

**CONSERVATION BOARD
MINUTES OF MEETING
APRIL 8, 2008**

The April 8, 2008 regular meeting of the Conservation Board was called to order by Chairman Gary Meixner.

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

Absent: Dr. Edward Merker

Guests: None

Announcements:

The Town Board will be appointing a new Conservation Board member, Mr. Charles P. Friedberg before the next C.B. meeting on April 22nd.

Conservation Board member Gloria Rosenzweig informed the C.B. secretary that she would be late to the meeting tonight.

Conservation Board member Dr. Edward Merker phoned before the meeting and said that he would not be able to attend the meeting tonight.

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Approval of Minutes:

A motion was made by Dr. Frank Lapetina and seconded by Chairman Gary Meixner to approve the minutes of the March 25, 2008 regular meeting of the Conservation Board. All members present approved.

Old Business:

A) 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)

B) 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/EM)

The Conservation Board tabled review of the above Planning Board applications for Somers Realty Planned Hamlet regarding the stormwater pollutant loading analysis at the meeting.

The Board members had decided at a previous meeting that they would like to conduct a further review of this matter. Chairman Meixner asked Dr. Edward Merker to review the information provided keeping in mind the purview of the Conservation Board and give a report at the next meeting.

As Dr. Merker was not present at the meeting tonight for further discussion on this matter, the item was tabled.

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

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Old Business:

C) Conservation Board Reappointments to Board and one new Board member appointed, Mr. Charles P. Friedberg/Update C.B. Membership List:

Supervisor Murphy prior to the meeting informed the Conservation Board secretary Ms. Davis that the Town Board was appointing a new C.B. member named Charles P. Friedberg.

Board member Dr. Edward Merker asked C.B. secretary Ms. Davis to prepare an updated Membership List for distribution to the Board members.

Board member Dr. Frank Lapetina informed the Board that he was waiting for the paperwork from the Town Clerk that would reflect his reappointment.

Board member Gloria Rosenzweig is also waiting for the paperwork from the Town Clerk that would reflect her reappointment.

C.B. secretary Ms. Davis reported that she had spoken to Town Clerk Pacella and the paperwork was forthcoming and would be available before the next meeting of the Conservation Board.

The Board members took no further action at this time.

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Old Business:

D) Administrative Meetings/with Planning Board/Discuss how Conservation Board will attend these meetings/Also-No Administrative Meetings for Steep Slopes/email from Christopher Foley:

The Conservation Board discussed the administrative review meetings involving administrative applications and the review team, which includes a Conservation Board member, Town Engineer Gagne, Assistant Engineer Woelfle, Building Inspector Citarella, etc.

A discussion ensued among the Board members with reference to the administrative meetings and the Conservation Board input as well as C.B. attendance at these meetings.

Formerly Mr. Arnold Guyot usually had the time to attend these meetings at the Town House with the Town Engineer and the team members. As Mr. Guyot is no longer a member of the Board the Conservation Board would need a replacement for that responsibility as soon as possible (as administrative applications come up all of the time and are usually expedited within two weeks).

Dr. Frank Lapetina informed the Board that he would be available to attend the administrative meetings as necessary (as long as he is in town), mentioning that Ms. Davis or the Planning office could just give him a call.

Chairman Meixner explained that it would be a good idea if Dr. Lapetina could attend the administrative meetings as needed. He also made note that in the event Dr. Lapetina could not attend the administrative meetings then Board member Gloria Rosenzweig would be the C.B. representative to go in his place.

A discussion ensued among the Board members with reference to administrative steep slope applications review at the administrative review teams meetings and the Conservation Board participation.

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Old Business:

D) Administrative Meetings: (cont'd)

Dr. Lapetina informed the Board members that he spoke to Town Engineer Gagne with reference to this subject matter and was informed that the administrative steep slopes were not in the purview of the C.B. according to the Town Code.

Dr. Lapetina specified that according to the Town Engineer the steep slopes would have to exceed 25% in order to be reviewed by the C.B. (and that would make them a Planning Board application - not administrative, as administrative involves slopes from 15 - 25%).

Dr. Lapetina advised the Board members that Mr. Gagne mentioned that if there was an application for administrative steep slopes and the team was having a meeting then they would in all probability review the administrative steep slope application as well.

However, Dr. Lapetina noted that Town Engineer Gagne said that there would not be a special meeting (administrative review team) called just for a review of an administrative steep slope application. He went on to say that according to the Town Code only administrative wetland applications are the purview of the Conservation Board and they would be called to an administrative review team meeting in order to review those applications only.

