

Marlborough Conservation Commission
Regular Meeting
Marlborough Town Hall
June 6, 2005
7:00 p.m.

1. CALL TO ORDER

Mr. Don Hautman called the meeting to order at 7:00 p.m. in the meeting room of Marlborough Town Hall.

2. ROLL CALL

The following Commission members were seated and voting:

Don Hautman
Gordon Isleib
Gale Busemeyer
Jim Montstream
Jack Bray

Also present:

Kenneth & Tina Cheshire
Stephen Acerbo
Karen Bosshart
Ted Wojcik
Stephen & Patricia Tourtillotte
Mike Tarbell
Mac McCarrison
Bill Anderson
Michael & Patricia Kleinschmidt

3. SHOW CAUSE HEARING – Kenneth Cheshire – 16 West

Don Hautman read the legal notice that was in the Rivereast Bulletin on June 3, 2005. He also read a letter dated May 31, 2005 to Mr. Cheshire, 13 Ridgewood Drive from Peter Hughes regarding the unauthorized expansion of the parking area and the paving-over of the required biofilter area. These activities are in violation of the terms of permit #95-19.

Mr. Cheshire addressed the commission. He said that he no longer lives at 13 Ridgewood Drive. His current address is 16 Dairy Farm Rd., Portland, CT. He said that he did not receive the letter from Mr. Hughes. Mr. Cheshire said that he never applied for a permit because he assumed the contractor would have applied for the permit. He explained that the parking area was expanded to accommodate handicap parking, as required by the town. Mr. Cheshire also noted that there is a lot of wildlife in the area – red-tail fox, geese, blue herring, ducks, rabbits, squirrels, etc. He said that he does not believe he has damaged the environment.

Mr. Hautman reviewed permit application #95-19, which was an application to renovate the existing structure into a beauty salon (January 17, 1996). He said that the existing conditions on

the property are not what was approved as per the plan. The commission members noted that the original plan under application #95-19 was approved in order to protect the wetlands on the site and that plan has not been followed. Mr. Hautman also read a short note from Peter Hughes about how the commission might proceed.

Mr. Hautman asked if there was anyone from the public who wanted to speak about this subject. Tina Cheshire stated that she and her husband are environmentally minded and tried to be very careful and good to the wetlands during the work on their property. In addition, she uses non-harmful products in her hair salon.

Gordon Isleib said that the commission may want to determine whether the area that is unpaved near the wetlands is serving as a sufficient biofilter. Don Hautman said that the commission may need to have an outside expert opine on this. Jack Bray noted that the original intent of the design was for the site to have a gravel parking lot, so the whole dynamics of the area have changed.

Motion by Jim Montstream to keep the cease and desist order in place for Kenneth Cheshire – 16 West Rd., and modify the order such that the property owner is ordered to hire consultants consisting of a professional engineer and wetland specialist to prepare a plan that provides equivalent protection to the wetlands as what was approved in application #95-19 and that the plan needs to be presented to the conservation commission by the July 11, 2005 meeting (if possible), but no later than the August 1, 2005 meeting. The motion was seconded by Gordon Isleib and it was carried by a unanimous vote.

Motion by Gale Busemeyer to continue the show cause hearing for Kenneth Cheshire, 16 West Road, to the July 11, 2005 meeting. The motion was seconded by Jim Montstream and it was carried by a unanimous vote.

4. PUBLIC HEARINGS

- a. Application #05-04 – Kenneth Cheshire – 16 West Road - Landscaping

Bud Cheshire said that he spread some hay and wildflower seeds in the area, as instructed by the commission at its May meeting. The commission members agreed that the anchor can remain in place for now.

Motion by Gordon Isleib to close the public hearing for application #05-04 – Kenneth Cheshire – 16 West Rd. The motion was seconded by Gale Busemeyer and it was carried by a unanimous vote.

