

Conservation Commission



19 WASHINGTON STREET
SHERBORN, MASSACHUSETTS 01770

July 21, 2011

Sherborn Town Hall

7:00 P.M.

Minutes of the Meeting

Members Present: Steve Gaskin (Chair), Alex Dowse, Michael Lesser, Kelly McClintock, Andrea Stiller, Bridget Graziano (Administrator)

Guests: Heidi Gilmore, Jack Gilmore, Matthew O'Connell, Paul Maue, Chris Ouellet, Jared Spence, Joan & Mario Onorato, Anabis & Anthony Tizzano, Paul DeRensis

Requests for Determinations of Applicability:

Town of Sherborn - Farm Pond (Proposal to construct fencing and electrical line to Sherborn Yacht Club):

Heidi Gilmore, the Immediate Past Commodore of the SYC, was present as the applicant. Ms. Gilmore explained that the proposed gate and fencing would symbolize the end of public property and the beginning of private property. The proposed gate is approximately 30' outside of the Joukowsky's property line and is located on Town property. The intent of the fencing would be to deter trespassers from entering onto Mr. Joukowsky's property. The Commission questioned that the fencing would be on Town land and the public still had some right to enter through the fencing and would still be on Town property, which is open to the public. Ms. Gilmore understood that, but the fencing would be more of a warning to people of the potential of trespassing onto Mr. Joukowsky's Property and would never be locked.

Ms. Gilmore explained that an electrical line was actually installed last fall and is part of this application as an after-the-fact item. The electrical line extends from the Joukowsky property to the Yacht Club. She explained that the electrical line was installed by hand and without even the Yacht Club's knowledge. She said that they were working with the Wiring Inspector (Richard Bemis) to make sure done properly. The Commission requested that a plan be submitted to the Agent for her records in association with the Determination.

Ms. Gilmore continued to explain that the fencing would be comprised of all natural cedar (stained before installation) with granite posts dug by hand. The Agent added that the area is located on the Natural Heritage polygon and the applicant should file with them, however, the Commission cannot require the filing. She explained the project may be exempt, under the Massachusetts Endangered Species Act and would be deemed too small to cause a “taking” of a protected species. The Agent noted that there is Sweet Pepperbush & Highbush Blueberry and the installation of fencing may require the removal of some of these shrubs. Should removal of vegetation occur, the applicant will replace the vegetation.

Mr. Gaskin moved to accept the Agent’s recommendation for a Negative 3 Determination with supporting conditions, Ms. Stiller seconded and it was voted to approve 5-0.

3 Parks Drive – (Proposal to Construct 2 Decks):

No one was present to represent the applicant. The Agent presented the project to the Commission. She explained that the proposed deck at rear of the house is 300 feet away from the wetland resource and the other proposed deck is located 400 feet away. The Agent added that no machinery would be used during construction; all work would be done by hand.

Mr. Gaskin moved to accept the Agent’s recommendation for a Negative Determination, Mr. McClintock seconded and it was voted to approve 5-0.

15 Spywood Road – (Amendment to RDA):

Matthew O’Connell was present to represent the applicant, Andrew MacKay. He presented the amendment to the approved Determination for installation of a new well. Mr. O’Connell stated that the approved plan originally called for the well to be located 67 feet from the wetland and the amendment proposed to keep the well in the same location; however, the topography has posed an issue and the drill rig must be positioned approximately 35’ from the wetland, causing the project to enter the no-alteration zone except during implementation only. Mr. O’Connell explained the whole process would take 2 days and would occur within a lawn and machinery would be parked there temporarily. The Commission asked who would be responsible for the post-construction clean up. Mr. O’Connell replied that it would come down to him to make sure cleanup is complete. The Commission requested that silt fence & straw bales be installed, and that plywood sheets be placed on the ground to reduce the impact near the wetland and that the area should be re-seeded back to lawn.

Mr. Gaskin moved to accept the amendment to the Determination under the plan titled “Revised Siltation Fence Layout for Well Drill”, dated July 19, 2011, Mr. Lesser seconded and it was voted to approve 5-0.

