

**CONSERVATION BOARD
MINUTES OF MEETING
APRIL 28, 2009**

The April 28, 2009 regular meeting of the Conservation Board was called to order by Board member Dr. Frank Lapetina.

Attendance: Charles Friedberg, Shoshana Hantman, Dr. Frank Lapetina, Dr. Edward Merker, James Moriarty, Gloria Rosenzweig

Absent: Gary Meixner

Guests: None

Announcements:

Chairman Gary Meixner phoned C.B. Secretary Ms. Davis to inform her that he would not be able to attend the meeting tonight.

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Approval of Minutes:

A motion was made by James Moriarty and seconded by Dr. Frank Lapetina to approve the minutes of the April 28, 2009 regular meeting of the Conservation Board. All members present approved.

Board member Dr. Frank Lapetina made changes to the minutes dated April 12, 2009 on pages 8, 10, 11, 14, and 17.

Old Business:

- A)** Conservation Board Goals for 2009/C.B. Discussion/Copy Report-CB, revised January 27, 2009/C.B. to start working on these goals: (CB)
The Conservation Board members tabled discussion of the 2009 goals until their next meeting.

Board member Lapetina inquired about this subject matter to the C.B. Secretary.

Ms. Davis responded that it was in order to keep focused on the Conservation Board goals for 2009 whenever the Board had a chance to work on them.

The Board members took no further action at this time.

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Old Business:

B) Conservation Board/Street Map of Somers/Zoning Map from Town Clerk Pacella: (GR) (CF/SH/FL/EM/JM/GM)

Board member Gloria Rosenzweig was given her copy of the Zoning Map for the Town of Somers, which displays the street signage throughout Town.

Ms. Davis explained to the Board that she was asked by Board member Rosenzweig to hold onto her copy of the map until she returned to the meeting.

Board member Dr. Frank Lapetina mentioned that he did not remember getting a copy of this map, as he was not able to attend the meeting that night.

Ms. Davis explained that it should be in his March 10, 2009 packet if he still is in possession of that envelope which was delivered to the Board members before the meeting.

Board member Lapetina advised that he would look through his Conservation Board documents and paperwork and see if he can find the Zoning Map.

Ms. Davis said that she would send him an email to follow up on this endeavor. However, she noted that if he could not find the map she would be able to get him another copy from the Town Clerk providing that more are available.

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Old Business:

B) C.B. Street Map/GR:

The Board members took no further action at this time.

C) North End at Somers/Site Plan/Planning Board/Update for Conservation Board members/parking/garage: (GR)

Board member Gloria Rosenzweig explained to the Board members that she had a brief update on the site plan for this application that she would like to share with the members.

Ms. Rosenzweig mentioned that there was some confusion with the above application in reference to the proposed garages located underneath the buildings.

Apparently said Ms. Rosenzweig another set of plans were brought before the Planning Board that allowed for some of the buildings to be three stories with garages on the first floor underneath.

Board member Friedberg asked if the buildings would be three stories plus a garage.

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Old Business:

C) North End at Somers/SP:

Ms. Rosenzweig responded that the three stories would include the garage. The first story would be the garage, the second story would be retail space, and the third story would be apartments. What is appealing about the proposal she said is that 35 units out of the 41 would be affordable housing she said.

Board member Rosenzweig went on to explain that the entire project is contingent on the applicant being able to procure public sewer and water.

Dr. Lapetina said that above 40 they would have to put in public sewer and water.

Ms. Rosenzweig mentioned that it would be the Peekskill sewer system that they would have to tie into, which is located on Rte. 6.

Board member Rosenzweig informed the Board that there would be green roofs incorporated into the project, as was discussed formerly. She went on to say that for every affordable unit there would be one unit at market rate.

However, Ms. Rosenzweig noted that the project was originally 13 parking spaces short. She read from the Planning Board Minutes dated February 11, 2009, pages 9, 10 and 14 and explained that Mr. Zappi would have to have the Town Board approve the maximum building height of 3 stories and the shortage of parking spaces (3 short) on the parcel.

