

**TOWN OF SOMERS
CONSERVATION BOARD
MINUTES OF MEETING
MAY 24, 2011**

The May 24, 2011 regular meeting of the Conservation Board was called to order by Chairman Gary Meixner.

Attendance: Shoshana Hantman, Michael La Gue, Gary Meixner

Absent: Dr. Edward Merker, James Moriarty, John Purcell

Guests: **Town Board**/Richard Clinchy

Announcements:

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

Town Clerk Kathy Pacella emailed the C.B. Secretary to inform her that the Town Board would reappoint Dr. Merker at their meeting in June and then he could be sworn in again.

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Approval of Minutes:

A motion was made by Michael La Gue and seconded by Shoshana Hantman to approve the minutes of the May 10, 2011 regular meeting of the Conservation Board. All members present approved.

Board member Michael La Gue amended the Conservation Board Minutes of May 10, 2011 on page 18.

Old Business:

- A)** Guerrero/#213 Rte. 100/Update/Permit-driveway: (GM)
The Conservation Board discussed the above administrative application for Guerrero regarding a permit for their newly constructed driveway on Rte. 100 at their meeting tonight.

Chairman Gary Meixner informed the Board that he visited the Guerrero site and the applicant installed a connection to Rte. 100, but it appears to be a pipe underneath, not a swale and the water goes out into the road, which is not correct.

Board member Michael La Gue said that noticed that on occasion the State Highway Department would remediate a situation if they thought it was incorrect. For example on Rte. 138, in a small brick house, there was water that was coming down a resident's driveway and it was freezing on the road. He went on to say that the State highway men ended up digging a trench and fixing the situation, and they did not seem to ask permission of the resident.

C.B. Secretary asked for clarification.

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Old Business:

A) Guerrero/Report:

Chairman Meixner explained that there is a pipe underneath the driveway (which is all right) but now the water will drain onto Rte. 100 because there is no swale. He said that a memo should be sent to the Building Department and the Engineering Department. He mentioned that the State DOT would also be inspecting the site and they might have some recommendations.

Board member Shoshana Hantman inquired about the house on Rte. 138 (that Board member La Gue had mentioned) and asked its location.

Board member La Gue said that if one were to travel south on Rte. 100 and make a left onto Rte. 138 towards Goldens Bridge there is a little brick house on the left.

Discussion ensued among the Board members with reference to the Guerrero property and the memo to be written by the Board.

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A memo (#11-26) will be sent to the Building Inspector and the Principal Engineering Technician stating that the Conservation Board reviewed the above application some time ago and recently performed an informal site inspection of the driveway and the access connection on Rte. 100, which was discussed at their meeting on May 24, 2011.

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

- 1) Upon site inspection, it was determined that a swale is not located at the bottom of the driveway.

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Old Business:

A) Guerrero/Report:

- Instead, a piped connection exists that could be a problem with reference to water flow onto Rte. 100 and freezing situations in the winter.
- The applicant should consider correcting this situation before it becomes a problem.

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The Board members took no further action at this time.

**B) Critical Environmental Areas in the Town of Somers/Discussion/Report;
Board member Hantman will be looking into this subject matter on
behalf of the Board: (SH)**

The Conservation Board is in the process of looking into establishing Critical Environmental Areas in the Town of Somers.

Board member Shoshana Hantman informed the Board that while working on this subject matter she communicated with Eileen from the Westchester Land Trust who referred her to Michael Barnhart who emailed her to invite her to the Open Space Committee meeting on June 15. She explained that the OSC is beginning to map habitats in Town, (as the Town is not currently included in the existing habitat map). She said that she was going to observe them at their meeting and see if it can help her endeavors to map critical environmental areas.

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Old Business:

B) CEA/Report:

Board member Hantman said that she also has contacted New York State in connection with procuring some area habitat maps and she is awaiting their arrival. She was advised that there is a Somers map and it will be sent to her as soon as possible.

