

**TOWN OF SOMERS
CONSERVATION BOARD
MINUTES OF MEETING
FEBRUARY 9, 2010**

The February 9, 2009 regular meeting of the Conservation Board was called to order by Chairman Gary Meixner.

Attendance: Shoshana Hantman, Dr. Frank Lapetina,
Dr. Edward Merker, James Moriarty, Gloria Rosenzweig,
Gary Meixner

Absent: Charles Friedberg

Guests: None

Announcements:

Board member Charles Friedberg announced at the last meeting that he would not be able to attend the meeting tonight.

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Announcements:

Board member James Moriarty announced that his plans have changed and he will be able to attend the meeting on February 23, 2010.

Approval of Minutes:

A motion was made by Dr. Frank Lapetina and seconded by James Moriarty to approve the minutes of the January 26, 2010 regular meeting of the Conservation Board. All members present approved.

Old Business:

- A)** Utschig/Wetland Activity Permit/Administrative, Grading and Erosion Control Plans dated July 24, 2009, Section 38.13, Block 2, Lot 6, Prepared by CMX, Other – Stormwater Management and Erosion Control Application, (#128 Rte. 100/East side/900-ft. from intersection of Parent Road): (SH)

The Conservation Board reviewed the above administrative application for Utschig wetland activity permit, stormwater management, grading and erosion control plans at their meeting.

Dr. Frank Lapetina pointed out that he reviewed the site plan formerly. He noted that he had attended an administrative review team meeting and discussion had taken place regarding the permit for this site. There were some additional concerns that came to light and needed to be addressed, including the notice of violation and stop work order.

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Old Business:

A) Utschig/WAP:

Subsequently, Dr. Lapetina advised that the engineering department had approved the application for a wetland activity permit.

Board member Shoshana Hantman reviewed the materials submitted and was asked by Chairman Meixner to perform a site inspection and then report back to the Board.

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Report:

- The application is located at #128 Rte. 100, on the east side, approximately 900-ft. from the intersection of Parent Road.
- After a site inspection Board member Hantman reported that she observed the fact that work had been started on the site and the retaining walls are up.
- She informed the Board that it is obvious that no activity has taken place at the site for some time. She noted that there was no leveling of soil against the walls.

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Old Business:

A) Utschig/WAP:

- Ms. Hantman went on to say that the erosion control measures consisted of black plastic and did not contain woven wire fencing. She reported that the black plastic erosion control measures were flattened down and apparently not doing the job.

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Board member Frank Lapetina pointed out the area of Conservation Board concern. He noted that the area in question needed to have the silt fence firmed up and supported because everything was down. He informed the Board that he had mentioned this fact at the administrative review team meeting.

Board member Lapetina further noted that if Ms. Hantman had looked up on the hill she would have seen some flat ground on top. Also he mentioned that below the hillside on the side of the property there is a small pond. Dr. Lapetina informed the Board that he recommended at the review team meeting that the drainage for the site at some point should go into the existing pond. He advised the Board that the basement of the house is flooded and the entire area in the back is wet.

Ms. Hantman inquired as to whether or not the applicant was doing this work to pull the water away from the house.

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Old Business:

A) Utschig/WAP:

Dr. Lapetina responded that he was under that impression.

Chairman Meixner asked if the house was being redone and if the applicant was in the process of making it new.

Board member Lapetina responded that the house was not new, it was an old house in bad condition. He said that he did not know of any plans to rebuild the house.

Dr. Lapetina said that there was an access road, which is the concern of the Conservation Board. This road was constructed for the heavy machinery he said. At present he said that the applicant is not doing anything, as there is a stop work order and violation on the property.

Ms. Hantman commented that it seemed like a moot point.

Chairman Meixner noted that the applicant should fix the silt fence.

Board member Lapetina showed where the wetland buffer area was located and explained that the pond should be fixed up and used for draining some of the water in the area. He mentioned that the applicant could eventually put some koi fish in the pond.

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Old Business:

A) Utschig/WAP:

Dr. Lapetina explained that the individual who owns the house is in the construction business and asked if there was heavy machinery on the premises at the time of the site inspection.

Ms. Hantman responded that there was no heavy machinery on the parcel. She inquired as to what happens now in the process?

Board member Lapetina explained that the applicant received a stop work order and violation and he needs to get a permit in order to correct the existing violation on his property. He advised that the finding statement that was issued recently said that he has to fix the fence and do some other related work activity.

Chairman Meixner reiterated that the applicant should have repaired the silt fence.

