

**TOWN OF SOMERS
CONSERVATION BOARD
MINUTES OF MEETING
DECEMBER 8, 2009**

The December 8, 2009 regular meeting of the Conservation Board was called to order by Chairman Gary Meixner.

Attendance: Charles Friedberg, Shoshana Hantman, Dr. Frank Lapetina,
James Moriarty, Gary Meixner

Absent: Dr. Edward Merker, Gloria Rosenzweig

Guests: None

Announcements:

Board member Gloria Rosenzweig emailed the C.B. Secretary to inform her that she would be late for the meeting.

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Announcements:

Board member Dr. Edward Merker emailed the C.B. Secretary to inform her that he would not be able to attend the meeting.

Approval of Minutes:

C.B. Secretary Ms. Davis requested that the minutes of the November 24, 2009 regular meeting of the Conservation Board be tabled until the next meeting. The Board members present approved.

The Board members took no further action at this time.

Old Business:

- A)** Planning Board/Site Walk scheduled for November 21, 2009 at 10 AM, walkers to meet at the Towne Centre site at 10 AM, Omnipoint Communications/325 Rte. 100/TM: 17.15-1-13/Application by Omnipoint Communications for an Amended Site Plan application, Special Exception Use Permit for activity within the Groundwater Protection Overlay District; a Wetland Permit for the installation of a wireless telecommunications facility, (disguised as a flagpole, together with related equipment), (off Rte. 100 at the Towne Centre): (SH)
The Conservation Board reviewed the above Planning Board site walk at for Omnipoint Communications at the Towne Centre site at the meeting.

Board member Shoshana Hantman reviewed the materials submitted, attended the site walk and gave a report to the Board.

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Old Business:

A) Planning Board/Site Walk:

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Report:

- The cell tower is proposed to be located at the Towne Centre in Somers in the rear area of the parking lot.
- Ms. Hantman explained to the Board members that the applicant was trying to demonstrate that from any angle the cell tower would be camouflaged.
- She went on to say that the applicant was painting the pole different colors in order to show some proof to the Planning Board that the cell tower would not be visible to the public.
- Ms. Hantman noted that it was impossible to camouflage such a projectile as it would always be seen from the road and visible to the public from any direction, no matter what color they would like to paint the tower.
- Board member Hantman continued her report stating that Sherwin Williams manufactured the paint the applicant was intending to use for painting the cell tower pole.

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Old Business:

A) Planning Board/Site Walk:

- Ms. Hantman advised the Board that the proposed battery is called a gel battery. She further noted that it would be contained within a sealed container and according to the applicant would have no form of leakage from use.

C.B. Secretary Ms. Davis inquired about whether or not the Planning Board made any decision out in the field.

Board member Hantman responded that she did not stay on site after her review, so she is not aware of any possible decision made by the Planning Board and the applicant.

Discussion ensued among the Board members with reference to the proposed construction of the cell tower.

After some discussion on the matter the Board members decided to take no further action at this time.

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Old Business:

- B)** Wright's Court/Site Plan/Planning Board; Landscape Plan revised November 9, 2009, Prepared by Rosedale Nurseries, Inc., (Scott Drive/off Rte. 100/202): (GM)
The Conservation Board reviewed the above Planning Board for Wright's Court site plan, landscape plan at their meeting.

C.B. Secretary Ms. Davis explained to the Board members that the Planning office told her today that the Planning Board had approved this application.

Chairman Gary Meixner noted that if the Planning Board approved the application, then the Conservation Board has no further comments on this application at this time.

The Board members took no further action at this time.

- C)** Iervolino/Steep Slopes Alteration Permit Application/Planning Board; Partial Topographic Survey of Property dated March 22, 1999, revised September 26, 2009/Sheet G1 of G1; Plan Section A-A, B-B, C-C; Construction of pool and retaining wall; Section 27.1.17, Block 1, Lot 21, Other- Custom Soil Resource Report; Soil Testing Inc.; Slope Drawing 1, 2, 3; Prepared by Terry Bergendorff Collins, (East side/#9 Farese Way/650-ft. from Watergate Drive): (JM)
The Conservation Board reviewed the above Planning Board application for Iervolino, steep slopes alteration permit at their meeting.

