

# Conservation Commission



19 WASHINGTON STREET  
SHERBORN, MASSACHUSETTS 01770

October 4, 2012

Sherborn Town Hall

7:00 P.M.

Minutes of the Meeting

**Members Present:** Steve Gaskin (Chair), Michael Lesser, Susan Tyler, Andrea Stiller (arrived at 7:05 PM), Alex Dowse, Kelly McClintock, Julia Jacobson (arrived at 7:18 PM) and Bridget Graziano (Administrator/Agent)

**Guests:** Dave and Peggy Fleming, Brian Butler (Oxbow Associates), Lucy Almasian, Robert Johnson, Scott Johnson, Ann Marton and Anna DiSanto (LEC Environmental), Mark Beaudry (Meridian Associates), Bob Gargano, Rafe Churchill, Peter Caruso, John Beatty

Mr. Gaskin called the meeting to order at 7:00 PM

## **Determinations**

### **136 South Main Street - Proposal to install replacement septic system**

No one was present to represent that applicant. The Agent presented the applicant's proposal to install a replacement septic system. She reported that the proposed work will take place outside the Commission's jurisdiction therefore, she recommended a Negative Determination be issued. Mr. Gaskin moved to accept the Agent's recommendation. Mr. Dowse seconded and it was voted to approve 5-0.

### **24 Wildwood Drive - Proposal to perform soil testing and install replacement septic system**

Dave and Peggy Fleming, the property owners/applicant were present. The Agent presented the applicant's proposal to perform soil testing and install a new septic system. She reported that the project was not found to extend into the Commission jurisdiction and therefore she recommended a Negative Determination with the approval being conditional on the applicant's submission of final proposed plan of the system due to the existence of a Vernal Pool on the

adjacent property. Mr. Gaskin moved to accept the Agent's recommendation. Mr. Dowse seconded and it was voted to approve 5-0.

## **Public Hearings**

### **Public Hearing #1 – 178 Washington Street Notice of Intent Proposal to install septic system**

Mr. Gaskin opened the hearing at 7:30 PM. The return receipt green cards, certified mail, and a letter from Department of Fisheries and Wildlife, Division of Natural Heritage Program were submitted to the Commission on behalf of the applicant. The Commission accepted documentation as meeting the abutter notification requirements.

Mr. Butler of Oxbow Associates (the applicant's representative) presented the applicant's proposal to install a new replacement septic system within the buffer zone to a Bordering Vegetated Wetland. He explained that the construction of the leaching field will take place outside the Commission's jurisdiction. He noted that all disturbed areas within the buffer zone will be reverted to their original, already altered, state through seeding and he noted that no trees are planned for removal. The Agent noted that there is a significant amount of construction debris within the buffer zone and will need to be removed.

Mr. Gaskin moved to close the hearing at 7:42 PM as no other information was to be introduced and sufficient information was submitted. Mr. Dowse seconded the motion and it was moved to approve 7-0.

Mr. Gaskin stated that the Commission finds that the proposed work within the buffer zone will not have a negative impact on the wetland resource or the interests of the Act and Bylaw. All proposed disturbance within the buffer zone will be temporary in nature. The applicant agreed to necessary conditions to clean up debris within the buffer zone and proposed to provide sufficient erosion control for the protection of the wetland during construction. Mr. Gaskin moved approve the proposed project and issue an Order of Conditions based on the findings of this hearing. Ms. Tyler seconded the motion and it was voted to approve 7-0.

### **Public Hearing #2 - 266 Washington Street Request for Amendment to SLB-05-03**

Mr. Gaskin opened the hearing at 8:00p.m. The return receipt green cards and certified mail slips were submitted on behalf of the applicant. The Commission accepted notice of certified mail for one abutter without the green card return as proper abutter notification.