Dr. Lapetina responded that the applicant could not do anything when there is a stop work order and violation on the parcel. He would have to wait for a permit he said in order to do any activity.

Board member Hantman referenced the fact that the plan did not seem totally accurate at the site inspection.

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Old Business:

A) Utschig/WAP:

Dr. Lapetina noted that it is relatively accurate to the parcel in question and he pointed out the similarities to Ms. Hantman.

Discussion took place among the Board members with reference to the applicant correcting the violations on the property and the consequences that would be administered if there were no attempt to correct these violations.

Chairman Meixner thanked Board member Hantman for the report and site inspection of the parcel.

The Board members took no further action at this time.

**B) Zoning Board/Site Walk proposed Saturday, January 16, 2010: (RD)
C.B. Secretary Ms. Davis explained that she was asked to look into whether or not there was a Zoning Board site walk on January 16 as Chairman Meixner had mentioned that he did not see the balloon that was used by the applicant.**

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Old Business:

B) Zoning Board/Site Walk:

Ms. Davis referred the Board members to a copy of the email received from the ZBA Secretary Ms. Teresa Reale, which read as follows:

The ZBA did have their site walk and balloon test on Saturday, January 16th at #2580 Rte. 35. Pursuant to discussion held at the January 19th ZBA meeting, it appears that the aesthetics were positive in that the test revealed little exposure.

The Chairman did make request that the pole be camouflaged as a tree rather than a stealth pole. The Applicant was asked to submit both tree and monopole visuals.

The ZBA received a letter from New York City DEP dated 12-30-09 which addressed their concerns, and the DEP has requested to be involved in the SEQRA process as an Involved Agency. The Applicant advised the ZBA that they would be addressing the comments submitted by the DEP.

Some discussion took place among the Board members regarding the application and the best location for the proposed cell tower. Chairman Meixner noted that the reason he did not see the balloon test was because it was not notably visible at the time of the testing by the ZBA, which is a good thing (for the application).

The Board members took no further action at this time.

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Old Business:

- C) Town Property for Cell Tower/No property available/Conservation Board knowledge of this situation/Ms. Rosenzweig will look into this matter and give a report: (GR)

The Conservation Board members tabled discussion on the utilization of town property for a cell tower location until the next meeting.

Board member Gloria Rosenzweig informed the Board that she made some phone calls and no one was available to speak with her. The calls have not been returned to date. She asked that this item be tabled, as she needs more time.

Discussion ensued among the Board members with reference to the town being able to use the revenue. They also mentioned the fact that there are many instances where land is available or could be made available for this type of endeavor throughout the town.

Chairman Meixner referenced the fact that there are numerous 'dead' zones located in south Somers and near the fire department, which should be corrected.

Ms. Rosenzweig questioned the possible use of DEP property, if not the town property.

The item was tabled until the next Board meeting.

The Board members took no further action at this time.

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Old Business:

- D)** Homeland Towers, LLC/New Cingular Wireless PCS LLC (AT&T), #121 Rte. 100, Somers, NY/Zoning Board/Visual Resource Evaluation, 1.5 mile Viewshed Map for alternate Billingsley Property; Letter from Manuel Vicente to confirm no feasible alternative town-owned properties available; Revised EAF form, with Agricultural Data Statement, (#121 Rte. 100/Amato): (JM)

The Conservation Board reviewed the above Zoning Board application for Homeland Towers, LLC/New Cingular Wireless PCS LLC (AT&&) visual resource evaluation, Viewshed, and revised EAF form at their meeting.

Board member James Moriarty reviewed the materials submitted and gave a report to the Board.

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Report:

- Mr. Moriarty explained to the Board that he reported on this project two weeks ago and it was resubmitted with errors corrected.
- He explained that the application contained numerous pictures and alternate property sites for the location of the proposed cell tower.
- Board member Moriarty noted that the bulk of the application contained information on the visual research evaluation. He remarked that there was nothing notable to address in the application that was submitted to the Board.

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Old Business:

D) Homeland Towers:

Board member Gloria Rosenzweig specified that there was a letter from Manuel Vincente, in which he proceeded to confirm that there are no town-owned properties that could be used as a site for the cell tower.

Ms. Rosenzweig inquired about Manuel Vincente. She was wondering who he was with reference to the application.

Board member Moriarty agreed that the letter said that there were no feasible properties owned by the town that could be used as a location for this application.

After a brief review of the paperwork submitted Mr. Moriarty advised the Board that Mr. Vincente happens to be the President of Homeland Towers.

