

# Conservation Commission



19 WASHINGTON STREET  
SHERBORN, MASSACHUSETTS 01770

December 1, 2011  
Sherborn Town Hall  
7:00 P.M.

Minutes of the Meeting

**Members Present:** Steve Gaskin (Chair arrived at 7:26 P.M.), Michael Lesser, Kelly McClintock, Andrea Stiller, Susan Tyler, Bridget Graziano (Administrator/Agent), Camy Ruck (Minutes Clerk)

**Guests:** Jeffrey Kennan, Gregory Kennan, John and Jacqueline Herrold, Scott Morrison, Stephen O'Brien

Mr. Lesser called the meeting to order at 7:05 P.M.

## **Determinations**

### **Washington Street, Map 2 Lot 82C-Proposal to install a new radio equipment cabinet with concrete pad:**

No one was present to represent the applicant. The Agent presented the applicant's proposal to install a new radio equipment cabinet with concrete pad to the Commission. She recommended that this project be approved as a Negative 3 Determination with special conditions for the protection of the wetland resource. Mr. Lesser moved to accept the Agent's recommendation of a Negative 3 Determination with conditions. Ms. Stiller seconded and it was voted to approve 4-0.

### **34 Farm Road-Extension to the Order of Conditions:**

No one was present to represent the applicant. The Agent presented the applicant's request to extend the Order of Conditions. She further explained the project approved under this Order was for the installation of replacement septic system for which work has never commenced. The

Order of Conditions is set to expire November 9, 2012. The Agent stated the proponent had explained to her that he wanted to extend the Order for three years instead of using the Governor's Permit Extension for two years since no work has even begun. Mr. Lesser moved to approve the extension to the Order Condition for three years until November 9, 2015. Ms. Tyler seconded and it was voted to approve 4-0.

**84 South Main Street-Proposal to install a new well:**

No one was present to represent the applicant. The Agent presented to the Commission the applicant's proposal to install a new well. She recommended a Negative Determination since the only wetland resource in the vicinity is approximately 300' from the proposed project. Mr. Lesser moved to accept the Agent's recommendation of a Negative Determination. Mr. McClintock seconded and it was voted to approve 4-0.

**214 Washington Street-Proposal to construct an addition:**

No one was present to represent the applicant. The Agent presented to the Commission the proposal to construct an addition to the existing dwelling. She recommended a Negative Determination and stated that three wetland resources are present in the vicinity, however, the project was found not to be within the jurisdiction of the Commission. Ms. Stiller moved to accept the Agent's recommendation of a Negative Determination. Ms. Tyler seconded and it was voted to approve 4-0.

**6 Morse Road-Change to plans approved October 4, 2011:**

No one was present to represent the applicant. The Agent explained she noticed the building plans for 6 Morse Road did not match the plans the Commission had approved on October 4, 2011. She expressed her opinion that the change was too minor to require revocation of the Determination. The Commission noted the change to the plans and determined the change was too minor and therefore would not affect the wetland resource during or post-construction.

Mr. Gaskin arrived at 7:26 P.M.

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**Public Hearings**

**Public Hearing #1 – Amendments to Sherborn Wetlands Regulations**

Mr. Gaskin opened the hearing at 7:32 P.M. The Agent noted she had sent Town Counsel the Wetlands Bylaw and its regulations for review. Unfortunately, Town Counsel has been unavailable to meet with the Agent to review the comments. The Agent stated that she is scheduled to meet with Town Counsel on December 7<sup>th</sup>. She suggested continuing the hearing to December 15<sup>th</sup> when she would have Town Counsel's opinion. Ms. Tyler asked that Town Counsel be invited to our next Public Hearing.

- a) Section 2 – Definitions : Not Discussed
- b) Section 5.1 – Determination of Applicability: Not Discussed
- c) Section 5.2 – Notice of Intent: Not Discussed
- d) Section 5.4 – Fee Schedule: Not Discussed
- e) Section 5.4.1 – Filing Fees & Policies: Not Discussed
- f) Section 5.2.6 – Natural Heritage Filing: Not Discussed
- g) Section 5.5 – Hearings: Not Discussed
- h) Section 7 – Enforcement: 7.2 Definition : Not Discussed
- i) Section 10-Performance Standards: Not Discussed
- j) Section 11- Relation to Wetlands Protection Act: Not Discussed

Mr. Gaskin moved to continue the hearing to December 15 , 2011 at 8:15 P.M. Mr Lesser seconded and it was voted to approve 5-0.

