

Conservation Commission



19 WASHINGTON STREET
SHERBORN, MASSACHUSETTS 01770

December 15, 2011

Sherborn Town Hall

7:00 P.M.

Minutes of the Meeting

Members Present: Michael Lesser, Steve Gaskin (Chair), Kelly McClintock, Andrea Stiller, Susan Tyler, Bridget Graziano (Administrator/Agent), Camy Rachell Ruck (Minutes Clerk)

Guests: Maarten Kraaijvanger, Barbara J. Saint Andre

Mr. Gaskin called the meeting to order at 7:02 P.M.

Determinations

48 Maple Street-Proposal to construct and in-ground pool with fencing, small shed, and removal of approximately 25 trees:

Mr. Kraaijvanger was present as the applicant/property owner. The Agent presented the applicant's proposal to install a new in-ground pool, with an associated shed, fencing, and the removal of approximately 25 trees to complete the project. She noted that though a Bordering Vegetated Wetland and an Intermittent Stream are present on the property the nearest point of proximity to the wetland resources was 120'. Therefore, she recommended a Negative Determination. She asked Mr. Kraaijvanger if he is aware that he cannot pump the pool water into the 100' buffer zone or the wetland resource itself. He stated he is aware. Additionally, she asked if he was going to move the location of the pool because the Building Inspector has mentioned this might happen. If so, the Agent would have to re-review the application. He stated that he would be moving forward with the plan submitted to Conservation. Mr. Gaskin moved to accept the Agent's recommendation of a Negative Determination. Ms. Stiller seconded and it was voted to approve 5-0.

53 Ivy Lane-Proposal to construct an addition to existing dwelling:

No one was present to represent the applicant. The Agent presented the applicant's proposal to construct two additions to the existing dwelling, a screened-in porch and an addition to the living space. She continued to explain she did not find a wetland resource within 200' of the limit of work. Therefore, she recommended a Negative Determination. Mr. Gaskin moved to accept the Agent's recommendation of a Negative Determination. Mr. Lesser seconded and it was accepted to approve 5-0.

67 Woodland Street-Proposal to perform soil testing and install septic system:

No one was present to represent the applicant. The Agent presented the proposal to perform soil testing and then install a replacement septic system. She continued to explain a wetland resource was present on the adjacent parcel and she determined the limit of work line is over 100' from the wetland. Therefore, she recommended a Negative Determination but stated the applicant must still submit a septic system design to show that the design will be outside the Commission jurisdiction. Mr. Gaskin moved to accept the Agent's recommendation of a Negative Determination. Mr. McClintock seconded and it was voted to approve 5-0.

Approval of Minutes of December 1, 2011:

Mr. Gaskin moved to approve the minutes of December 1st, 2011, as amended during the meeting. Mr. McClintock seconded and it was voted to approve 5-0.

Discussion #1- 2012 Warrant Article to Amend Sherborn Wetlands Bylaw (to be discussed in collaboration with the Public Hearing #2)

This discussion was held under the Public Hearing #2 for the Amendments to the Regulations.

Discussion #2 - 3 Peckham Hill Road Violation Notice

The Agent explained she has issued a Violation Noticed to Mr. & Mrs. Page for removal of vegetation within the 100' buffer zone to a Bordering Vegetated Wetland. She indicated that Mr. Page contacted her today and told her he will not contest the Violation Notice and will be happy to have her out to the property for a site visit. Furthermore, Mr. Page stated that he knew about the Wetland By-laws but didn't know his location was near a wetland resource, that the work he completed was done because of storm damage, and he would be happy to do what is necessary to comply with the State and local laws and Regulations. A site visit with the Agent was scheduled for Wednesday, December 21 to review the alteration. The Commission agreed to allow the Agent to handle this matter as she sees fit and to update the Commission under her Agent's report.

Public Hearing #1- CM&D GNOI (continued from 10/4/11, 10/20/11, 10/26/11, 11/17/11):

Mr. Gaskin opened the meeting at 7:30pm. The Agent and the Commission discussed the General Notice of Intent filed (GNOI) for annual Town maintenance work by the Community Maintenance & Development Department (CM&D). The Agent had been asked to have Ed Wagner, CM&D Director to elaborate on Sections 4.1, 4.7, and 4.10 of the GNOI. The Agent explained the changes to the Commission. Mr. Gaskin asked if anyone had other questions. The Commission discussed the difference between replacement and repair of culverts and outfalls. The Agent read the Department of Environmental Protections comments as they refer to the replacement and repair of outfall under a separate NOI and a GNOI.