- b. Application #05-05 – Karen Bosshart – 379 Jones Hollow Rd. – Restore Pond

Karen Bosshart addressed the commission and explained the proposed activities to restore the pond. She showed the members a drawing of the area, showing the area where the trucks will access the pond. She also showed the trench area, explaining that water will be pumped out of the area. Once the area has dried, excavation will take place. There was a discussion about drainage. Don Hautman said that he wants the plan to be in writing and he wants the town's engineer to review the applicant's plan. Ms. Bosshart said that she wants to begin work in June. Don Hautman said that before work begins on the pond, he wants to know what is presently there.

He also wants to understand what impact the activity will have on the watercourse. An environmental assessment is required. Ms. Bosshart explained that the material drained taken from the pond will be surrounded by a silt fence. The stone wall also serves as a barrier. Gordon Isleib said that most of the material that will be pulled out of the pond will not be very wet. He doesn't think an engineer's opinion of the existing pond condition is necessary. Jim Montstream said that no one with any credentials has signed the map/plans prepared by the applicant and that is inadequate, in his opinion.

Motion by Gale Busemeyer to close the public hearing for application #05-05 – Karen Bosshart – 379 Jones Hollow Rd. The motion was seconded by Gordon Isleib. Gale Busemeyer and Gordon Isleib voted in favor of the motion. Don Hautman, Jack Bray and Jim Montstream voted against the motion. Motion failed.

Karen Bosshart said that she is frustrated because she believes she presented all the information that the commission and Mr. Hughes requested. Don Hautman reviewed the minutes from the April meeting, stating that the commission needs a site plan prepared by a professional engineer locating all the proposed activities, showing where things are going to be located, how the de-watering will be done, including a detailed construction sequence, erosion & control measures, restoration details, etc. Mr. Hautman explained that these are standard requirements. Gordon Isleib said that details on the dam construction also need to be included. The commission agreed that an environmental assessment is not required. Don Hautman suggested that the applicant speak to Mr. Hughes for an engineer recommendation.

Motion by Jim Montstream to continue the public hearing for application #05-05 – Karen Bosshart – 379 Jones Hollow Rd. to a special meeting on June 20, 2005 at 7:00 p.m. The motion was seconded by Gale Busemeyer and it was carried by a unanimous vote.

Motion by Jack Bray that the agenda for the June 20, 2005 special meeting include possible action for application #05-05 – Karen Bosshart – 379 Jones Hollow Rd. The motion was seconded by Jim Montstream and it was carried by a unanimous vote.

5. OLD BUSINESS

- a. Application #05-04 – Kenneth Cheshire – 16 West Rd. – Landscaping

Mr. Cheshire withdrew application #05-04.

- b. Application #05-05 – Karen Bosshart – 379 Jones Hollow Rd. – Restore Pond

Motion by Jack Bray to table application #05-05 – Karen Bosshart – 379 Jones Hollow Rd. until the June 20, 2005 special meeting. The motion was seconded by Jim Montstream and it was carried by a unanimous vote.

- c. Application #05-10 – Stephen Acerbo, applicant/Arthur Lord, owner – 180 Jones Hollow Rd. – Timber Harvesting

Gordon Isleib read the unapproved minutes from the site walk on May 21, 2005, attended by Don Hautman, Gordon Isleib and Christine Miller. There was a brief discussion about the application.

Motion by Gordon Isleib to approve application #05-10 – Stephen Acerbo/Arthur Lord – 180 Jones Hollow Rd. with the following conditions: 1) before timbering is initiated, the WEO needs to be contacted as to the start date and how long it will take to complete. He will report to the commission at the next commission meeting; 2) there will be no slash in the buffer areas or wetlands; 3) All main skid roads need to be re-seeded and stabilized; 4) the WEO needs to be contacted when harvesting is finished and stabilization is to be completed within seven days; 5) there shall be no heavy equipment within 50 feet of the wetlands, except for the one approved and continuously maintained wetland crossing and 6) all slash to be reduced to three feet above ground, maximum. The motion was seconded by Jack Bray and it was carried by a unanimous vote.