Ms. Rosenzweig then questioned Mr. Vincente's generic response.

Board member Moriarty responded that the alternatives that were considered by the applicant, according to the paperwork submitted was the Anglefly Preserve and town-owned parkland, which he conjectured would not be used.

The Board members took no further action at this time.

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Old Business:

- E)** Sussmann Mobil Station/Site Plan/Planning Board, Letter from Tim Allen of Bibbo Associates dated December 30, 2009; Letter to Tim Allen from P. Grealy dated November 30, 2009; Response to concerns from P. Sussmann; Photos; Amended Site Plan/SP-2/Existing Conditions; Site Plan A/SP-3; CP-1A/Stacking Plan w/Single Unit Deliveries; CP-1/Stacking Plan; CP-2/Truck Turning; Sight Line Profiles/SL-1; Prepared by Bibbo Associates, LLP, (Rte. 100/after State Police Barracks):
(GM)

The Conservation Board reviewed the above Planning Board application for Sussmann Mobil Station site plan, response to concerns, photos, site line profiles, etc. at their meeting.

Chairman Gary Meixner reviewed the materials submitted and gave a report to the Board.

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Report:

- The property is located on Rte. 100 across from IBM and after the State Police Barracks.
- Chairman Meixner informed the Board that he phoned Planning Board member Chris Foley to ask about the revised plans that were submitted.
- He explained that Mr. Foley responded that there was a zoning issue with the property and that was holding up the application.

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Old Business:

E) Sussmann Mobil Station:

Board member Dr. Frank Lapetina noted that he too had attended a site inspection of the property about a year ago.

- Chairman Meixner mentioned during his report that the applicant has submitted a proposed building that is approximately four times the size of the original building. He produced the plans for the Board members to view so that they could get some idea what he was talking about. The Chair then noted the existing building and the proposed new construction by the applicant.

Mr. Moriarty commented that the proposed building looked like it was in excess of 4 times the size of the original one.

Chairman Meixner informed the Board that the applicants were told to examine the possibility of opening up the entrance to the gas station onto the nearby road. He specified that one of the alternatives that were suggested was for the applicants to consider revising the plans by closing one of the existing exits and opening up an entrance coming into the parcel from Mill Pond Road.

The Chair advised the Board that the applicant said that it would not be feasible to have the gas delivery trucks come into the station from Mill Pond Road as there would not be enough room for the tankers to make the turn out the exit.

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Old Business:

E) Sussmann Mobil Station:

Board member Rosenzweig inquired as to whom asked the owner to consider this situation, the Zoning Board?

Chairman Meixner responded that it was the Planning Board.

The Chair continued his report stating that he inquired about the gas station at Baldwin Place and the fact that they were allowed to have a convenience store with virtually no problem. He commented during his discussion that the applicant did not need a zoning permit for that feature to be added.

Chairman Meixner advised the Board that the reason he was given was the fact that the applicant (Baldwin Place) did not make any changes to the footprint of the building. It was not going to be any larger than what existed on the site previously. He noted that the applicant took out the bays and the garage for the convenience store, but the Sussmann site does not have that option.

The Chair noted that the previous comments made by the Conservation Board could still stand.

The Board members took no further action at this time.

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Old Business:

- F)** Stuart/Wetland Activity Permit Application/Administrative/Forest Type Map, not dated, Section 26.11, Block 1, Lot 1: Selective Commercial Thinning of Forest in Agricultural District, EAF, Environmental Permit Chapter 167, Wetland & Watercourse Protection; Plan – Forest Type Map, Prepared by Brian Bower, CF; Other – Letter to Town Engineer dated December 22, 2009, (North side of Granite Springs Road/Northeast from intersection of Quaker Church Road): (FL)

The Conservation Board reviewed the above Administrative application for Stuart wetland activity permit application, EAF, thinning of forest in agricultural district at their meeting.

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

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Report:

- The parcel is located on the north side of Granite Springs Road, northeast from the intersection of Quaker Church Road.
- Dr. Lapetina informed the Board that he performed a site inspection on January 29, 2010. He noted that the Forester, Brian Power was at the site as well as the owner, Bob Stuart.
- He informed the Board that the applicant is seeking a wetland permit and a timber sale permit he said.

