

SUTTON CONSERVATION COMMISSION  
October 20, 2010  
MINUTES

Approved: \_\_\_\_\_

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

**NEW PUBLIC HEARINGS**

**192 Hartness Road**

**DEP#303-0698**

The Public Hearing was opened at 7:05pm. M. Briggs read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of a single family house, driveway and landscaping within the buffer zone.

Present: Robert Murphy, Murphy Associates, for James Ray, owner

R. Murphy explained the owner plans to build a single-family house with an attached garage, which will be located in the buffer zone of the BVW. The plan that the Board is looking at has been approved by the Board of Health. The abutters were located in three different towns, which were notified. There is no work proposed in the wetland area, however a portion of the house is located within the 100' buffer zone. The septic system is located outside the buffer zone, and they are here tonight because they are proposing to alter the outer 50' area. The 50' line is also shown on the plans with the location of the haybale dike, and the small corner of the driveway where they is no grading to be done. The garage will be a drive under garage with a garage above and one below. The garage was a design change in the house so that they could have the garage located outside of the 50' buffer zone area. He explained the limit of the lawn and limit of work area. The second plan is a 40 scale and shows the whole property. There will be a well located in the back yard.

A. Aubin asked why everything was located in the corner of the lot.

R. Murphy replied that when they did the well testing the best area for the septic system was as it is shown on the plans.

R. Murphy said there would be a standard leach field placed 4' above the ground water which passes Title V. The septic system itself is outside of the buffer zone. The main issue on this lot is the driveway and corner of the house in the buffer zone. The configuration of the house has been set to get the best solar gain from the south. If you look at the back of the house it meets all the existing grades and there is not a lot of grading around the house.

A.Aubin asked about the existing barn

R. Murphy showed the existing building as a garage that needs to be taken down which is located in the front of the lot.

B.Faneuf summarized his site visit. The existing buildings need to show on the plans. His concerns are the house, driveway and garage areas. He recommends that the house corners, leach field and limit of work be staked before the Concom does a site visit.

See attached Ecosystem Report #1

R. Murphy explained they need the solar gain to have the three geo thermal wells in the back yard. That is the reason the house is encroaching into the buffer zone. There will be trees taken down for this solar area.

M. Briggs questioned if the 60/40 requirement is met. The details need to be on the plan and/or included in the narrative. Have the applicants investigated pavers and/or porous blacktop? Have they considered infiltration in any way?

R. Murphy replied that yes it meets the requirements for the 60/40 and the water table in this area was three to four feet. He will show this information on the revised plans.

M. Briggs asked how many trees over five inches will come down? What of the invasive species? Where is the mediation going to be? This information needs to be on the plans also. Any existing stone walls need to be on the plans. The roof drains need to be indicated as to where they will run off to.

R. Murphy replied about 15 trees will be taken down. The property lines are the stone walls so they would not touch them. There is a stone foundation that looks like someone started a building but didn't finish it.

M. Briggs reviewed what needs to be on the plans:

- 1) The project description including an alternative analysis as to why this has to be situated the way it is
- 2) The limit of lawn equals limit of work
- 3) A compensatory replanting plan of native species for the 15 trees removed
- 4) The existing conditions showing the shed
- 5) Improving the driveway so there isn't as much impervious blacktop
- 6) The roof drains and foundation drains to be indicated in the project description
- 7) What the applicant will do to improve the site by eliminating the invasive species
- 8) Some sort of marker to serve as a prompt to indicate the buffer zone

A. Aubin would like to see the entire property on the plans.

R. Murphy replied there is a 40' scale plan that shows the entire site, along with the 20' and 30' scale plans. He proceeded to show the plans.

Jessica White, 200 Hartness Road, explained her driveway goes around the perimeter of the property in question. Their concern is the drainage, based on the fact that this is a five bedroom house. Their driveway is located in both towns and there is an area where the water comes down onto their driveway from the wetlands from this property site. What will happen when this fills up?

M. Briggs replied they attempted to get the applicant to decrease the amount of runoff and to seek alternatives for infiltration, particularly the driveway and the house roof. They will be coming back with more information.

R. Murphy replied they looked at a topographical of the drainage when they reviewed the wetland area. The history was interesting as to how they attempted to drain the site. They found the culvert going under the road was blocked with a lot of mud. If this pipe was maintained properly the drainage from this house would go directly into that wetland. There is a large wetland storage area

within that wetland. Because of the elevation of the pipe, the elevation of the earth is higher than that storage area.

Motion: To continue, with the applicant's permission, to November 3, 2010, by J. Sheehan  
2<sup>nd</sup>: J. Smith  
Vote: 5-0-0

## **CONTINUED PUBLIC HEARINGS**

### **64 Wilderness Drive**

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

The project consists of removal of hazardous trees, primarily dangerously overhanging the residence and are dead or dying hemlock.

Present: Stephen Dunne, owner, Paul Lavoie, Professional Tree, Ronald Despros, Arborist

M. Briggs explained that there was a meeting on the site with the arborist, the owner, and Mr. Lavoie a tree professional.