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Old Business:

C) Iervolino/SSAP:

Board member James Moriarty reviewed the materials submitted, performed a site inspection of the property and gave a report to the Board.

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Report:

- The location of the application is #9 Farese Way on the East side, approximately 650-ft. from Watergate Drive.
- Mr. Moriarty explained to the Board that the applicant wants to install a pool behind their house. The plans show a slope of greater than 25% for the location of the proposed pool.
- He went on to say that the reservoir is behind the house and there is a straight drop (25%) down to the water.
- Board member Moriarty noted that the proposed retaining wall is going to be located 40-ft. below the grading of the basement.

Dr. Lapetina inquired about the exact location of the property.

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Old Business:

C) Iervolino/SSAP:

Mr. Moriarty responded that the parcel is located off Watergate Street on Farese Way.

Chairman Meixner explained that it is off Tomahawk Avenue.

- Board member Moriarty explained that the permit does not show the retaining wall and the EAF does not reflect that they are constructing a wall. He went on to say that the pool would have to be bordered on the sides by a retaining wall.
- Mr. Moriarty informed the Board that the estimated cost for this project is \$400,000.00 and mentioned that it will be a very involved project as the slope is greater than 25% throughout.

Board member Friedberg asked about the C.B. comments.

Board member Moriarty briefly recapped the items that should be mentioned in the memo to the Planning Board.

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

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Old Business:

C) Iervolino/SSAP:

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A memo (#09-44) will be sent to the Planning Board stating that the Conservation Board reviewed the above Planning Board application for Iervolino steep slope alteration permit, at their meeting on December 8, 2009.

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 permit does not show the location of the retaining wall.
 - The structure (retaining wall) is not shown on the short EAF.
 - Both the permit and EAF should show the proposed retaining wall.

- 2) The retaining wall is situated 40-ft. below the grading of the basement.
 - The retaining wall is proposed to be located on the sides of the proposed pool.

- 3) The entire steep slope for the proposed construction is greater than 25% throughout.

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Old Business:

C) Iervolino/SSAP:

- 4) The area/location for the proposed pool will flow directly into the Reservoir below.

The Conservation Board will continue to review the above application for Iervolino steep slope alteration permit as revisions are submitted.

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The Board members took no further action at this time.

**D) Homeland Towers LLC/New Cingular Wireless PCS LLC (AT&T), Special Use and Area Variances Application/Notice of SEQRA Action, Zoning Board of Appeals, Intent to Act as Lead Agency, (#121 Rte./100/Amato):
(JM)**

The Conservation Board reviewed the above Planning Board Application for Homeland Towers LLC, New Cingular Wireless PCS, LLC (AT&T) special use and area variance application at their meeting.

Board member James Moriarty reviewed the materials submitted, performed a site inspection of the property and gave a report to the Board.

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Old Business:

D) Homeland Towers:

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Report:

- The proposed location of the project is #121 Rte. 100/Amato property.
- On Section A, #11 of the EAF the applicants answered “No” for the question of whether or not there is a threatened or endangered species of plant or animal life. This statement needs to be qualified, as they did not fill in the section as to who made this decision; they left that area blank.
- On Section A, #19 the applicant spelled the word sanctuary wrong. This should be corrected.

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After some discussion on the matter the Board members decided to send a memo to the Zoning Board stating their concerns/corrections for the record.

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A memo (#09-45) will be sent to the Zoning Board stating that the Conservation Board reviewed the above Planning Board application for Homeland Towers LLC, New Cingular Wireless PCS LLC (AT&T) special exception use and area variances application at their meeting on December 8, 2009.

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Old Business:

D) Homeland Towers:

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) On Section A, #11 of the EAF the applicants answered “No” for the question of whether or not there is a threatened or endangered species of plant or animal life.
 - This statement needs to be qualified, as they did not fill in the section as to who made this decision; they left that area blank.

