweed was more than she expected and meandered along the stone wall in uplands and wetland areas. The Commission discussed starting with the removal of the Japanese Knotweed located in the buffer zone only and file a Notice of Intent invasive removal in the wetland. Mr. Dowse suggested filing a Notice of Intent for the whole project. The Agent suggested the Commission

should schedule a site walk of the area. Mr. Dowse suggested considering the use of an herbicide such as Roundup to combat the invasive. The Commission began discussing the removal process for the invasive plant because there is a concern for the spread of seeds from plants which have been pulled. Ms. Tyler suggested hauling them to the conservation land known as Schoolhouse Lot for burning; the Commission agreed. The Commission requested that the Agent prepare an estimate to file for a Notice of Intent, as there is some time before the suggested removal time for Japanese Knotweed in August. Mr. Gaskin moved to accept the Agent's recommendation for a Positive Determination of Applicability for invasive species removal, Mr. McClintock seconded and it was voted to approve 5-0.

Ms. Stiller arrived at 7:17 PM.

Sign the Determinations from the last meeting: Completed by members present at the June 2nd meeting.

Request to waive fee from RDA – 17 Cider Hill Road: The Agent explained that the owner of 17 Cider Hill Road had requested that the Request for Determination of Applicability filing fee for the replacement of the Distribution Box for his septic system be waived. The Commission discussed the request. Ms. Tyler moved to lower the filing fee for Distribution Box replacement to \$50, as this is the new rate that had been voted in shortly after the homeowner applied. Mr. McClintock seconded and it was voted to approve 6-0.

Discussions

Discussion #1 – 175 Maple Street mitigation plan approval:

The Applicants, the Liftons were present at the meeting. The Agent and Mr. Lifton presented the proposed mitigation plan required under the Order of Conditions, dated May 12, 2010. Mr. Lifton is proposing to plant rhododendrons, mountain laurels, and high bush blueberry along the slope approximately 60' from the bordering vegetated wetland. In addition, Mr. Lifton would like to keep one portion along the driveway as gravel which will be used for parking. The Agent stated that she would suggest approval of the plan because it met requirements of conditions #14 under the Order of Conditions and provided adequate protection of the wetland resource. Mr. Gaskin moved to accept the mitigation plan, Mr. Lesser seconded and it was voted to approve 6-0.

Discussion #2 – 75 Maple Street:

The owner, Mr. Comiskey, was present at the meeting. The Agent explained that Mr. Comiskey had complied with the conditions of the Enforcement Order and was now at the last stage of the requirements, the mitigation planting plan. The enforcement order required seeding of the disturbed wetland with the New England Wet Mix, the seeding of slope into wetland with Erosion Control Seed Mix, and depending on disturbance of wetland the planting of native species. Mr. Comiskey submitted a mitigation plan to plant four Red Maple trees at the bottom of the slope, spaced approximately 8-12 feet apart. The Agent stated she felt the mitigation was sufficient based on phased site visits and the protection the newly established native grasses and maple will provide to the wetland

resource. Mr. Gaskin moved to accept the mitigation plan for the Enforcement Order, Ms. Stiller seconded, and it was voted to approve 6-0. Mr. Gaskin requested that Mr. Comiskey stake out the tree locations and the Agent would approve the locations, prior to planting.

Public Hearings

Public Hearing #1 – Amendments to the Sherborn Bylaw Regulations

- i. Section 2 Definitions- Not Discussed. Previously discussed and voted at February 3, 2011 public meeting.
- ii. Section 5.1 Determination of Applicability- Not Discussed
- iii. Section 5.2 Notice of Intent- Not Discussed
- iv. Section 5.4 Fee Schedule- Not Discussed
- v. Section 5.4.1 Filing Fees and Policies- Not Discussed
- vi. Section 5.2.6 National Heritage Filing- Not Discussed
- vii. Section 5.5 Hearings- Not Discussed
- viii. Section 7 Enforcements – The Agent had not had a chance to work on this option of the regulations at this time and suggested continuing discussion till the next meeting. The Agent asked the Commission for their opinion on how elaborate they wanted the Enforcement Section to be in the Bylaw. They requested that there be just enough detail so that the citizens could understand the process.
- ix. Section 10.4 – Tree Removal Performance Standards – The Agent proposed some ideas for performance standards and discussed them with the Commission. Ms. Tyler requested that the Agent look up the definition for “tree”. Mr. Lesser will request in writing that “Tree cutting in the Buffer Zone Guidelines” be made an Agenda item.