B. Faneuf explained his issue with the tree cutting was the necessity of the trees being cut down. That was why the arborist was called on site. He summarized the site visit that was done on Friday October 16<sup>th</sup>. He recommends taking down the hemlocks around the house and allow the limbing of the 9 hemlock branches over the house. The trees near the lake, which are infested, may not be cut down at this time. A replanting plan will be required.

M. Briggs said that when they come back with the replanting plan, show how many trees came come down, what they intend to replant and give emphasis to replanting towards the lake. Be advised of removal of any other trees will add to the replanting plan.

Mr. Lavoie said they may not be able to get in the area to remove the trees by crane, but would do the work by hand.

M. Briggs's concern is that it's the end of October and the replanting won't happen until next year. He would like to see a row of silt sock so that when the rains come in the spring there would be protection. He suggests silt socks because they are more flexible for this area.

Motion: To close the Public Hearing, by J. Sheehan  
2<sup>nd</sup>: J. Smith  
Vote: 5-0-0

Motion: To issue a Negative Determination subject to the erosion controls described earlier, the trees indicated on the plan can be removed, subject to the applicant coming back to the next meeting with a planting plan on a one to one basis of trees removed over five inches, to be replanted within 100' of the high water mark, by J. Sheehan  
M. Briggs added to eradicate the bitter sweet and whatever other invasive species, install the erosion controls, have a site inspection when the cutting is mostly done between now and the next meeting, and come back with a replanting plan. There would

be limbing of other trees should they become a threat to the house, but not beyond their limit to hurt the house, by J. Sheehan

2<sup>nd</sup>: J. Smith

Vote: 5-0-0

S. Dunne explained he would not be able to get the bitter sweet out in the next two weeks due to the tree work.

### **7 Point Way**

#### **DEP#303-0687**

The continuation was opened at 8:35pm. M. Briggs read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of construction of a new patio and dock at the shores of Singletary Lake. The entire will be surrounded with erosion control measures to limit the impact to the nearby wetland resource.

Present: Mark Allen, Allen Engineering, Christopher Windle, owner, Kelley Windle, owner, Attorney Henry Lane, Attorney for Christopher Windle, Arthur Allen, Eco Tec for Christopher Windle, Attorney James Burgoyne, Attorney for the Triola's properties, Scott Goddard, Carr Research, Jeff Walsh, Graves Engineering, and the abutters, Dominic Triola, John Esler.

M. Allen reviewed the new information on the revised plans, showing the additional plantings, and drainage calculations and the hydraulics showing that the grass swale has the capacity of a 100 year storm.

M. Briggs reviewed the issues with the roadway and asked if it was true that each of the abutters have an interest in the road.

H. Lane replied there was one quarter interest of the roadway by each of the abutters.

M. Briggs asked if there was a maintenance plan for the road with all four abutters subject to the maintenance of the swale and road and if it isn't maintained and silt gets into the lake they are responsible?

D. Triola explained the raised grade for the leach field on 6 Old County Road. –Some water now goes down the road and goes on the Esler's property. The swale is catching the majority of the water.

J. Walsh summarized his site visit and report on the catch basins and swales.

B. Faneuf reviewed the site visit done with C. Windle and J. Walsh, Graves Engineering. See attachments #3, & #4

Attorney J. Burgoyne, Attorney for the abutters, pointed out that the Enforcement Order could have been issued to all four joint owners of the roadway.

M. Briggs replied that if there is any evidence of siltation entering the lake, all four parties will be called on the carpet. Mr. Briggs also stated that he feels that they have come to a resolution that the four parties jointly will continue to maintain the catch basins.

Motion: To lift the Enforcement Order, by J. Sheehan

2<sup>nd</sup>: J. Smith

Vote: 5-0-0

M. Briggs suggests the Mr. Faneuf, Mr. Allen, Mr. Walsh, and Mr. Windle walk the site and come up with a plan that is acceptable by all parties. That a path from Point Way to the grassy area to the dock, by mutual consent, can arrive with a set of conditions that meets Mr. Windle's needs in his application.

Mr. Walsh explained the pipe issue. Sediment in the bottom of the pipe needs to be cleaned out.

M. Briggs said to do the site visit and come back with a plan that shows what they have arrived at. Shows how they are going to compensate for trees, change the plan in terms of reducing the grass area, straighten out the elbow, show the cross section and the construction sequence. Include the budget and if they have exceeded the budget there needs to be a revised proposal for the budget so this can be wrapped up. Once this has all been reviewed then Mr. Walsh can go out and inspect the field to see if it matches the plan..

J. Sheehan said there should be no jurisdiction on this.

A. Allen reviewed the work to be done on the pathway and what should be removed, including any invasive species.

M. Allen explained how the dock would sit on the shore and be removed in the winter months.

Motion: To continue, with the applicant's permission, to November 17, 2010, by J. Sheehan

2<sup>nd</sup>: J. Smith

Vote: 5-0-0

## **14 Wheelock Drive**

### **DEP#303-0686**

The continuation was opened at 9:35pm. M. Briggs read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of construction of a pond adjacent and connected to an intermittent stream.

