

Conservation Commission



19 WASHINGTON STREET
SHERBORN, MASSACHUSETTS 01770

May 17, 2012

Sherborn Town Hall

7:00 P.M.

Minutes of the Meeting

Members Present: Michael Lesser (acting Chair), Kelly McClintock, Julia Jacobson, Alex Dowse, Susan Tyler, Bridget Graziano (Administrator/Agent),

Guests: Janice Marinello, Joyce Hastings, Paul Orcutt, Herb Brocket, Paul Sauliner

Mr. Lesser called the meeting to order at 7:00 P.M.

Requests for Determination of Applicability

47 Greenwood Street- Proposal to construct a wooden deck to existing dwelling

No one was present to represent the applicant. The Agent presented the applicants proposal to demolish the existing deck and replace with new deck. She reported this project will not take place within the Commission's jurisdiction and therefore recommends the Commission issue a Negative Determination. Mr. Dowse moved to accept the Agent's recommendation. Mr. McClintock seconded and it was voted to approve 4-0.

178 Washington Street- Proposal to perform soil testing

No one was present to represent the applicant. The Agent presented the applicant's proposal to perform soil testing. She reported that a freshwater wetland, known as a pond with associated, Bordering Vegetated Wetlands was present on the property. She stated that access to the soil testing location would take place within the 100' buffer zone (testing would be outside the 100' buffer zone), therefore, she recommended a Negative 3 Determination with special conditions (this approval would be for soil testing only as installation of a system may require filing of a Notice of Intent). Ms. Lesser moved to accept the Agents recommendation. Ms. Tyler seconded and it was voted to approve 4-0.

97 Bogastow Brook Road- Proposal to perform soil testing and installation of septic system

No one was present to represent the applicant. The Agent presented the applicant's proposal to perform soil testing and install a replacement septic system. She reported that the project would not take place within the Commission's jurisdiction and therefore recommended that the Commission issue a Negative Determination with final submission of septic system plan. Mr. Lesser moved to accept the Agents recommendation. Mr. McClintock seconded and it was voted to approve **4-0**.

44 Maple Street- Proposal to install septic system change of plans

No one was present to represent the applicant. The Agent presented the applicants proposal to remove the existing septic line and add new lines to the system. This is due to the leaching field lines are on an adjacent parcel not owned by the owners of 44 Maple Street. She reported the wetland resources present is over 200' from the limit of work and therefore recommends a Negative Determination. Mr. Dowse moved to accept the Agent's recommendation. Ms. Tyler seconded and it was voted to approve **4-0**.

5 Farm Road- Proposal to install concrete slab with roof

The applicant, Janice Marinello, was present. The Agent presented the applicants proposal to add a concrete slab with roof, which will be attached to the existing dwelling for storage. She reported that the project shall take place within the 100' buffer zone, approximately 90' from the wetland resource. She recommended the Commission issue a Negative Determination with special conditions. Mr. Dowse moved to accept the Agent's recommendation. Mr. McClintock seconded and there was discussion on the special conditions that the letter should reflect the approximate distance from the wetland of 90' and it should be noted the work shall take place within altered buffer zone, known as lawn and is small area. The Commission voted and it was approved 4-0.

Ms. Jacobson arrived at 7:23 PM.

Public Hearings

Public Hearing #1 Notice of Intent for 54 Spywood Road

Mr. Lesser opened the hearing at 7:32PM. Joyce Hastings, of GLM Engineering Consultants was present as the representative for Mr. Orcutt, the property owner, who was also present. She presented the after-the-fact Notice of Intent proposal for 54 Spywood Road. She noted the project entailed the regrading of already altered buffer zone, fencing to be erected for in-ground pool, and reconstruction of retaining wall. The Agent presented some of her questions and concerns regarding the site visit and the plans submitted. Ms. Tyler noted the fencing for the pool needs to be erected immediately as it is a Town Bylaw that all pools must be enclosed in fencing. Mr. Lesser asked if other members would like to comment or had questions. He began discussing mitigation for the unpermitted alteration of the buffer zone of a Bordering Vegetated Wetland. The Agent proposed issuing an Enforcement Order to address the issue because it was on the abutters parcel as the final Order of Conditions cannot require work to be completed on any properties other than the applicants. Mr. Lesser brought up the issue of mowing the inner buffer zone and asked if as mitigation the property owner would agree to limit the amount of times this area is mown for protection of the wetland. The property owner would not agree to this. The

Commission reviewed the mitigation area options with Mr. Orcutt, Ms. Hastings and Mr. Orcutt agreed to add mitigation area for the unpermitted alteration of the buffer zone in an area of the buffer zone that needs protection and is on the owner's property. The Commission agreed this would be sufficient. It was also noted that the altered area will be monitored to ensure its re-naturalization and address any issues later if this does not occur.