- d. Application #05-11- Scott Free Investments, LLC – 7 Lot Subdivision – End of South Buckboard Lane

Gale Busemeyer was unseated at this time. Gordon Isleib read the unapproved minutes of the site walk on May 16, 2005. Mike Tarbell addressed the commission and explained changes he made to the plans since the last meeting and the site walk. This included adding a conservation easement, an analysis of the effluent, moving the driveway from South Stony Brook Drive and placing a conservation easement on both sides to the top of the slopes to protect the embankments. There was a brief discussion about some driveway locations, as they are close to the wetlands. Pipe and culvert locations were also discussed.

Motion by Gordon Isleib that, based on the information presented for application #05-11 – Scott Free Investments, the activity may have a significant impact on the wetlands and/or watercourses. The motion was seconded by Jim Montstream. There were no votes in favor of the motion. Gordon Isleib, Jack Bray, Jim Montstream and Don Hautman voted against the motion. Motion failed.

Based on the information received, the commission determined that the proposed activity will not have a significant impact on the wetlands or watercourses.

There was a brief discussion about whether a public hearing should be scheduled for this application, as some of the commission members believe that there will be public interest in the proposed development. This will likely fall under the Planning Commission.

Motion by Jack Bray to approve application #05-11 – Scott Free Investments, LLC, on the condition that clearing limits need to be marked in the field and approved by the WEO before construction begins. The motion was seconded by Gordon Isleib and it was carried by a unanimous vote.

- e. Application #05-12 – FAC, LLC – 81 West Rd. – House and Driveway

Gale Busemeyer was re-seated at this time. Gordon Isleib read the unapproved minutes of the site walk dated May 16, 2005. There was a brief discussion about the driveway location. The applicant was not present at the meeting.

Motion by Gordon Isleib that based on the information presented for application #05-12 – FAC, LLC – 81 West Rd., the activity may have a significant impact on the wetlands and/or watercourses. The motion was seconded by Jim Montstream and it was carried by a unanimous vote.

Motion by Gale Busemeyer to schedule a public hearing for application #05-12 – FAC, LLC – 81 West Rd., for July 11, 2005 at 7:00 p.m. The motion was seconded by Jim Montstream and it was carried by a unanimous vote.

Motion by Gale Busemeyer that the commission requires the following information with respect to application #05-12 – FAC, LLC – 81 West Rd.: 1) an environmental assessment as per Section 8.4 (first two paragraphs) and 8.4 d&e of Marlborough's Inland Wetlands and Watercourse regulations; 2) the wetlands should be marked on the east property on both sides of the driveway with E&S measures identified; 3) the plans need to be updated to represent current proposed activity, specifically the revised driveway location, clearing limits, fill limits and where E&S will be installed; 4) E&S measures around the well to contain the well spoil need to be determined and shown on the site plan; 5) the location of ledge behind the house needs to be identified on the site plan; 6) the wetlands on the rear of the lot need to be delineated; 7) the drain coming from the east property be shown on the plan; 8) any footing drains be located on the plan; 9) travel time calculations from the septic to the wetlands need to be done and be made part of the public record; 10) the distance between the septic system and the wetland boundary needs to be checked to make sure it satisfies health code; 11) the plans need to be signed off by a soil scientist and land surveyor and 12) a detailed construction sequence is to be provided. The motion was seconded by Jim Montstream and it was carried by a unanimous vote.

Motion by Gordon Isleib to table application #05-12 -FAC, LLC – 81 West Rd., until the July 11, 2005 meeting. The motion was seconded by Jim Montstream and it was carried by a unanimous vote.

6. NEW BUSINESS

a. Application #05-13 – Robert Chuilli – 135 Hebron Road – House

Don Hautman read the application, which is for a single-family home. Robert Chuilli addressed the commission and showed the members a drawing of the plan. He explained that the house location is on the north side of Rte. 66. The wetlands issues are on the south side of Rte. 66.

Motion by Jim Montstream to approve application #05-13 – Robert Chuilli – 135 Hebron Road, on the condition that the WEO approve the installation of the siltation fence prior to beginning the activity. The motion was seconded by Gordon Isleib and it was carried by a unanimous vote.

