

Conservation Commission Meeting  
Sharon Community Center  
April 21, 2016 – DRAFT

This meeting did not have a Quorum, therefore it was informational only. Peg Arguimbau, Chair, Linda Orel, and Meredith Avery were the members present. Not in attendance were Keevin Geller, Stephen Cremer, and Alan Westman. The Conservation Administrator, Greg Meister, was also present.

A sign-in sheet is on file in the office listing other attendees of the meeting.

Meeting started at 7:45pm

**7:45pm – Commission members signed Certificate of Compliances:**  
Stop & Shop @ 21R General Edwards Highway and 82 Aspen Road

**Other:**

Arguimbau informed committee members that the Board of Selectman (BOS) were working on aligning the expiration dates of its members in order to not have 3 members terms expiring at the same time.

**Approval of meeting minutes of April 7, 2016**

**8:00PM – Violation Enforcement, 635 Old Post Road - Diamond Builders**

Arguimbau explained that there was no quorum at this time. The Commission members will take information, review the updated plan, and listen to the concerns of Commission members and abutters. If a fourth member should arrive, then a vote can be taken, otherwise the hearing will need to continue to the next meeting. Commission members absent should review this portion of the meeting, sign a statement saying they have watched the meeting so they will be able to vote on this hearing at the next meeting.

Dias, representing Diamond Builders, presented an updated plan addressing the cutting of trees at 635 Old Post Road. Dias briefly recapped the violation: there was clearing of trees beyond the limited work area. He has worked with Meister on finalizing the restoration plan and has taken into account feedback received from Commission members from the last meeting.

Dias noted that he incorrectly noted the wrong number of trees cut down and corrected that number. In the first draft of the restoration plan, only trees were proposed to be replanted. As there was a sparse shrub layer, the developer was not proposing to replant any shrubs. They were also not proposing to replant within the wetlands. After discussion with the Commission, Commission members preferred that Diamond replant within the wetlands and to re-establish growth. In the draft plan, 2.5”DPH caliber trees were proposed. Commission members preferred that 4”DPH trees be planted.

Since the last meeting, Meister has walked the site with Dias. There was discussion of adding shrubs to be replanted where there were no trees or a stump that may re-spout. The area should also be re-seeded. In reviewing the original plan, Meister pointed that there was an error on the plan, with respect to the size of the replacement trees. A new corrected restoration plan has been developed and distributed to Commission members.

Dias explained that there were 33 trees removed. Included in that count was one Canadian Hemlock. Dias is proposing to re-plant 37 trees, along with 20 shrubs to fill in gaps between trees. The area will also be re-seeded.

There was discussion regarding the typical conditions of, and survival rates of trees replanted within the Wetlands. Dias explained that per State regulations, there was a three year monitoring program. An initial report will be prepared after the initial plantings, then a report after the fall growing season, then reports annually.

**Abutters:**

Paul Howe. He has seen the property and would like to know who was responsible for clearcutting all the trees. *A subcontractor was hired. Though the limit of clearing was staked, but the contractor who cleared trees went further then should have. Work stopped immediately. Meister was notified of the clearcutting into the wetlands.*

John Lee. Lee mentioned that Dias spoke about the errors and mistakes made to date with respect to the project. There have been many. The tree contractor cut into the wetland buffer as well as into the wetland. According to Lee, this type of error does not happen often. For confirmation Lee asked Meister the last time something like this happened. According to Meister, the last time trees were cut within a wetland buffer zone was approximately about 10 years ago. Lee also pointed to the restoration plan submitted last week, showing the error made of the replacement tree size as 2-3 feet in height.

Govani Land Services out of Mashpee was the contractor hired to remove the trees. However, the site manager for Diamond Builders did not know this information. The trees cut down buy Govani provided a buffer and natural resource to Town of Sharon, as well as to the abutters of the project. Lee then showed the Commission members a tree stump representing the average size of the tree cut down. He then showed a sample of a tree Diamond wanted to replace the cut down trees with. In essence, they were twigs as compared to the size of the average trees cut down. The size of the replacement trees was corrected on the restoration plan, however, there have been numerous mistakes on this project, and it is only in the beginning stages.

Lee presented the Commission Chair with a letter of what he would like to see at the project site as well as to dispute some of what Dias has said (letter on file in office). Lee proposed that Diamond Builders work with a certified arborist to review restoration plan and to ensure that trees and shrubs planted are appropriate for the site. Lee is

concerned as the original plan was certified and stamped by a professional engineer, yet mistakes were made.

### **Commission Members**

Orel. She does not believe it is inadequate to replant 37 trees, though she does believe that there may be an issue with trust. Work on the project seems to have been careless, not just with the cutting down of the trees, but with the paperwork as well.