- 2) On Section A, #19 the applicant spelled the word sanctuary wrong.
 - The applicant should correct this error.

The Conservation Board will continue to review the application for Homeland Towers LLC as revisions are submitted.

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The Board members took no further action at this time.

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Old Business:

- E)** Homeland Towers LLC/Wireless Telecommunications Facility/Request for Designation of Lead Agency/Somers Planning Board vs. Somers ZBA/Information sent to DEC and dated November 19, 2009, (#121/Rte. 100/Amato): (FL)

The Conservation Board reviewed the above application for Homeland Towers LLC, Wireless Telecommunications Facility, and request for designation of lead agency at their meeting tonight.

Board member Dr. Frank Lapetina reviewed the materials submitted and gave a report to the Board.

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Report:

- Dr. Lapetina informed the Board members that it appears that there is a difference of opinion between the Planning Board and the Zoning Board regarding who should be lead agency.
- Board member Lapetina noted that both Boards have some authority in this kind of situation.
- The Zoning Board of Appeals has the power to issue a SEUP, Special Exception Use Permit. They want to be lead agency in this matter. The Town Code provides some information in this matter, located under Code #170.129.

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Old Business:

E) Homeland Towers, LLC:

- The Town Planner is addressing this issue in this document provided said Board member Lapetina. Her position is that the standards and elements are limited in scope for the ZBA. She believes that the Planning Board has authority that is broader in scope, i.e. Site Plan approval; Plan review; Environmental factors that they have to deal with and moreover the SEUP cannot exist without an approved Site Plan. Town Planner Hull's position is that the Planning Board should be lead agency.
- Dr. Lapetina was asked the location of the application and he responded #121 Rte. 100.

Chairman Meixner noted that the location is at Amato's farm on Rte. 100.

- Dr. Lapetina went on to say that the Town Planner said that by definition it is an essential function of the Zoning Board of Appeals is to grant variances.
- Board member Lapetina said that the Town Planner wrote this memo to Betty Hughs, chief of SEQRA to convince her that the Planning Board should be lead agency. Item "D" on this agenda is the ZBA's letter on why they should be lead agency.

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Old Business:

E) Homeland Towers LLC:

- Dr. Lapetina said that this is an issue concerning the Zoning Board of Appeals and the Planning Board. He recommended that there be no action taken on the matter with regards to this situation and the Conservation Board.

C.B. Secretary Ms. Davis noted that the paperwork was probably forwarded for informational purposes only.

Dr. Lapetina agreed that it was for informational purposes only.

Chairman Meixner said that the location of this structure should be changed and moved away from the homes in the area. He noted that the applicant is planning to put this structure back in the woods on Amato's property, which happens to be near homes on the other side of the woods. He thought that the site should be changed and moved further away from the homes in that area (behind Amato's).

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

The Board members took no further action at this time.

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New Business:

- A)** Opengate/Campus Site Plan/Planning Board/Parking Lot Extension, Sheet 17.06, Block 1, Lot 3; Long form EAF-Part 1; MP-1 Site Plan dated 11-24-09; SP-1 – Parking Lot Extension/SP/ revised 11-24-09; Supplemental Narrative for NYSDEC Chapter 10/Enhanced; Phosphorus Removal Standards dated 11-24-09; National Asphalt Pavement Association Information Series 131 – Porous Asphalt Pavements for Stormwater Management dated 11/08, (#28 Warren Street/off Rte. 202):
(FL)

The Conservation Board will review the above Planning Board application for Opengate Campus site plan, parking lot extension at their next meeting.

Board member Dr. Frank Lapetina 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.

- B)** Franzese/Wetland Activity Permit Application/Planning Board, Foundation Plan; Garage-Basement Plan, First Floor Plan dated August 31, 2009, Prepared by Joseph P. Paiva, Architect, PC; Site Plan & Erosion Control Notes & Details dated November 12, 2009, Section 17.12, Block 2, Lot 36, Prepared by Donald R. Knapp, PE Consulting Engineer, (#37 Rte. 116/Purdys): (JM)

The Conservation Board will review the above Planning Board application for Franzese wetland activity permit, foundation plan, garage-basement plan, first floor plan at their next meeting.