Motion by Jack Bray to move item 6.b (Application #05-14 – John Gillis – 30 Blackledge Drive – House) after item 6.c (Application #05-15 – Steven Tourtillotte – 128 North Main Street – Replace Walks). The motion was seconded by Gordon Isleib and it was carried by a unanimous vote.

- b. Application #05-15 – Steven Tourtillotte – 128 North Main Street – Replace Walks

Steven Tourtillotte addressed the commission and explained what he wants to do. He explained that to build his porch he had to tear up a cement patio. He now wants to add a stamp concrete walkway from the porch area to the driveway. He said the location is approximately three feet from the lake. He is proposing hay and silt fence for E&S. The material to be removed from the site will be taken offsite.

Motion by Gordon Isleib to approve application #05-15 – Steven Tourtillotte – 128 North Main Street with the following conditions: 1) excess material removed for the walkway needs to be hauled offsite; 2) straw or hay bales need to be installed between the proposed walkway and the lake and 3) the WEO or the Assistant WEO needs to approve the E&S measures before activity may begin. The motion was seconded by Jim Montstream and it was carried by a unanimous vote.

- c. Application #05-14 – John Gillis – 30 Blackledge Drive – House

Motion by Jack Bray to schedule a special meeting for a site walk for application #05-14 – John Gillis – 30 Blackledge Drive for June 20, 2005 at 6:15 p.m., with an additional agenda item “Possible Action”. The motion was seconded by Jim Montstream and it was carried by a unanimous vote.

- d. Application #05-16 – Robert Elliott – 3-5 East Hampton Rd. – Enlarge Building

Motion by Jack Bray to table application #05-16 – Robert Elliott – 3-5 East Hampton Rd. to the July 11, 2005 meeting. The motion was seconded by Jim Montstream and it was carried by a unanimous vote.

7. OTHER BUSINESS

- a. Modification Request – 23 Lewis Rd.

Don Hautman read a letter dated May 25, 2005 from Blackledge Harvesting & Tree Service, LLC to Peter Hughes requesting permission to eliminate construction of the riprap swale. Mr. Hautman read a second letter dated May 26, 2005 from Blackledge Harvesting to Peter Hughes requesting that additional E&S measures not be installed, including the bio-infiltration pool and the stone check dam that surrounds it. A representative of Blackledge Harvesting & Tree Service explained that these E&S measures are no longer required because once the ledge was removed, water flow stopped. The town engineer will visit the site and review these requests.

Don Hautman read two letters from Charles Hickey, 29 Lewis Rd., (one dated May 23, 2005 and another dated May 31, 2005) regarding the lack of siltation fencing along his property line with respect to construction activity at 23 Lewis Rd. Mr. Hautman said that he spoke to Mr. Hughes, who visited the site and reported that the E&S measures are okay.

There was a brief discussion about clearing limits on this site.

- b. Community Development Advisory Committee

This will be covered at the next meeting.

c. Sewer Project

This will be covered at the next meeting.

d. Open Space Function

This will be covered at the next meeting.

e. Town Center Area

This will be covered at the next meeting.

f. Oak Drive Drainage

This will be covered at the next meeting.

8. APPROVAL OF MINUTES

Motion by Gale Busemeyer to approve the minutes of the site walk dated May 9, 2005 for application #05-09 – Dennis Hancin – 8 Cider Mill Rd. The motion was seconded by Gordon Isleib and it was carried by a unanimous vote.

Motion by Jack Bray to approve the minutes of the April 4, 2005 meeting. The motion was seconded by Gordon Isleib and it was carried by a unanimous vote.

Motion by Gordon Isleib to approve the minutes of the May 2, 2005 meeting with the following change: page 6, item 5.e, second paragraph, delete “22” throughout” and replace with “22 feet throughout”. The motion was seconded by Gale Busemeyer and it was carried by a unanimous vote.

9. WETLAND ENFORCEMENT OFFICIAL’S REPORT

This will be covered at the next meeting.

10. ADJOURNMENT

Motion by Jim Montstream to adjourn the meeting at 10:45 p.m. The motion was seconded by Gordon Isleib and it was carried by a unanimous vote.

Respectfully submitted,

Mary Sciano