

**TOWN OF SOMERS
CONSERVATION BOARD
MINUTES OF MEETING
APRIL 27, 2010**

The April 27, 2009 regular meeting of the Conservation Board was called to order by Chairman Gary Meixner.

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

Absent: None

Guests: **Somers resident**/Ms. Eileen Christiano

Announcements:

The Conservation Board has two vacant seats to be filled. Each appointment has a two-year term.

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Approval of Minutes:

A motion was made by Shoshana Hantman and seconded by Dr. Edward Merker to approve the minutes of the April 13, 2010 regular meeting of the Conservation Board. All members present approved.

Board member Shoshana Hantman amended the Conservation Board Minutes for April 13, 2010 on pages 7, 14, and 18.

Board member James Moriarty amended the Conservation Board Minutes for April 13, 2010 on page 15.

Chairman Gary Meixner amended the Conservation Board Minutes for April 13, 2010 on page 23.

Board member Dr. Edward Merker offered suggestions regarding the comments mentioned in the Conservation Board Minutes for April 13, 2010 on page 9.

Old Business:

- A)** 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 reviewed the above subject matter concerning the possibility of utilizing town-owned property for the proposed location of a cell tower at their meeting tonight.

Board member Gloria Rosenzweig informed the Board that she had a brief report concerning this subject matter.

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Old Business:

A) Town property/cell tower:

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Report:

- Ms. Rosenzweig explained that she spoke to a Town Board member regarding the feasibility of having future cell towers located on town owned property.
- Board member Rosenzweig said that a Town Board member informed her that they had discussed the idea a number of times. She went on to say that the Town Board members were somewhat concerned about the possibility of lawsuits being filed by the residents involved due to the fact that the site locations (in Somers) have already been chosen.

Chairman Meixner said that he did not see the relevance and he brought up the Amato site.

- Board member Rosenzweig responded that the Town Board does not want to discuss the possibility at this time because they do not want to cause a problem with regards to lawsuits.

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Ms. Rosenzweig said that she was told that apparently, the applicants for the proposed cell tower had already made a formal agreement with Amato.

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Old Business:

A) Town property/cell tower:

Chairman Meixner inquired about the Billingsley site.

Ms. Rosenzweig responded that she did not have any information regarding that location.

Board member James Moriarty suggested that the town could say that from today forward they would like to be considered an interested party when it comes to cell tower locations.

Ms. Rosenzweig said that they could do that, but realistically it should have been proposed two to three years ago.

Mr. Moriarty said that New York City Housing Authority has projects and a portion of New York City's income comes from cellular leases. He went on to say that there are many new projects of that nature that present themselves regularly. So, he said that the concept of thinking from today forward would be a very good idea for the future of the town.

Board member Rosenzweig noted that different proposals have been on the table for years and discussed, however, nothing has come to fruition. She went on to say that in New Jersey they put these structures on the top of buildings. She noted that it could even go on the top of the Highway building, but due to present circumstances that is not going to happen.

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Old Business:

A) Town property/cell tower:

Board member Shoshana Hantman mentioned the possibility of the town being concerned about lawsuits, not necessarily breach of contract, but rather they might be more concerned about having anything to do with something that might be harmful to people or the environment in the future.

Ms. Rosenzweig said that it was brought up that private property was a better situation just in case something did go wrong in the future they would not want to be liable and they would not want to open themselves up to future problems for the town from the neighboring property owners.

Ms. Eileen Christiano, who was present at the meeting and a property owner in town inquired about the necessity for so many cell towers.

Board member Rosenzweig responded that apparently they do not cover a large area, it all depends on what works.

Discussion ensued among the Board members regarding the proposed cell towers and the existing cell towers.

Dr. Merker mentioned that there have been approximately five cell towers constructed in the last couple of years (Amato, Billingsley, IBM, Somerstown Shopping Centre and across the street from Lasdon).

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Old Business:

A) Town property/cell tower:

Chairman Meixner agreed and mentioned the one that was constructed across from the Mexican Shack on Rte. 100. He also reminded the Board that the State put a cell tower on the Lincoln Hall property.

Board member Rosenzweig noted that most of the town's in the area have been putting cell towers on their property, even on top of their buildings. She mentioned that the Town of Yorktown put one on town property and you can't even tell that it is there.

Ms. Rosenzweig went on to say that the Town Board had spoken to companies that specialize in putting cell towers on town property, but they decided not to pursue the idea.

