

**CONSERVATION BOARD  
MINUTES OF MEETING  
MARCH 25, 2008**

The March 25, 2008 regular meeting of the Conservation Board was called to order by Chairman Gary Meixner.

Attendance: Dr. Frank Lapetina, Dr. Edward Merker, Gloria Rosenzweig,  
Gary Meixner

Absent: None

**Guests:** Arnold Guyot

**Announcements:**

Mr. Arnold Guyot informed the C.B. secretary that he would be attending the meeting tonight as a guest.

Board member Dr. Edward Merker informed the C.B. secretary that he would try to attend the meeting, but he would be arriving late.

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**Approval of Minutes:**

A motion was made by Gloria Rosenzweig and seconded by Dr. Edward Merker to approve the minutes of the March 11, 2008 regular meeting of the Conservation Board. All members present approved.

**Old Business:**

- A)** Stephens Subdivision/*Elephant Farm Subdivision*/Preliminary Subdivision Plat/Planning Board, Proposed 3-lot Subdivision 15.92 acres, (TM-28.07-1-1); Environmental Constraints Map, Profile & Details, Soils Map dated July 1, 2005 revised February 4, 2008; Wetland Report by Michael S. Batcher, MS, AICP dated May 10, 2007; EAF revised, Prepared by Bibbo Associates, LLP (#3 Rte. 138/off Rte. 100): (FL/GM)  
The Conservation Board briefly discussed the above Planning Board application for Stephans Subdivision/*Elephant Farm Subdivision*, preliminary subdivision plat, proposed 3-lot subdivision at their meeting tonight.

Board member Dr. Frank Lapetina reviewed the materials submitted, and gave a verbal report to the Board at their meeting on February 26, 2008.

Discussion ensued among the Board members with reference to this application.

Arnold Guyot asked to speak to the Board concerning this application. He noted that the Planning Board was recently reviewing this subdivision and one of their members (John Keane) was concerned about the wet area in the back of the parcel bordering on the IBM property.

Mr. Guyot explained that Mr. Keane had mentioned at the Planning Board meeting that he was interested in having the house that is proposed for the rear area of the parcel to be relocated away from the wetland area.

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**Old Business:**

**A) Stephans Subdivision: (cont'd)**

Dr. Lapetina commented that he recalled the lot in question on the top of the parcel and also that the applicant created a designated wetland at the bottom of it so the wash would come down to the stone wall. He mentioned that he remembered reading the letter that was written from the original owner to Mr. Arthur Vail, Jr. of Brewster New York dated April 17, 1940.

Chairman Meixner noted that the applicant was asked to foot the bill for an engineer that the Town requested the applicant to use who apparently was responsible for the location of the house in the proposed area in question. He remarked that he thought it absurd that now, after all of this planning and the hefty cost to the applicant, the Planning Board is deciding to move the house from the original location.

After some discussion on the matter the Board members decided to write a memo to the Planning Board stating their recommendations.

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A memo (#08-16) will be sent to the Planning Board stating that the Conservation Board reviewed the above Planning Board application for Stephans Subdivision/Elephant Farm Subdivision, preliminary plat at their meeting on March 25, 2008.

The Board members reviewed the materials submitted, performed a site inspection of the property and discussed the application among them.

The C.B. has the following concerns and recommendations:

- 1) The applicant should install proper erosion control measures according to the recommendations of the Town Engineer.

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**Old Business:**

**A) Stephans Subdivision: (cont'd)**

- 2) The applicant should follow the recommendations of the Town appointed engineer who reviewed the parcel.
- 3) The Board members have no environmental concerns with this subdivision as proposed in the plans submitted.

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The Board members took no further action at this time.

**B) Somers Realty Planned Hamlet/Plan-Public Hearing Report on Fire Prevention, Traffic and Stormwater Issues dated December 28, 2007, Prepared by BFJ Planning, Other-Site Master Plan for the PH District, (Rte. 6 bordering Mahopac Ave.): (GM)**

**C) Somers Realty Planned Hamlet/Somers Realty Stormwater Pollutant Loading Analysis/Planning Board, not dated Prepared by Tim Miller Associates, Inc.; Site Master Plan for the PH District, (Rte. 6 Baldwin Place): (GM)**

The Conservation Board reviewed the above subject application Somers Realty Planned Hamlet, fire prevention, traffic and stormwater issues as well as the stormwater pollutant loading analysis at the meeting.