Mr. Lesser moved to close hearing, Ms. Jacobson seconded and it was voted to approve 5-0.

Mr. Lesser proposed the following findings based on the information presented:

The Commission finds that the applicant's proposal is to work within the existing altered buffer zone and with the implementation of special conditions, the project shall have no impact on the wetland resource during and after construction. In addition, the applicant has offered mitigation for the unpermitted alteration of buffer zone, this mitigation is sufficient for protection of the wetland and the interests of the "Act" and Bylaw.

The applicant agreed to submit a planting plan that consists of at least 9 native plants in a location that benefits the wetland. The Agent and Ms. Hastings shall review proposed locations for mitigation. The Agent will approve the location and plantings. The Agent reviewed the proposed special conditions that will be implemented for the protection of wetland during and post-construction.

Mr. Lesser moved to accept the findings and special conditions as discussed. Mr. McClintock seconded and it was voted to approve 5-0.

Ms. Tyler stepped out 8:12 PM and returned 8:14PM.

Discussions

Discussion #1 – Request to Amend DEP #283-0333 Order of Conditions for 34 Farm Road

Mr. Saulnier of CIVILized Solutions presented the proposal to amend the existing Order of Condition DEP #283-0333 for Robert Conkey the property owner. He reported that the request to amend the Order consist of new plans to move the location of the existing septic tank and pump chamber due to the amount of ledge on the property. Mr. Lesser asked for the Agent's comments on this proposal. She recommended this be considered a minor amendment as the new locations of the septic tank and pump chamber would still be within the limit of work and therefore would have no increased affect on the wetland resources. Mr. Lesser moved consider this a minor amendment as described under the Sherborn Wetlands Regulations. Mr. Dowse seconded and it was voted to approve 5-0.

Ms. Tyler left at 8:19 PM.

The Commission discussed the proposed amended sections of the Order.

Ms. Tyler returned at 8:20 PM.

Mr. Lesser stated that the Sherborn Conservation Commission finds:

1. The applicant proposes to move the septic tank and pump chamber location and associated piping to the septic tank; all work shall take place within the 50 – 100' buffer zone of Bordering Vegetated Wetland and the 0- 100' Riverfront Area, is within the original depicted limit of work.
2. New placement shall not adversely affect any wetland resource protected under the Massachusetts Wetlands Protection Act and the Sherborn General Bylaw, Chapter 17.

The Commission shall amend the following conditions within the approved Order of Conditions, dated November 9, 2009.

1. The Commission voted to add the new plan to the original Order of Conditions (DEP Form 5), Part I, under the heading of "General Information" in Section A, Final Approved Plans and Other Documents. This Section shall reflect the new plan, in sub-section (a) with title, "Septic System Replacement at 34 Farm Road" and in sub-section (d) as revised on May 8, 2012. This plan shall supersede all other plans associated with the Order of Conditions.
2. The Commission voted to add the new plan to the original Order of Conditions, Part II, for the Sherborn General Wetlands Bylaw, under the Findings, Section (D), revised plan dated May 8, 2012 by Paul Saulnier of CIVILized Solutions.
3. The Commission voted to add the revised plan dated May 8, 2012 by Paul Saulnier of CIVILized Solutions to Order of Conditions-Part II, Section C.
4. The Commission voted to add the revised plan revised plan dated May 8, 2012 by Paul Saulnier of CIVILized Solutions to the Order of Conditions Part II Special Conditions #1, 4, and 5.

Mr. Lesser moved to amend the plans as discussed. Ms. Jacobson seconded. The Commission opened to discussion. Ms. Tyler asked about the rocks demarcating the limit of the meadow. Mr. Brockeout asked about replacing the driveway with recycled pervious materials. The Commission discussed this but time for the discussion was over and the it was agreed to re-visit this new request to amend at another time. The Commission voted to approve the findings and amended sections of the Order 5-0.

Discussion #2 – Request to Amend DEP # 283- 0338 Order of Conditions for 103 North Main Street

Paul Saulnier of CIVILized Solutions presented a proposal to amend the existing Order of Conditions DEP #283-0338 for Robert Wallace the property owner. He stated that he is requesting to amend the plans to remove 5 more trees, raise the leaching field, and add a retaining wall of approximately 40 linear feet, due to Sherborn Board of Health requirements. The Commission discussed the proposed amendments. Mr. Lesser moved to consider this amendment minor as stated under the Sherborn Wetland Regulations and Ms. Tyler seconded. It was voted to approve 5-0. The changes were then opened to discussion and the Agent discussed her concerns for alteration of the topography as it may affect the wetland watershed due to the

proposed mounded system. Mr. Lesser thought that adding a condition to the Order for the Agent to review post-construction conditions as they relate to the flow of the watershed to the wetland. If water is prevented from flowing to the wetland or some other problem with the flow of water, then the applicant will have to rectify this issue prior to requesting a Certificate of Compliance. Mr. Saulnier agreed to plant low bush blueberry bushes for mitigation for the removal of trees in the buffer zone. Mr. Saulnier also brought up a proposal to change the grade and slope of the driveway. Mr. Lesser stated that there is no time to review a new proposal at this time, and that Mr. Saulnier could submit the request at another time.