C.B. secretary, Ms. Davis informed the Board that she had emailed former Board member Chris Foley, Esq. (copied in the CB packet) about this situation and he responded by email in the following manner:

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Old Business:

D) Administrative Meetings: (cont'd)

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Code section 11-4(H) dictates that the Conservation Board reports its recommendations on certain applications.

Among the applications listed are: wetland permits within the jurisdiction of the Planning Board, and steep slope disturbance permits within the jurisdiction of the Planning Board.

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Mr. Foley noted that this suggests that, technically, where the C.B. is just dealing with a permit application (and not a site plan application), the C.B. is not supposed to be involved unless the Planning Board is involved.

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After some discussion on administrative applications involving steep slopes of 15 - 25% the Board members decided to write a memo to the Town Board requesting some clarity on this matter.

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A memo (#08-20) will be sent to the Town Board stating that the Conservation Board reviewed the above matter with reference to the Town Code and discussed the law at their recent meeting on April 8, 2008.

It has come to the attention of the Conservation Board that they are not an involved agency with regards to administrative steep slope reviews (slopes 15 to 25%). The C.B. is only involved in administrative wetland applications.

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Old Business:

D) Administrative Meetings: (cont'd)

After some discussion on the matter, the Board members decided that they would like the Town Board to clarify what is to be reviewed by the Board with reference to administrative review team meetings and administrative steep slope applications.

The C.B. has the following questions:

- 1) Please advise, as steep slopes are one of the Boards primary charges to review, what is the motivation and rationale behind not having the Conservation Board involved in administrative (15 – 25%) steep slope reviews?

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The Board members took no further action at this time.

- E) Meichner Subdivision/Site Plan/Planning Board, 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 reviewed the above Planning Board application for Meichner subdivision, construction plan, integrated plot plan, and tree plan at their meeting.

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Old Business:

E) Meichner Subdivision: (cont'd)

Board member Dr. Frank Lapetina reviewed the materials submitted, performed a site inspection of the property and discussed the application with Town Engineer Gagne and Assistant Engineer Woelfle.

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Report:

- Dr. Lapetina informed the Board that he spoke to Town Engineer Gagne and Assistant Engineer Steve Woelfle.
- Dr. Lapetina informed Mr. Gagne and Woelfle that the C.B. would like some clarification on this application (as the plan is confusing).
- The applicants are removing a large number of trees and they did not indicate on the plan which trees are slated for removal.
- The applicants also do not indicate where the new trees will be planted.
- There is a 26" caliper Oak tree whose root system is located under the proposed stone retaining wall (5-ft. high). How will this tree be preserved when its root system will be impacted?
- How can the applicant propose to protect huge trees with enormous root systems? They will not be protected by the installation of a stone retaining wall that will destroy their root system.

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Old Business:

E) Meichner Subdivision: (cont'd)

- The applicants are removing trees in the area of the steep slopes (44 trees in all). They fail to explain which trees are going to be removed.
- There are some large trees near the proposed septic line area as well as the proposed stone wall.
- There are also large trees along the roadway. How will they be protected?
- As most of these trees are over 18" and specimen trees the C.B. is concerned, as they will all be endangered.
- The Board would appreciate a tree plan that shows which trees are being removed, where new trees are being planted and what kind of trees are being planted.
- Dr. Lapetina noted that the plans have to be clarified as to what is staying and what is being removed. He went on to say that the Town Engineer agreed that the plans should be clarified.
- There should not be any activity below the drip line of the trees to be preserved. The root systems of these trees actually extend out further than the drip line (approximately 4-ft.).
- The applicant should also clarify the location of the expansion area for the septic system and where it is being proposed.

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Old Business:

E) Meichner Subdivision: (cont'd)

- Dr. Lapetina advised the Board that the applicant appears to have an extreme steep slope right outside his front door, which is potentially dangerous.

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Chairman Gary Meixner asked Dr. Lapetina if the Town Engineer agreed with his findings and concerns and he responded affirmatively.

Chairman Meixner went on to discuss the environmental easement and the fact that the driveway originally impacted this easement. He further explained that due to the septic constraints there would be an excessive number of trees that will be clear-cut.

The Conservation Board discussed the application before them and decided to write a memo to the Planning Board stating their concerns and recommendations.

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A memo (#08-21) will be sent to the Planning Board stating that the Conservation Board reviewed the above Planning Board application for Meichner Subdivision, construction plan & integrated plot plan and tree plan at their meeting on April 8, 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:

E) Meichner Subdivision: (cont'd)

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

- 1) The applicant should label which trees are to be removed and which will remain and there should be a notation in the legend.
 - The applicant should note where proposed trees will be planted and their respective names.
 - As most trees are over 18" the Board is concerned about the large number of these specimen trees being removed from the site.
 - Trees are being removed in the steep slopes (44 trees). Label the trees being removed.