Chairman Gary Meixner reviewed the materials submitted performed a site inspection of the property and gave a verbal report to the Board.

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**Old Business:**

**B)** Somers Realty Planned Hamlet: (cont'd)

**C)**

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Report:

- Chairman Meixner informed the Board members that he directed the C.B. secretary to speak to the Town Engineer with reference to soil testing and the legal limitations imposed by the BOH for allowing lead to be present in the soil.
- He explained to the Board that the C.B. secretary spoke to the Town Engineer and was informed that the soil should not exceed 75ppm of lead.
- Chairman Meixner went on to say that there is a large quantity of lead on the property. He was told that the reason for this lead on the parcel is because it is near a road. The lead was deposited on the soil from the fuel in cars/trucks, etc., back when gas had lead in it (which apparently is a very common phenomenon along roadways).
- Gary advised the Board that the property in question should be tested for Chlordane (DDT). This is because years ago this area was all farmland and it was acceptable at that time to use this chemical (which may still be present on the site).
- In addition, Chairman Meixner stressed that if the applicant were not doing testing for Chlordane, then the Conservation Board would like to know why.

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**Old Business:**

**B)** Somers Realty Planned Hamlet: (cont'd)

**C)**

- Concerned about the degree of difficulty he found while reviewing these documents Chairman Meixner asked Dr. Edward Merker to also review the information submitted and give a brief report at the next meeting.

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Dr. Lapetina commented on the application before the Board and specified that he would like to have more information concerning the probability of phosphorus being located on the property.

As a point of reference Dr. Lapetina went on to say that recently he had been involved in some soil testing on Rte. 9A near Elmsford, just past Hawthorne. The property was located alongside the parkway. He advised the Board members that soil samples were taken as well as an analysis, which resulted in proving that there was extensive lead in the soil. He informed the Board that the owners of the property in question merely wanted to plant a garden.

Dr. Frank Lapetina specified that the owners of the parcel were concerned about the PH for planting and they were told to use raised beds (and bring in new soil) for planting because of the lead contamination that was present in the soil there. He advised that ordinarily one would not think that there would be a problem in that area, but the parcel is located right alongside the road.

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**Old Business:**

**B)** Somers Realty Planned Hamlet: (cont'd)

**C)**

Dr. Lapetina reiterated to the Board that the owners were not originally concerned about lead, they just wanted the PH checked and the lead was found when they were checking the soil. It is obvious that the fuel from the traffic going by was absorbed into the soil.

Normally, Frank explained that these levels would not effect anything, but if the homeowner wants to be on the safe side, bringing in soil would be the best course of action to take for the safety of the proposed vegetable garden.

Dr. Merker agreed to take a look at the proposed documents submitted by the applicant and report back to the Board at the next meeting.

After much discussion on the matter the Board members decided to write a preliminary memo stating their concerns and recommendations.

\*

A memo (#08-15) will be sent to the Planning Board stating that the Conservation Board reviewed the above Planning Board application for Somers Realty Planned Hamlet fire prevention, traffic, stormwater issues and stormwater pollutant loading analysis at their meeting on March 25, 2008.

The Board members reviewed the materials submitted, performed a site inspection of the property and discussed the application among them.

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**Old Business:**

**B)** Somers Realty Planned Hamlet: (cont'd)

**C)**

The C.B. has the following concerns and recommendations:

- 1) The Board is concerned about the lead that might be present in the soil on this parcel.
  - What is the PPM of lead that is located on the property?
  
- 2) The property should be tested for the chemical Chlordane (DDT) to see if it is present in the soil.
  - If Chlordane is present in the soil then what is considered an acceptable level or what course of action should be taken?
  
- 3) The Board would like to know the levels of phosphorus that might be located in the soil on this parcel.

The Conservation Board will continue to review this application for Somers Realty Planned Hamlet as information and revisions are submitted.

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The Board members took no further action at this time.

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**Old Business:**

**D) Conservation Board Reappointments to Board/Discussion with Conservation Board/re: Gloria Rosenzweig and Dr. Frank Lapetina// Email Supervisor Murphy: (RD)**

The Conservation Board briefly discussed the reappointment of C.B. members Gloria Rosenzweig and Dr. Frank Lapetina at the meeting tonight.

