

**TOWN OF SOMERS
CONSERVATION BOARD
MINUTES OF MEETING
DECEMBER 14, 2010**

The December 14, 2010 regular meeting of the Conservation Board was called to order by Chairman Gary Meixner.

Attendance: Eric Evans, Shoshana Hantman, Michael La Gue,
James Moriarty, John Purcell, Gary Meixner

Absent: Dr. Edward Merker

Guests: None

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.

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Announcements:

Chairman Gary Meixner asked C.B. Secretary Ms. Davis to send a card to former Board member Dr. Frank Lapetina.

Approval of Minutes:

A motion was made by James Moriarty and seconded by Michael La Gue to approve the minutes of the November 23, 2010 regular meeting of the Conservation Board. All members present approved.

Board member James Moriarty amended the Conservation Board Minutes of November 23, 2010 on pages 5, 8, 9 and 10.

Old Business:

- A)** Guerrero/#213 Rte. 100/Update/Building Inspector: (GM)
The Conservation Board tabled discussion of the above matter on the Guerrero property until the next Conservation Board meeting.

Discussion ensued among the Board members with regards to keeping the Guerrero application on the C.B. Agenda for the next meeting. The members discussed the need for closure on whether or not this application was given a permit by the DOT for the newly constructed driveway. Therefore, after a brief discussion on this matter at the meeting the Board decided that this item would be kept on the Agenda for an update on the matter when the outcome is known.

Chairman Gary Meixner noted that he would follow-up on the permitting process with the Building Inspector.

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Old Business:

A) Guerrero/#213 Rte. 100:

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

B) Sussmann Mobil Station/Site Plan/Planning Board; Project Drawings SP-2, SP-3, SP-6, SP-7, SP-8 dated November 18, 2007, revised; Prepared by Van Lent Architects & Planners, Bibbo Associates, LLP, (Rte. 100/across from IBM): (JP)

The Conservation Board reviewed the above Planning Board application for Sussmann Mobil Station, revised site plan and project drawings at their meeting tonight.

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

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Report:

- Board member Purcell informed the Board that he took several photographs of the site (and noted that the blue area in the photos was grass as his printer was low in yellow ink).
- He informed the Board that there were a couple of concerns that the Board had previously. He explained that one was in reference to the trees that had been cut down by the applicant.

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Old Business:

B) Sussmann Mobil Station:

- Mr. Purcell said that while he was taking the pictures both Paul and Juliet (owners) came out and spoke to him regarding the tree situation on the property.
- Board member Purcell reported that the applicant's explained that they had planted the trees that had been removed. The largest stump he said was between nine and ten inches in diameter. He noted that it was below the requirement for a tree permit.

Chairman Meixner added that the ordinance states that anyone who plants trees can cut them down if they can produce the paperwork to prove that they did indeed plant the trees.

Ms. Davis mentioned that the trees would have needed a permit if they were eight and one half inches at breast height, which does not seem to be the case in this instance (not to mention that they also planted the trees).

- Mr. Purcell continued his report stating that he took some pictures of the steep slope area in the rear portion of the property for the Board's review. He also noted that there were pipes in the pictures showing the property line and one of them was within 3 ft. of the pond. The other pipe is out in the open he said.
- Board member Purcell said that generally speaking everything seems to be in order. He mentioned that one of the drains in the parking lot appears to drain (on the grass) towards the pond. In the corner where the vacuums are located is a pipe that goes to daylight approximately 15 ft. from the parking lot and empties on the grass.

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Old Business:

B) Sussmann Mobil Station:

Chairman Meixner asked if the drains were on the same side as where the gas tanks are located on the ground.

Mr. Purcell responded affirmatively and noted that he took pictures by the road as well as by the propane tank.

Discussion took place between Mr. Purcell and the Chair with regards to the drains and where they empty (on the grass) especially concerning any possible future spill.

Chairman Meixner inquired about the presence of oil separators.