Chairman Meixner said that maybe in the future they will consider the concept.

Board member Rosenzweig responded that the town in all likelihood would not need any more cell towers in the future, after all she said how many do we really need?

The Board members took no further action at this time.

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Old Business:

- B)** 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 Chapter 156, Tree Preservation; and Chapter 167, Wetlands; to Conservation Board and Planning Board for comment/C.B. memo #10-03:

C.B. Secretary Ms. Davis informed the Board members that she had not heard from the Supervisor's office regarding these code changes. She mentioned to the Board that she had recently emailed Town Board member Richard Clinchy and he responded that he did not know when they might get the information to the Conservation Board.

Chairman Meixner mentioned that the Board could send another memo to the Town Supervisor.

After some discussion on the matter the Board members decided that this item should be taken off the Conservation Board agenda. They agreed that no further action could be taken on this matter without the support of the back-up information.

The Board members took no further action at this time.

- C)** Town Board appointments to the Conservation Board:
C.B. Secretary Ms. Davis informed the Board that to date there is no new members appointed to the Conservation Board. She mentioned that the Supervisor's office explained that there were no new candidates who applied thus far.

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Old Business:

C) T.B./appointments/C.B.:

This item was tabled until the next Board meeting.

D) Vieira Holding Corporation/Site Plan/Planning Board dated March 15, 2010, Prepared by Stephen Vieira, President; Site Plan Flood Construction Company dated 4-2-71; Section 16.16, Block 1, Lot 12; Property size 2.3 acres; Topographic Survey dated 2-12-10, Prepared by Leo J. Carroll & Associates, (# 1 Maple Avenue/off Rte. 202 & Lovell Street): (GM/EM)

The Conservation Board reviewed the above Planning Board application for Vieira Holding Corporation survey and site plan for Flood Construction Company (1971) at their meeting tonight.

C.B. Secretary Ms. Davis advised the Board that she called Town Planner Hull who informed her that this application is before them because of a site plan violation and that is why the Board is reviewing the application.

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

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Report:

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Old Business:

D) Vieira Holding:

- Chairman Meixner said that the property is located in Lincolndale behind the Post Office.
- The former owner (McNamee), he said left the site in poor condition with garbage and engines, etc. all over the parcel.
- When Mr. Vieira purchased the property he said that they obtained dumpsters and cleaned up the site and now the parcel is much improved.
- Chairman Meixner went on to advise the Board that there is water from the town road running into the property. He explained that the applicant has repaired the catch basins, but the water coming from town roads needs to be addressed.
- The Chair noted that the property is an industrial site, but there is no visible contamination, oil, or new asphalt, etc. located on the property. He explained that there is an existing driveway and storage area on the site. He also noted that there were no visible wetland, steep slope or tree violations on the parcel.

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Old Business:

D) Vieira Holding:

A neighbor of the applicant, Ms. Eileen Christiano who lives in the Condominium called The Willows was present at the meeting to speak to the Board.

She informed the Board that on January 4, 2008 the applicant received a violation for altering the grade and for erosion and sediment. They think that he brought in soil, which was not tested she said. The violation consisted of altering the existing grade by employing fill without obtaining the required site plan approval, which raised the existing grade five feet. She explained that the soil that has been leveled could be contaminated, as it was never tested. Also, the condos were shaking as the applicant was pounding the dirt and breaking rocks, starting at 6 AM in the morning and continuing all day.

Board member James Moriarty inquired about her relationship to the issue.

Ms. Christiano explained to the Conservation Board members that the Vieira Holding Corporation is her neighbor to the rear of her property at the Willows and for some time she has been having a problem with stormwater runoff in her back yard coming from the neighbors property as well as moderate to severe noise pollution. She advised that the grade has been raised five feet and now when it rains she gets a stream running through her back yard.

Chairman Meixner inquired about the location of Ms. Christiano's unit?

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Old Business:

D) Vieira Holding:

She responded that she does not know where her unit is located in relation to the applicant's property (on the map). However during a heavy rain event she said that water is flooding her property. She said that pictures were given to the Building Department (Efrem Citarella) to prove her point.

Chairman Meixner said that unfortunately it appears that the town is allowing road (water) to go onto the applicant's property.

In October of 2007, the applicant removed an underground oil tank, which leaked and there is some contamination on the property, said Ms. Christiano. She mentioned that the site is a DEP cleanup site, but she lacks the documentation at this time.