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Old Business:

C) North End at Somers/SP:

Board member Friedberg asked about the purview of the Conservation Board with reference to this project.

Board member Rosenzweig noted that some of the parking spaces would infringe on the wetland buffer area. There was concern about the underground parking because of the water situation.

Board member Friedberg explained that now there would be no underground parking.

Ms. Rosenzweig responded correct, there would be no underground parking.

Board member Rosenzweig said that Mr. Zappi said that all of the units would be condos, but some would be rentals and others would be sold.

Discussion ensued among the Board members with reference to this application and the proposed condos on the site.

The Board members took no further action at this time.

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Old Business:

- D)** Omnipoint Communications/at Somers Commons/Site Plan Approval/Planning Board; Pictures; Title Sheet (T-1); Plot Plan & Property Owners List (C-1); Setback Plans (C-2); Site Plan & Site Detail Plan (C-3); Partial Site Plan (C-3A); Elevations & Details (C-4); Equipment Plan & Details (C-5), Prepared by Tectonic Engineering & Surveying, PC, (Somers Commons/#80 Rte. 6): (CF)

The Conservation Board tabled discussion on the above Planning Board application for Omnipoint Communications at Somers Commons, site plan until the next meeting.

Board member Charles Friedberg will review the materials submitted and give a report to the Board.

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

- E)** Nash-Cohn/Lot Line Change/Planning Board/Survey of Property prepared for Richard A. & Joanna L. Nash dated December 16, 2008/Preliminary Subdivision Plat dated February 10, 2009, prepared by Badey & Watson Surveying & Engineering, PC, Section 27.10, Block 1, Lot 20.1 & 20.3, (#5 Two Penny Lane/#82 Lake Road): (GM)

The Conservation Board tabled discussion on the above Planning Board application for Nash-Cohn lot line change, survey of property until their next meeting as Gary Meixner was not able to attend the meeting tonight.

Chairman Gary Meixner will review the materials submitted and give a report to the Board.

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Old Business:

D) Nash/Cohn/Lot Line:

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

E) Sabatino/Wetland Activity Permit/Planning Board/Cover Sheet, Survey of Property, As-Built Plan, Constraints Map, Hydrologic Soil Group Map, dated February 27, 2008, revised March 23, 2009, Construct 350sq.ft. addition & 590sq.ft. deck on existing home, Section 6.12, Block 1, Lot 15.5, prepared by SEIS Consulting Engineers, PC, Basement Plan, First Floor Plan, Elevations, Building Section A-A, dated January 19, 2009, revised January 27, 2009, Short EAF, Other – Wetland & Watercourse Delineation, (# 16 Dunhill Drive/South side of Dunhill Road/ 1,065-ft. from intersection w/Lovell): (JM)

The Conservation Board reviewed the above Planning Board application for Sabatino wetland activity permit 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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Report:

- Mr. Moriarty said that he performed the site walk for this application and noted that the application was drawn on March 23rd and the property was surveyed.

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Old Business:

E) Sabatino/WAP:

Dr. Lapetina asked if that was this year.

Board member Moriarty responded in the affirmative.

- Mr. Moriarty explained that upon site inspection he found that the site has been graded and stripped with no protective fencing or erosion control measures.
- He explained that there had been numerous old growth trees, but they were reduced to stumps, and all of them had saw dust near them.
- Mr. Moriarty went on to say that the applicant had cut all of the trees along the pond (some of them were 24" trees) and also all of the trees in the wetland buffer area.
- Board member Moriarty informed the Board that he had called the applicant's Engineer for the project and explained to him that the applicant was doing work that had an impact on the entire site. He further noted that according to the Town guidelines the applicant couldn't proceed with the application without solving the problem that was created by the desecration of the property.

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Old Business:

E) Sabatino/WAP:

Board member Shoshana Hantman asked how they could go about replacing 'old growth' trees.

- Mr. Moriarty said that they couldn't, however each tree that was cut is a violation and needs to be paid for in some fashion. The applicants would have to replant or pay a fine or both. He noted that there would be no permits issued by the town until this situation is resolved.