Avery. Unfortunately, can't re-plant trees of the size which were cut down. Diamond plans on re-planting 37 trees as well as shrubs, and re-seeding. The use of an Arborist is great, however, not sure of what more we would get. She is also very disturbed with the mistakes that have been made.

Dias has admitted that mistakes have been made. He also clarified that the cutting beyond the limit has not gained Diamond anything. The price tag on trees is approximately \$40K. The project is now about a month behind schedule, and will be another two weeks behind with the next Commission meeting scheduled in two weeks. To lose that time, plus the cost of the trees, to gain nothing is crazy. Dias took responsibility of the mistake made on the plan.

Orel stated that sometimes it is not about what has been gained, but more about what has been lost. The clear cutting of 33 well established trees is a big loss. She would like for an Enforcement Order to be on record. As this development is a 40B, not sure of monetary fining by the Commission, but the Enforcement should be noted.

### **Abutters**

Delaney agreed with that statement. The trees which were cut blocked the sun, wind, snow, dust, noise, light. There may have been nothing gained by the builders in cutting down the trees, but the loss to the abutters and the neighborhood is significant. And while he believes that mistakes do happen, he also believes that as a builder and developer, it is their responsibility to know the Towns by laws and regulations, and that any pertinent information should be shared with those who are performing work at the site. Delaney believes that at this point that there should be a third party on-site to monitor the project to ensure that the project is running smoothly and that no more mistakes happen. He also asked about the developer establishing a bond with the town. To date, and with respect to this project, the EPA, DEP, NPDES, Walpole Police, Sharon Police have at some point been involved with this project. Therefore, it is believed that a tone should be set, that the regulations and by laws of this board need to be taken seriously, and that if such an egregious error occurs, then there should be repercussions for the developer.

Kennedy. He is a certified arborist. He believes that the developer should look at how to spend the \$40,000 already committed to re-planting. Large trees have been cut down, but what is the best replacement? He believes that there should be a watchful eye on the trees being planted. Perhaps there should be more than 37 trees planted? The developers

focus is on the project and making money. An Arborist will look out for the town. In his experience, what he has seen is that there have been no diagrams showing the planting pits, and that trees have just been planted and within five years, long after the developer is gone, the trees have died.

Lee. In the past the Town has hired peer consultants paid for by the applicant to review the project. Perhaps at this point, this is what the Commission should look into.

Howe. He has looked at the property and it is his opinion, that the clear cutting of trees was not accidental, but rather, intentional.

Fettig. Her main concern is that there should be supervision on site. Currently there is no confidence with Diamond Builders. Abutters want to know that replication and re-planting is going to be done correctly.

Dias believes that an arborist may be helpful. They have worked on several restorations in the past and have had high success rates in re-plantings. If the Commission believes that an arborist should be involved, they are not opposed.

Meister spoke about wetland plantings vs other types of plantings. Hydrology needs to be right. A wetland scientist should oversee and monitor the plantings to ensure correct conditions for re-planting. Meister is not opposed to using an expert, as his expertise is not in wetland replication. Oversight of re-plantings does not entail someone on site every day. It is important that the abutters feel confident, that the peer reviewer is not connected in any way to Diamond, and that it is noted that the peer reviewer will represent the Town.

Orel would like an enforcement order against Diamond Builders and to have an objective third person oversee the planting. Arguimbau mentioned that the overseer should come in for the growing season.

Dias again stated that there will be no issue with the Commission bringing in a peer reviewer to oversee the wetland replication and re-planting of trees. His concern however, is the schedule. The spring growing season is now in swing and if a majority of Commission members do not show up for the next meeting, then they would be even further behind, and potentially have to wait until the fall to re-plant.

Meister will speak with Tom Houston and inquire as to whom his firm uses for wetland consultants.

Arguimbau mentioned that if a quorum of Commission members were available, then they would have a meeting next week, otherwise, this hearing would be continued to the next regularly scheduled meeting of May 5<sup>th</sup>. Lee asked why not wait to the regularly scheduled meeting?

**Discussion Items:**

A legal opinion of Mt Fern Street (Lexington way) has been distributed to Commission members. Arguimbau asked members to read and that they will discuss at a future meeting.

Christos, 151 Maskwanicut Street asked to speak to Commission members. He wished to discuss Mt. Fern Street. He explained that he has been using that road for the past 13 years with an off road vehicle and that the road has been there for over 100 years. He is upset that the road is now off limits to his using his off road vehicle and would like to petition the Town to not take the road out of circulation and to keep it as a road to be used. Currently, a tree has been planted in the middle of the roadway and a no trespassing sign has been posted.

Arguimbau has asked that discussion of use of Mt. Fern Street be put on the agenda for May 5<sup>th</sup>.

Meeting adjourned at 9:10pm.