C.B. secretary Ms. Davis informed the Board members that she discussed this situation with Supervisor Murphy prior to the meeting. She explained that she told Ms. Murphy that the Board needs two members reappointed and they also need three new members appointed as soon as possible.

Ms. Davis mentioned that she requested the appointment of one new member as soon as possible in order to help make a quorum when the Board decides to vote on an application.

The C.B. secretary advised the Board that Supervisor Murphy agreed to speak with the Town Board with reference to these matters at the Town Board meeting on Thursday.

Ms. Davis informed the Board that she would be following up this conversation and discussion with an email to Supervisor Murphy as a reminder.

The Board members took no further action at this time.

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**Old Business:**

- E)** Stevens Subdivision-Draft Memo/Preliminary Plat-Conservation Subdivision/Planning Board, dated October 1, 2005, revised October 31, 2007 by Beyer & Associates, Plan-Tree Survey dated September 10, 2007; Composite Wetland Survey dated August 9, 2004, revised November 15, 2007; Survey of Property dated September 4, 2007, (TM-15.12-2-1), Prepared by Baxter Land Surveying, P.C.(# 14 Green Tree Road/ 1200ft. *frm inter. Rte.118*): (EM)

The Conservation Board reviewed the above Planning Board application for Stevens Subdivision preliminary plat, conservation subdivision, tree survey and wetland survey at their previous meeting on March 11<sup>th</sup> and at that time they wrote a draft memo for review and editing.

Board member Dr. Edward Merker reviewed the materials submitted and performed a site inspection of the property previously and gave a brief update to the Board at the meeting.

A discussion ensued among the Board members and they decided to make some revisions to the draft memo before submittal to the Planning Board.

Dr. Lapetina requested an update on the discussion that took place at the last meeting and an explanation of the report that was given by Dr. Merker so that he could be brought up to speed, noting that he was not present at the last Board meeting.

After further discussion on the matter the Board members unanimously decided to deny the application and to send a memo to the Planning Board stating their concerns and reasons for denial.

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**Old Business:**

**E) Stevens Subdivision-Draft Memo: (cont'd)**

\*

A memo (#08-14) will be sent to the Planning Board stating that the Conservation Board reviewed the above Planning Board application for Stevens Subdivision preliminary plat, conservation subdivision at their meeting on March 11, 2008 and March 25, 2008 respectively.

The Board members reviewed the materials submitted, performed a site inspection of the property and discussed the application among them.

**The Conservation Board members voted unanimously to deny the Stevens Subdivision application as submitted (Plan #1 and Alternate Plan #2).**

**The C.B. recommends denial for the following reasons:**

- 1) Discrepancies to the FEAF:
  - The proposed stone wall is absent from the plan that exhibits the common driveway, but present in the other plan.
  - These plans do not reflect the existing stream that runs from the north into the existing wetlands.
  
- 2) The proposed negative impacts to the wetlands (streams, lakes) and wetland buffer areas as follows:
  - Plan #1 (extending the cul de sac) proposes to go through the two existing wetlands.

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**Old Business:**

**E) Stevens Subdivision-Draft Memo: (cont'd)**

- Alternate Plan #2 (common driveway) proposes crossing a stream and is predominantly located in the wetland buffer zone.
  - The proposed common driveway crosses the stream and remains in the wetland buffer zone while accessing 3 homes.
  - Further exacerbation of standing water in the area of the cul de sac with the potential for flooding when there is a strong rain event.
  - The proposed precedence-setting driveway crossing the North County Trailway.
  - These plans do not reflect the existing stream that runs from the north into the existing wetlands.
- 3) Removal of Existing Trees on the parcel:
- One hundred six trees (106) are scheduled to be removed.
  - Some of them specimen trees over 12" in diameter.
- 4) False, misleading or incorrect statements made by the applicant in the preparation of their FEAF – Overview as follows:
- Part I - Items A-1; A-13; A-16 (items A & B).
  - Part II - Items #3; #4; #6; #11; #13.

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**Old Business:**

**E) Stevens Subdivision-Draft Memo: (cont'd)**

- Part III - Evaluation of importance: “no impacts require discussion” (false).