Dr. Lapetina and Board member Friedberg asked if the Engineer knew about this?

Board member Moriarty said that the Engineer for the applicant did not know about the trees that the applicant cut down.

Mr. Friedberg asked if Jim had called the Town Engineer.

Mr. Moriarty said no, he had just looked at the property yesterday and had not made any phone calls yet.

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Old Business:

E) Sabatino/WAP:

- Mr. Moriarty explained to the Engineering firm that works for the applicant that large disturbed areas are eroding into the wetlands and pond. Also, it should show up on the site plan that the applicants were installing a generator. This too was installed without a permit.

Board member Friedberg questioned if it was a back-up generator.

- Mr. Moriarty said yes, that was also installed without a permit. They intend on burying the tank.

Mr. Friedberg asked how Mr. Moriarty knew that they did not have a permit.

Mr. Moriarty said that he spoke to the electrician who told him to speak to his boss and the boss said that they did not have a permit.

Board member Friedberg noted that they would need two separate permits for that work, the trench is one (with the sand, etc.) and the hook-up the other. There are also several inspections along the way.

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Old Business:

E) Sabatino/WAP:

Board member Moriarty informed the members that there were steep slopes on the property in excess of 15% and most of the property is located in the wetland buffer zone.

How did they get a building permit, said Mr. Friedberg.

Mr. Moriarty said that the building permit was only for the interior work on the existing structure.

Mr. Friedberg inquired as to why they cleared the site?

Board member Moriarty said that it was not well thought out, but apparently they did not want to wait.

Mr. Friedberg said that they would still have to clear the stumps.

Dr. Lapetina mentioned that they might have in mind to bull-doze them out of there.

Mr. Moriarty agreed.

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Old Business:

E) Sabatino/WAP:

- Board member Moriarty mentioned that the wetland application is missing the estimated quantity of excavation in cubic yards and the value of the proposed work. There is no erosion control plan in the drawings and that needs to be shown in detail, especially since they plan on working next to the pond. It should also show the dry well specifications (currently there are none) and details on the silt fence, dry well details and fuel tank details and placement.
- Mr. Moriarty said that the tally of the larger trees that were taken down are as follows:

One 23 inch tree, one 16 inch tree, and four 24 inch trees.

Board member Shoshana Hantman inquired about the fines for such trees.

Mr. Moriarty responded that it could go as high as \$350.00 per tree, but the DEC could charge more than that amount because the entire site was disturbed.

Dr. Lapetina said that as he mentioned at the last meeting, it use to be that any tree 18 inches or larger was a considered a specimen tree and required special approval and now that has been removed. There is no definition of a specimen trees.

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Old Business:

E) Sabatino/WAP:

Mr. Moriarty responded that he was not sure what size tree needed a permit in Somers as the code had been changed.

Dr. Lapetina said that he thought anything over 8 inches needs a permit.

Board member Friedberg said that either way the applicants have gone beyond the code.

- Mr. Moriarty said that there is a 50-ft. by 250-ft. disturbance on this lot that the applicant has cleared. There are tracks from a bobcat excavator on site (piece of equipment to move earth).
- The area in question goes from the street all the way back said Mr. Moriarty. The applicants stripped the site and there is no erosion control so the disturbed area is eroding into the pond.

Board member Friedberg asked about silt fencing, etc.

- Mr. Moriarty said there is none, no erosion control measures, silt fencing etc. He went on to say that according to the Town code no permits, C.O.'s, etc. can be issued on the site under these circumstances.

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Old Business:

E) Sabatino/WAP:

Mr. Friedberg noted that they already have a certificate of occupancy, as it is a pre-existent septic.

Mr. Moriarty said no; there is a building permit on the property now as it is under construction so, that does not apply.

Mr. Friedberg said that he thinks they should let Steve and Guy know as soon as possible as they may not be aware that the applicant did this work to the property.