Ms. Hantman commented that she is looking forward to all of this work coming together in the next several months and that there will be a plan by the fall.

The Board members took no further action at this time.

C) Heritage Hills of Westchester/Sewage Treatment Plant/Site Plan/Planning Board; Map of Visitors Center-Model Area dated March 26, 1973, revised April 3, 1973; Prepared by Alexander Bunney Land Surveyor, PC; Re-Subdivision Map dated February 14, 2011; Prepared by Bunney Associates Land Surveyors, Preliminary Subdivision-Abbreviated Procedure; Letter to Planning Board dated 2-11-11; Applicant to subdivide 18.582 acre parcel into two parcels; Lot-1A/7.571 ac Lot-1B/11.011 ac; transfer 9 acre parcel with sewage treatment plant to Heritage Hills Sewage-Works Corp.; R-40 & DRD; Application; Short EAF; Site Plan-Parcel 1 & 2; Re-subdivision Map of Parcel 1 dated 2-14-11; Section 17.10, Block 10, Lot 18, (Rte. 202 & Heritage Hills Drive):
(ML)

The Conservation Board reviewed the above application for Heritage Hills Sewage Treatment Plant re-subdivision at their meeting on March 8, 2011 and a memo (#11-14 dated March 18, 2011) was sent to the Planning Board stating the C.B. concerns and recommendations. The Board reviewed the application at their meeting tonight.

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Old Business:

C) Heritage Hills/Subdivision:

Board member La Gue remarked that the applicants received their subdivision, correct?

Ms. Davis responded affirmatively and noted that she double-checked with the Planning Department.

Mr. La Gue said that he was surprised that the application went through even though the C.B. has discovered certain flaws in the plans submitted.

Chairman Meixner inquired about the recent memos sent to the Planning Board regarding Heritage Hills.

Ms. Davis acknowledged sending the memos and asked if he would like to see them again.

The Chair discussed the application with Board member La Gue and they were wondering what steps could be followed at this juncture as the Planning Board approved the subdivision. They discussed re-sending a memo to the Planning Board regarding the C.B. concerns.

Ms. Davis noted that once the subdivision is approved then that becomes a legal document. Apparently, it involved a lot line change (she was told by the Planning Department).

Chairman Meixner advised that they accepted it based on an incorrect map; however that does not give them a permit to build.

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Old Business:

C) Heritage Hills/Subdivision:

Board member La Gue said that apparently the next time to discuss this parcel would be if anyone were to ask for a permit to build on that property.

Mr. Meixner said that the Town should have an expert go out and correct the wetland boundaries on the property regardless of the Planning Board approval.

He noted that the memo sent by the C.B. should be addressed to the Town Board and the Town Consulting Engineer.

Some discussion ensued among the Board members with reference to this application and the wetland boundary. They also discussed the possibility of this parcel being part of the open space requirement for Heritage Hills development.

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A memo (#11-27) will be sent to the Town Board and Town Consulting Engineer stating that the Conservation Board reviewed the above Planning Board application for Heritage Hills of Westchester, site plan, subdivision, and wetland information at their meeting on May 24, 2011 (as well as previous meetings).

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) According to the plans submitted it appears that the wetlands have been delineated incorrectly.

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Old Business:

C) Heritage Hills/Subdivision:

- The Board members would appreciate the applicant's plans be accurate.
- 2) The wetland boundary needs to be rechecked and the plans revised.
 - The Board has reason to believe that the wetlands have not been delineated correctly.
 - 3) An independent contractor should be hired to ensure that the mapping that was submitted is accurate.
 - 4) We are concerned that in the future, this information or misinformation could cause problems relating to development especially if the plans are not corrected for the record.
 - 5) In addition, the 100-ft. setback was not delineated in the area where the lake crosses Warren Street.

The Conservation Board members would appreciate the Town Board and Consulting Engineer looking into this matter as it appears to be an important factor with regards to future development in that area.