Ms. Christiano noted that on April 2009 she met with Town Engineer Gagne and Supervisor Murphy regarding this site, but nothing was done. Mr. Vieira had violations issued to him on May 2008, August 2008, March 2009 and April 2009. The soil contamination was created when McNamee owned the property because it happened in October 2007 and the property was sold in November 2007 she said. In March 2009 Town Engineer Gagne noted three leaching pits being installed without a permit and afterwards Mr. Vieira was issued the notice of violation. Also, she said that there was no permit issued for the removal of the tank and the clean up of the oil spill. She went on to say that in 1999 Mr. McNamee was issued a violation for having trailers in the construction yard; they should be removed.

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Old Business:

D) Vieira Holding:

Ms. Christiano went on to say that she is concerned on many levels and one of them has to do with emotional and physical harm to her health with regards to the excessive pounding and noise that is happening at the Vieira Holding Corporation on a regular basis.

She informed the Board members that when she bought her home at the Willows she was told that the noise and construction activity (in the rear of her property) would only be happening until all construction activity had ceased at the Willows. It was explained to her that the property was considered non-conforming and it would revert back to its original zoning when the Willows was totally built out. She noted for the record that at the time she was agreeable towards the situation. After some time passed and the Willows were complete she realized that the construction activity would not cease. In fact she shared with the Board that the noise and pounding as well as the runoff has actually gotten worse with time.

Chairman Meixner mentioned that the state law has to have some kind of noise ordinance that could be implemented.

Board member Gloria Rosenzweig asked Ms. Christiano if she knew whether or not her Homeowners Association has gone to the Zoning Board.

Ms. Christiano responded that to date they have been mainly compiling data. She asked what the Conservation Board could do.

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Old Business:

D) Vieira Holding:

Chairman Meixner explained that the Board could write a memo to the Planning Board stating their concerns.

Board member Dr. Edward Merker explained to the C.B. secretary that when the memo is written it should provide a request for a new/revised site plan that exhibits the wetland and wetland buffer areas as well as a current tree plan for the property.

Discussion ensued among the Board members and they decided to write a memo to the Planning Board stating their recommendations.

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A memo (#10-12) will be sent to the Planning Board stating that the Conservation Board considered the above Planning Board application for Vieira Holding Corporation site plan, topographic survey, and letter of violation at their meeting on April 27, 2010.

The Board members reviewed the materials submitted, performed a site inspection of the property and discussed the application among them. They also listened to comments from a neighbor living in the Willows, the nearby condominium development.

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

- 1) The Board members evaluated the plans submitted by the applicant (dated 1971) and a current copy of the survey.

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Old Business:

D) Vieira Holding:

- 2) A site inspection of the property was conducted prior to the meeting and there did not appear to be any visible violation. However, the applicant failed to submit current plans in order to compare with the original site plan received by the Board and time has passed since the issue of the violation.

- 3) The Board will need a current site plan submitted by the applicant with the following information included in order to complete the evaluation:
 - Plans exhibiting the stormwater management on site.
 - Plans that include the wetland and wetland buffer area(s).
 - Mapping and a count of the specimen trees located on the parcel.

The Conservation Board members will be able to evaluate the Vieira Holding Corporation site after receipt of the above mentioned plans.

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The Board members took no further action at this time.

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Old Business:

- E)** Homeland Towers/Cingular Wireless PCS, LLC/AT & T/#121 Rte. 100/Amato dated 3-9-10; Site Plan/Planning Board/3rd Radio Frequency Report, Site N-576 with overviews; Letter Gaudioso, Esq. Snyder & Snyder, (#121/Rte. 100/Amato): (JM)

The Conservation Board decided that they would not revisit this Zoning Board application for Homeland Towers/Cingular Wireless site plan at their meeting.

Board member James Moriarty reviewed the materials submitted and explained to the Board that the information provided was similar to the information that he reviewed previously and therefore did not require additional examination by the Board.

The Board members took no further action at this time.

- F)** Somerstown Shopping Centre/Cell Tower/follow-up report: (GM)
Chairman Gary Meixner reviewed the above Planning Board application for the cell tower located at Somerstown Shopping Centre at their meeting tonight.

Chairman Meixner performed a follow-up site inspection for the cell tower located at Somerstown Shopping Centre and gave a report to the Board.