54 Spywood Road – (Ratify Enforcement Order):

The Agent explained that on July 14, 2011, the Building Inspector informed her of a potential violation of the Wetlands Bylaw. The Agent and Mr. Avallone (Building Inspector) attempted to contact the home owner via telephone and in person. The Agent reviewed the site from the street

and noted that work had in fact taken place within the jurisdiction of the Commission. An Enforcement Order was sent to the property owner on July 14, 2011. The Agent explained that the property owner has been very cooperative and has halted all work on the property, establishment of erosion control line, removed soil piles from buffer zone, and removed machinery from buffer zone, as requested in the Enforcement Order.

Mr. Gaskin moved to ratify the original Enforcement Order issued July 14, 2011 for 54 Spywood Road, Mr. Lesser seconded and it was voted to approve 5-0.

Discussions:

Discussion #1 – Eagle Scout Presentation by Chris Ouellet:

Scout Chris Ouellet presented his proposed Eagle Scout project to the Commission. Mr. Ouellet distributed a handout of the proposal and explained his project. He stated that his project included replacing the old kiosk that fell down last winter at the southern Old Orchard Road entrance to the Bailey Trail. He will use new cedar posts and construct a new roof with pressure treated wood and plywood. He and the Agent would work together to determine placement of the new kiosk. In addition, he proposed to begin maintenance of the trail system, by removing dead fall trees along the trail, raking rutted portions, and removing trash.

The Commission suggested finding somewhere to place a hand copy of the trail map on the kiosk under a sheet of plexi-glass. The proposed project is close to a wetland resource so the Agent has required a Request for Determination be filed for the project and reviewed by the Commission.

Mr. Gaskin moved to accept the project and waive the fee for the Request for Determination filing. It was seconded by Mr. McClintock and it was voted to approve 5-0.

The Commission suggested that the Scouts ask Mr. Brockway to pay for the legal posting in the paper as part of project costs.

Discussion #2 – Eagle Scout Presentation by Jared Spence:

Scout Jared Spence presented his proposed Eagle Scout project to the Commission. Mr. Spence distributed a handout for the proposal and explained his project to the Commission. Mr. Spence is proposing to replace/repair two bridges along trails on Town Forest Land off of Perry Street. The smaller of the two bridges would need to be removed and replaced, while the second bridge could just be repaired. He proposed using cedar instead of pressure treated wood. Mr. Spence added that Peter Brockway would be supervising much of the project.

Mr. Gaskin moved to accept the project and waive the fee for the Request for Determination filing. It was seconded by Ms. Stiller, voted to approve 5-0.

Discussion #3 – Continuation of 190 Maple Agricultural Exemption Review:

Joan & Mario Onorato and Anabis & Anthony Tizzano were present at the meeting. The Onorato's presented the Commission with the bill of sale covering the sale of cow from November 2005. The Onoratos claimed they had more cows during a period extending into the following year. They noted that the cows were grazing in an area where they want to complete normal maintenance and improvement to these fields under the Agricultural Exemption. The Commission agreed the bill of sale was sufficient to prove that the land was used to raise livestock within the past five years, which were for sale and therefore the area in question should be considered land in agricultural use. The Agent stressed the importance of following Best Management Practices. The Commission thanked all parties for cooperation and attendance at required meetings.

Public Hearings:

Public Hearing #1 – Sherborn Regulation Amendments

Preface: In lines 1 and 2, delete the words “hereinafter referred to as the Sherborn By-Law”

- a) Section 2 – Definitions: Living Tree – A tree that bears or renews any leaves or needles in season; Tree – Any living self-supporting, woody perennial plant which has a trunk caliper greater than or equal to 1-1/2 inches measured at a point twelve (12) inches above the ground and which normally attains a height of at least ten (10) feet at maturity usually with one (1) main stem or trunk and many branches; Threatening Tree – A tree that has one or more of the following (1) calculation of loss of wood strength is more than 30%; (2) leaning tree with a soil mound at the base, but no root exposure; (3) half the roots under the crown have recently been crushed or cut, or (4) advanced decay is present in structural defects or extensive dead wood.
- b) Section 5.1 – Determination of Applicability:
- c) Section 5.2 – Notice of Intent:
- d) Section 5.4 – Fee Schedule:
- e) Section 5.4.1 – Filing Fees & Policies:
- f) Section 5.2.6 – Natural Heritage Filing:
- g) Section 5.5 – Hearings:
- h) Section 8 – Enforcement:

Mr. Gaskin moved to continue the Public Hearing to August 4th @ 8:00 p.m., Mr. McClintock seconded, it was voted to approve 5-0.