- Board member Purcell noted that it appears that the applicant is eliminating the drain in question (that empties on the grass) and oil separators would be installed on site.
- Mr. Purcell noted that the air pump is being moved towards the vacuums on the northwest side of the parcel; it is presently located on the south side. He said that this was a higher elevation than where the shed is located.

Chairman Meixner inquired about the revisions proposed.

- Mr. Purcell said that some of the proposed revisions for this site plan are as follows:

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Old Business:

B) Sussmann Mobil Station:

-The air pumps are proposed to be moved to the northwest side of the parcel.

-There is a utility pole that is now on the plans, but is subject to review by NYSEG.

-The sand filter was modified, which is part of the oil separation chamber.

-The applicant will have the exported soil tested, transported and disposed of in accordance with local, state and federal regulations.

-The proposed stone walls are dry gravity walls (no mortar used during construction); this is a clarification. They are located in the rear portion of the property down the hill near the pond and are approximately 1.5 ft. high.

- Mr. Purcell noted that a new stone wall is being built and it will extend to the property line. He said that the old wall appears to be curved, but the new wall appears to be straight and (as requested) continues to the property line.

The Board members took no further action at this time.

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Old Business:

- C) Referral & Comment Conservation Board/Email from Planning Department/Addition to Code of Town of Somers Chapter 170-129; Wireless Telecommunications Facilities Code Amendments dated November 10, 2010/Comment: (CB)

The Conservation Board reviewed the above referral from the Town Board regarding amendments to the Town Code with reference to Chapter 170-129 and wireless telecommunications facilities.

Discussion ensued among the Board members with reference to the proposed change in the Town Code.

After much discussion on the matter the Board members decided that they did not have anything to add or subtract from the information provided and they unanimously agreed that they had no comment on the proposed changes to the Town Code.

Board member Evans mentioned that this endeavor currently involves two Boards the Planning Board and the Zoning Board. He noted that if the Board agrees with this theory that there needs to be a more concise path for permitting then one of them will be cut out, namely the omission of the Zoning Board with regards to the approval process concerning wireless telecommunication facilities.

Ms. Davis mentioned that Town Board member Clinchy was present at the last meeting of the Board and he explained that the reason why this was being put forth is because the Planning Board does the majority of site plan reviews and they are familiar with the process. Also, the Federal Government currently does not allow for the time that is needed to go back and forth between two Boards; it only allows 120 days or 90 days depending on whether or not it is the first review or a revision. He explained at that time that if comments are not in by the deadlines then what would happen is that the application would go through without any comments at all. The Federal Government does not allow time for a more thorough review (with the newly imposed time line mandates).

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Old Business:

C) Referral/Wireless Telecommunications:

Chairman Meixner said that the government appears to be trying to get applications involving wireless telecommunication facilities put through in a more timely fashion.

Ms. Davis reiterated to the Board that the C.B. noted the changes and has no comments at this time. She said a memo would be sent to the Town Board stating that the Board has no comment on the proposed revision to the Town Code.

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A memo (#11-01) will be sent to the Town Board stating that the Conservation Board reviewed the above Town Board referral regarding the proposed amendment to the Town Code Chapter 170-129 concerning Wireless Telecommunications Facilities in the Town of Somers at their meeting on December 14, 2010.

The Board members reviewed the materials submitted and discussed the proposed changes to the Town Code among them.

The C.B. has the following recommendation:

- 1) The Conservation Board members reviewed the information provided noted the proposed changes to the Town Code and stated that they have no comment at this time.

The Board members took no further action on the proposed Code change.

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Old Business:

C) Referral/Wireless Telecommunications:

The Board members took no further action at this time.

D) Zoning Board/Site Walk & Balloon Test/#2580 Rte. 35/BZ11A/09 for 37.13-2-3/will be scheduled for Saturday December 11, 2010 between 9AM and 12PM inclement weather – December 12; Pending weather conditions alternate dates are – Saturday 12-18; Sunday 12-19; Saturday 1-8; Sunday 1-9, etc., (#2580 Rte. 35/Orchard Hill Road):
(GM/CB)

The Conservation Board is in receipt of the above information concerning the Zoning Board site walk and balloon test for #2580 Rte. 35, Orchard Hill Road, to locate a wireless telecommunications facility at that address.