Scott Johnson, the property owner was present along with his representative, Ms. Marton from LEC Environmental, Inc. Ms. Marton of LEC Environmental, Inc. (the applicant's representative) presented the proposed amendment to the Order of Conditions. She stated that the property owner has erected a post and rail fence with wire mesh without the approval of the Commission. She noted that Mr. Johnson was unaware that this was not part of the original Order of Conditions and believed he could erect fencing. She noted that the property owner was contacted by the Commission's Agent stating Mr. Johnson was in violation of the Wetlands Protection Act and Sherborn Wetlands Bylaw. Mr. Johnson stated that he would work with LEC

Environmental to file for an amendment to the Order for the fencing. Ms. Marton stated that Mr. Johnson is looking to move the fencing to the 80'- 100' buffer zone line and create an unmanaged (and eventually forested) buffer zone in 40' - 80' buffer zone. He proposes to allow the 40' - 80' buffer zone to revert to natural buffer zone by maintaining the proposed 20 native trees and adding 25 native shrubs that would be planted and/or transplanted in the 40' - 80' buffer zone; the numbers of these plantings were specified in the existing OOC. Ms. Marton stated this would be an improvement to this area for species residing in the Vernal Pool and this area would be significantly larger than the meadow area that would be enclosed by the new fence and likely become lawn. In addition, the applicant proposed to remove a portion of the mesh fencing to allow the passage of wildlife to meet protection of the interest of the Act and Bylaw pertaining to wildlife habitat protection

The Agent read an email from an abutter, Karen Brown at 270 Washington Street that expressed her opposition to any construction within the vernal pool buffer zone.

Mr. Gaskin moved to close the hearing at 8:24 PM, as the Commission was satisfied with all information submitted. Mr. Dowse seconded the motion and it was moved to approve 7-0.

Mr. Gaskin state that the Commission finds there will be a net benefit to the protection of wildlife habitat as the proposed unmanaged area is an improved habitat compared to the existing meadow habitat for vernal pool species and is significantly larger than the area in the outer buffer that will become lawn. This will be an improvement over the original mitigation conditions allowing the mowing of the meadow twice annually. Furthermore, the new fence will allow wildlife passage. Mr. Gaskin moved to amend the Order of Conditions, #26, 28, 29, and 30. Mr. Lesser seconded the motion and it was moved to approve 7-0.

**Public Hearing #3 - 59 Whitney Street (Rising Tide Development, LLC) Request for Amendment to the Order of Conditions DEP 283-264**

Mr. Gaskin opened the hearing at 8:30 PM. The return-receipt green cards were submitted on behalf of the applicant. The Commission accepted notice of certified mail without the return receipt for 54 Whitney Street as proper abutter notification.

Mr. Beaudry of Meridian Associates was present as the applicant's representative. He presented the proposed amendments to the original approved plans. He noted that in 2004, the Commission reviewed and approved a proposal for 48 units. Since then, several changes have been made to the project and in 2010 the Commission granted an extension to the existing Order of Conditions. The applicant has submitted amended plans, which include a net decrease of impervious surface overall and in the buffer zone (despite 3 homes being partly moved into the outer buffer zone). Mr. Beaudry provided the revised storm water calculations and the Agent noted this is too late for proper review. The Agent noted her concerns that the new stormwater calculations have not been reviewed, calculations on the addition of impervious surface in the buffer zone have not been reviewed, and there was no discussion of how much fill is to be brought onto the site and what standards the fill will need to meet. Mr. Beaudry noted it would be an overall reduction of impervious within the buffer zone, as the tennis court was being removed. The stormwater calculations provided indicate a reduction in the peak runoff from the previously approved plans. The Agent agreed but noted the tennis court resided within a different buffer zone than the

homes, so stormwater calculations would be broken down differently. Ms. Stiller noted her concern for the amount of fill entering the site and suggested adding a condition to require Policy #Comm 97-001 fill testing analysis, and this will be required as sources are changed throughout the life of this project. The analytical testing results will be submitted to the Commission for review before the quality of fill may be approved by the Commission and/or Agent. The concerns of the Sherborn Groundwater Protection Committee, as expressed by memo, were addressed. The Commission discussed that an amended Order condition will require testing of fill at the earlier time of a change in source, annually, or when there is an observational difference noted by the Agent. The testing must include analysis listed in Policy # Comm 97-001 and results must be below RCS\_1 reportable concentrations of the Massachusetts Contingency Plan (MCP), and must be consistent with the anti-degradation policy of MCP. Laboratory reports shall be sent to the Commission for review.

Peter Caruso, an abutter noted his concern for the amount and the quality of the fill to be brought into the site. Another resident, Robert. Johnson, commented on his concern that the basements of the proposed units will be below groundwater and could be flooded.

Mr. Gaskin moved to close the hearing at 9:28 PM as no other information would be submitted at this time and the Commission did not require further information to provide a finding. Mr. Lesser seconded the motion and it was voted to approve 7-0.