- 2) There are some large trees near the proposed septic line as well as the proposed stone wall. Will they be preserved? If so, how?

- 3) The applicant should clarify the location (on the plan) of the septic expansion area and where it is being proposed.
 - Will the trees that are located in this area be removed?

- 4) The large specimen Oak tree (26") by the proposed stone retaining wall needs to be protected.
 - The current configuration as depicted will not protect a tree that size.

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Old Business:

E) Meichner Subdivision: (cont'd)

- 5) Also, there are large trees bordering the roadway. How will they be protected?

- 6) The applicant should be made aware that there should be no activity below the drip line of the trees to be preserved. The root system actually extends out further by approximately 4-ft. and should be protected.

- 7) Once all is said and done with regards to the removal and planting of trees, what will be the net decrease in trees on the property?

The Conservation Board will continue to review this subdivision for Meichner as revisions are submitted.

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The Board members took no further action at this time.

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Old Business:

- 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 briefly reviewed the above Planning Board application for Granite Springs Realty, LLC, site plan at their meeting.

Board member Gloria Rosenzweig discussed the application with the Board and mentioned that she was only aware of a change in the configuration of the parking lot. She mentioned that the C.B. asked for the planting of more trees prior to now.

Ms. Rosenzweig explained that she would like some additional time to look into whether or not there had been any other revisions to the plan. She noted that originally it was reviewed with former Board member Mr. Guyot and she might like to have a meeting with him for clarification.

Gloria requested that Ms. Davis retrieve the plan prior to this one in the Conservation Board files so that she may review them together.

Ms. Rosenzweig advised the Board that she would be calling the Planning office and speaking with the Assistant Engineer Woelfle regarding the proposed revisions to the plan.

Discussion ensued among the Board members with reference to this application and the parking lot, septic location. They recommended additional tree plantings and Gloria mentioned the concern over the parking lot having to be crossed by the children in order for them to go to the play area.

The Board tabled this item.

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Old Business:

F) Granite Springs Realty, LLC: (cont'd)

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

New Business:

A) Ciraolo Subdivision/Site Plan/Planning Board, Preliminary Subdivision, 2-Lot Subdivision, Erosion Control Plan dated June 30, 2005, revised March 7, 2008, Section 4.19, Block 2, Lot 1, Prepared by Architectural Visions, PLLC, (#5 County Line Drive, off Mahopac Avenue):

The Conservation Board briefly discussed the above Planning Board application for Ciraolo subdivision, site plan, and preliminary subdivision and erosion control plan at their meeting.

Chairman Meixner and Dr. Lapetina performed a preliminary review of the plans at the meeting.

Chairman Meixner noted that the proposed parcel is located near Windsor Road off Rte. 6; explaining that Mahopac Avenue crosses Rte. 6 and the site is located on the other side.

Chairman Meixner described the location as a flag lot with an entranceway approximately 30-ft. wide and 300-ft. long.

Dr. Lapetina asked for the explanation of a flag lot and Chairman Meixner accommodated him by saying that it does not have the required frontage on the main road and in order to be constructed it would need a Zoning Board permit, as it is non-conforming. Also, he said that the parcel happens to be shaped like a flag.

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New Business:

A) Ciraolo Subdivision: (cont'd)

Dr. Lapetina read from a letter to the Planning Board dated February 19, 2008 from the attorneys for the applicant (Curtiss, Leibell, Herodes & Mole, PC):

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“ . . . As your Board is aware, Mr. Ciraolo proposes a standard two lot subdivision with each lot having frontage on County Line Road and each lot having its own driveway off of that frontage. The lot areas and the existing and proposed setbacks to the houses conform to all the requirements of the R-80 district. However, variances are needed for road frontage, since both proposed lots will not have the required 200-ft. of frontage along County Line Road. Accordingly, this application requires the aforementioned relief from the Zoning Board of Appeals of the Town of Somers (“ZBA”) in order to proceed with your Planning Board as proposed.”

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Chairman Meixner read from the same letter stating the following:

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“ . . . In subsequent letters, your Attorney urged my client to submit the alternative plan previously required by your Board, although he cited no provision of Town Law or your Town Code which would require such a submission. It is merely stated that it should be submitted because the Planning Board wanted to have it submitted.”