Chairman Meixner and the members of the Board were not able to attend the above mentioned site walk and balloon test on Saturday December 11, 2010 between 9AM and 12PM.

The Chair was wondering if the site walk and balloon test took place, as the day was very windy. He asked the C.B. Secretary to find out and if it did not take place, keep it on the C.B. agenda for the next meeting.

The Board members took no further action at this time.

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Old Business:

- E)** BVS Acquisition Company, LLC/Site Plan/Planning Board (aka Chase Bank/fka Bank of America), plans dated October 28, 2010, Letter dated October 28, 2010 to Planning Board from Hocherman, Tortorella & Wekstein, LLP; Stormwater Analysis dated October 25, 2010; Letter dated October 25, 2010 from Atlantic Traffic & Design Engineers, Inc., Plans/A1.1; A4.1; A4.2 Floor Plan & Elevations; Topographic Survey dated 4-6-07; C-1/Cover Sheet; C-2/General Notes; C-3/Removals Plan; C-4/Site Plan; C-4a/Overall Shopping Center Plan; C-5/Grading & Drainage Plan; C-6/Soil, Erosion & Sediment Control Plan; C-7/Utility and Sanitary Plan; C-8/Landscape Plan; C-9/Landscape Notes; C-10 Lighting Plan; C-11/Site Details; C-12 & C-13/Site Drainage & Utility & Details, Prepared by Hocherman, Tortorella & Wekstein, LLP, (#95 Rte. 6/Baldwin Place): (ML)

The Conservation Board reviewed the above Planning Board application for BVS Acquisition Company, LLC, aka Chase Bank, site plan, stormwater analysis, soil, erosion and sediment control plan, grading and drainage and landscape plan at their meeting tonight.

Board member La Gue mentioned that he thought the Planning Board members had already approved the application due to a recent draft resolution that was generated by Town Planner Hull and emailed to the Board members.

C.B. Secretary Ms. Davis said that she was not aware that it had been approved to date, however since he was going to comment on the landscape plan she did not think that a comment of that nature would be a problem for the applicant or the Planning Board.

Board member Michael La Gue said that he is in the process of reviewing the landscape plan for this application and he will provide a report on that matter.

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

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New Business:

- A)** Discussion/Conservation Board Meeting December 28, 2010: (CB)
C.B. Secretary Ms. Davis informed the Board that the next meeting is scheduled for December 28 and she was not sure whether or not the Board wanted to have a meeting on that date and/or who would be available to be present.

Several of the Board members said that they might not be able to attend a meeting on that date (Ms. Hantman and Mr. La Gue). Mr. Purcell and Mr. Moriarty said that they should be available. Mr. Moriarty mentioned that he might have a conflict sometime in January.

Ms. Davis said that she did not know whether or not the Planning Board is having a meeting at the end of the month, however she did not foresee a problem with the Conservation Board canceling their meeting on the 28th. Also, she added that there were few applications to review at this time.

Chairman Meixner checked the schedule on the calendar and noted that there is no Planning Board meeting scheduled for the end of December.

Discussion ensued among the Board members with reference to the C.B. meeting on December 28. The Board discussed the Cingular wireless facility at Somers Commons and the Town of Carmel proposal called Union Place that is located off Rte. 6 at Baldwin Place.

The Board members reviewed the wireless facilities located in town and the recent application for a co-user at Somers Commons.

After some discussion on the matter the Conservation Board members decided to cancel their regularly scheduled meeting for December 28.

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New Business:

A) Discussion/C.B. Meeting:

The Board members took no further action at this time.