Mr. Gaskin stated that the Commission finds the proposed amendments to the original plan depict a net decrease of impervious surface in the buffer zone. The stormwater calculations show a minor change (an improvement) and still meeting the stormwater regulations. Given the minor changes, the Agent and Commission will begin review of these calculations during the project, and if there is a discrepancy, it can be dealt with during construction. The applicant has agreed to perform fill testing as required by the Commission. This condition will be added to the amended Order. Mr. Gaskin moved to approve proposed amendments to the Order of Conditions subject to the discussed conditions. Mr. Lesser seconded the motion and it was voted to approve 7-0.

## **Discussions**

### **Discussion #1 - 145 Forest Street Request for Amendment to the Order of Conditions DEP #283-0337**

Mr. Churchill, the applicant's representative was present. Mr. Churchill presented the applicant's proposed to amend the approved plan under the Order of Conditions DEP # 283-0337. He noted the proposed amendment would be to move the single family dwelling so that the entire building would now be outside the 100' buffer zone. The Agent noted that the proposed amendment would move the dwelling outside the Commission's jurisdiction, but the project's approved limit of work, which includes some outer buffer zone area, would not change. The Agent recommended that the change would be a minor amendment for an addition of plans to the Order of Conditions.

Mr. Lesser moved that the amendment is a minor modification to the Order of Conditions. Mr. Gaskin seconded the motion and it was voted to approve 7-0.

Mr. Gaskin stated that the Commission finds that the proposed amendment will not adversely affect the buffer zone and/or the wetland resource. Therefore, the Agent will add the new proposed plan to the list of approved plans under the Order of Conditions.

Mr. Gaskin moved to approve the amendment. Ms. Tyler seconded the motion and it was voted to approve 7-0.

### **Discussion #2 - 103 North Main Street Request for Amendment to the Order of Conditions DEP #283-0339**

No one was present to represent the applicant. The Agent presented the applicants proposed request for an amendment to the Order of Conditions. However, due to the time of the submission, this plan could not be addressed at this meeting. She stated that at this time, she would like Commission's permission to approve one proposed change – the addition of a natural gas line from North Main Street within the limit of work approved under the Order because of the time sensitivity of this work as the utility is now prepared to undertake the work. The Agent suggested granting a verbal approval for the request to install a gas line and then re-visiting the entire amendment at another meeting.

The Commission granted discretionary permission to the Agent to make a decision regarding the gas line.

### **Discussion #3- Hiring of Temporary Agent for Maternity Leave**

The Agent reported that she contacted several individuals for the role of Temporary Agent. Joyce Hastings of GLM Engineering Consultants, Inc. is interested and will submit a proposal of hourly cost. Debbie Anderson and Karen Kaplan may also be interested. A fourth individual submitted a resume offering to help with trail maintenance and office operations during her leave.

The Commission discussed whether the Temporary Agent will hold regular hours or be available by appointment only. It was decided if possible to have some limited fixed office hours held by the Temporary Agent.

The Commission agreed to allow Steve, Michael, and the Agent to review candidates and hire the most qualified individual. The Agent noted that she will be meeting with the Board of Selectmen to review her maternity leave request and other items associated with this request.

### **Approval of Minutes of September 13, 2012 & September 20, 2012**

Mr. Gaskin moved to accept the 9/13/12 Minutes as amended. Mr. McClintock seconded the motion and it was voted to approved 6-0. Ms. Jacobson was not in attendance to vote.

Mr. Dowse moved to accept the 9/20/12 Minutes as amended. Mr. Lesser seconded the motion and it was voted to approve 4-0-1. Mr. Gaskin abstained from voting as he was not in attendance on 9/20/12. Ms. Jacobson and Ms. Stiller were not in attendance to vote.

**Administrator/Agent Report**

- **Meeting with Personnel Board Update**

The Agent reported she met with the Personnel Board on October 1, 2012 along with Mr. Lesser and Ms. Tyler. She presented a memo to the board regarding her maternity leave. She will present to the Board of Selectmen on 10/18/12 regarding her maternity leave and her meeting with the Personnel Board. The Personnel Board has approved the Agent's submission of FMLA documents as medical certification as required under its Bylaw. The Personnel Board left the choice to the Commission whether it is in their best interest to hire a Temporary Agent as staff or hire a consultant. The Personnel Board also voted to support asking the Advisory Committee for a Non Re-Occurring Reserve Fund Transfer for money to hire a Temporary Agent/Consultant, while the Agent is on maternity leave. The Agent contacted Advisory and is waiting to hear back from them as to whether or not she or the Commission needs to meet with them prior to her leave.