Mr. Lesser stated that the Commission finds that,

1. The new proposed amendment depicts the work is within the limit of work and the applicant will add Lowbush Blueberry bushes to the top of the system and bushes to the north of the leaching field to prevent erosion and mitigate for lost vegetation in the buffer zone. He stated that according to our buffer zone guidelines and based on the square footage, approximately 10-15 plants at 6' on center should be planted and a conservation seed mix planted on the top of the mounded system.
2. The applicant proposes to add two feet of fill to septic system leaching field to meet the Board of Health bylaws, this will require the addition of a retaining wall and the removal of trees from the 50' – 100' buffer zone of Bordering Vegetated Wetland. Work is within the original depicted limit of work.
3. New placement shall not adversely affect any wetland resource protected under the Massachusetts Wetlands Protection Act and the Sherborn General Bylaw, Chapter 17.

The Commission shall amend the following conditions within the approved Order of Conditions, dated February 9, 2012.

4. The Commission voted to add the new plan to the original Order of Conditions (DEP Form 5), Part I, under the heading of "General Information" in Section A, Final Approved Plans and Other Documents. This Section shall reflect the new plan, in subsection (a) with title, "Notice of Intent 103 North Main Street, Sherborn" and in subsection (d) as revised on May 19, 2012. This plan shall supersede all other plans associated with the Order of Conditions.
5. The Commission voted to add the new plan to the original Order of Conditions, Part II, for the Sherborn General Wetlands Bylaw, under the Findings, Section (C), revised plan dated May 19, 2012 by Paul Saulnier of CIVILized Solutions.
6. The Commission voted to add the revised plan dated May 19, 2-12 the plan is titled, "Notice of Intent 103 North Main Street, Sherborn" to heading Special Conditions under condition #4, 5, 9, 13.
7. The Commission voted to add to Special Conditions the following conditions;
 - The applicant shall plant Lowbush Blueberry (*Vaccinium angustifolium*) shrubs to the top of the system and bushes to the north of the leaching field, approximately 10-15 plants 6' on center and conservation seed mix shall be added to the top of mounded system, this will be maintained in perpetuity.
 - The Conservation Agent shall conduct post-monitoring of stormwater drainage patterns to compare and contrast the pre and post drainage after a rain event to ensure

that the post-construction conditions have not changed from the previous drainage pattern and are not adversely affecting the wetland resource.

- a. If such change is found by the Agent, a remediation plan will be submitted by the applicant, to the Commission within 30 days for approval.

Mr. Lesser moved to accept the discussed findings and amendments. Mr. McClintock seconded and it was voted to approve 5-0.

Discussion #3-27 Farm Road Violation

Mr. Piedra was present as the property owner. The Commission discussed the violation. The Agent recommended that if the Commission wanted to permit the fence, she would recommend filing an after the fact Notice of Intent (NOI). If the Commission wanted to require the removal of the fencing then they should issue an Enforcement Order requiring this. Mr. Lesser discussed the fee issue since the property owner claimed he came to the Town Hall and someone explained that he did not need a permit. Ms. Tyler asked if the project was in the riverfront or not. The Agent thought she was very sure it was, but of course this should be measured. She reminded the Commission tonight that we only have to address the Enforcement Order and what the Commission will be requiring of the property owner due to the violation. The Commission agreed that Mr. Piedra needs to file a Notice of Intent and a restoration plan for the alteration to the wetland resource and the Riverfront Area. The Commission then re-discussed the issue of Mr. Piedra filing a NOI and how to address the fee for the NOI. They did not want to waver any fees that would set a precedent. At this time, no fees were discussed. The Agent scheduled a time to meet with Mr. Piedra for Tuesday 5/22 9:00AM to measure the Riverfront distance from the fencing.

The Commission discussed sending a letter to Mr. Brad Mayo explaining that as the contractor on site, he should be aware of Sherborn Bylaw and the State laws and should not have proceeded with the project without proper permitting. The Agent noted it seemed clear even to a person who is not trained as a wetland scientist, that based on the site visit the work was within a wetland, due to the nature of soils and inundation of water. It was agreed the Agent would draft this. In addition, the Commission asked that the Enforcement Order be sent to Brad Mayo as well.