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New Business:

B) Francese/WAP:

Board member James Moriarty 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.

C) The Mews @ Baldwin Place/Somers Realty Planned Hamlet, Site Plan dated November 30, 2009; Full EAF; SP-1/Existing Conditions Plan dated 9-23-09; SP-2/Layout & Landscape Plan; SP-3/Grading & Utilities Plan; SP-4/Sediment & Erosion Control Plan; SP-5/Constraints & Soils Plan; LP-1/Lighting Plan; D-1/Details; D-2/Details; D-3/Details; Stormwater Pollution Prevention Plan; Senior Affordable Housing Component of PH, dated November 30, 2009, Prepared by Insite Engineering, (Baldwin Place/after Somers Commons): (GM/EM)

The Conservation Board will review the above Planning Board application for the Mews at Baldwin Place, Somers Realty Planned Hamlet, site plan at their next meeting.

Chairman Meixner and Board member Dr. Edward Merker 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:

C) The Mews @ Baldwin Place:

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

D) Somers Realty Planned Hamlet/Preliminary Subdivision Application; Preliminary Subdivision Plat/Planning Board, dated July 31, 2009 revised November 20, 2009, Section 1 – PH Zone; Road Construction Plan dated 8-7-09; Sediment-Erosion Control Plan dated 12-1-09; Road Profile dated 11-4-09; Road A & Drainage Profiles dated 12-1-09; Road Construction Details S-1/2; Stormwater Pollution Prevention Plan dated 12-1-09, Prepared by Keane Coppelman Engineers, PC, (Rte. 6, Baldwin Place/after Somers Commons): (Del-GR)

The Conservation Board will review the above Planning Board application for Somers Realty Planned Hamlet, preliminary subdivision application and plat at their next meeting.

Chairman Meixner asked C.B. Secretary Ms. Davis to deliver this application to Board member Gloria Rosenzweig for her review.

Board member Gloria Rosenzweig will review the materials submitted and give a report to the Board.

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

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New Business:

- E)** Zoning Board/Site Walk and Balloon Test for 121 Rte. 100; BZ04A/09 Section 38.17-1-5; Alternate Site – Billingsley Property, 95 Rte. 100, Katonah; scheduled for Saturday 12-12-09 between 9am and 1pm; inclement weather dates – Sunday 12-13-09; Saturday 12-19-09; Sunday 12-20-09; open site walk/any questions call Teresa @ 277-5582: (CF)
The Conservation Board will review the above Zoning Board site walk, balloon test for 121 Rte. 100 at their next meeting.

Board member Charles Friedberg will review the materials submitted and attend the site walk scheduled by the Zoning Board and give a report to the Board.

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

- F)** Zoning Board/Site Walk and Balloon Test for 2580 Rte. 35; BZ11A/09 Section 37.13-2-3; Alternate Site – Billingsley Property, 95 Rte. 100, Katonah; scheduled for Saturday 12-12-09 between 9am and 1pm; inclement weather dates – Sunday 12-13; Saturday 12-19-09; Sunday 12-20-09; open site walk/any questions call Teresa @ 277-5582: (CF)
The Conservation Board will review the above Zoning Board site walk and balloon test for 2580 Rte. 35 and the Billingsley Property at 95 Rte. 100 at their next meeting.

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New Business:

F) Zoning Board/Site Walk:

Board member Charles Friedberg will review the materials submitted, attend the site walk scheduled by the Zoning Board and give a report to the Board.

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

There being no further business to discuss, a motion to adjourn was made at 9:00 PM by Board member Charles Friedberg and seconded by Board member Shoshana Hantman. All members present approved.

The next regular meeting of the Conservation Board will be held at the Town House on December 22, 2009 at 7:30 PM.

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Subsequent Conservation Board meetings are tentatively scheduled to be held at the Town House on January 12, 2009 and January 26, 2009 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