Mr. Lesser moved to continue the hearing to the July 21, 2011 meeting at 8:00 pm., Mr. Gaskin seconded and it was voted to approve 6-0.

Discussion #3- Agent Site Visits:

The Agent distributed a site visit protocol handout she had created for the Discussion. Mr. Dowse also provided the Commission with a handout he had created for the Property Owner Notification Protocol for discussion. Mr. Lesser mentioned that he thought the Agent’s ideas seemed reasonable. Ms. Tyler requested that she would like research done on site visit protocols used in other towns. The Commission will review Mr. Dowse’s and the Agent’s documents. Mr. Gaskin asked that the Agent send her draft via email to the other members and for Mr. Dowse to do the same.

Discussion #4 – 190 Maple Street:

Several members of the Onorato family were present at the meeting including Joan Onorato and her son Mario Onorato. Mr. Gaskin asked the Onorato’s for an update on the work currently taking place on their property. Mr. Mario Onorato explained that they had not done anything since the last meeting they attended, of November 18, 2010, except they had replaced a culvert on the northeast side of the property. He explained that in the future they would like to clear the vegetation around the outfall culvert under

Maple Street and complete some dredging of the stream to reduce the amount of water on the fields surrounding the stream.

The Agent explained to the Commission that she and Mr. McClintock had made a site visit to the Town owned Hidden Meadow property, which abuts 190 Maple Street, to review forestry options for the property and while there to give Mr. McClintock his first opportunity to view the Onorato property. Apparently, Mr. Mario Onorato observed the Agent and Mr. McClintock and believed they were trespassing on his property without permission. On June 14, 2011, he submitted a public records request in which he accused the Agent and some Commission members of trespassing on his property.

The Agent and Mr. McClintock stated they were not trespassing on his property and were clearly on Town property. In addition, Mr. Onorato had seen them on Town property, approached them and spoke with them about his property.

Mr. Onorato decided to withdraw his public records request. He also agreed that the Agent and Commission member have not in fact trespassed on his property but were on the Hidden Meadow property, which is under the control of the Conservation Commission.

The Commission reminded Mr. Onorato that this would be placed on the record within the meeting minutes.

Mr. Gaskin tried to determine through discussion if the property owners are using their land in a manner that would trigger an agricultural exemption and work currently taking place would fall under this exemption. Mr. Gaskin explained that to qualify for an exemption, they would need to grow and sell an agricultural commodity for a profit. The Onorato's explained that most of their land is used for haying and that they have sold for profit. Mr. Gaskin remembered seeing cows grazing on the property a few years ago and asked if any meat the cows produced was sold for profit. The Onorato's said yes they had. Mr. Gaskin stated that if the Onorato's had cows within the past 5 years, which grazed in the locations where they were removing vegetation and replacing the culvert, these actions may qualify under the Massachusetts Wetland Protection Act Regulations for an agricultural exemption. He also asked if they had any receipts or tax records as proof of sale of the cows. Mrs. Onorato thought she may be able to provide the Commission with tax records. The Onorato's agreed to provide the Commission with receipts or tax records by July 14th. If the Agent and Mr. Gaskin determined that the proof of product sale is adequate, then the Onorato's would not have to attend the next meeting. If the proof is not adequate they will have to file a Notice of Intent. Mr. Dowse suggested that the owner's should create a farm management plan. The Commission and Agent agreed this would be beneficial to the Onoratos'.