Mr. Gaskin moved to close the hearing. Mr. McClintock seconded and it was voted to approve 5-0. The Commission finds the General Notice of Intent shall provide the Town the ability to meet the state and local requirements for working in the jurisdictional buffer zones and wetland resources. All activities shall not have a significant impact on the wetland and if found to have an impact, CM&D shall be required to file a separate Notice of Intent. The Commission finds that much of this work meets the general provisions for limited projects under regulations 310 CMR 10.24 General Provisions (3) (d), (f), (i), (j), (k), and (l). Mr. Gaskin moved to approve the GNOI as worded. Ms. Tyler seconded and it was voted to approve 5-0. The Commission will sign the Order of Conditions at the January 5th meeting.

Ms. Tyler left the room at 8:03 pm.

Emergency Certification

The Agent explained she had issued the Emergency Certification Form for the removal of the beaver dam adjacent to Goulding Street East, and the dam removal was permitted to be completed by the Sherborn Conservation Commission. She discussed pricing for trappers she had contacted and stated that Patrick Mustoe came in with the lowest price and had done trapping for the town before. He also was immediately available unlike some other trappers. The Board of Health has issued the permit and he would pick it up at the Selectmen's Office on Friday, along with Robert Buntin's permission to enter his property if necessary. Mr. Gaskin explained to the other members that the Board of Selectmen had asked the Commission to arrange for the trapping of the beavers at this location because an adjacent property owner's well had become flooded due to impounded water. The Agent asked if the Commission will vote to ratify Emergency Certification for the removal of the beaver dam. Mr. Gaskin stated the town wants the Commission to pay for beaver dam removal because it is on the Commission's land. Mr. Lesser reported that the BOS voted to reimburse the Commission if its land management budget is exceeded. Mr. Gaskin commented that he had been informed that the Town holds no liability if they did not pay to trap the beavers on Town land which are affecting an adjacent property. The affected party must pay to trap the beavers and the property owner (the Town) must allow the affected party access to trap the beavers in order to alleviate any public safety/health emergency. Mr. Lesser thought there may be possibility that is if the Town refused to pay to trap the beavers on their land (and the affected party did not have the beavers trapped) and then the affected party was harmed in some manner (health/safety), the Town may be liable. Mr. Gaskin suggested asking Town Counsel. Mr. Gaskin moved to ratify the Emergency Certification. Mr. McClintock seconded and it was voted to approve 4-0.

Ms. Tyler returned at 8:06pm.

Public Hearing # 2 – Sherborn Regulation Amendments:

Barbara J Saint Andre of Petrini & Associates was present as Town Counsel for the Town of Sherborn. The Commission decided to incorporate the recommended amendments to the Sherborn Wetlands By-law Discussion #1 into the Public Hearing time for the Regulations since they are directly related.

Ms. Saint Andre and the Commission reviewed each section of the Sherborn Wetland By-law, Chapter 17, stating her suggested amendments. Ms. Saint Andre stated that since the Sherborn Wetland By-law hasn't been updated in years, there are some inconsistencies in between the Bylaw and its Regulations in terms of language. One inconsistency was the use of terms like an 'Order of Conditions' versus 'permit', and she recommended using 'Order of Conditions' as this term is used in the Wetlands Protection Act Regulations and many town has adopted this term for permits under the by-law. Ms. Saint Andre reviewed proposed amendments to Section 1, 2, 4. Mr. Gaskin asked if section 7.8 should be suggested to be removed since 7.7 was to be removed due to a prior decision by the Attorney General. Mr. Lesser wanted to know if Section 9 enforcement should not have a dollar amount listed to avoid additional changes if Chapter 16 By-law where fines are listed is amended. Ms. Tyler asked about the resource areas such as the vernal pool habitat zone discussed in the Regulations. Ms. Saint Andre responded that the resource area should be incorporated into the By-law. Ms. Saint Andre has noted in the amendments to review fees to make sure they are reasonable. Mr. Lesser stated that the filing fees were related to the associated work. Ms. Tyler asked if they seemed to be high. Ms. Saint Andre said no and that she always reviews this when going over by-laws and regulations because there is case law that cites that fees must be in line with the costs (staff and other costs) for the related work.

There were no further discussion of the suggested by-law changes, but no vote was taken until Ms. Saint Andre re-examined some forestry-related language.

The Agent explained that in addition to reviewing the By-law, Town Counsel has made suggestions for amendments to the Regulations. However, since the Commission will have to submit amendments to the By-law in a Warrant Article for approval at town meeting for 2012. The Regulations should reflect the amendments made at town meeting. Therefore, she suggested closing the hearing without amending the Regulations and the Commission can open a new hearing after the By-law is accepted at town meeting and then amend the Regulations with suggestions from the Agent, Commission, and Town Counsel. The Commission agreed.

Mr. Gaskin moved to close the public hearing, Mr. McClintock seconded, and it was voted to approve 5-0.

