

**TOWN OF SOMERS  
CONSERVATION BOARD  
MINUTES OF MEETING  
MAY 11, 2010**

The May 11, 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:** None

**Announcements:**

The Conservation Board has two vacant seats/2 year terms.

Board member Dr. Edward Merker informed the C.B. Secretary that he would not be able to attend the meeting on May 25, 2010.

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**Approval of Minutes:**

A motion was made by Dr. Edward Merker and seconded by Gloria Rosenzweig to approve the minutes of the February 9, 2010 regular meeting of the Conservation Board. All members present approved.

Board member James Moriarty amended the Conservation Board Minutes for April 27, 2010 on pages 4, 10, and 11.

Board member Gloria Rosenzweig amended the Conservation Board Minutes for April 27, 2010 on page 3.

Chairman Gary Meixner amended the Conservation Board Minutes for April 27, 2010 on page 9.

**Old Business:**

- A)** Discussion/Conservation Board Minutes of April 27, 2010/re: Vieira Holding Corporation/Cell towers on Town owned property:  
The Conservation Board discussed the minutes of the last meeting on April 27, 2010 with regards to the Planning Board application for Vieira Holding Corporation and the Cell Towers located in the Town of Somers.

The Board members asked C.B. Secretary Ms. Davis some questions concerning the minutes of the last meeting and the Vieira Holding Corporation with regards to the resident who attended the meeting and her comments in relation to the findings from the site inspection. Ms. Davis remarked that the main concerns as relating to the resident was the noise factor, the violations on the property and the water that is in her backyard, which she said is coming from the Vieira site.

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**Old Business:**

**A) Discussion/C.B.:**

When questioned about the Vieira application with reference to the minutes of April 27<sup>th</sup> Ms. Davis said that she does not understand the nature of the application. Normally, she said that when an applicant comes before the Planning Board they have to have a purpose and if it is a site plan review then they have to submit a current site plan.

Ms. Davis explained that the Vieira Holding Corporation submitted a site plan belonging to a former owner and dated 1971. She informed the Board that usually in a site plan review the applicant submits a current site plan. However, she said that the applicant is contending that they are not applying for anything or doing any work on the premises.

She reminded the Board that former Town Engineer Gagne had issued several violations stating that there is a problem with the site. To date she said that there has been no documentation submitted to the C.B. stating that those violations have ever been addressed.

Now, she said that the applicant is coming before the Planning Board at the request of the Court Judge in Somers because he wants the Planning Board to determine after the fact that there are no violations on the site. Ms. Davis opined that there would need to be a measurement on the depth of the ground in the area, which is presumably what the violations were about, both before (1971) and after the applicant bought the property.

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**Old Business:**

**A) Discussion/C.B.:**

However, she said that regardless of what is needed to determine the violation on this property it is not customary for the Planning Board to conduct this type of investigation. If the applicant has violations on his property he should pay the fine and correct the problem in which case he would have to go before the Planning Board with a new site plan on what he intends to do with the property.

Ms. Davis went on to say that she does not understand how the Planning Board can determine if there were violations on a property after the fact in this type of review without the proper paperwork. However, the recent C.B. site inspection (May 2010) did not show any visible violations on the property and that is all we have to concern ourselves with at this time.

Board member Shoshana Hantman addressed the letter sent to the Conservation Board by the applicant who stated, *that this situation is not the business of the Conservation Board as there are no trees on the site and no wetlands.* She noted that the primary focus of the Conservation Board is on trees and wetlands.

Ms. Davis responded to the applicant's letter and said that the applicant does not direct the Conservation Board in matters of site plan review. We have been given the site plan from the Planning Board (as is customary) and we are reviewing the contents. Also, the applicant is incorrect in his letter, as there is a wetland nearby that is part of the Plumbrook tributary, which flows on the side of the property and is a protected stream. Also, the applicant might be in the groundwater protection overlay district because there is an aquifer in that area of town.

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**Old Business:**

**A) Discussion/C.B.:**

Board member Hantman said that the applicant may know that information and not be acknowledging it. She mentioned that the C.B. should not be looking at this application.

Ms. Davis explained that according to the Planning Board it is a site plan review and the Planning Board submitted it to the Conservation Board as is customary with site plans and therefore the C.B. is required to review this application.

Board member Rosenzweig mentioned that in a site plan review there should be a current site plan.

Ms. Davis agreed that under normal circumstances there should be a current site plan.

The Board members further discussed the application and they decided to make some changes to the minutes of April 27, 2010 and proceed with the remainder of the agenda.

Board member Dr. Merker directed the C.B. Secretary to give a copy of the letter dated May 4, 2010 from the applicant (Vieira) to the Planning Board for their information.