Discussion #5 – RDA Process Review:

Mr. McClintock had spoken to the Agent regarding the Request for Determination of Applicability review process and the Board of Health and Zoning Bylaw and how to make the process run smoother if projects were not within our jurisdiction. The Commission briefly discussed projects which are not within the Commission's

jurisdiction, are there possible options for doing the review more quickly and inexpensively, possibly using a pre-review step. The Agent asked if the Commission wanted to pursue the matter and if so could other Commission members offer to help Mr. McClintock and herself. Mr. Gaskin volunteered to help Mr. McClintock and the Agent develop a process for applications which are not within the Commission jurisdiction.

Discussion #6 – Enforcement Bylaw Amendment for Town Meeting:

The Agent explained that this is no longer an Agenda item as the Planning Board is no longer pursuing a warrant article for fall Town Meeting.

Discussion #7 – 84 Coolidge Street Site Visit Report from Susan Tyler:

Ms. Tyler provided the Commission with notes regarding her site visit to 84 Coolidge Street. Ms. Tyler offered to work with the owner as he would not grant the Agent access to his property. At the May 4, 2011 meeting, it was explained to the owner, Mr. Hall what he required to complete under the Enforcement Order issued for cutting and removing vegetation from the 50-100' buffer zone to a wetland resource.

During the site visit, Ms. Tyler noted an area of Garlic Mustard, which has since been removed. The owner informed Ms. Tyler that to permanently demarcate the area of no disturbance he would place two posts with bluebird houses attached at the two outer corners of the 45' x 70' no disturbance area. He intends to seed the area in the fall and remove the remaining brush within the buffer zone Mr. Hall will contact Ms. Tyler in approximately one month when he has done everything (except the seeding), so that Ms. Tyler can perform another site visit. Mr. Gaskin noted that in the meeting minutes of May 4th that Mr. Hall must use 5 foot tall stakes.

Approval of Minutes of May 19th, 2011:

The Commission discussed edits to the minutes. Ms. Tyler moved to approve the minutes as amended. Mr. Gaskin seconded and it was voted to approve 6-0.

Approval of Minutes of June 2, 2011:

The Commission discussed edits to the minutes. Mr. Gaskin moved to approve the minutes as amended. Mr. McClintock seconded and it was voted to approve 6-0.

Administrator/Agent's Report:

- **Commission Re-Appointments and the BOS:** Mr. Gaskin is up for re-appointment and was voted so by the Conservation Commission on May 4, 2011. The Board of Selectmen recently agreed to post re-appointments in the paper to see if any other resident were interested in applying for a seat on the boards/commission. The Agent was informed that Andy Errico is interested in opposing Mr. Gaskin for a seat on the Commission. The Agent informed the Commission that a gentleman in the audience, Mr. Rovick, is also interested in joining the Commission but will wait for an open seat and would not like to run against a member who would like to continue on the Commission. The Agent

asked Mr. Errico to attend for an interview by the Commission, which is standard procedure for the Commission. Mr. Errico could not attend.

Mr. Gaskin stated that he had be in receipt of an email from Mr. Dowse to the Board of Selectmen, which stated that Mr. Dowse was opposed to the re-appointment of Mr. Gaskin. The Commission discussed this email and Mr. Dowse stated he would be happy to provide copies to the Commission members.