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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); Santaroni/2580 Rte. 35; Site Plan/Planning Board; Section 37.13, Block 2, Lot 3; Letter of Authorization/Ch. 67 Application Processing Restrictive Law/Memo dated 4-14-11 from R. Gaudio, Esq., Color Constraints Map – Soil Types/CC-1; Color Constraints Map – Wetlands & Steep Slopes/CC-2; Prepared by Synder & Synder, LLP; (#2580 Rte. 35; Santaroni): (JP)

The Conservation Board will review the above Planning Board application for Homeland Towers, LLC/New Cingular Wireless PCS, LLC (AT&T); Santaroni/2580 Rte. 35, site plan, color constraints map, soil types, wetlands and steep slopes at their next meeting.

As Board member John Purcell was not able to attend the meeting tonight further discussion on this application will be tabled until June 14.

Board member John Purcell will review the materials submitted, performed a site inspection of the property and gave a report to the Board.

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

- E)** MetroPCS New York @ Towne Centre/Site Plan/Planning Board dated April 19, 2011, Section 17.15, Block 1, Lot 13; Proposed Co-Location of Wireless Telecommunications Facility (NY6136); Letter Cuddy-Feder dated 4-19-11; Stormwater Pollution Prevention Plan dated 4-19-11, Prepared by EBI Consulting; Title Sheet-Index/T-1; Constraints Map/CM-1; Soils Map/SM-1; Overall Site Plan/SP-1; Enlarged Site Plan-South/SP-2; Enlarged Site Plan-North/SP-3; Stormwater-Sec Plan/SP-4;

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Old Business:

- E)** Wetland Mitigation Plan/SP-5; Compound Plan-Elevation/A-1; Equipment Plan-Details-Specs/C-1; Structural Details-Specs/S-1; Prepared by Cuddy & Fedder, LLP, (#325 Rte. 100/Somers Towne Centre): (ML)

The Conservation Board will review the above Planning Board application for MetroPCS New York @ Towne Centre site plan, proposed co-location, stormwater pollution prevention plan, constraints map, stormwater-sec plan and wetland mitigation plan at their meeting tonight.

Board member Michael La Gue reviewed the materials submitted, performed a site inspection of the property and gave a report to the Board.

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Report:

- Mr. La Gue explained to the Board where the application is located with reference to the Towne Centre Shopping Centre and that is behind the gym *Anytime Fitness* in the corner of the parking lot surrounded by trees.
- Board member La Gue mentioned that he has visited the site several times and noted that in back of the site are shrubs that the applicant planted, there is a steep embankment and a polluted-looking pond called the existing retention pond.
- Mr. La Gue said that on plan CM-1 the applicant states that the existing wetland limit is the border (edge) that goes around the pond. It appears that there is no wetland buffer at all and the difference between the site and the pond is about 10 ft.

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Old Business:

E) MetroPCS NY @ Towne Centre:

- He mentioned the soils and stated that it is a flood zone (where the pond is located) and a three-foot strip near where the wetland buffer should be located.
- Board member La Gue said that on plan SP-1 it states existing 100-ft. wetland buffer under the blacktop.
- He said that 10 ft. away is the retention pond with plastic bottles floating in it and debris, etc. and the wetland boundary/border is on the shore of the pond (there is no wetland buffer).
- Mr. La Gue said that the wetland buffer should have been delineated better. He said that even if the variance was given to the applicant the buffer area should be delineated on the plans submitted, but they are incongruous.
- Plan CM-1 states *existing wetland limit* (at the water line), but plan SP-1 states *existing 100ft. buffer* (but it is already paved) so if the variance was given it should probably be located at the property line and not the water line. There is inconsistent information being presented by the applicant on the plans submitted he said.
- He went on to say that *by virtue of variance granted by ZBA on June 1, 2009* and there are footages given (minimum rear yard setback 30 ft.), but it would appear that the applicant is not complying with the ZBA variance for the equipment location. The numbers are not delineated on the plans submitted, they do not add up on the table provided according to the map.