Public Hearing #2 – Notice of Intent for 15 Spywood Drive – (Proposal for new decks, sunroom, and gravel terrace)

Matthew O'Connell, Principal of ADG, Inc. and Paul Maue, the Landscape Architect were present to represent the Applicant, Andrew MacKay. The Applicant proposes to remove two existing decks and replace them with one deck, add a sunroom and a gravel terrace with a pergola. The proposed scope of work calls for approximately 250-300 cubic yards of soil to be removed, re-graded, and approximately 150-200 cubic yards will be replaced. The Agent found the following information needed to be added to the final plan: (1) The plans needs to show the current grade of the gravel terrace @ 91 not 89; (2) erosion control line adjacent to the proposed

sunroom is unrealistically close to proposed sunroom, allowing for little room for passage of machinery; therefore, the erosion controls need to be pulled back and placed along the flat topography further out from the sunroom and where it might be more effective, and the amended plans should depict this; (3) applicant needs to provide a landscaping vegetation plan and mitigation planting plan; and (5) applicant shall provide all square footage for the temporary and permanent disturbance associated with the project. The applicant proposed a mitigation area adjacent the wetland. This area is currently maintain as lawn and suggested that this would provide an increased protection of the 0-50' no-alteration zone, which will now be converted back to natural buffer zone. The area would span over 2,000 sqft.

Mr. Gaskin moved to close the hearing, Ms. Stiller seconded, it was voted to approve 5-0.

Mr. Gaskin moved to approve based on the following findings: The Commission hereby finds that the all work within the 0-50' no-alteration zone (NAZ) will be temporary in nature and will take place within existing lawn area, known as altered buffer zone. Additionally, that the proposed activity, post-construction, within the 50' - 100' buffer zone shall still provide stormwater run-off to infiltrate into the groundwater. The Commission further finds that the applicant has presented evidence sufficient to demonstrate that the proposed activity will not cause alteration to the bordering vegetated wetland during or post-construction. The application has satisfied all concerns of the Commission for post-construction alteration of the wetland resource through the proposed mitigation, which will provide an increased protection of the wetland resource. Therefore, this project is found to have a net benefit to the wetland resource. Additionally, the Sherborn Conservation Commission found that the following conditions are necessary in order to protect the wetland resource for the duration of this proposed project. The Commission ordered that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced in the Special Conditions, section of this Order. Mr. McClintock seconded, and it was voted to approve 5-0.

Mr. O'Connell was reminded he needs to provide the Commission with a new plan based on the amendments agreed upon and additional information needed.

Discussion #4 – Town Counsel Finding for 190 Maple Street (not on Agenda, relates to Discussion #3)

Mr. DeRensis, a Town Selectman, explained to the Commission that in light of Town Counsel's recent finding on the Sherborn General Bylaw Chapter 17, Section 7.7, the Commission should consider working with Counsel to draft an amendment to the Bylaw for the next Town Meeting in 2012. The Bylaw will be reviewed by Town Counsel, who will propose amendments and review with these changes with the Commission. At this time, the only amendment is Section 7.7 of the Bylaw. The Commission agreed they would like to do this. Mr. DeRensis urged them to do it now and had the support of the Board of Selectmen to use Town Counsel on this matter. The Commission explained once they were done reviewing the Sherborn Bylaw Regulations, they would contact Town Counsel to review the Bylaw and the amendments proposed for the Regulations so that Town Counsel could propose any changes that were necessary to have our bylaw and regulations deemed valid.

Approval of Minutes of July 6, 2011:

The Commission discussed amendments to the minutes. Mr. Gaskin moved to approve the minutes as amended, Mr. McClintock seconded, and it was voted to approve 5-0.