- Mr. Moriarty said that he spoke to the applicant's Engineer twice and according to them they do not know anything about it. There is a posted permit on the window for the interior renovation, but there is no exterior deck permit at this time.

Mr. Friedberg asked why the applicants needed a bobcat?

Mr. Moriarty said that they did that separately and took it upon themselves to clear the yard, but there is no permit for that activity at this time.

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Old Business:

E) Sabatino/WAP:

Mr. Friedberg said that they do not need a bobcat to clear the deck area.

- Mr. Moriarty agreed. He explained that the applicants were going through the process of a permit for work to be done on the deck as it is located in a wetland buffer area. In the meanwhile they cleared all of the trees and did some regrading on the property.

Board member Rosenzweig asked if the house is empty at this time.

Mr. Moriarty responded yes.

Dr. Lapetina asked for some clarification regarding the deck permit.

- Mr. Moriarty said that they do not have a deck permit at this time.
- Board member Moriarty said that he spoke to the Architect Edwin Elliott and he said that the owner told him that he needed more light. The owner had spoken to him about the absence of light in the house and he surmised that is probably why the applicant took down all of the trees.

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Old Business:

E) Sabatino/WAP:

Mr. Friedberg asked if the Architect authorized the applicant to take the trees down?

- Mr. Moriarty said that the applicant's Architect knew that the applicant wanted to do something, because the owner told him that he needed more light, but he had no knowledge about tree removal on the parcel.

Board member Rosenzweig asked if there was an addition as well as the deck or just the deck?

- Mr. Moriarty said that the applicant was going for an addition with the deck off the proposed addition. He said that when he originally 'Googled' the area it was all green and now there is nothing there. In retrospect he said that he should have printed the satellite map, because it was all green and now it is bare.

Board member Hantman inquired about the DEC and asked how they are part of this process.

Mr. Moriarty responded that they are part of the application process and the town would involve them as needed.

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Old Business:

E) Sabatino/WAP:

The Board members reviewed the plans and Mr. Moriarty showed them the location of the property and the disturbance area. They discussed what should be done with reference to the violations associated with this application.

The Board decided to write a memo to the Planning Board and leave a note for the Town Engineer tonight in his mailbox.

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A memo (#09-16) will be sent to the Planning Board stating that the Conservation Board reviewed the above Planning Board application for Sabatino, wetland activity permit, survey of property, constraints map site plan at their meeting on April 28, 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 Conservation Board would like to point out that this application is incomplete.
- 2) We conducted a site inspection and have the following to report.

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Old Business:

E) Sabatino/WAP:

SITE INSPECTION:

- 1) Upon site inspection we noted that there is an existing slope on the property in excess of 15% and the property is located in the wetland buffer zone.
- 2) The site inspection showed that the property had been graded and stripped with no protective fencing, erosion control measures or permits.
- 3) Large disturbed areas are eroding into the wetlands and pond.
- 4) Numerous old growth trees were reduced to stumps.
 - Trees along the pond had been cut
 - Some were 24 inches. (There was one 16" tree, one 23" tree and four 24" trees.)
 - All were located in the wetland buffer zone.
- 5) There was also a 50-ft. by 250-ft. disturbance on the lot that the applicant cleared without a permit; probably by using a bobcat (tracks were visible).

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Old Business:

E) Sabatino/WAP:

- 6) The applicants were installing a generator on site.
 - This was installed without inspections or a permit.

DRAWINGS, APPLICATIONS, OTHER:

- 1) The wetland application is not complete as it is missing the estimated quantity of excavation and the value of the work to be performed.
- 2) The drawings should consist of an erosion control plan.
 - This should include silt fence location with detail of fence.
- 3) The drawings should include drywell specifications.
 - Currently it shows new drains connecting to existing.
- 4) Is a fuel tank on site?
 - If so, is it being moved in or out of the wetland buffer area?

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Old Business:

E) Sabatino/WAP:

- 5) At the very least the applicant should be given violations, a stop work order, and fines for the desecration of this parcel of property.