Not Present: Dan Nitzsche, Project Env. Scientist, Bay State, Gerald Caya

Irfan Nasrullah continued, with the applicant's permission, to November 3, 2010

M. Briggs spoke of the e-mail that came from Mr. Caya's lawyer dated October 19, 2010. The e-mail asked for a continuation to November 3, 2010. Mr. Briggs stated that the DEP is involved in this and in talking with Phil Nadeau is recommendation is to just keep plodding along in such a way that that this can come to an end. We received an e-mail and it stated that attached is a request for a continuation for the meeting of November 20<sup>th</sup>. The applicant's lawyer said that they think they will be switching vendors for the re-financing so that they can move this along. There appears to be some movement in another other direction and now he will entertain a motion to continue.

J. Sheehan stated that this is not like a continuing problem it's not causing any more damage, what's done is done. It's not getting any worse, and it's not like someone has points of a discharge.

Motion: To continue, with the applicant's permission, to November 3, 2010, by A. Aubin  
2<sup>nd</sup>: J. Sheehan  
Vote: 5-0-0

## **BOARD BUSINESS**

9:40pm

Villas at PV

Present: Andy Santos and Bill Jenkins for Altor Realty Investment – Enforcement Order issue. Andy Santos is here for Bill Jenkins to reintroduce themselves. They were here on April 15, 2010 for an update on the sales agreement. Now they're back to get things on track and explained that they negotiated with John LeClaire and have kept the bank abreast of what has been going on. The bank is John LeClaire's and has seen the agreement that they had with John. They have asked the bank to not foreclose, because of the agreement that they have made with John LeClaire. Once the P and S was signed, they asked the bank for a statement saying that they will not foreclose. Unfortunately they did foreclose on the villas, and at this stage they have a draft P and S, but now they are close to the P and S on the property. They are aware of the problems that happened on phase III and are willing to correct those problems where there was run off into the parking lot of the Econo Lodge. The state extension carries them from January of 2009 to January of 2011. They know this has to be resolved.

M. Briggs stated there was a temporary ditch put in there to try to resolve that, but from what he understands that didn't work as well as it should have.

A. Santos replied they did not hear that there were any problems since the ditch was put in. They don't have the full information and have not been able to talk to the motel owner yet. The motel owner does want to talk to them about this problem.

Bill Jenkins explained that one of the problems on the site was a historical problem. A specific area was cleared by John that was a slope area and they would be a certain amount water running off that slope. When John cleared the area he left the wind rows in. In the middle area there wasn't anything and that's where the waters accumulates. This is the location of the historical runoff area at this point. He showed on the map where Cold Spring Brook was and where the runoff is coming from. They will have a wetland scientist redo all the flags. The engineer will redo a survey to complete phase I. Someone went out and made a long trench and connected it to the other trench and wind row and this began to act as a buffer. He showed a picture of the trench that was dug out by John LeClaire. They'll want to put in a foundation and backfill the foundation so the water would not continue to impact the motel.

B. Faneuf recommends calling Art Allen at Eco Tech, who did the flagging originally, to come back to re-flag if necessary, and re-verify the wetlands.

Motion: To issue an extension of the Order of Conditions subject to the request from January 4<sup>th</sup> of the DEP Order of Conditions and the Town Bylaw, subject to getting a written

request form the owner of record and of the property, and a letter from banks requesting the extension for the Order of Conditions, by J. Sheehan  
2<sup>nd</sup>: J. Smith  
Vote: 5-0-0

**Board Business:**

The Board approved the minutes of September 1, 2010

Motion: To approve the minutes of September 1, 2010, by J. Sheehan

2<sup>nd</sup>: J. Smith

Vote: 5-0-0

The Board endorsed the Certificate of Compliance for 3.5 Sunrise Drive.

**Discussions:**

34 Hough Road/Ronald Nedroscik, DEP issued a letter for trees to be replanted, and the Board will send a letter requiring a year end progress report from the plantings and the 100% survivability of the trees.

The Routing slips were signed for 124 & 125 Manchaug Road for the septic repairs, off Hough Road, M. Bedoian Yearly Earth Renewal permit, and off Providence Road Worcester Sand and Gravel's Yearly Earth Renewal permit, and for 375 W. Sutton Road for a septic repair.

**Unexpected Business:**

The owners of 61 W. Millbury Road are withdrawing the original OOC for their addition. The owner of 58 Main Street would like to Extend his ANRAD from 2006 and 2009 to 2011.

Correspondence was reviewed.

Anyone interested in purchasing the DVD for any public hearing at this meeting, please contact Pam Nichol's in the Cable office or you can view the minutes and video at [www.suttonma.org](http://www.suttonma.org).

Motion: To adjourn, by J. Sheehan

2<sup>nd</sup>: J. Smith

Vote: 5-0-0

Adjourned at 10:00pm.