

SUTTON CONSERVATION COMMISSION
May 21, 2008
MINUTES

Approved: _____

DRAFT

Present: Mark Briggs, Chair, Joyce Smith, Co-Chair, Francis Gatto, Daniel Rice, Jack Sheehan
Staff: Wanda M. Bien, Secretary
Brandon Faneuf, Consultant

Wetland Concerns

7:00pm 129 Hartness Road

Present: Ronald Whitney, owner

R. Whitney explained the crushed stone he put in about 5 years ago and was told to stop his activity, and he did.

J. Sheehan questioned the fill activity, and said he shouldn't do any more work or activity in the area, because it's within 100' of a resource area and subject to review.

Mr. Whitney said the town was going to put a drain in across the street last fall, but they didn't do that. R. Whitney explained that when the road was raised by the developer, a pipe was put in under the road at 52 Leland Hill Road and the other end was put on his property at 129 Hartness Road. It disperses the water onto his property. There should have been a catch basin put in. He put about six loads of gravel in the area.

B. Faneuf reviewed the area map on line.

J. Sheehan said to stop any activity and the Board will copy the letter to Planning Board, asking if there was a field change that substantiates the action of Mr. Whitney. If Mr. Whitney wants to do anything else within the resource area, this is subject to review by the Commission.

7:15pm 125 Central Turnpike

Present: Peter Schotanus

P. Schotanus explained he contacted two wetland scientists, one from New Hampshire, who said don't worry about it as he looked at the aerial view, the other said he could review the area but it would be a serious fee because there are five points of runoff.

J. Smith stated he didn't file a building permit when the shed was built. Then Conservation asked him where he was going to move the shed to, and he was supposed to come back in April of 07, but didn't. The shed needs to come out of the wetland area.

P. Schotanus replied it was brought up earlier that he could raise the shed, because of the water. He said he's been there two seasons and the high water didn't even reach the back post that is 18" high.

J. Smith said the issue is the lawn mower, and petroleum products that could leak into the wetlands.

P. Schotanus was going to ask if he could raise the shed, because he intends on building a garage and wants to get goats and wants to use that area.

J. Sheehan explained the past requests from Conservation. The hearing was continued, a site visit was done. He was going to move the shed, then nothing happened. Mr. Sheehan asked the Consultant if the Board can rescind the action made earlier?

B. Faneuf replied yes, but the property owner already has the decision, and asked how long he has had the decision?

J. Smith replied the decision was made on April 11, 2007.

J. Sheehan stated that it is the owner's responsibility to demonstrate to the Commission that the shed that he intended to construct, has no negative impact on the resource areas. This is what has not been done. This question was asked before.

J. Smith read the January 17, 2007 minutes, stating for him to come back to the Commission with a plan to move the shed twenty five-feet away from the wetlands. He should contact a Wetland Scientist for professional information as to where this shed should be, then put stakes in and call the Commission to do another site visit.

J. Sheehan asked if the shed is causing any impact to the resource area.

P. Schotanus replied no and the area has moss.

J. Sheehan stated he needs to have someone come before the Commission, who is a professional, and explain that there is no impact to the resource area or to the interest of the Wetland Protection Act.

B. Faneuf explained since a positive Determination has already been made, the owner will have to file a Notice of Intent. He can't just come back with a Wetland Scientist and say its fine on this positive Determination. He can re-file an RDA with a public notice, and get a negative Determination, but it needs to be defended to prove that the shed will be no problem, or affect the wetlands and the interest of the Act, and also the goats.

P. Schotanus said he would speak to someone and ask if that person can come in and speak to the Commission.

J. Smith suggested he get someone from Massachusetts who knows the wetlands in this area. There was a Wetlands Environmental Engineer in the audience that he could speak to after the hearing.

J. Sheehan stated the Commission can not let things like this go. The Board has to act on it. He needs to prove his point and make his defense.

P. Schotanus questioned the Agricultural exemption.

J. Sheehan explained this exemption, which is more for maintenance of field edge, ponds for irrigation, and drinking water for cattle and has to be a commercial operation.

B. Faneuf explained he can file another RDA and hopefully get a negative Determination of Applicability, and prove to the Commission that this doesn't have an impact to the wetlands, and hopefully get a negative Determination. Mr. Sheehan suggested he talk to people and find out the cost. If it is cheaper to move the shed back 25 feet, move the shed. He will have to file a determination if he wants to keep it where it is.

He will be back in two weeks on June 4th 2008.