Administrator/Agent's Report:

- **GPS Unit:**
 - The unit has been purchased but at this time the software from the Minn. Dept. of Natural Resources is not available due to a government shut down as of June 30, 2011. The Agent is working with the Sudbury Valley Trustees to obtain the software. The Agent is working on creating Baseline Documentations and folders for all Conservation Commission-controlled Conservation Restrictions and Town land.
- **Grange Fair Site Visit:**
 - Date: August 2, 2011 @ 8:30am
 - The Agent asked who from the Commission would like to attend. Mr. Lesser volunteered and the rest of the Commission will let her know.
 - The main objective is the maintenance of land around the Barber barn, roads for access, and parking
- **Maintenance of Schoolhouse Lot/Hidden Meadow Fields:**
 - Mr. McClintock had begun talks with George Fiske about using the Challenge Fund for mowing of Hidden Meadow.
 - Mr. McClintock thought that certain questions might be important to answer: (1) What would the consequences be if the field did not get mowed this year? (2) What would be the latest it could get mowed this year? (3) Does the Commission know of any other possible strategies to raise the money? (4) Could the estimate of \$800 - \$1000 be pinned down?
 - The Agent replied that the field could be mowed as late as September and if it was not mowed this year, woody vegetation could take hold, making it much more difficult to mow next year, and the price has never been pinned down to be more exact and in fact last year it cost \$1,300, so \$1000 would be a good price.
- **Personnel Evaluations:**
 - The Agent explained that for her yearly evaluation, the Commission Members will be sent a document to fill out and send to Mr. Gaskin (the Chairman) for review. He would then review the comments and compile one review.
 - Mr. Gaskin and the Agent would then schedule a meeting to discuss and sign her review.
 - The annual evaluation is due in September 2011.
- **Article in "The Day" on *Scientist Link to Invasive Barberry to Lyme Disease:***
 - The Agent distributed copies of the article to the Commission members. The Agent suggested that the article may possibly be worth making part of deer management discussions.

- The Agent also noted that she ordered free information to post around town on ticks, in hopes to distribute some of the information at the Grange Fair in September.
- **Forestry Site Visit:**
 - The site visit was scheduled with Gary Gouldrup at 9:00 am @ Barber Reservation.
 - The Forester agreed to complete a plan for cost-share from DCR with no cost to the Town.
 - Phil Benjamin followed up to see if the Commission was still moving forward with the Grant.
- **RDA Process Review Update:**
 - Mr. McClintock, Mr. Gaskin and the Agent met to review the current Request for Determination of Applicability process and options for a new process.
 - The conclusion of the meeting was to put this item on hold until the budget for FY13 is reviewed and begin drafting proposals in December 2011/January 2012.

Adjournment: There being no other business to attend to, Mr. Gaskin moved to adjourn at 10:20 pm, Ms. Stiller seconded and it was voted to approve 5-0.

Respectfully submitted,

Debra Anderson
Minutes Clerk

Documents Presented at the July 21, 2011 Public Meeting

All documents shall be kept in the Conservation Commission Office files

Requests for Determination of Applicability

15 Spywood Road – Amendment to the RDA

- Negative 3 Determination of Applicability cover letter for work at 15 Spywood Road, dated July 11, 2011 by the Sherborn Conservation Commission.
- Plan entitled “Revised Siltation Fence Layout for Well Drill dated July 19, 2011.

Public Hearings

Public Hearing #1 – Amendments to the Sherborn Bylaw Regulations

- Sherborn Wetlands Regulations adopted December 1994, last revised February 2009.

Public Hearing #2 - 15 Spywood Road – Notice of Intent

- Project Notes for the Sherborn Conservation Commission from the Conservation Agent dated July 21, 2011.

Discussions

Discussion 1- Eagle Scout Presentation by Chris Ouellet

- Document titled “Eagle Scout Leadership Service Project Workbook”, presented by Christopher Ouellet regarding the proposed Bailey Trail Renovations.

Discussion 2 – Eagle Scout Presentation by Jared Spence

- Document titled “Eagle Scout Leadership Service Project Workbook”, presented by Jared Spence regarding the proposed Bay Circuit Bridge Replacement Project.
- GIS Map of the proposed Project titled “Map Reference #1” by the Conservation Agent.

Administrator/Agent’s Report:

- Article from The Day publication titled “*Scientists link invasive barberry to Lyme disease*”, by Judy Benson dated June 20, 2011.

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