B) Town Board Referral/Request to convey paper road known as Lakeview Terrace to Jeanne Maloney dated 11-19-10/CB Comment: (CB)

The Conservation Board acknowledges receipt of the above referral from the Town Board for a request to convey a paper road known as Lakeview Terrace to Ms. Maloney a resident of Somers and they reviewed it at their meeting tonight.

Board member Shoshana Hantman inquired about the definition of a paper road.

Board member Eric Evans responded that a paper road is a road that shows up on a map, but it doesn't actually exist. It was once planned to be a road, but was never put into use.

Chairman Meixner informed the Board that there are many paper roads in the Lincolndale area.

Ms. Hantman was wondering why the paper road needed to be conveyed.

Mr. Evans responded that there are trees falling on adjacent properties causing damage and it is a liability for the town.

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New Business:

B) T.B. Referral/Maloney:

Board member Michael La Gue asked if this was something that was given a grant or would be paid for?

Mr. Evans replied that if the Town Board approves it, it would go for public comment and/or public objection, but if it passes it would be conveyed with a deed.

C.B. Secretary Ms. Davis noted that there was a memo from Town Planner Hull that mentioned other property owners whose parcel border this paper road and that she said they would have to be included in any conveyance as well. Ms. Hull made a recommendation by memo for the other landowners to be contacted.

Ms. Davis informed the Board that historically the Conservation Board has not recommended that paper roads or vacant land be conveyed to residents. The Board has usually recommended that land of this nature to be considered for open space. If that was not feasible then the Board has recommended that the town keep these parcels in case there is a future need or use.

Board member Evans said that this residential property is in the middle of other residential property.

Chairman Meixner said that paper roads have been used in the past for driveways, etc. However, they cannot have an easement or be built upon or used as part of a parcel for other construction activity, as is noted in the Town Code he said.

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New Business:

B) T.B. Referral/Maloney:

Discussion ensued among the Board members with reference to the location of the property proposed for conveyance. They determined that the site is located somewhere near the Firehouse in Amawalk.

Mr. Evans said that the attorney who sent the documentation describes the property as a potential liability to the town, which in some ways it can be.

Chairman Meixner asked if there was a house located near there.

C.B. Secretary said that the Board might have some time on this if they are going to contact the other property owners.

Ms. Davis went on to say that in her memo to the Town Board dated December 9, Town Planner Hull said the following:

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The Planning Board at their December 8, 2010 meeting, discussed the above referenced referral regarding the request to convey the paper road known as Lakeview Terrace to Jeanne Maloney and Lorraine Presby, owners of a neighboring property.

The Planning Board has reviewed the Town Planner's memo dated December 8, 2010 and fully supports the need to communicate with the three other adjacent property owners prior to conveying the paper road.

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New Business:

B) T.B. Referral/Maloney:

Chairman Meixner said that the Board should wait to hear from the neighboring property owners regarding the conveyance. He was wondering what would happen if everyone did not agree.

Board member Eric Evans mentioned that he had some experience in this area in Connecticut where the owner of the nearby property wanted to put his driveway on a parcel that was owned by the town. Ultimately the builder put his driveway on the property. The short version of the story was that it was a cul de sac at one point and then the road was continued all the way through. Once they continued the road they eliminated the circle portion and the curbing and the driveway was extended to the street (that use to be part of the circle). There was a title search problem and they needed to get title of the property and it had to go to a hearing and there was notice to the public. If someone had an objection they could state it, but it involved a smaller piece that had zero use by the town.

Chairman Meixner said that if the other property owners object or want to be part of the process then they would have the right to state their respective case. In this instance there are three other property owners that border the parcel.

Ms. Davis said that it is a matter of philosophy with the Conservation Board. Do we want the parcel to be deeded as open space or do we have another opinion.

Another view on this said Board member Evans is that the property if conveyed would be deeded to a resident whose property tax would go up and the Town of Somers would get revenue from it. It has already been a liability due to tree issues, he said.