The Agent will provide copies of her FMLA forms to the Board of Selectmen, Advisory Committee, Personnel Board, Conservation Commission, and the Town Accountant.

- **Permit Extension Act Renewal**

The Agent reported that the Governor extended the Permit Extension Act granted a two-year extension and extended the permit window. Most permits are now valid for seven years from the date of issuance.

- **Rail Trail Clean Up November 3, 2012**

The Agent reported that Forest and Trails Association along with volunteers are conducting a trail clean-up on 11/3. They have targeted the proposed Rail Trail at Whitney Street bridge. She has flagged invasive vegetated and hazardous trees to be removed. She noted that she will obtain permission from the property owner of Whitney Farm/Rising Tide to access the property where necessary for trail clearing.

- **Conservation Land Maintenance**

The Agent reported that Schoolhouse Lot maintenance has not been completed and she would like to hire Brutus Cantoreggi, while he is at Hidden Meadow completing a mow so it does not cost more to do it later. She noted that there is a donor who agreed to pay for maintenance of this lot, if this person cannot this year, it will come out of the Commission's budget. The Commission agreed.

The Agent reported that Matt Mayo completed maintenance of the parking lot at Barber Reservation and the remaining large fields will be mowed by the end of October.

**Adjournment:** There being no other business to attend to, Mr. Gaskin moved to adjourn the meeting at 9:42p.m. Ms. Tyler seconded the motion and it moved to pass 7-0.

Respectfully submitted,

Jessica Pettit  
Minutes Clerk

Documents Presented at the October 4, 2012 Public Meeting

All documents shall be kept in the Conservation Commission Office files

**Public Hearings****Public Hearing #1**

- "Notice of Intent Septic System Replacement within Buffer Zone to Bordering Vegetated Wetland" by Oxbow Associates, dated August 15, 2012
- Plan titled, "Septic System Construction 178 Washington Street, Sherborn", by CIVILized Solutions, dated August 6, 2012
- Agent Site Visit Findings on the proposed plan and NOI

**Public Hearing #2**

- Letter from LEC Environmental titled, " Request for Amended Order of Conditions", dated September 20, 2012
- Amended Order of Conditions issued by Sherborn Conservation Commission on November 15, 2005
- Letter from Bridget R. Graziano, Conservation Administrator/Agent, dated February 1, 2010
- Plan titled, "Request for Amendment Plan 266 Washington Street, Sherborn, Massachusetts for Scott Johnson" by GLM Engineering Consultants, Inc., dated September 17, 2012 and revised October 3, 2012
- Agent Site Visit Findings on the proposed amendment
- Request for Amendment Plan

**Public Hearing #3**

- Memorandum to Board of Selectmen from the Sherborn Groundwater Protection Committee and Water Commissioners, dated November 1, 2012
- WPA Form 5 – Order of Conditions issued by the Sherborn Conservation Commission on October 26, 2004
- Data list from Sherborn Zoning Board of Appeals, titled "Sherborn Data" dated August 29, 2012
- Supplemental Calculation Summary, by Meridian Associates, dated September 26, 2012 (received at meeting)
- 8101-Sherborn Abutter Information Folder (submitted at meeting)
- Email from Mark Beaudry dated October 4, 2012 Subject title "59 North Main Street- Amendment Request"

Plans titled, "Whitney Farm Amended Site Plan Set, dated September 20, 2012 and revised October 4, 2012

**Discussions****Discussion 1**

- Plan titled, 145 Forest Street by GLM Engineering Consultants, dated XX-XX-XX

**Discussion 2**

- Letter from Paul Saulnier of CIVILized Solutions, titled " Proposed Change for 103 North Main Street, dated October 3, 2012 WPA Form 5 Order of Conditions for 103 North Main Street, issued by the Sherborn Conservation Commission on February 9, 2012
- Letter from Bridget R. Graziano, Conservation Administrator/Agent, dated MAY 30, 2012
- Plan titled, "Septic System Construction, 103 North Main Street, Sherborn" by CIVILized Solutions, last revised October 3, 2012
- Agent Site Visit Findings on proposed amendment to Order of Conditions, dated October 4, 2012

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