Discussion #3 - FY13 Budget

Mr. Lesser presented the FY13 budget issues to the Commission. He stated that the Advisory Committee's Guidance Letter (Nov. 2011) gave all departments a recommended increase of

about 1.4%, which for the Commission amounts to \$364. Noting the town's tight fiscal situation, he presented two similar budget alternatives to the Commission for the town budget share that met the Advisory guidance allocation: (1) a 1% COLA Agent/Administrator salary increase (\$214) and \$150 increase in non-labor costs and (2) a 1% COLA plus 0.5% rate increase for the Agent/Administrator salary (\$317) and \$47 increase in non-labor increases. The second scenario with the addition 0.5% salary increase is based on a plan for gradually increasing the salary towards its approved maximum based on the Agent's experience. Under this second scenario, land maintenance would remain at \$2,000 and other non-labor costs would increase of \$47 because of cost increases for mailing and dues. Most of the Commission agreed the second scenario because it provided some progression, albeit small, in the Agent's salary and recognition of her continued good performance and growth. Ms. Tyler disagreed that the Agent should be paid 0.5% increased beyond 1% COLA because it shows special treatment compared to other town employees. Mr. Lesser asked Ms. Tyler to provide a list of other Town Hall employees who are not at their maximum Personnel Board-approved salary. In the past, he did find others in the Agent's position; therefore, she was already in a special category. Mr. Lesser plans to make a presentation to the Board of Selectmen on December 22, 2011. Mr. Lesser moved to approve the second budget scenario for a proposed FY2013 budget. Mr. McClintock seconded and it was voted to approve 4-1. Mr. Gaskin reiterated that the increases in the Agent's hours from year to year are based on a long-standing agreement with the Personnel Department.

Discussion #4- Ratified Enforcement Order for 44 Ivy Lane:

The Agent noted this matter was not added to the agenda but should be addressed at this meeting. If the Commission would not hear this item, then must be added to next agenda. The Commission agreed to hear the request because it was more administrative and an unforeseen matter.

The Agent asked the Commission to ratify the Enforcement Order she issued to Mr. Tanaka and Ms. Freidham for non-compliance with an Order of Conditions. This matter was discussed at the December 1, 2011 meeting with the property owners present. Mr. Gaskin moved to ratify the Enforcement Order. Ms. Stiller seconded and it was voted to approve 5-0.

Administrator/Agent's Report:

- Forestry Cutting Plan for 262 South Main Street: The Agent updated the Commission regarding the new plan for River Farm or 262 South Main Street since David Carter had submitted a new Forestry Cutting Plan which would call for a small increase in weight of soft wood pulp to be harvested, though there would be no change in the trees selected for harvest.. The Agent recommended re-sending the same letter issued to the Service Forester from the original plan.
- Minutes Clerk/Meeting Minutes: The Agent stated that she will be sending a letter to the treasurer notifying him of the pervious Minutes Clerk Deborah Anderson's resignation. The Agent indicated that Ms. Anderson has not provided the September 15, 2011 minutes, nor has she sent her time sheet for this meeting. However, she spoke with the Town Treasurer and he explained she could be paid at anytime if money was owed to

her. The Agent did not know how many hours she had work to complete remaining meeting minutes.

- License Agreement to Farm Conservation Land: The Agent explained the possibility of leasing town land for farming. She requested the Commission to provide questions and concerns before the meeting with Jonathan Hodson-Walker.
- Beaver Dam at Sewell Brook and BSO Meeting of 12/8/11: The Agent updated the Commission on the beaver dam removal. The Emergency Certification was ratified by the Commission earlier in the evening.
- Forestry Stewardship Plan: The Agent has sent a letter of acceptance of Mr. Benjamin's last proposal for Forestry Stewardship Plan. She will set a future date to discuss establishing goals and conduct outreach with other organizations involved.
- Land Management Meeting Update: The Agent updated the Commission regarding the land management meeting with the Advisory Committee and the Land Management Task Force Team.

Adjournment: There being no other business to attend to, Mr. Lesser moved to adjourn at 10:01 P.M. Mr. Gaskin seconded and it was voted to approve 5-0.

Respectfully submitted,

Camy Rachell Ruck
Minutes Clerk

Documents Presented at the December 15, 2011 Public Meeting

All documents shall be kept in the Conservation Commission Office files

Public Hearings

Public Hearing #1 – CM&D GNOI Routine Town-Wide Maintenance

- Application for General Notice of Intent “Routine Sherborn Community Maintenance & Development Department Operations and Maintenance”, dated October 21, 2010, revised September 8, 2011.

Public Hearing # 2 – Sherborn Regulation Amendments

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

Discussions

Discussion #2 - 3 Peckham Hill Road Violation Notice

- “Violation Notice issued to Mr. Adam Page & Ms. Megan Page, 3 Peckham Hill Road, Sherborn, MA 0017701” dated December 7, 2011

Discussion #3 - FY13 Budget

- “Conservation Commission: FY13 Budget Issues” dated December 15, 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