ITEMS MISSING FROM THE PLAN:

- 1) Estimated quantity of excavation in cubic yards.
- 2) Value of Work Proposed.
- 3) Erosion Control Plan.
- 4) Dry Well Specifications and Details.
- 5) Fuel Tank details and placement
- 6) Generator details and placement.

The Conservation Board will continue to review this application for Sabatino wetland activity permit as revisions are submitted.

The Board members took no further action at this time.

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New Business:

- A)** Town Board/Proposed Amendments/Resolution to the Wetland & Tree Cutting Ordinance/Agricultural District submitted by Town Engineer Gagne, adopted 4-16-09 and dated 4-20-09/Comment CB: (FL)
The Conservation Board will review the above Town Board resolution for amendments to the wetland and tree cutting ordinance and agricultural district at their next meeting.

Board member Dr. Frank Lapetina will review the documents submitted and give a report to the Board.

Discussion ensued among the Board members with reference to the review of the above documentation.

C.B. Secretary Ms. Davis was wondering if the proposed changes would impact the Planning Board review or the administrative review team.

Dr. Lapetina mentioned that he thought these changes were coming to the town according to state recommendations and therefore the Conservation Board would have little to say in the matter.

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

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New Business:

- B)** St. Joseph's Church/JFK High School/Responses to Comments made by Town Planner Hull and Town Engineer Gagne, Recommended Netting System dated April 13, 2009, Prepared by Dan Nunn; Retaining Wall Soils Evaluation Report dated April 7, 2009, Prepared by William Truss, PE; Underground Fuel Storage Tank Reports, Prepared by Pro Test; Title Sheet, revised 4-15-09; C-100 Fire App. Turning Radii/rev. 4-15-09; L-1.0 Church Pkg. Lot Planting Plan/rev. 4-17-09; LD-1 Church Pkg. Lot Planting Details-Notes/rev. 4-9-09; FSK-1 Fire Protection Schematic & Notes/rev. 4-13-09; ES-1 Electrical SP/rev. 3-31-09; Athletic Fields Info. 1-17/rev. 4-14-09; Relocate Athletic Fields-SS-W-WB/1&2; C-1 Proposed Stormwater Mgmt. C-1-9/rev. 4-13-09; Soil Testing dated 4-2-09; Wetland Functional Evaluation Report/rev. 3-12-09; Church, Gym, Classrooms & Site Improvements with, w/o Plum Brook Rd. Bridge Final Report dated 4-13-09; (Rte. 138/Across from Best Plumbing): (EM)
The Conservation Board will review the above Planning Board application for St. Joseph's Church/JFK High School responses to comments, etc. at their next meeting.

Board member Dr. Edward Merker will review the materials submitted and give a report to the Board.

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

- C)** Frey/Wetland Activity Permit/Administrative/Sketch, not dated, Placement of fence around back yard within 100-ft. of wetland, Section 17.08, Block 1, Lot 9, Prepared by the Applicant, (#9 Deans Bridge Road): (FL)
The Conservation Board reviewed the above administrative application/sketch for Frey wetland activity permit at their meeting.

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New Business:

B) Frey/WAP:

Board member Dr. Frank Lapetina reviewed the materials submitted, attended the administrative review team meeting on April 16, 2009 and gave a report to the Board.

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Report:

- Dr. Lapetina informed the Board members that he attended the administrative review team meeting and noted that the site is located on Deans Bridge Road.
- The applicant proposes to install a fence around the perimeter of his property, which impacts the wetland buffer zone (as part of the fence goes into the 100-ft. buffer area).
- Board member Lapetina recommended that the applicant move the fence 2-ft. on the easterly side, which would put them outside the buffer zone.
- This would result in no impact to the wetland buffer area. He mentioned that moving the fence would create no hardship on the part of the applicant and very little relocation of the fence.

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New Business:

B) Frey/WAP:

- The relocation of the fence would make the application outside the wetland buffer area and Dr. Lapetina noted that moving the fence 2-ft. would be the best solution for the applicant.
- Board member Lapetina informed the Board that Town Engineer Gagne said that he would explore the C.B. proposal with the applicant.
- Dr. Lapetina explained that if the applicant did move the fence then they could allow the other side of the fence (in the wetland buffer area) to revert back to its natural state.