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Old Business:

F) Stuart/WAP:

- Board member Lapetina showed the Board members the plans and the location of Stuart farms, where the orchard is located, as well as the forest, which is the site of the proposed activity. He pointed out a pond and noted that the location of the solid red line shows where the timber cut down sale will take place.
- Dr. Lapetina explained that the Forester has the trees to be taken down marked. Some of them have squares and circles and some are marked with blue, black or red which all represent different uses. He advised that some of the timber will be sold and some will be mulched, etc. The activity will all be completed in two weeks time he said.
- Dr. Lapetina noted that the applicant was made to move the road in off the original area in order to avoid the wetland even further. He commented that it was interesting to walk back in there with the large trees and heavy canopy and commented that there is no brush or anything growing on the ground, it is just bare earth. He explained that was the reason why the applicant called in the Forester so that they could take down some trees in order to allow some light to filter onto the ground thus encouraging more growth and brush.

Board member Lapetina mentioned that Stuart Farm comprises approximately 200 acres, with 170-acres on one side of the road and about 30 on the other side.

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Old Business:

F) Stuart/WAP:

Dr. Lapetina showed the Board that there is a large pile of stones at the end of the property (from cleaning the property for farming purposes). He also noted that there was a development of homes beyond the limits of the parcel.

Chairman Meixner asked if the road that abutted the property was called Lake Road.

Dr. Lapetina said that he did not know what roads were beyond the parcel. He went on to explain that it was a very interesting hike that took approximately 2.5 hours. Mr. Stuart told him that there were coyotes on the property, but that was a good thing as they keep the deer population down. He also mentioned that they had other animals on the site such as rabbits and woodchucks.

- Board member Lapetina informed the Board members that the application was approved and the finding letter was in the C.B. packet. He explained that Steve Woelfle wrote the letter in place of Guy Gagne and mentioned that this is the first application under the new code relating to the farmers.

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Dr. Lapetina referred to the letter written by the Forester, Brian Bower, CF and the addendum attached dated December 9, 2009, which reads as follows:

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Old Business:

F) Stuart/WAP:

The area of sale is that portion of stand 2 bounded by road on the attached map. The 2-acre northwest portion of stand is excluded from the sale.

*The existing main skid road is as shown on the map (black dashes).
Secondary main skid road to be utilized as shown on map (red dashes).
No skidding will be allowed in the wetland.*

Skid roads will be put to rest at the end of the harvesting as per NYS Best Management Practices.

Please note this is not a large timber sale and the approximate time to from to finish is 10-14 days.

Dr. Lapetina said that the trees marked by the Forester were labeled quite large.

Board member James Moriarty asked if they were painted.

Dr. Lapetina answered affirmatively and said the inscription comprised an area of approximately 2-ft. by 2-ft.

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Old Business:

F) Stuart/WAP:

While discussing the administrative review team meetings, Board member Lapetina suggested that Board member Hantman consider attending the administrative review team meetings as they take place during the day and are easy to schedule. He went on to say that Steve Woelfle, the Principle Engineering Technician is very easy to work with and has knowledge of town code, which is invaluable to the team and a great learning tool.

Board member Shoshana Hantman said that she would consider being the liaison for the Conservation Board.

Some discussion took place among the Board members with reference to the practice of Forestry and how it could be implemented on large tracks of land to enhance new growth.

Board member Moriarty asked if 'Forestry' was a special degree.

Dr. Lapetina said yes, it was.

The Board members took no further action at this time.

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New Business:

- A)** Town Board Resolution, dated January 19, 2010/Refer proposed Town Code Changes/to appoint representative in addition to Town Engineer for administrative enforcement and approval of Ch. 156, Tree Preservation; and Ch. 167, Wetlands; to Conservation Board/Planning Board for Comment:

The Conservation Board members acknowledge receipt of the above document regarding the Town Board resolution concerning the appointment of a representative (in addition to the Town Engineer) for administrative enforcement of the Code with reference to tree preservation and wetlands.

Chairman Meixner inquired about back-up information regarding the resolution that was forwarded to the C.B. for comment.

C.B. Secretary Ms. Davis responded that the resolution did not come with back-up information. She noted that usually this type of resolution is submitted with some back-up information regarding the wording that would be found in the Code. She referenced the fact that it would be difficult for the Board to make an intelligent comment minus the wording.

Ms. Davis informed the Board that Planning Board Secretary Marilyn Murphy told her that the Town Board had already appointed Steve Woelfle the Principle Engineering Technician, both in-house and administratively. Ms. Murphy also said that Mr. Joe Barbagallo would be the consulting engineer for the Planning Board applications.

Chairman Meixner said that he would like further information on the subject matter before the Board submits a comment.

