

September 4, 2012

Special Meeting

5:30 p.m. Land Use Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mr. LaMuniere, Mr. Wadelton

MEMBERS ABSENT: Mr. Bohan, Mr. Papsin

ALTERNATES ABSENT: Ms. Cheney, Mr. Martino

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Sabin, Mr. Gutierrez, Mrs. Friedman, Mr. Adams

SHOW CAUSE HEARING

Rosenberg and Murphy/10 West Morris Road/Unauthorized Clear Cutting and Soil Disturbance

Mr. Bedini called the hearing to order at 5:30 p.m. and seated Members Bedini, LaMuniere, and Wadelton.

Mr. Ajello, enforcement officer, presented the following documentation from the file: 1) map of the Sedito residence dated 6/22/10: He noted that this map clearly labels a brook on the west side of the property, an intermittent stream on the east side, and a pond on the north side. He said he had reviewed this map with Mr. Rosenberg and had advised him there were watercourses and most likely wetlands on three sides of the property. 2) photos taken on 7/18/12 of the unauthorized tree clearing. Mr. Ajello said he inspected the property on 7/18 after being alerted by a neighbor that the work was in progress. These photos were circulated. 3) 7/19/12 notice of violation: Mr. Ajello read the pertinent sections of the notice. 4) 8/2/12 email from Mr. Rosenberg: This email stated that Mr. Rosenberg would not be able to attend the Commission's 8/8 meeting, but would prepare a planting plan for the 9/12 meeting. 5) photos taken on 8/16/12 of additional unauthorized work and soil disturbance on the property. These photos were also circulated. 6) 8/16/12 second notice of violation: Mr. Ajello pointed out the soil disturbance and the sediment that had eroded into apparent wetlands. He noted that in the original 7/17 notice of violation, he had informed the property owners about what types of activities were regulated by the Inland Wetlands Commission and that "any activity causing soil disturbance" within 100 feet of a wetlands or watercourse was included in the list. He read the pertinent sections of the second notice. 7) 8/28/12 cease and restore order: Mr. Ajello read the order to the Commission and noted he had requested an application to correct the violation. 8) 8/28/12 letter from Mr. Rosenberg authorizing Mr. Sabin, landscape architect, to represent him.

Mr. Bedini asked Mr. Sabin if he had been involved with the work done on the property from its beginning. Mr. Sabin said he had not and that he had been called in by the property owner after the enforcement order had been issued to help resolve the matter.

Mr. Bedini asked if there was a reason the property owners had not gotten a permit and had not followed the directions given in their enforcement notices. Mr. Sabin did not know but said that Mr. Rosenberg had communicated with the enforcement officer and had thought he was doing what was needed to be done.

Mr. Sabin described the two components of the violation and the restoration he proposed. 1) Sedimentation into the marsh pond on the west side of the property: Mr. Sabin stated that both erosion controls and a permanent ground cover were needed. He referred to photo C5 that showed the sediment plume. He recommended the removal of the invasive plants in the area between the house and Romford Road and reseeding it with more stable plants. 2) Tree cutting in the area north of the pool and house: Mr. Sabin said photos C7, C9, and C10 illustrated the situation. He said there is an obvious riparian corridor to the north of the pool and although a survey and wetlands delineation had not yet been done, he recommended that canopy trees be reintroduced and that they should be a native wetlands obligate species. Mr. Sabin said the property owners would like to add fill along the edge of the wetlands at the base of the slope and recommended a native buffer plant thicket to separate the wetlands from the rest of the site.

Mr. Sabin said he had read the cease and restore order and understood that the owners are required to flag the wetlands, but he said he wanted to begin stabilization work immediately instead of waiting for the mapping to be completed. He proposed to draw up a well defined, to scale restoration plan, which would include buffer plantings in both the uplands and the wetlands, for the next meeting.

Mr. LaMuniere pointed out that there had been seven directives to the property owners in the 8/28 order, but that only one had been completed to date. He did not think the mapping requirement should be waived. He asked Mr. Ajello what measures could be taken to prevent further damage.

Mr. Bedini asked who had incorrectly installed the silt fence. Mr. Gutierrez said his worker had, and that it had rained the next day before it could be fixed. He noted, too, that the catch basin did not work and that this had contributed to the erosion problem.

Mr. Ajello reported that that the disturbed area northwest of the house had already been stabilized and the stockpile had been removed from the area northeast of the house. He also thought that the mapping could probably be completed within two weeks.

Mr. LaMuniere said because the site was already stabilized there was no urgency to being planting before the required mapping was done.

Mr. Bedini noted the purpose of the hearing was to give the property owners the opportunity to show cause why the cease and restore order issued to them should not remain in effect. He said that no reasonable explanation had been given for having done the work in the regulated areas without a permit.

Mr. Sabin said again that the owner had consulted with the wetlands enforcement officer and had thought it was OK to do the work that he did.

Mr. Bedini stated the property owners continued to work even after they had been advised to stop. He recommended that they should be fined and that the order should stand.

After a brief discussion, it was the consensus of the commissioners that since the property was stabilized, the wetlands flagging and survey map should be completed first and the restoration plan should be based on the actual site conditions.

Mr. Ajello said the property owners had not yet been fined. He thought there were two separate

violations; one with no impact to wetlands, which would be \$150 and the second with impacts to wetlands, which would be \$500. He thought the fines should be discussed at the 9/12/12 meeting. Mr. Bedini noted that another reason for getting the survey done would be to better determine the severity of the violation.

MOTION:

Regarding Rosenberg and Murphy/10 West Morris Road/Unauthorized Tree Cutting and Soil Disturbance, after reviewing the facts of the case and the lack of valid reasons for the unauthorized activities that impacted the wetlands, the 8/28/12 cease and restore order should stand until such time as a proper restoration plan is approved and the requests made by the enforcement officer in the 8/28/12 order should also stand.

By Mr. LaMuniere, seconded by Mr. Wadelton, and passed 3-0.

MOTION: To adjourn the meeting. By Mr. Wadelton.

Mr. Bedini adjourned the meeting at 6:08 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Administrator