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Old Business:

E) MetroPCS NY @ Towne Centre:

- Mr. La Gue said that the wetland setback is the edge of the pond according to the Zoning Board, this should be verified.

C.B. Secretary noted that the Zoning Board is not in the habit of determining anything with regards to the wetland boundaries.

Town Board member Richard Clinchy explained that there was a bifurcated approval process that use to exist with regards to cell towers going on between the Planning Board and Zoning Board. He said that now it has been changed and it is only the Planning Board that is involved in this process.

Board member Hantman asked if this took place in 2009.

Mr. Clinchy responded affirmatively.

- Mr. La Gue mentioned that the applicant discussed erosion control measures and said that it states *either two wood stakes or rebar through the hay*. In another area it says *steel stakes*. It also says *wire fencing wired or stapled to the post*. However, one would not staple to a metal post, so it would have to be a wood post.
- On plan SP-4 the plans state steel stakes, not wood so they are contradicting themselves.

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Old Business:

E) MetroPCS NY @ Towne Centre:

- On plan SP-5 in the wetland buffer enhancement area it states that it would be planted with native trees and shrubs as noted in the wetland buffer planting plan. However, the applicant does not delineate where the wetland buffer zone is located and the pond is missing from the landscape plan.

Chairman Meixner said that there are trees planted there now, but they have to be removed and planted elsewhere, possibly to the north.

- Board member La Gue said that he found eight errors in the plant section where the applicant made mistakes and spelled things incorrectly. Four different types of grasses and native weeds are spelt wrong he said.
- Plan SP-5 states plantings in the wetland buffer enhancement area as follows (on left) and they are spelt wrong, the correct spelling is on the right. Also, the applicant should not capitalize the second word it is incorrect, only the first word should be in caps and the entire word should be italicized.

On Plan (sic.)

Should be

Plant Specified

Picea Aemes

Picea abies

Norway Spruce

Cormus Racemos

Cornus racemosa

Gray Dogwood

Amelanchier

Amelanchier

Common Serviceberry

Photinia Melandcarpa

Aronia melandrocampa

Black Chokeberry

Asclepias Syriaca

Asclepias syriaca

Common Milkweed

Euthamia Graninifolia

Euthamia graminifolia

Goldenrod

Andropogon Gerardi

Andropogon gerardii

Big Bluestem

Schizachyrium Scoparum

Schizachyrium scoparium

Little Bluestem

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Old Business:

E) MetroPCS NY @ Towne Centre:

- On plan SP-5 it is unclear where the planting is taking place as the plan itself is unclear and the pond is missing from the plan submitted.
- In the Sediment & Erosion Control notes section it displays a tree being planted, however one would never leave the landscape fabric in the hole where one is planting. The applicant states that they are putting in geo-fabric, which does not deteriorate.

Chairman Meixner said that maybe they are concerned about the water getting into it.

Board member Hantman suggested that maybe the applicant would like to control the size of the root system.

Board member La Gue said that he contacted a landscaper and was told that maybe the applicant does not want the roots to spread, but that is not the way to accomplish it; there is a special plastic shield that is installed, not geo-fabric.

Chairman Meixner said that maybe the applicant does not want it to go into the retention pond.

- Board member La Gue said that we have never heard of the use of landscaping fabric to line the hole for planting an evergreen.

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Old Business:

E) MetroPCS NY @ Towne Centre:

- He went on to say that the applicant did install anchors for holding the trees, which this Board applauds.
- The choices of plants that the applicant is using, even though they are spelt wrong is correct for the most part, he said.

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Some discussion took place among the Board members with reference to this application and the report. They discussed annual versus perennial and native plantings versus non-native varieties.

Board member Hantman inquired about the pond and asked if there was some dumping going on during the construction activities.

Chairman Meixner responded that catch basins require regular maintenance and they run into this pond therefore it should be maintained. In addition he stated that the pond belongs to the shopping center.