Explanation:

Part I:

- |       |  |
|-------|--|
| #A-1  | Answered incorrectly; it does not identify that the area has forest and recreation uses (North County Trailway, etc.). |
| #A-13 | Answered incorrectly; it does not identify recreation uses (North County Trailway, etc.).                              |
| #A-16 | Answered incorrectly; both A & B are incorrect as there are wetlands (lakes, stream).                                  |

Part II:

- |    |  |
|----|--|
| #3 | Answered incorrectly; effect wetland/buffer whether protected-unprotected. We question whether or not the wetland is protected however it will effect them regardless. |
|----|--|

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**Old Business:**

**E) Stevens Subdivision-Draft Memo: (cont'd)**

Part II:

- #4 Answered incorrectly; effect wetland/buffer on site. It is not consistent with the wetland or wetland buffer impact on the site.
  
- #6 Answered incorrectly; alter water flow/drainage patterns. We question the accuracy of the applicant's response to this statement and refer it to Engineering, as we believe that it could alter the water flow and drainage patterns.
  
- #11 Answered incorrectly; effect esthetic resources. It should be 'yes' because there is a forest and there will be an impact on the Viewsheds of the North County Trailway, etc.
  
- #13 Answered incorrectly; effect quality/quantity of existing open spaces/recreational opportunities. It does not seem to be consistent with putting a road across the North County Trailway.

Part III:

In this section of the FEAF the document mentions evaluating the importance of impacts to the area.

The response from the applicant was that '*no impacts require discussion*'. The C.B. believes this statement to be false.

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**Old Business:**

**E) Stevens Subdivision-Draft Memo: (cont'd)**

Answered incorrectly/For example:

- The proposed plan goes through wetlands, the Trailway and a forest; we believe that this should require some discussion on the matter.
- 106 trees are proposed for removal (clear-cutting).
- There are many specimen trees located on this lot (over 12" in diameter).

\*\*

The Board members took no further action at this time.

**New Business:**

**A) Administrative Meetings/with Engineering Department/Discussion on how CB will attend these meetings/Also-No Administrative Meetings for Steep Slopes: (RD)**

The Conservation Board briefly discussed the administrative meetings with reference to steep slopes and the C.B. participation.

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**New Business:**

**A) Administrative Meetings/SSAP: (cont'd)**

As former Board member Arnold Guyot was present at the meeting and had also attended administrative meetings he was asked about whether or not steep slopes were reviewed at those meetings.

Mr. Guyot responded that to the best of his knowledge if there were steep slopes on the parcel then the administrative team discussed them too.

C.B. secretary Ms. Davis mentioned that she called the Planning office and was told by the secretary to the Town Engineer (Wendy Getting) that according to Town Code the Conservation Board does not review administrative steep slopes at the administrative meetings.

Chairman Meixner said that as far as he was aware they should still have to be reviewed by the Conservation Board, regardless of whether they are administrative or not.

A discussion ensued among the Board members and they decided to look further into this situation to determine the perimeters of the Conservation Board purview.

C.B. secretary Ms. Davis said that she would check with former Conservation Board member Christopher Foley, Esq. and ask him if he has any insight into this situation and then report back to the Board.

The Board members took no further action at this time.

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**New Business:**

- B)** Zorn/Wetland Activity Permit/administrative, Aerial Plan dated March 13, 2008, Section 17.08, Block 2, Lot 22, Prepared by Applicant, Other – NOV issued February 7, 2008, (#37 Deans Bridge Road/No. side, 20-ft. from Carolyn Way): (GR)

The Conservation Board reviewed the above administrative application for Zorn wetland activity permit, aerial plan at the meeting tonight.

Board member Gloria Rosenzweig informed the Board that she attended the administrative meeting with regards to the Zorn wetland activity permit application.

\*

Report:

- Board member Rosenzweig informed the Board that she attended the administrative meeting and discussed the wetland permit application for Zorn.
- Ms. Rosenzweig explained that the applicant constructed a small shed 18 x 10-ft. without a permit and it was located just inside the wetland buffer zone.
- The applicants applied for a wetland activity permit after the fact reported Gloria.
- She explained that there are no footings, etc. and it will have no commercial use, including cars, roadways, etc. She noted that the shed will be used to store lawnmowers, tools, a swing set and things of that nature.