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New Business:

A) Ciraolo Subdivision: (cont'd)

“ . . . Your Town Planner forwarded a letter dated January 23, 2008 in which it is stated that in order to have this matter restored to the Planning Board agenda for purposes of receiving a recommendation and referral to the ZBA, my client had to submit a plan addressing the June 21, 2006 comments. My client submits such plan, which is enclosed herewith. Accordingly, please place this matter on the next available Planning Board agenda for purposes of making a recommendation and referral to the ZBA for the required frontage variances.”

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Discussion ensued among the Board members with regards to this application and the reference that was made for a proposed town road and cul de sac.

Chairman Meixner read from a letter dated October 17, 2007 from the Town Planner to Mr. Joel Greenberg stating the following:

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“ . . .the Planning Board directed you to submit a conventional plan (demonstrating use of a Town Road) and associated information to ensure that the above referenced project conforms with Chapter 150-12 and 150-20 of the Code of the Town of Somers. . . the Town Code requires that all applicants demonstrate that all subdivisions of land meet the minimum requirements of the Town Code. Once you have demonstrated that this subdivision can be achieved through a conventional plan, you may be able to discuss alternative plans with the Planning Board.”

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New Business:

A) Ciraolo Subdivision: (cont'd)

Chairman Meixner read from a letter dated October 12, 2007 to the Planning Board from the applicant's attorney stating the following:

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“ . . . After reviewing the above possibilities, Mr. Ciraolo has decided to propose a standard two-lot subdivision with each lot having frontage on County Line Road and each lot having its own driveway off that frontage. The lot areas and the existing and proposed setbacks to the houses conform to all the requirements of the R-80 Zone. The only exception is that variances are needed for road frontage, since both lots will not have the required 200-ft. along County Line Road.”

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Board member Dr. Frank Lapetina said that it looks like the road in question, County Line Drive is in Putnam County. Chairman Meixner agreed, but noted that the property is located in Somers and the applicant has to abide by our laws.

Board member Gloria Rosenzweig asked about this application and the nature of what the applicant's are trying to do.

Chairman Meixner explained the situation to her briefly and Dr. Lapetina discussed the nearby wetlands, etc. and explained that the application would not impact the steep slopes.

Ms. Rosenzweig had a difference of opinion on the location of the lot and the Board members discussed location of the parcel.

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New Business:

A) Ciraolo Subdivision: (cont'd)

Discussion ensued among the Board members with reference to conforming and non-conforming and this parcel.

Chairman Meixner said that the applicant's are proposing to make this property even more non-conforming then it already is at the present time.

Dr. Lapetina mentioned that he thought the applicant had the required frontage after looking at the plans.

Chairman Meixner explained to Dr. Lapetina that the applicant does not have 200-ft. of road frontage. The County Line Road ends before the proposed driveways.

At the Board's request the C.B. secretary Ms. Davis read from Town Attorney Baroni's letter dated January 28, 2008 as follows:

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"The point I attempted to make in my prior letter (and I apologize if it was not clear) is that your client needs a recommendation from the Planning Board in order for the Zoning Board to be able to take action on your client's proposed application for a variance. I am sure your client hopes that recommendation will be positive, and the Planning Board, in furtherance of that review, has requested a plan showing an alternative so that it can compare the pluses and minuses of each.

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New Business:

A) Ciraolo Subdivision: (cont'd)

It is a perfectly reasonable approach by the Planning Board in carrying out its planning review function, and I again urge you to have your client move forward in positive fashion.”

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Dr. Lapetina was wondering what the Conservation Board should do next as there seems to be a legal issue holding up everything. He noted that in this submittal as a preliminary plan there does not seem to be any issue with regards to wetlands, steep slopes, etc. or the purview of the Conservation Board.

Chairman Meixner mentioned that it is a new application before the Conservation Board and it probably should be walked just to ensure that the information provided herewith is accurate. He then volunteered to walk the property.

Dr. Lapetina directed Chairman Meixner to call him if he cannot do the walk and he would try to fit it into his schedule.

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

The Board members took no further action at this time.

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New Business:

- B)** Environmental Leaders Learning Alliance/ELLA/Workshop on Saturday April 12, 2008 between 8:30AM—12:30PM, Limit 60 people/Venue- Teatown Lake Reservation/Theme-*Vernal Pools, Identification, Assessment & Conservation*, (see sheet in packet):

The Conservation Board members are aware of the above subject workshop and several of the members are going to try to attend.

Dr. Merker had informed the Board previously that he would be attending the workshop and report back to the Board at the following meeting.

The Board took no further action at this time.

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 22, 2008 at 7:30 PM.

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Subsequent Conservation Board meetings are tentatively scheduled to be held at the Town House on May 13, 2008 and May 27, 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