Discussion #4 - Budget FY 12 expenses and Forest Stewardship Plan Billing

Mr. Lesser explained the dollar amounts left in the FY 12 budget. He noted that a large amount of our conservation land maintenance line item budget was spent on the trapping of beavers due to the Board of Selectmen's requirement that the Commission pay to have beaver trapped due to a public health concern. He continued to note that the Agent would need end of the year supplies like stamps, envelopes, folders, etc. The only items that could be purchased which are not typical annual purchases are Microsoft Access, which would be helpful for a permitting database as well as to work along with Ed Wagner who has developed a permitting database using Access and an external hard drive to back up our files. Ms. Tyler asked the Agent to check with Diane Moores to find out if other Departments have Access or hard drive for back up. Mr. Lesser wanted to review with the Commission that all transactions for payments for services are to go through the

Agent, as she is the staff who manages the budget with the Commission's authorization and she should be the one to hire and deal with all budgetary transactions, unless the Chair advises otherwise. Mr. Lesser then noted that the Advisory Committee granted the reserve fund transfer for \$395 due to the Commission's requirement of the Selectmen to pay for the trapping of beavers. It was noted that the total cost to trap the beavers was \$1250.00.

Mr. McClintock asked the Agent if she clarified the bills for the Forestry Stewardship Plan with Mr. Benjamin. She stated yes and she was all set.

Discussion #5 – Vote to recommend to reappoint member Susan Tyler, Kelly McClintock and Alex Dowse to the Board of Selectmen

The Agent explained the BOS process to reappoint members. The Commission agreed to interview potential candidates at the next meeting, as the BOS have posted the openings in the paper. It was noted that Mr. Dowse, Ms. Tyler and Mr. McClintock all wish to be reappointed.

Approval of Minutes of May 3, 2012:

Mr. Lesser moved to approve the minutes of May 3rd, as amended at the meeting. Mr. McClintock seconded it was voted to approve 5-0.

Administrator/Agent Report:

- **Minutes Clerk SME-** The Commission discussed the Agent's works to see if one of the candidates for the position could get municipal status. Ms. Tyler and Mr. Lesser would work on speaking with Mr. Purcell on this matter.
- **Mass Mosquito Controls request to perform work on Town land** – Not Discussed
- **NSTAR letters-** Not Discussed
- **Conservation Land Management** – Not Discussed
- **License Agreement with Silverwood Farm** – The Commission asked the Agent to send information to Ms. Jacobson to see what her opinion is on the license vs lease agreement.
- **Forest Stewardship Update** – Not Discussed
- **31 Old Orchard Road change in equipment use** – The Agent was asked if it was ok to change the equipment used in the buffer zone. She reviewed the site and the conditions and agreed to allow the equipment. She was notifying the Commission of her decision.
- **CAPS DEP Workshop** – The Agent agreed to present at another meeting since she did not have time to attend this workshop. Mr. Lesser stated he had attended the workshop and the CAPS data layer is based on a significant amount of technical work and the Commission should explore how to best utilize this data layer in our GIS.

Adjournment: There being no other business to attend to, Mr. Lesser moved to adjourn at 10:12PM, Ms. Jacobson seconded and it was voted to adjourn 5-0.

Respectfully submitted,

Bridget R. Graziano

Bridget R. Graziano

Conservation Administrator/Agent

Documents Presented at the May 17, 2012 Public Meeting

All documents shall be kept in the Conservation Commission Office files

Public Hearings**Public Hearing #1**

- Notice of Intent for 54 Spywood Road, Sherborn, MA by GLM Engineering Consultants, Inc. dated April 30, 2012
- Plan titled, "Existing Conditions Plan 54 Spywood Road, Sherborn, MA for Paul Orcutt" by GLM Engineering Consultants, Inc. dated December 19, 2011
- Plan titled, "Existing Conditions Plan 54 Spywood Road, Sherborn, MA for Paul Orcutt" by GLM Engineering Consultants, Inc. dated December 19, 2011, revised May 16, 2012

Discussions

Discussion 1

- Letter from CIVILized Solutions, Paul Saulnier, titled "Proposed Change in Location for Septic Tank and Pump Chamber 34 Farm Road"
- Plan titled, "Septic System Replacement at 34 Farm Road" by CIVILized Solutions revised on May 8, 2012

Discussion 2

- Letter from CIVILized Solutions, Paul Saulnier, titled "Proposed Change for 103 North Main Street"
- Plan titled, "Notice of Intent 103 North Main Street, Sherborn" by CIVILized Solutions, revised on May 19, 2012

Discussion 3

- Assessors Map 11 Lot 56 Map date of 2010
- ArcGIS Map of 27 Farm Road

Administrator/Agent Report

- Letter from Central Massachusetts Mosquito Control Project, dated April 27, 2012 with associated maps of Spywood Road and Bogastow Brook Road parcels
- Assessors Maps of Spywood Road and Bogastow Brook Road date of 2010

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