The Board members decided to send a memo to the Planning Board stating their concerns and recommendations.

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A memo (#11-28) will be sent to the Planning Board stating that the Conservation Board reviewed the above Planning Board application for MetroPCS NY @ Towne Centre, site plan, stormwater pollution prevention plan, constraints map, and wetland mitigation plan at their meeting on May 24, 2011.

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Old Business:

E) MetroPCS NY @ Towne Centre:

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) This Board acknowledges the fact that the applicant was given a variance from the Zoning Board with reference to the wetland buffer area. However,
 - The wetland buffer should be delineated better and the plans should all match.
 - At present the plans are incongruous where this information is concerned.
 - Plan CM-1 states *existing wetland limit* (at the water line), but plan SP-1 states *existing 100ft. buffer* (but it is already paved); as the variance was given it should probably be located at the property line and not the water line.

- 2) By *virtue of variance granted by ZBA on June 1, 2009* there are footages given (minimum rear yard setback 30 ft.), but it would appear that the applicant is not complying with the ZBA variance for the equipment location.
 - The numbers are not delineated on the plans submitted, they do not add up on the table provided according to the map.

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Old Business:

E) MetroPCS NY @ Towne Centre:

- 3) Is the wetland setback located at the edge of the pond (according to the Zoning Board)
 - The Board would appreciate this feature being verified.

- 4) The applicant discussed erosion control measures and makes contradictory and confusing statements about how the silt barrier would be secured. In one section, statements are made about the use of *wood stakes, and driving rebar through the hay bales*. In another section, it says *steel stakes would be used for the silt fence*. It also cites *wire fencing being stapled to the stake posts*. However, one would not “staple” (versus “fasten”) to a metal post, so it would have to be a wood post that is being considered for use.
 - On plan SP-4 the plan says steel stakes, not wood so they are contradicting themselves.
 - This Board recommends steel stakes with wire mesh backing and filter fabric overlay.

- 5) On plan SP-5 in the wetland buffer enhancement area it states that it would be planted with native trees and shrubs as noted in the wetland buffer planting plan.
 - However, the applicant does not delineate where the wetland buffer zone is located.
 - On plan SP-5 it is unclear where the planting is taking place.
 - The pond is missing from the landscape plan.

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Old Business:

E) MetroPCS NY @ Towne Centre:

- 6) Eight errors were found in the plant section where the applicant made mistakes and spelled things incorrectly. Four different types of shrubs and four native weeds are spelled wrong.
- Plan SP-5 states plantings in the wetland buffer enhancement area as follows (on left) they are spelt wrong, the correct spelling is in the middle column.
 - In addition, the applicant is advised to adhere to customary botanical convention, which capitalizes the first word of the species name and not the second, with the entire name being in italics (absent any specification of cultivars, which are excepted from the rule).

| <u>On Plan (sic.)</u> | <u>Should be</u> | <u>Plant Specified</u> |
|------------------------|--------------------------------|------------------------|
| Picea Aemes | <i>Picea abies</i> | Norway Spruce |
| Cormus Racemosa | <i>Cornus racemosa</i> | Gray Dogwood |
| Amelanchier Arborea | <i>Amelanchier arborea</i> | Common Serviceberry |
| Photinia Melandcarpa | <i>Aronia melanocarpa</i> | Black Chokeberry |
| Asclepias Syriaca | <i>Asclepias syriaca</i> | Common Milkweed |
| Euthamia Graninifolia | <i>Euthamia graminifolia</i> | Goldenrod |
| Andropogon Gerardi | <i>Andropogon gerardii</i> | Big Bluestem |
| Schizacnyrium Scoparum | <i>Schizachyrium scoparium</i> | Little Bluestem |

- 7) The Sediment & Erosion Control “notes section”, displays the method to be used for tree planting. Depicted is a planting trench being lined with landscape fabric. Topsoil and tree root ball are shown being placed above the fabric. Such a procedure is clearly “unconventional” and the intended purpose of the fabric is not clear. As this fabric does not degrade, its use is puzzling if not problematic. Planting evergreens in wet soil conditions would normally use alternate procedures.