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New Business:

A) Town Board Resolution:

Ms. Davis said that she could email Supervisor Murphy regarding the back-up information that appears to be missing.

Discussion took place among the Board members regarding the resolution of the Town Board and the need for a comment from the Board.

Dr. Edward Merker asked Dr. Lapetina about the administrative hearings at the town house with regards to tree preservation and wetlands.

Dr. Lapetina responded that there are no administrative hearings on tree preservation only wetlands and steep slopes. He explained that this has always been handled in-house by the Town Engineer. Steve Woelfle has been appointed the Principle Engineering Technician doing the majority of the legwork. There is also Joe Barbagallo who is acting as an Engineering consultant to the Planning Board.

Dr. Merker asked about the administrative reviews. He also mentioned enforcement.

Dr. Lapetina said that the administrative review is a low impact area, usually a single family dwelling that does not need to go before the Planning Board; the information is in the Code.

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New Business:

A) Town Board Resolution:

He followed up by saying that there are several individuals who attend the review, which includes the Town Planner, Building Inspector, a member of the Conservation Board and the Engineering Technician.

Dr. Merker commented that the resolution/information submitted is very vague and the wording is poor.

Discussion ensued among the Board members with reference to this subject matter especially with reference to enforcement and what the Town Board is actually proposing to do with the Code.

Dr. Lapetina said that he finds the resolution disturbing because it does not mention steep slopes. He reflected that it seems that something is missing from the information submitted.

After some discussion on the matter the Conservation Board members decided to have the secretary write a memo to ask for clarity on the subject matter of what is to be commented upon by the Board.

Chairman Meixner said that we should ask Joe Barbagallo to come to our meeting.

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New Business:

A) Town Board Resolution:

Dr. Merker said that there should be more clarity. What is the purpose of the change? Maybe the resolution should be reworded and clarified.

C.B. Secretary Ms. Davis suggested that the C.B. could ask for clarification on what wording is proposed for the Town Code. She suggested that they could also ask the C.B. Town Board representative Mr. Clinchy to stop by their meeting and explain what the Town Board has in mind.

Chairman Meixner recommended that Mr. Clinchy be asked to stop by the meeting.

Board member Rosenzweig suggested that the C.B. could ask that the resolution be reworded so that it makes more sense.

Discussion ensued among the Board members with reference to the resolution needing to be re-worded and it was suggested that maybe the Town Board had meant for steep slopes to be included in the resolution.

Chairman Meixner asked that a memo be written to the Town Board requesting clarification and that Mr. Clinchy be contacted to see if he can attend the meeting.

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New Business:

A) Town Board Resolution:

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A memo (#10-03) will be sent to the Town Board stating that the Conservation Board reviewed the above Town Board resolution dated January 19, 2010 for changing the Town Code, at their meeting on February 9, 2010. The Board members reviewed the materials submitted and discussed the information among them.

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

- 1) The Board is requesting clarification on the above subject matter concerning changes to be incorporated into the Town Code.
- 2) We would appreciate back-up information and/or proposed wording that will be placed into the Code in order to make our comment.
- 3) The Board members would like to know if the above wording should include the addition of Steep Slope Alteration.
- 4) We would appreciate Town Board member Richard Clinchy (the C.B. representative) attending our meeting on February 23 to explain the missing details.

Our comment to the Town Board will be forthcoming as soon as these items have been clarified.

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New Business:

A) Town Board Resolution:

The Board members took no further action at this time.

B) Kauffman/Wetland Activity Permit/Planning Board, Project Plans (3-Sheets) dated January 27, 2010, Section 17.12, Lot 2, Block 2.11, Proposed in-ground swimming pool with drainage, Activity Area 3800 sq.ft.; Plan E-1/Existing Conditions & Soil Map, Plan CM/Constraints Map, Plan P-1/Pool Plan & Details; Other – SMESC Application, Prepared by Bibbo Associates, LLP, (#13, East side of Rte. 116, 250-ft. from intersection of Deans Bridge Road): (JM)

The Conservation Board will review the above Planning Board application for Kauffman wetland activity permit for in-ground swimming pool with drainage at their next meeting.

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.

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There being no further business to discuss, a motion to adjourn was made at 9:00 PM by Board member Gloria Rosenzweig 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 February 23, 2010 at 7:30 PM.

Subsequent Conservation Board meetings are tentatively scheduled to be held at the Town House on March 9, 2010 and March 23, 2010 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 Board
Landmark Committee