- Meeting Protocol/Professionalism: Postponed
- Forestry Site Visit Update: On June 7, 2011, the Agent, Mr. Lesser, and Mr. McClintock of the Commission along with George Fiske, Paul Saulnier, Roger Plourde and Sarah Molyneaux, an UCCLT member, walked Barber Reservation and visited 3 different natural communities (Red Oak/Chestnut, Black Oak/Black Birch, White Pine) and at Hidden Meadow a Red Maple community. Mr. Plourde explained to the Agent that he will draft a proposal for Commission review, focusing on wildlife habitat and invasive management. The Agent noted that they walked the same area with Phil Benjamin and his estimate was twice that of Mr. Plourde's verbal estimate. The Agent would like to get one more forester out to the site for an estimate to compare and she will schedule it.
- CM & D Chapter 90: The Agent explained that Ed Wagner filed an RDA with the Commission for Chapter 90 road work on Route 27 from Goulding Street to the Medfield/Sherborn Town Line. The Agent reviewed the project area, offered comments, and signed Chapter 90 paperwork for the Selectmen's Office for the June 2, 2011 deadline. The Agent requested that they call before beginning work and expected it to begin in July. Several members of the Commission noted that a sign had been posted on the road stating that the project was to commence the next week. The Agent will check to make sure they put up adequate erosion controls and follow the conditions required in order to protect adjacent wetland resources.
- Land Management Meeting Update: The Agent provided a brief update on her meeting with the Land Management Task Force Team. The Team discussed the following, the new ADA requirements for public trails under the new DOJ laws, work which needed to be addressed at Perry Street Bridge for which Peter Brockway will use boy scouts to fix, and the Town workshop held on Lyme Disease and deer management.
- Erosion Control Meeting Update: The Agent explained there is a wonderful FREE workshop available for Commission members to take and she will again email the dates and time.
- Library Exhibit for Wetlands: The Commission is scheduled for a library exhibit on wetlands for July 1 through August 15th. The Agent has contacted the DEP for brochures to exhibit and has drafted some herself. Commission members suggested adding pictures of Conservation lands and trail maps.

- Beavers Ward Park/Woodland Street: The Agent has scheduled Mike Callahan of Beaver solutions to come review the Lake Street “Beaver Deceiver” and other locations around town with beaver-related issues.
- 59 N. Main Street: The Agent discussed the Wetland Violation and stated that the owners were working to complete remediation and that the new owner is going to file a Notice of Intent.
- GPS for Conservation: Mr. Gaskin moved to approve the purchase of the Garmin GPS Unit, Mr. Lesser seconded, it was voted to approve 4-2.
- Agent Vacation Time: The Agent will be on vacation during the following times:
 - July 25-29
 - October 6-17

Adjournment: There being no other business to attend to, Mr. Gaskin moved to adjourn at 10:22 pm, Ms. Stiller seconded and it was voted to approve 6-0.

Respectfully submitted,

Debora Anderson
Minutes Clerk

Documents Presented at the June 16, 2011 Public Meeting

All documents shall be kept in the Conservation Commission Office files

Discussions

Discussion 1- 175 Maple Street mitigation plan approval

- Portion of the Order of Conditions for DEP File # 283-0328.
- Proposed Planting Plan for 175 Maple Street dated May 22, 2011

Discussion 2 – 75 Maple Street

- Planting Plan Restoration Project for 75 Maple Street received June 16, 2011 by the owner Brian Comiskey.
- Attachment to the Enforcement Order issued on March 31, 2011 by the Sherborn Conservation Commission to Brian Comiskey regarding unauthorized alterations at 75 Maple Street, Sherborn, MA.

Discussion 3 - Agent Site Visits

- Agent Site Visit Protocol handout from the Agent
- Property Owner's Notification Policy handout prepared by Mr. Dowse

Discussion 4 - 190 Maple Street

- Email dated June 1, 2011 from Mario Onorato to the Commission explaining the recent actions at his farm.
- A copy of the letter from the Town Clerk to Mario Onorato dated June 14, 2011 regarding his public records request.
- Farming in Wetland Resource Areas: A Guide to Agriculture and the Massachusetts Wetlands Protection Act, published by the Commonwealth of Massachusetts; DEM, DEP, and Dept. of Food & Agriculture revised January 1996.
- 310 CMR: DEP 10.04 – Agriculture Definition

Discussion 7 - 84 Coolidge Street Site Visit Report from Susan Tyler

- Site Visit Report by Susan Tyler to the Commission dated May 10, 2011

Public Hearings

Public Hearing 1 Amendments to the Sherborn Bylaw Regulations

- Section 10 Performance Standards handout from the Agent

Administrator/Agent's Report:

- Memorandum to Ed Wagner, CM & D Director, the Board of Selectmen and the Conservation Commission from Bridget Graziano, Conservation Agent regarding CM & D Road Maintenance Chapter 90 project dated May 26, 2011.
- A portion of a GIS Map provided by the Agent showing the area for the road maintenance.
- A resume provided by Andrew Errico for the Commission's Review for a vacant Commission seat.

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