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Old Business:

E) MetroPCS NY @ Towne Centre:

- The applicant states that they are installing landscape/geo-fabric, which does not deteriorate.
- The purpose of the fabric needs to be explained by the applicant and corrected if included in error.

8) This Board applauds the use of metal anchors for the tree plantings.

The Conservation Board will continue to review the above application for MetroPCS NY @ Towne Centre Co-Location of a cell tower as revisions are submitted.

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The Board members took no further action at this time.

New Business:

A) Mitchell Subdivision/Notice of SEQR Actions; Designation of Lead Agency issued by Town of Somers Planning Board/Subdivide a 7.1 acre parcel into a four lot conservation subdivision; Full EAF; Preliminary Plat-Conservation Subdivision/PP-1; Erosion Control Plan/EC-1; Profile & Miscellaneous Details/D-1; Stormwater Facilities Detail/D-2; Sheet 16.09, Block 1, Lot 9. One lot contains and existing house and other outbuildings, which are proposed to be preserved and declared as an affordable housing unit, this lot will be accessed by an individual private driveway. The remaining three lots are to be accessed by a common driveway. All lots are to be served by a individual wells and septic systems; The property is 1200 ft. long (east/west) by 275 ft. wide

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New Business:

- A)** Mitchell Subdivision/SEQR/Lead Agency: (north/south); Road frontage is approximately 210 ft.; the property width of 210 ft. is maintained for approximately 330 ft.-traveling west into property; Westerly from Tomahawk St. the property is flat & gently slopes downhill to wetland in northern portion of proposed lot #4; the southwesterly portion of proposed lot #4 slopes towards the north and into the wetland; (#197 Tomahawk Street/Rte. 118/Tomahawk Chapel/Koegel Park): (JM)

The Conservation Board will review the above Planning Board application for Mitchell Subdivision, site plan, notice of SEQR actions, designation of lead agency by Planning Board, full EAF, erosion control plan, stormwater facilities detail and preliminary subdivision at their next meeting.

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

Chairman Meixner said that the open space should not be given to the Town it should remain as open space as part of the subdivision.

C.B. Secretary Ms. Davis added that the parcel should stay intact and the applicant should continue to pay taxes on the open space. She said that usually that is how a conservation subdivision should be arranged with the Town. Otherwise, the applicant does not have a conservation subdivision they have something else because the 'open space' land would not belong to the applicant any longer so the law would not apply.

Town Board member Clinchy said that he would be speaking to the Town Board to find out exactly what was done with this parcel with reference to the open space.

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New Business:

A) Mitchell Subdivision/SEQR/Lead Agency:

Chairman Meixner asked C.B. Secretary Ms. Davis to deliver this application to Mr. Moriarty as he was not able to attend the meeting tonight.

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.

B) Sussmann Mobil Station/Rte. 100 Realty, LLC /Discussion/re: Town Planner Memo dated May 24, 2011, waiving parking space requirement with reduction number (from 27 to 17) waiver from the ZBA, (Rte. 100/across from IBM): (GM)

The Conservation Board reviewed the above Planning Board application for Sussmann Mobil Station, site plan, with emphasis on reduction of the parking space requirement (waiver) from the Zoning Board and the Town Planner memo at their meeting tonight.

The Board members discussed the parking space situation among them and mentioned other areas in town where there were similar situations i.e. Shell station on Rte. 6.

The Board members took no further action at this time.

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There being no further business to discuss, a motion to adjourn was made at 9:20 PM by Board member Shoshana Hantman and seconded by Board member Michael La Gue. All members present approved.

The next regular meeting of the Conservation Board will be held at the Town House on June 14, 2011 at 7:30 PM.

Subsequent Conservation Board meetings are tentatively scheduled to be held at the Town House on June 28, 2011 and July 12, 2011 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