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New Business:

B) T.B. Referral/Maloney:

Also, he said that a vacant lot is most often used as a dumping ground for debris, etc. because who would complain about it. If someone were allowed to use the parcel then it would be taken care of and would not be abused by the neighbors.

Board member Hantman inquired about the parcel being considered for an actual road.

Mr. Evans said that as such it would still be a liability to the town. He mentioned that he is not sure why it was never actually used as a road.

Board member La Gue said that maybe the road exceeds the grade recommended for a road and due to the steep slopes they never considered using it as a road. He noted that the reservoir is shown in bold and that the surrounding area is on a ridge.

Discussion ensued among the Board members with reference to the proposed conveyance of Lakeview Terrace paper road.

Chairman Meixner said that he would like to hear the comments from the neighbors.

Mr. Evans said that he would have no objection.

Mr. La Gue said that if it borders the DEP property for the reservoir could it be given to them? He said that at the very least they should be notified for comment.

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New Business:

B) T.B. Referral/Maloney:

Chairman Meixner said that the Conservation Board would like to know the DEP's comments.

Discussion ensued among the Board members and they agreed that they would like to know what the DEP had to say about this possible conveyance.

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A memo (#11-02) will be sent to the Town Board stating that the Conservation Board would like to know the comments made by the Department of Environmental Protection with reference to the possible conveyance of this paper road, as their property (reservoir) is located in the vicinity.

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The Board members tabled discussion of this application until such time as there is more information about the neighbors and a response from the DEP.

The Board members took no further action at this time.

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New Business:

- C)** Town Board Referral/Request to donate land to Town of Somers from John F. Youngman, Jr. (Section 5.19, Block 3, Lots 70 & 71) on Dogwood Road dated 11-19-10/C.B. Comment: (GM/CB)

The Conservation Board reviewed the above Town Board referral for a request to donate land to the Town of Somers from John F. Youngman, Jr. on Dogwood Road at their meeting tonight.

Discussion ensued among the Board members with reference to this application to donate two lots on Dogwood Road to the Town.

C.B. Secretary was wondering if a resident could subtract sections of their property (i.e. 20 x 100 ft.) and donate them to the Town.

Board member Eric Evans responded that if you do not reduce your property beyond the zoning requirements, it could be done.

Board member Michael La Gue asked why the Town would be interested in this parcel?

Mr. Evans responded that a wetland or pond has a need to be protected. If it has something of value from an environmental prospect then it could be a plus for the town.

The Board does have an interest in the preservation of wetlands said Mr. Evans.

Board member Shoshana Hantman said that we have no idea if the applicant owns the property bordering these parcels or not.

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New Business:

C) T.B. Referral/Youngman:

Chairman Meixner said that he does not see that there is more value in wetlands than steep slopes (Maloney application).

Board member Evans said that this application is similar in nature to the C.B. concerns on the Lakeview paper road conveyance. We cannot appreciate any environmental purpose to protect the steep slope, but there is certainly a clear environmental purpose to protect a wetland; one should be kept and the other should be conveyed.

The Chair inquired about the location of the property.

Board member Purcell explained where the property is located. He noted that the water located on that parcel of property comes from Lake Lincoln Dale. While giving directions to the Board he explained that the road is right before the "S" turn on Lovell Street. As a point of interest he mentioned that there are tree frogs living on that property.

Chairman Meixner said that he would take a look at the property and asked if anyone else would like to go with him.

Both John Purcell and Shoshana Hantman mentioned that they would be interested in visiting the site with Gary.

This item will be tabled until the next Conservation Board meeting. A report will be forthcoming at that time.

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New Business:

C) T.B. Referral/Youngman:

Chairman Meixner asked if there was more information available for him to look at with regards to this application.

C.B. Secretary Ms. Davis said that the information he has is all that she was given.

Board member Purcell said that maybe he could Google the site and get a better picture.

The Board member took no further action at this time.