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**Old Business:**

**A) Discussion/C.B.:**

The Board members went on to discuss the cell towers in Somers and the feasibility of cell towers on town owned property, along with the legal ramifications of the town getting involved after the fact.

The Board members took no further action at this time.

**B) Town Board/Conservation Board vacancies/appointments to the Board:**  
C.B. Secretary Ms. Davis informed the Board that there are no new appointments to fill the existing two vacancies to the Conservation Board at this time.

Ms. Davis explained that she has not heard from the Supervisor's office with regards to this subject matter.

The Board members took no further action at this time.

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**Old Business:**

- C) 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, Rte. 118/across from Koegel Park): (JM)  
The Conservation Board reviewed the above Planning Board application for Mitchell Subdivision, site plan, preliminary subdivision plat and construction drawings 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:

- This application is to construct a four-lot subdivision located off Rte. 118 at #201 Tomahawk Road across from Koegel Park.
- Mr. Moriarty informed the Board that on attachment #2 of the site photographs, four out of four photos could not be seen as they are illegible.
- Board member Moriarty explained that on STD-1 with regards to the trees on the property, cribbing and tree protection, the materials submitted show a 3ft. clearance around the tree. He noted that the area around the tree should mimic the dripline.

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**Old Business:**

**C) Mitchell Subdivision/SP:**

- He mentioned that the applicant has designed irregular shaped lots to make them fit together as a subdivision. For informational purposes he noted that this type of practice is not advocated in most towns. He went on to explain that usually towns have either square or rectangle shaped lots, otherwise the application could not proceed.
- Ms. Davis inquired about the lots being non-conforming and also not having the required frontage by law (200ft.).
- Board member Moriarty responded that this application is before the Planning Board and they will discuss the pertinent information as it concerns subdivision applications and variances, if that is what is needed in this particular situation.

Dr. Merker asked Mr. Moriarty some questions with regards to this application and a discussion ensued among the Board members with reference to the unusual shape of these lots.

- On the erosion control sheet page (EC-1), Mr. Moriarty said that the applicant specifies wooden stakes with plastic fiber backing on the side of very steep slopes. He specified that this should be upgraded to steel stakes with wire mesh and real fabric, non-plastic backing.

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**Old Business:**

**C) Mitchell Subdivision/SP:**

- Mr. Moriarty noted that the applicant shows a stake detail on the plans submitted with an asterisk on the bottom demonstrating that something different could be substituted. He advised the Board that the applicant should adhere to the C.B. comments and have no substitutions.
- Board member Moriarty informed the Board that on the construction specification page EC-1, item #1 it states that burlap could be substituted for filter fabric. This is not a good substitution he said. The applicant should stay with the filter fabric as debris can penetrate the burlap.
- In the construction detail, page EC-1 Mr. Moriarty noted that the applicant states that they will use two by four wood for stakes. He specified that this should be corrected to exhibit the use of metal stakes.
- He informed the C.B. that on page EC-1 stockpiles are shown on the plans submitted that are only 25ft. wide. This detail is not a realistic measurement he said and noted that in all likelihood the stockpiles would probably be more than double that size.
- Board member Moriarty informed the Board that a letter to the Planning Board from Bibbo Associates dated April 6, 2010 had numerous spelling errors throughout the document.

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**Old Business:**

**C) Mitchell Subdivision/SP:**

- He advised the Board that all documents should be thoroughly proofread before they are submitted to the town.
- Mr. Moriarty commented that most of the photocopies that were submitted by the applicant for review by the Board are illegible.
- On page 3 of 21 of the Environmental Assessment Form (EAF), Mr. Moriarty explained that the entire page is illegible. He went on to say that it was impossible to read the percentages and data that were submitted for review by the Board.
- Board member Moriarty explained that on page 4 of 21 of the Environmental Assessment Form, the document states, *does the project contain any species of plant or animal life that is threatened or endangered.* He said that the applicants response was no, according to wetland and engineering inspections. He informed the Board that the applicant needs to be specific on what the report said and whom they hired to do the report.

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After some discussion by the Board members they decided send a memo to the Planning Board stating their concerns and recommendations for this application.

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**Old Business:**

**C) Mitchell Subdivision/SP:**

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A memo (#10-13) will be sent to the Planning Board stating that the Conservation Board reviewed the above Planning Board application for Mitchell Subdivision, preliminary plat, construction drawings and site plan at their meeting on May 11, 2010.

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) Plan STD-1 states that there will be a 3ft. clearance around the trees.
  - The clearance around the trees should mimic the dripline of the trees, not a 3ft. clearance area as stated by the applicant.
  