### **Public Hearing #2 - 18 Wildwood Drive proposal to construct a septic system**

John and Jacqueline Herrold, the applicants/property owners, and their representative Scott Morrison of Eco Tec, Inc. were present for the hearing. Mr. Morrison presented a proposal to construct a septic system within the Vernal Pool Habitat Zone 100' buffer zone. He noted that a portion of the work to construct the septic system would be within the 0-50' No-Alteration Zone. Mr. Lesser wanted to know if a more natural buffer can be created using natural rock from the area to stabilize the slope. Mr. and Mrs. Herrold agreed they would like to use the natural rock. The Commission discussed how the leaching field would be seeded. Mr. Morrison stated he had added a note that it would be seeded with a native mix from New England Wetlands Plants, Inc. The Agent asked if the mix would meet the Board of Health's standards for stabilization of the leaching field. Mr. Morrison stated that would not be an issue. The Agent noted her concern that the erosion control line did not leave a reasonable amount of room for the machinery to complete the project and that the work may extend farther into the buffer zone. Mr. Morrison felt it was sufficient and would not encroach farther into the buffer zone. The Commission asked Mr. and Mrs. Herrold when the construction will begin and they stated in the spring of 2012. Mr. Gaskin asked if anyone else has questions or comments, if he would then close the hearing. He moved to close the hearing. Mr. McClintock seconded and it was voted to approve 5-0.

The Commission hereby finds that all work within the 0-50' no-alteration zone (NAZ) will have no affect on the Vernal Pool or its Habitat Zone, as all proposed work has been conditioned to protect the wetland resource during and post construction with the of use natural rock for stabilization and proposed mitigation. Additionally, that the proposed activity, post-construction, within the 50'- 100' buffer zone shall still provide wildlife habitat for Vernal Pool and other species, due to proposed mitigation. The Commission further finds that the applicant has presented evidence sufficient to demonstrate that the proposed activity will not cause alteration to the Vernal Pool or the Vernal Pool Habitat Zone during or post-construction and presented a reasonable alternatives analysis for the Commission to make a knowledgeable determination that there is no other possible location on the property to place the septic system. It was noted that the proposed septic system will add value to the local environment as it is an improvement from the failed system currently existing. The applicant has satisfied all concerns of the Commission for

post-construction alteration of the wetland recourses through the proposal of mitigation, which will provide an increased protection of wetland recourses and a post-monitoring by the Agent for review of drainage patterns post construction.

The Agent reviewed with the applicants some of the special conditions she has drafted,. The applicants did not object to the special conditions. Mr. Gaskin moved to accept the proposed construction of a septic system based on the findings subject to conditions specified. Mr. Lesser seconded it and it was voted to approve 5-0.

## **Discussions**

### **Discussion #1- Forest Street, Map 16 Lot 4-R Amendment to the Order of Conditions:**

Mr. Stephen O'Brien was present as the property owner and applicant for the Order of Conditions, DEP #283-0333. The Agent explained that the Minor Amended Order of Conditions was invalid because the Commission failed to sign and date the form. She also stated that the Commission could not sign because a public hearing was not held which is a requirement for signing an Amendment to the Order of Conditions. A public hearing had not been scheduled because there was not prior notification that a change to the order of conditions would be requested. unless a public hearing was held to do so. She continued to explain that to remove conditions from the Order a public hearing must be held. The Commission and Mr. O'Brien discussed the letter sent by the Department of Environmental Protection. Mr. Lesser stated that because this project is subject to State and locals laws, the Commission must follow the law for amending an Order of Conditions under the state policy, since our regulations for amending an Order of Conditions are more lenient. The Agent stated that the Commission must vote this evening whether to allow the proposed amendments to be heard at a public hearing or the applicant must file a new Notice of Intent to change the current permit. If there is a public hearing held, the Commission would sign the new amended Order which would be sent to the DEP. Mr. Gaskin moved to allow the Order to go through the amendment process after a public hearing because the original vote for the minor amendment was invalid. Ms. Stiller seconded and it was voted to approve 5-0. Mr. Gaskin asked for discussion. Ms. Tyler expressed her concerns that due to financial hardship the Commission should waive the bylaw fee by half for the public hearing. Ms. Tyler moved to waive ½ the \$500 fee for amending and Order of Conditions. Mr. Gaskin seconded it and asked for discussion. It was voted to approve 3-1-1. Mr. Lesser abstained.

### **Discussion #2 – Forestry Stewardship Plan Forester**

Mr. McClintock discussed the letter sent by Philip Benjamin of the Benjamin Forestry Service, Inc. He explained that Mr. Benjamin is willing to commit to the amount proposed with the assumptions stated in his letter. Mr. Lesser stated that the forest stewardship plans would include an educational component, but he does not want any disconnect between the services Mr. Benjamin would provide – one educational walk for both sites – and the work DCR might require for payment of the two \$500 grants. Mr. Lesser wanted to know if the two \$500 grants for public outreach have specific stipulations as to what outreach programs qualify for use of the

\$500 outreach money. The Agent wanted to know if Mr. Benjamin could come to a public forum and an educational walk for the \$1000. Mr. McClintock was of the opinion that the Commission could satisfy any DCR requirements for reimbursement, and secure Mr. Benjamin's presence at a public forum, though it might require additional payments from the Conservation Trust Fund. Mr. Lesser moved to hire Phil Benjamin to draft the Forestry Stewardship Plan. Mr. Gaskin seconded and it was voted to approve 5-0.