NEW BUSINESS

None at this time

Review Special Conditions

8:00pm 96 & 128 Armsby Road

Present: Michael Scott, Waterman Design, for Taurus Land Ventures, LLC

M. Scott continued, with the applicant's permission, to June 4, 2008.

Motion: To continue, with the applicant's permission, to June 4, 2008, by J. Sheehan
2nd: D. Rice
Vote: 3-0-0

Motion: To hold any consult fees until we hear from the applicant, by J. Sheehan
2nd: D. Rice
Vote: 3-0-0

CONTINUATIONS

48 Griggs Road

DEP#303-0663

The continuation was opened at 8:00pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of the applicant proposes to raze and rebuild an existing two bedroom SFH with attached garage, install a new well, and upgrade an existing sewage disposal system within the 100' BZ to a BVW.

Present: Sean Hale, LEC Env. Consultants, William Fox, applicant for Estates of Lois Jean White

S. Hale continue, with the applicant's permission, to June 18, 2008.

Motion: To continue, with the applicant's permission, to June 18, 2008, by J. Sheehan
2nd: D. Rice
Vote: 3-0-0

17 Gilmore Drive

DEP#303-0652

The continuation was opened at 8:05pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of a 109,000 square foot building addition with associated parking and infrastructure improvements.

Present: William Blais, Andrew Survey

W. Blais reviewed the past information on the plans of the addition to the existing building. The intent was to add to this existing building. However, that interested party has left. Now they still want to add to the current building but in a different location. The issue with Conservation is the basin in the front from the initial construction of this building. Who is responsible for the basin? Carquest has decided that they would take the responsibility to fix the basin. The other issues with Conservation in the back of the building have been taken care of. A new issue is that they need more plantings on the slope because it is all sand. A letter was sent to Conservation outlining how they will address the problems with this basin. Mr. Briggs requested that they provide letters as to what they are going to do

in the future, to make sure this won't happen again. The first step is to clean all the catch basins and the oil/water separator and provide proof to Conservation that this has been done. The Second step is to go out on site and dig test holes in the basin, to determine if it is contaminated. From that point they will determine what, if anything, will happen to remediate the problem. Then they would report back to the Commission with that information. In the future it would be laid out who would be responsible for what. Carquest would be responsible for their basin and separator. The Park has an Association, which will maintain all the basins. The road owner and individual lot owners, share the majority of the basins in the park. The Association will be responsible for mowing all the slopes and cleaning out the six or seven basins throughout the park. They are looking to get a new Order of Conditions and get rid of the Enforcement Order, which covers both the rear and the front basin. The Planning Board has given their approvals for the site plan portion. The Order of Conditions for the initial building was a bit of a conflict, when the park was permitted in the year 2000, This was the first building built and it was shown on the original subdivision plans. All of the disturbance was shown and permitted under Phase I for Sutton Park Associates. This company did the work under someone else's Order. The Certificate has not been filed because the park owner is not done with his infrastructure, and the park owner said he should be done by the end of June 2008. They will start all the "As-Built's" for all the basins and road.

J. Sheehan stated that the owner still has to put in the replications.

W. Blais replied the owner knows and has had Eco Tec on site for that review.

J. Sheehan stated the pond itself is an issue because it was designed as an infiltration pond, but is not acting as an infiltration but as a detention pond. How does that change the drainage design for the septic issue? He feels the groundwater has changed since the beginning.

W. Blais replied it still functions as an infiltration basin. Carquest understands they may have to take all the material out and replace it with new material so this would function as an infiltration basin, because it was not designed as a detention basin. All the Orders of Conditions have expired and no extensions were applied for so they will come back to get a new Order of Conditions for the new work. He would like to close this process and not keep continuing this. He wants to keep an open dialog with Conservation, as to what is going on with the basins, between the Planning Board, Graves, Carquest, and Andrews Survey.

J. Sheehan asked what part he wanted to close.

W. Blais replied the part for the new work.

J. Sheehan replied the Commission can not do that because the building, built in 2003 had issues in the beginning, which Delta Building Corp. never complied with. There is an existing Enforcement Order on this project. Mr. Sheehan said to fix the infiltration pond then come back for the other Order of Conditions that was expired.

Motion: To continue, with the applicant's permission, to June 18, 2008, by J. Sheehan
2nd: D. Rice
Vote: 3-0-0

66 Wilderness Road

DEP#303-06

The continuation was opened at 8:25pm. Joyce Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of construction of a new single family house, new accessory lake building and their associated grading and utilities, repair and raise existing retaining wall 18 inches along lake front.

Not Present: Mark Allen, Allen Engineering, Michael & Judy Dunne, owners.

Mark Allen continued this, with the applicant's permission, to June 18, 2008.

Motion: To continue, with the applicant's permission, to June 18, 2008, by J. Sheehan

2nd: D. Rice

Vote: 3-0-0

BOARD BUSINESS

8:30pm 61 W. Millbury Road – Shed/Pool (in Wetlands) permitted by Building Dept.