- 2) The Plan EC-1 (Erosion Control) displays wooden stakes with plastic filter fabric backing on the steep slope side.
  - The erosion control should be upgraded to steel stakes with wire mesh and real filter fabric.
  - The applicant should not use plastic backing.

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**Old Business:**

**C) Mitchell Subdivision/SP:**

- 3) The Plan EC-1 (Erosion Control) has a notation preceded by an asterisk stating that something different could be substituted.
  - The applicant should employ the C.B. recommended erosion control with no substitutions.
  
- 4) The Plan EC-1 (Erosion Control) under Construction Specifications mentions that burlap could be substituted for the filter fabric.
  - The applicant should not substitute burlap under any conditions.
  - The applicant should use filter fabric.
  
- 5) The Plan EC-1 (Erosion Control) under Construction Specifications also mentions the use of two by four wood for stakes.
  - The stakes used by the applicant should be metal stakes.
  
- 6) The Plan EC-1 (Erosion Control) also displays stockpiles shown on the plans submitted that are 25ft. in width.
  - This size is not realistic.
  - The stockpiles will probably be double that measurement in width.

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**Old Business:**

**C) Mitchell Subdivision/SP:**

- 7) The photos submitted by the applicant as well as many of the photocopies were illegible.
  - The C.B. cannot read or review illegible photos or photocopies.
  
- 8) On the EAF page 3 of 21 the percentage and data is illegible.
  
- 9) On the EAF page 4 of 21, the document states, *are there any species of plant or animal life that is threatened or endangered.* The response by the applicant was no.
  - The applicant should specify the report that this information has been retrieved from as well as who wrote the report and their credentials.
  
- 10) The applicant wrote a letter to the Planning Board dated April 6, 2010. On page five of the letter there are numerous spelling errors throughout.
  - This document should be proof read and corrected before submission to the Planning Board.

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**Old Business:**

**C) Mitchell Subdivision/SP:**

The Conservation Board will continue to review this application for Mitchell Subdivision as revisions are submitted.

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The Board members took no further action at this time.

**New Business:**

**A) Administrative Review/Team Meeting – Report for the Conservation Board meeting/Board member Hantman/re: Fabry Wetland Activity Permit/Administrative/Sketch on Survey of Property, received 4-30-10, Section 47.20-1-12, Prepared by Applicant, (East side – 135 Pinesbridge Road/ 300ft. from intersection of Laura Lane): (SH)**

The Conservation Board reviewed the above administrative application for Fabry wetland activity permit, sketch at their meeting.

Board member Shoshana Hantman attended the administrative review team meeting, discussed the application for Fabry with the review team members and gave a report to the Board.

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Report:

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**New Business:**

**A) Fabry/Administrative:**

- This administrative application is located at #135 Pinesbridge Road approximately 300ft. from the intersection of Laura Lane.
- Ms. Hantman advised the Board that the applicants are seeking an administrative wetland permit and she discussed the application with the administrative review team members.
- Board member Hantman stated that the applicants have a metal corrugated drain under their driveway near the street that has collapsed and the driveway is crumbling. She explained that the applicants, by submission of this application are proposing the installation of a new drain.
- Ms. Hantman mentioned that additionally the applicants are proposing to establish two stone piers next to the openings at the end of the driveway.
- She noted that the applicants are also proposing to widen the border of the waterway at that location (near the road) for easier flow of water (so that it does not flood).

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**New Business:**

**A) Fabry/Administrative:**

Ms. Hantman remarked that she said “no comment” on the paperwork submitted for the Fabry Summary Sheet.

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On the Fabry Summary Sheet from the administrative review team meeting the following information was noted:

Principal Engineering Technician:

- Headwalls riprap outlet protection and flat bottom at approximately 3 to 4ft. in width.

Town Planner:

- Can any natural vegetation be used in widening the stream bank? Try to use soft scape if possible.

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The Board members took no further action at this time.

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**New Business:**

- B)** Sussmann Mobil/EAF, Amended Site Plan/Planning Board/SP-2, Existing Conditions/SP-3, Site Plan "A"/SP-6, Erosion Control & Construction Staging Plan/SP-7, Site Details, (Rte. 100/across from IBM):  
(JM)

The Conservation Board will review the above Planning Board application for Sussmann Mobil EAF amended site plan, erosion control and construction staging plan at their next meeting.

Board member James Moriarty 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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There being no further business to discuss, a motion to adjourn was made at 9:00 PM by Board member Dr. Edward Merker 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 May 25, 2010 at 7:30 PM.

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Subsequent Conservation Board meetings are tentatively scheduled to be held at the Town House on June 8, 2010 and June 22, 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