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**New Business:**

**B) Zorn/WAP: (cont'd)**

- Ms. Rosenzweig informed the Board that during the course of the administrative review meeting it was decided that the applicant should be requested to provide more plantings of shrubs and trees to protect the integrity of the buffer area.

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After some discussion by the Board members it was decided that a memo should be sent to the Town Engineer.

\*

A memo (#08-18) will be sent to Town Engineer Gagne stating that the Conservation Board reviewed the above administrative application for Zorn wetland activity permit, aerial plan at their meeting on March 25, 2008.

The Board members reviewed the materials submitted, attended the administrative review meeting and discussed the application among them.

The C.B. has the following concerns and recommendations:

- 1) The applicant should be required to plant more shrubs and trees near the shed in order to protect the integrity of the wetland buffer zone.
- 2) Erosion control measures should be followed according to the recommendations of the Town Engineer.

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**New Business:**

**B) Zorn/WAP: (cont'd)**

The Board members took no further action at this time.

**C) Murphy/Wetland Activity Permit/administrative, Erosion & Sediment Control Application, Site Plan & SSTS Profile, Separate Sewage Treatment System dated December 14, 2007, Prepared by American Design Consultants, Existing House to be Renovated dated December 17, 2007, Prepared by Northern Westchester Civil Engineering, P.C., Section 38.09, Block 2, Lot 28, (#36 Frances Drive/Katonah, East side of Frances Dr. 400-ft. from Elmer Galloway): (GR)**

The Conservation Board members reviewed the above administrative application for Murphy wetland activity permit, erosion & sediment control application, site plan, SSTS profile at the meeting tonight.

The Board members reviewed the materials submitted and discussed the application among them.

The applicant is proposing a new septic system and an addition to the existing dwelling.

Chairman Gary Meixner discussed the old septic system and the possible reason for it needing to be updated to the new proposed septic system.

Board member Gloria Rosenzweig explained that she attended the administrative meeting with Assistant Town Engineer Steve Woelfle. She informed the Board that he described the proposed septic system as an improvement over what was there formerly.

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**New Business:**

**C) Murphy/WAP: (cont'd)**

Chairman Meixner mentioned that as long as the proposal meets the standards of Westchester County Board of Health and the Department of Environmental Protection then there should be no further concerns.

Chairman Meixner inquired about the house and asked if it was a ranch or cape.

Ms. Rosenzweig responded that she was not sure about the nature of the existing house, but she explained that the applicant is proposing to put a second floor on the house as well as an addition.

Mr. Guyot opined that he would like to bring to the attention of the home owner that the existing garage (when the original owner Jordan built the structure) the footings and the block itself were not level, everything was poured at an angle the footings were not square.

Mr. Arnold Guyot went on to say that the applicant appears to be going from a 3-bedroom house to a five-bedroom house, tripling the size of the house. There will be new footings poured. The applicant is bringing the proposed new septic away from the wetland buffer zone and expanding it to handle two additional bedrooms.

Mr. Guyot explained that he attended the C.B. meeting tonight to determine whether or not there would be an impact to the neighbors (#38 Frances Drive), mentioning that they had asked him to represent them at the meeting. He noted that their house is located directly north of the Murphy property, abutting the parcel in question. As it stands right now, he said that it appears to be an improvement and there are no concerns whatsoever.

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**New Business:**

**C) Murphy/WAP: (cont'd)**

Chairman Meixner explained to the Board that the parcels in that area are all 2-acre zoning.

Dr. Lapetina inquired about clarification of the location of the proposed parcel.

Chairman Meixner informed him that it is near Billingsley Estates, one would travel up the hill then down and make the first right and the parcel is on the left.

Mr. Guyot said that the applicant's house is the second house on the left, a white house with black shutters. While giving directions he said that one would have to take Elmer Galloway to Frances Drive.

The Board members discussed the application among them and decided to write a memo to the Town Engineer.

\*

A memo (#08-17) will be sent to Town Engineer Gagne stating that the Conservation Board reviewed the above administrative application for Murphy wetland activity permit, erosion & sediment control application, site plan & SSTS profile at their meeting on March 25, 2008.

The Board members reviewed the materials submitted, attended the administrative review meeting and discussed the application among them.