Board member Gloria Rosenzweig asked what kind of fence is proposed.

- The proposed fence is a stockade wood fence responded Dr. Lapetina.

Ms. Rosenzweig wondered if it would prevent the movement of animals by being too close to the ground.

- Dr. Lapetina mentioned that if the applicant follows the Conservation Board recommendation then they would not need a wetland activity permit.

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New Business:

B) Frey/WAP:

Board member Moriarty replied that generally speaking the fence would be elevated approximately 4 inches (underneath) in order to accommodate the movement of small animals and wildlife.

- Dr. Lapetina noted that he met with Town Engineer Gagne, not Assistant Engineer Woelfle, and since there has been no finding statement to date he thought that the applicant might be considering moving the fence the recommended 2-ft. out of the wetland buffer zone.

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The Board members took no further action at this time.

D) Santaroni/Wetland Activity/Steep Slope Alteration/Tree Preservation Permit/Planning Board/Site Plan dated April 21, 2009, Section 38.05, Block 2, Lot 19, Prepared by Bibbo Associates, LLP, (West side of Young Road/Lot 1/Manor Ridge): (CF)

The Conservation Board will review the above Planning Board application for Santaroni wetland activity, steep slope alteration, tree preservation permit, site plan at their next meeting.

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New Business:

C) Santaroni/WAP/SSAP/TPP:

Board member Charles Friedberg 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.

E) ZBA – Site Walk/Homeland Towers, LLC/New Cingular Wireless, PCS, LLC (AT& T) BZ04A109, Section 38.17, Block 1, Lot 5; Crane Balloon Test on Saturday 5-9-09 between 9am and noon/Alternate dates 5-16/5-17, (#121, Rte. 100, west side): (GR)

The Conservation Board will review the above Zoning Board site walk, balloon test, scheduled for May 9, 2009 at their next meeting.

Board member Gloria Rosenzweig will visit the site on Saturday between 9 am and 12 noon and give a report to the Board.

Board member Dr. Merker mentioned that he had some concern with the location of the proposed cell tower as it looks like it would be too close to the existing Nursery School.

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

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New Business:

- F)** Letter from Deputy Commissioner Edward Buroughs to Town Planner Hull/re: St. Joseph's Church/JFK High School Site Plan Application; SOM 09-003B: (EM)
Board member Dr. Edward Merker discussed the above correspondence that was received from Deputy Commissioner Ed Buroughs via Town Planner Hull and made some comments.

Mr. Buroughs noted in his letter that *the County remains disappointed that the project has not taken most of their previous recommendations into account.* He explained that *the proposed project remains inconsistent with Westchester 2025 – Policies to Guide County Planning, as adopted by the County Planning Board on May 6, 2008.*

Dr. Merker mentioned that the applicant for St. Joseph's Church/JFK High School did not agree to the Trailway going in front of their property along Rte. 138 (as recommended by the C.B. formerly). Alternate routes were being considered involving the DEP property bordering the St. Joseph's Church/JFK High School in the rear portion of the parcel.

The Board members took no further action at this time.

- G)** Westchester County/Removal of Phosphorus from fertilizers: (EM)
Board member Dr. Edward Merker informed the Conservation Board members that Westchester County just passed a law that will allow the removal of phosphorus from fertilizers used in the area.

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New Business:

G) Westchester County/Phosphorus:

The Board members applaud the recommendations being made by the County regarding this matter.

The Board members took no further action at this time.

There being no further business to discuss, a motion to adjourn was made at 9:15 PM by Board member Charles Friedberg and seconded by Board member Gloria Rosenzweig. All members present approved.

The next regular meeting of the Conservation Board will be held at the Town House on May 12, 2009 at 7:30 PM.

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Subsequent Conservation Board meetings are tentatively scheduled to be held at the Town House on May 26, 2009 and June 9, 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