### **Discussion #3 – FY 13 Budget**

Mr. Lesser presented the FY13 budget issues to the Commission, as had been discussed in a meeting with our Advisory Liaison, Gwen Ortmeyer and a Selectmen, George Pucci. He drafted a document for possible FY 13 options for funding staff and budget. The following items were addressed (1) Agent and administrative salary; (2) land maintenance; and (3) non-labor costs. Furthermore, Mr. Lesser explained the issue of wetland filing fees and whether or not to set up a revolving fund or allow them to go into the General Fund. He stated this would dictate how the Agent and Minutes Clerk positions were paid. Mr. Lesser explained that Mr. Pucci and Ms. Ortmeyer stated the Commission should not waive future fees for any permitting. Mr. Lesser thought that the filings fees would need to be increased by 10% annual over a period of four years to cover the cost of our staff. All departments have been requested to submit a level budget for FY 13. This was explained by Ms. Ortmeyer at the meeting. Ms. Stiller asked if our ability to make purchases with the use of filing fee fund would be lost if the Commission deposits the filing fees into the General Fund. Mr. Lesser stated that thus far the Commission has not needed to use this account for separate spending and therefore does not see it being a problem in the future. The Commission briefly discussed that the subject of raising fees would be brought up at the public hearing for amendments to the Sherborn Wetland Regulations. It was agreed to have Mr. Lesser draft a FY 13 budget where the filing fees are placed into the General Fund.

### **Approval of Minutes of November 17th**

Mr. Lesser moved to approve the minutes of November 17, 2011, as amended at the meeting. Ms. Stiller seconded and it was voted to approve 5-0.

### **Administrator/Agent Report**

- **Beaver Goulding Street East:** The Agent informed the Commission about providing assistance in the removal of the dam, if the town agreed to pay for the trapping of the beavers residing in Sewell Brook.
- **Amending Order of Conditions:** The Agent updated the Commission on how to Amend Order of Conditions.

**Adjournment:** There being no other business to attend to, Mr. Gaskin moved to adjourn at 9:30 p.m., Ms Tyler seconded and it was voted to approve 5-0.

Respectfully submitted,

Camy Rachell Ruck  
Minutes Clerk

Documents Presented at the December 1, 2011 Public Meeting

All documents shall be kept in the Conservation Commission Office files

**Determinations**84 South Main Street

- Plan titled, “ Sketch Plan of Land in Sherborn, MA” by J.D. Marquedant & Associates Inc., dated November 3, 2011

Washington Street, Map 2, Lot 82C

- Plan titled, “NSTAR RT. 16 – Sherborn” by Chappell Engineering Associates, dated June 20, 2011

214 Washington Street

- Plan titled, “ Plot Plan of Land in Sherborn, MA” by James Vafiades with hand drawing, received by Conservation on November 8, 2011

**Discussions**Discussion #1- Forest Street, Map 16 Lot 4-R amendment order of conditions:

- Letter from the Department of Environmental Protection to the Conservation Commission titled, “Wetlands/Sherborn DEP #283-0333 Lot 4-R Map 16 Invalid Amended Order dated November 22, 2011
- Email from Susan O’Briend, titled, Reopening Order of Conditions Hearing email from Susan O’Brien” dated November 27, 2011
- “Wetlands Program Policy 85-4: Amended Orders”, adopted September 17, 1985, last revised March 1, 1995
- “12.10 Amendments, Revocations, Extensions and Certificates of Compliance” by Environmental Handbook for Massachusetts Conservation Commissioners, pg 226-227
- WPA Form 5 – Order of Conditions DEP # 282-0333 issued by the Sherborn Conservation Commission on June 30, 2011 with minor Amendment
- “Sherborn Conservation Commission Order of Conditions – Part II Findings and Conditions under the Sherborn General Wetland Bylaws Project Site: Lot 4-R Map 16”, dated June 30, 2011, minor amendment November 10, 2011

Discussion #2 – Forestry Stewardship Plan Forester

- Letter to Bridget Graziano from Phillip Benjamin, dated November 28, 2011

Discussion #3 – FY 13 Budget

- “Conservation Commission FY13 Budget Issues” dated November 28, 2011
- “Conservation Commission: FY3 Budget Issues” dated December 1, 2011

Public Hearing #2 - 18 Wildwood Drive proposal to construct a septic system

- Plans titled, Septic System Construction, 18 Wildwood Drive, Sherborn” by CIVILized Solutions, dated July 12, 2011, revised August 3, 2011, Septemebr 27, 2011, and October 26, 2011
- Notice of Intent packet with letter from Eco Tec, Inc by Scott Morrison, titled “ Notice of Intent 18 Wildwood Drive, Sherborn”, dated October 11, 2011, WPA Form 3, and other submittal town forms required for NOI filing

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