Project needs a Certificate of Compliance from previous Order of Conditions

Present: Robert Murphy, Murphy & Associates, Lynne Feiz, owner

R. Murphy explained there was an Order of Conditions issued ten years ago and it was never recorded. When the new owners purchased the home there was no title encumbrance. They were not aware of any paperwork or anything that had gone on with Conservation. They purchased the home from Steve Chabot Construction. There was never a Certificate of Compliance issued for the work on the Order of Conditions because the contractor didn't register it with the Registry of Deeds. They are here to explain the situation and that the new owners would like to put on an addition. The contractor sent them to the building department, who sent them to Conservation to see if there were any issues. They would like to get a Certificate of Compliance for the project so they can continue with the additional work. The owners understand that there would be a new Notice of Intent filed for this work at the house and the order would be recorded so they can get a Certificate. Now they have an order that expired several years ago, and would like to get the Certificate to close that order. Then they can move on to the next project. Since the lot was developed the owners have put a pool in the back, in the buffer zone, which doesn't appear to have any impacts upon the wetland area. The pool is not on the original plan and there is a deck behind the house also. The pool is on the revised plan. The original plan was updated to show the pool and shed. The owners got permits for the pool and shed from the building dept, and all the work was done properly, but they were never aware of the original Order of Conditions. The owners just found this out a week ago.

J. Sheehan asked what do they want to do?

R. Murphy replied they plan to file another Notice of Intent to put a ten-foot addition on the house, over the area that is already paved. This area is already impervious and over the driveway, and is shown on the new plans. This would require the new Notice of Intent. There would be no impervious area imposed. The driveway is flat and at the edge of the house. He put in new flags in the wetland area that had been regarded and lowered a few inches. At the time the original Order of Conditions was issued the Commission only required vegetation to determine the wetlands. Now soil samples are required to determine these wetlands. Now the line is more conservative. He suggested to the owners, that they straighten out the certificate issue then file a new Notice of Intent for the new work to be done.

Pictures of the pool and shed area were shown on the video by the Conservation consultant.

The secretary stated, if the original Order of Conditions wasn't registered with the Registry of Deeds, the Certificate of Compliance can not be typed out, because the book and page number of the recorded order is needed to complete the certificate, to be signed by the Commission.

J. Sheehan said they needed to record the original Order for a clean title, if the original order was not recorded yet.

L. Feiz replied they don't know where the original order is.

The secretary also stated there is only a copy of the original order in the file. The original is mailed to the owner to be recorded.

J. Sheehan replied the Town Clerk can stamp the copy as an original copy so it can be recorded. Then the owners can get their Certificate and the title would be clear.

R. Murphy asked if this doesn't work could they file a new Notice of Intent showing everything that is there now.

B. Faneuf replied yes, and explained how to go forward.

The secretary will check with the Town Clerk and let Mr. Murphy know if this copy of the order was stamped so he can record it or if he will need to do another Notice of Intent.

The Board signed a Certificate of Compliance for 6 (116) Manchaug Road – Lussier Builders Co. and 28 Manchaug Road- J. Powers.

No site visits would be done until after the next meeting when all members are back.

Site visits needed are: 11 Overlook Drive for their Certificate of Compliance, 458 Boston Road/Harris called for Replication area inspection and asked to remove silt fence along the driveway, 81 Griggs Road/Creedon - Replication Area, and 109 Purgatory Road/Reid – Brush and tree removal.

Complaint reviewed: 6R Torrey Road – Creating a Beach. A site visit was done by J. Sheehan nothing was found to be disturbed. A letter would be sent to the owner to request a Certificate of Compliance for the open Order of Conditions that currently exists.

Letters would be sent to: 97 Singletary Ave for the status of the re-planting of the trees then a site visit would be scheduled, 5 Point Way for the replacement trees, stating that the Board would do a site visit after their June 4th meeting, and 65 Providence Road/R. Vaillancourt about the gravel digging and removal.

The Board reviewed the letter/information for 14 Wheelock Drive from the Building Department. This was tabled to the next meeting. The discussion for 81-85 Griggs Road area silt slide from Millbury project was tabled to the next meeting, and the Waterview Commons hearing before the ZBA meeting on June 5, 2008.

Just a reminder, that the Sewer work on Hartness Road will be starting sometime in July or August.

The Board reviewed the National Grid right-of-way vegetation treatment letter.

Minutes

The Board voted on April 16, 2008 minutes but will table May 7th to the next meeting.

Motion: To approve the minutes of April 16, 2008, corrected by J. Smith, by J. Sheehan

2nd: D. Rice

Vote: 3-0-0

Motion: To adjourn, by J. Sheehan

2nd: D. Rice

Vote: 3-0-0

Adjourned at 10:45pm.