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Old Business:

F) Somerstown Centre:

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Report:

- Chairman Meixner advised the Board that he came to the Town House to speak with the Principle Engineering Technician, Steve Woelfle regarding the cell tower located at Somerstown Shopping Centre.
- The Chairman noted that they discussed the cell tower and generator as well as the power source (electric). Mr. Woelfle advised him that the applicant is having a difficult time getting the power source turned on, hence there is a generator running on the property. He was informed that the power source (company) keeps giving the applicant excuses on why they cannot be hooked up to the electric line (thus the necessity for a generator).
- Chairman Meixner explained that the fence around the perimeter of the cell tower has been installed.
- He went on to say that the applicant has begun to prepare the areas in front of the fence (digging out an area for the root ball) in order to install the required number of 25-ft. trees.

The Board members had a brief discussion regarding the installation of 25-ft. trees on the property and how the applicant would go about finding trees of that size.

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Old Business:

F) Somerstown Centre:

- The Chair noted that the applicants are continuing to wait for the power to be turned on and in the meanwhile they are preparing a 10 x 12-ft. pad for a permanent generator.
- The applicants are presently installing a wall and the landscapers are beginning to prepare the site for some of the plantings that are proposed to be located on the site, he said.

Board member Gloria Rosenzweig inquired about the installation of 25-ft. trees.

- Chairman Meixner said that he was amenable to the progress that the applicant was now making on the site and he asked the Board if they had any further questions.

The Board members took no further action at this time.

New Business:

- A) Administrative Review Team Meeting/Reports for the following parcels, Schwartz/Stonewall Farms/Wetland Activity Permit/TM-15.16, Block 2, Lot 10; TM-15.20, Block 1, Lot 1; TM-15.15, Block 1, Lot 3; TM-15.19, Block 1, Lot 1: (SH)**

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New Business:

A) Administrative Review:

The Conservation Board reviewed the above administrative applications for Schwartz/Stonewall Farms regarding the wetland activity permits at their meeting.

Board member Shoshana Hantman attended the administrative review team meeting to discuss the wetland permits and she gave a report to the Board.

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Report:

- Ms. Hantman reported to the Board that she discussed the wetland applications listed above with the administrative review team members and the Principle Engineering Technician on Friday April 23rd.
- Board member Hantman mentioned that she did not walk the property. She advised that the plans were reviewed at the meeting with the team members.
- She noted that the applicants propose to create some underground tanks for drainage in four sections of their property.

Board member James Moriarty volunteered the words “leaching pits/tanks” and Ms.Hantman agreed.

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New Business:

A) Administrative Review:

Board member Dr. Edward Merker said that the features were called sub-surface drainage and he continued by reading from the document provided stating, “to remove standing water and runoff from becoming contaminated by horse feces”.

- Ms. Hantman advised the Board that there are four significant areas on the farm where the applicants intend to place subsurface drainage in order to remove the standing water and runoff.
- She reiterated that the applicants are proposing these drainage features in order to capture the ponding water and runoff before the water becomes contaminated.
- Board member Hantman commented to the Board members that she had no objections to the application. She informed the C.B. members that her written comment on the paperwork read “the C.B. has no objections”.

Chairman Meixner added an addendum to the response stating that the C.B. had no further comments after the explanation and suggestions made by the administrative review team.

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New Business:

A) Administrative Review:

Some discussion ensued among the Board members with regards to the proposed subsurface drainage and the locations of these features on the property.

The Board members took no further action at this time.

B) Mitchell Subdivision/Preliminary Subdivision Plat & Construction Drawings – 5 Sheets/Site Plan/Planning Board dated June 14, 2007, revised April 6, 2010, Prepared by Bibbo Associates, LLP, (#201 Tomahawk Road/across from Koegel Park): (JM)

The Conservation Board will review the above Planning Board application for Mitchell Subdivision, preliminary subdivision plat and construction drawings site plan at their next meeting.

Board member Moriarty noted that at the request of the Conservation Board he had reviewed the application for Mitchell subdivision sometime last year.

A brief discussion ensued among the Board members with regard to this application. Dr. Merker inquired about whether or not Jim remembered the application.

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New Business:

B) Mitchell Subdivision:

Mr. Moriarty responded that he was familiar with the application.

Board member James Moriarty agreed to 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.

There being no further business to discuss, a motion to adjourn was made at 9:15 PM by Board member Shoshana Hantman and seconded by Board member Dr. Edward Merker. All members present approved.

The next regular meeting of the Conservation Board will be held at the Town House on May 11, 2010 at 7:30 PM.

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Subsequent Conservation Board meetings are tentatively scheduled to be held at the Town House on May 25, 2010 and June 8, 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