D) Pomerance/Wetland Activity Permit/Administrative/CD-1, Construction Drawing dated November 20, 2010, Section 6.12-1-19, Prepared by Insite Engineering, Surveying & Landscape Architecture, PC, (#303 Greenbriar Drive; North side/850ft intersection Butler Hill Road): (GM)

The Conservation Board reviewed the above administrative application for Pomerance wetland activity permit, construction drawing at their meeting.

Chairman Gary Meixner informed the Board that he attended the administrative review team meeting and discussed the application at that time.

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Report:

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New Business:

D) Pomerance/WAP:

Chairman Meixner informed the Board that the applicant's house happened to be located on that parcel of property before the Greenbriar development was built.

- He explained that originally when the house was constructed there was a pond located on the property that apparently was being used for drinking water.
- The Chair noted that upon testing it was determined that the water in the pond had tested positive for coliform and the Board of Health is requiring the homeowners to drill a well.
- The applicant had to drill the well according to the recommendations made by the BOH he said. He informed the Board that the well happens to be located in the wetland setback, hence the need for a wetland permit.

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

After some discussion on the matter the Board members decided that a memo should be sent to Principal Engineering Technician Woelfle stating that the applicant should restore the landscape for any damage to the environment due to the drilling of the well.

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New Business:

D) Pomerance/WAP:

A memo (#11-03) will be sent to Principal Engineering Technician Woelfle stating that the Conservation Board reviewed the above administrative application for Pomerance wetland activity permit at their meeting on December 14, 2010.

The Board members reviewed the materials submitted and discussed the application among them. Chairman Meixner attended the administrative review team meeting.

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

- 1) The Board requests that the applicant restore the landscape for any damage to the environment due to the drilling of the well.

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The Board members took no further action at this time.

E) New Cingular Wireless PCS LLC (AT&T)/Co-Location at Somers Commons Shopping Center; Site Plan dated November 12, 2010, Section 4.20, Block 1, Lot 11; Exhibits A, B, C, D, E, F, G; Title Sheet/T-1; Plot Plan/Z-A; Property Owner's List & Setback Maps/Z-1B; Site Plan/Z-1; Site Detail Plan & Notes/Z-2; Elevation, Antenna Plan & Details/Z-3; Details & Notes/Z-4; Prepared by Cuddy & Feder, (#80 Rte. 6/Baldwin Place): (JM)

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New Business:

E) New Cingular Wireless:

The Conservation Board will review the above Planning Board application for New Cingular Wireless PCS, LLC (AT&T)/Co-Location at Somers Commons Shopping Center, site plan at their next meeting.

The Board members performed a preliminary review of the application and determined that there would be utility construction, additional sheds and new cabling and wiring.

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.

F) Informal Meeting between Chairman Meixner and Principal Engineering Technician Steve Woelfle/re: Violations and Paperwork: (GM)

Chairman Meixner informed the Board that he had a discussion with the Principal Engineering Technician Steve Woelfle with reference to violations and paperwork. He explained to Mr. Woelfle that the C.B. has not been getting all of the necessary documentation involved in violations, etc.

After some investigation into the matter Mr. Woelfle said that it appeared that some of the paperwork for the violations have inadvertently 'fallen through the cracks' and the Consulting Engineer Joe Barbagallo must have forgotten to copy the Conservation Board.

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E) New Cingular Wireless:

Chairman Meixner explained to Mr. Woelfle that the reason why this is being brought up is because the Board is not getting the information that they need in order to do their job.

C.B. Secretary Ms. Davis asked about the monthly report that was requested by the Conservation Board.

Chairman Meixner said that he did not recall discussing the report with Mr. Woelfle at that time.

The Board members took no further action at this time.

There being no further business to discuss, a motion to adjourn was made at 9:30 PM by Board member Eric Evans and seconded by Board member James Moriarty. All members present approved.

The next regular meeting of the Conservation Board will be held at the Town House on January 11, 2011 at 7:30 PM.

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Subsequent Conservation Board meetings are tentatively scheduled to be held at the Town House on January 25, 2011 and February 8, 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
Landmark Committee