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**New Business:**

**C) Murphy/WAP: (cont'd)**

The C.B. has the following concerns and recommendations:

- 1) The Board members agreed that as long as the applicant meets the standards of the Westchester County Board of Health and the New York City DEP, they have no other environmental concerns with the proposed plans as submitted.

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The Board members took no further action at this time.

**D) Stonewall Builders/Lot Line Change/Planning Board, Lot Line Adjustment Plan dated July 30, 2007, revised March 11, 2008, Prepared by Bibbo Associates, LLP; Wetland Buffer Planting Plan dated March 3, 2008, Prepared by Pouder Design Group, (Cottage Place, Intersection Stonewall Drive): (GR)**

The Conservation Board reviewed the above Planning Board application for Stonewall Builders lot line change, lot line adjustment, wetland buffer planting plan at the meeting tonight.

Board member Gloria Rosenzweig reviewed the materials submitted, attended the administrative review meeting and gave a verbal report to the Board.

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**New Business:**

**D) Stonewall Builders/Lot Line: (cont'd)**

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Report:

- Ms. Rosenzweig informed the Board members that she attended the administrative review meeting and they discussed this application at that time.
- She explained that the applicants requested a (minor) lot line change encompassing several feet in order to meet proper code requirements.
- The applicants are in the middle of constructing 3 houses (one existing) when they discovered that one parcel did not comply with Town Code.
- The applicants are also proposing new plantings for the parcel.

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After discussion on the matter the Board members decided to write a memo to the Town Engineer stating the fact that they have no environmental concerns with the plan as submitted.

\*

A memo (#08-19) will be sent to Town Engineer Gagne stating that the Conservation Board reviewed the above Planning Board application for Stonewall Builders at their meeting on March 25, 2008.

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**New Business:**

**D) Stonewall Builders/Lot Line: (cont'd)**

The Board members reviewed the materials submitted, attended the administrative review meeting and discussed the application among them.

The C.B. has the following concerns and recommendations:

- 1) The Board members have no environmental concerns with the proposed lot line change on the plans submitted.

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The Board members took no further action at this time.

- E) Meichner Subdivision/Construction Plan & Integrated Plot Plan, Profiles & Details, Tree Plan & 30-Scale Construction Plan, Smith Road Improvement Plan dated August 23, 2007, revised March 14, 2008, Prepared by Bibbo Associates, LLP, Other- Revised Maintenance Agreement, (Warren Street to Smith Lane): (FL/GM)**  
The Conservation Board will review the above Planning Board application for Meichner Subdivision, construction plan and integrated plot plan, profile & details and tree plan at the next meeting.

Board member Dr. Frank Lapetina and Chairman Gary Meixner will review the materials submitted, perform a site inspection of the property and give a report to the Board.

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**New Business:**

**E)** Meichner Subdivision: (cont'd)

A report will be forthcoming at the next Conservation Board meeting.

**F)** Granite Springs Realty, LLC/Site Plan/Planning Board, Lead Agency Designation/PB, Final EAF, Existing Conditions Plan, Erosion Control Plan, Landscaping & Lighting Plan, Details, dated February 13, 2008, Prepared by Bibbo Associates, LLP, (Tomahawk Street): (GR)

The Conservation Board will review the above Planning Board application for Granite Springs Realty, LLC site plan, final EAF, erosion control plan and landscaping plan at their next meeting.

Board member Gloria Rosenzweig will review the materials submitted, perform a site inspection of the property and give a report to the Board.

A report will be forthcoming at the next Conservation Board meeting.

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There being no further business to discuss, a motion to adjourn was made at 9:45 PM by Board member Gloria Rosenzweig and seconded by Board member Dr. Frank Lapetina. All members present approved.

The next regular meeting of the Conservation Board will be held at the Town House on April 8, 2008 at 7:30 PM.

Subsequent Conservation Board meetings are tentatively scheduled to be held at the Town House on April 22, 2008 and May 13, 2008 respectively.

Respectfully submitted,

Rosetta Davis  
Secretary  
Conservation Board

Cc: Town Board  
Town Clerk  
Town Engineer  
Town Planner  
Planning Board  
Zoning Board  
Open Space Committee  
Architectural Review Advisory Board  
Landmark Committee