

CONSERVATION ADVISORY COUNCIL
Meeting Minutes
Thursday, April 25, 2013
Delancey Hall

Members Present: Pam Pooley, Co-Chair
Lori Tripoli, Co-Chair
Nancy Welo
Alan Towers

Also Present: Patricia and Jeffrey Butler, 201 June Road
Cynthia Curtis, Planning Board Chairperson
Amy Rosmarin, Town Board Member
Janice Will, Secretary

Lori Tripoli opened the meeting. Offering information about her background/experience, she asked the others present to tell about themselves.

It was noted that Bill Gerard, a member of the CAC, had sent an e-mail that day, resigning from the Council. Ms. Welo was expected later.

Noting there was a quorum present, Ms. Tripoli asked about past CAC meetings.

Pam Pooley said the last meeting was held in the Library about 8 months ago to discuss correspondence received concerning wetlands permits. She remarked that CAC's in other towns are very active (and not only regarding wetlands), and she invited Cynthia Curtis to speak.

Ms. Curtis said that the CAC is an advisory group, and every wetland permit application is referred to them. She explained that the Building Inspector handles minor wetland permits, but that in instances of full/major permit applications, the CAC is meant to provide feedback within 30 days of receipt. Ms. Curtis said the CAC members may go on site visits with permission of the property-owner and only if the site walks are publicly noticed. The site walks are not public meetings, but a means of gathering information. The meetings subsequently held to discuss that information must be public. Ms. Curtis said agendas may be posted just a few days before meetings because the CAC is not a board.

Ms. Tripoli asked who to contact about site visits.

Ms. Curtis said that usually Bruce Thompson, Building Inspector, and Joe Bridges, the Town's wetlands consultant, set up site inspections. She noted that major wetland permit applications are referred to the Planning Board by Dr. Bridges; after that, the CAC would follow up with the Planning Board for information about site walks. Ms. Curtis stated that the Planning Board would expect the CAC's report within 30 days of receipt of a complete

application. She explained that completeness is a bigger issue with applications referred to the Planning Board.

Ms. Tripoli asked what the protocol is in terms of the number of CAC members who should go on site walks.

Ms. Curtis said all members may go, but it is not a meeting. At their next meeting following a site walk, the CAC can discuss the application/visit and decide whether or not they will make a report or not. She said the Planning Board also makes referrals to the CAC about site plans, sub-divisions, tree-clearing, excavation/fill, and SEQRA of major projects.

Ms. Pooley asked if the CAC will receive Stormwater Pollution Prevention Program referrals.

Ms. Curtis explained that a SWPPP is usually part of an application that falls under one of the activities described above. She said she didn't think the Building Inspector normally refers SWPPP's to the CAC; they could certainly ask him about those, but it requires a certain understanding of engineering.

Ms. Pooley said it was her understanding that the SWPPP requirement threshold is disturbances of more than 5000 sq. ft.

Ms. Curtis said disturbance of more than 5000 sq. ft. requires soil and erosion control; if it is more than an acre, post-construction practices may be called for.

Ms. Pooley remarked that there is no real protocol for site walks as yet, and Ms. Curtis said CAC's customarily adopt their own practices/rules.

Amy Rosmarin asked what those procedures might be.

Ms. Curtis said the CAC may work up practices re how to coordinate with the Building Inspector and Wetland consultant; how to provide notice of site-walks; how soon to meet after site-walks to prepare reports. She said that once some kind of system is agreed to and put in place, future CAC members should have no trouble finding out what they are called upon to do and how.

Commenting that the CAC is advisory and not regulatory, Ms. Tripoli said the CAC should consider what their role will be on site-walks. She said Bedford has a board instead of a council and they are very active, and she wondered if the CAC should go to a Bedford meeting. Ms. Tripoli asked if there were questions or comments.

Ms. Pooley said she wondered if issues like "night sky" might come under the CAC's jurisdiction.

Ms. Tripoli said the Bedford board was involved in that.

Ms. Curtis said the CAC used to be involved in helping to write ordinances for things like tree-clearing and excavation/fill. She explained that an effort was made to make those

kinds of laws more consistent. Introduction of the minor wetlands permit was to allow for kinds of activities that will not require Planning Board review, which is a major procedure. Ms. Curtis explained that truly minor work, like replacing a dock on Peach Lake, does not have to go through any procedure at all (there are 3 levels of wetland permits).

Ms. Pooley asked if the Building Inspector decides what level a permit will be.

Ms. Curtis replied that Mr. Thompson and Dr. Bridges decide; the criteria are in the Code. She added that the Planning Board may return an application if it they don't think it requires that level of detail. She gave as an example, a project in Town where the applicant wishes to remove invasive plants and re-establish native plantings; nothing is to be constructed/it is really a maintenance program, so the Planning Board sent the application back, confident that the wetlands consultant will be able to handle the protocol for changing the plantings.

Ms. Tripoli asked if North Salem has general counsel available for procedural advice, etc.

Ms. Curtis answered that she doesn't know if they are on retainer for the CAC, but she and Ms. Rosmarin can forward questions for the CAC. She added that Roland Baroni of Stephens, Baroni, Reilly and Lewis is the Town Attorney.

Ms. Tripoli said she hadn't been able to find information about the CAC's original intent or what its authority is, etc. on the Town website.

Alan Towers said he thought it was State-mandated.

Ms. Tripoli asked if that meant the Town hadn't passed an ordinance formally creating the CAC.

Ms. Curtis said the CAC was created by resolution of the Town Board in the 1970's, and the CAC got grants for the Town's resource inventory maps.

Ms. Tripoli asked if there are rules regarding recusal if a CAC member knows an applicant.

Ms. Curtis said Public Officers law covers that; if there is either a direct interest or monetary gain, recusal is warranted. She said there is also a Town Code of Ethics, adding that the Public Officers law can be found on-line.

Mr. Towers asked if the criteria for direct interest would be financial.

Ms. Curtis replied that it would. She added that she had seen people recuse themselves just because they happen to live next door to the subject property, but that isn't necessary.

Mr. Towers said he does live next door to property that is the subject of one of the wetland permits.

Ms. Pooley said she has a client who has a wetland permit, so she would recuse herself from comments/reports on that permit.

Mr. Towers said he has no monetary interest in the property next to his.

Ms. Tripoli suggested the group discuss goals for the CAC.

Ms. Pooley and Ms. Rosmarin both said that was a good idea, because the CAC hasn't been very active.

Ms. Pooley said they weren't following anything specific when they did meet; they looked at properties and incoming applications and discussed them but made no reports. She said Nancy Welo is very well-informed. She recalled Joe Bridges saying during a site walk that it would be helpful to have an ordinance about maintaining action against invasive plants. She said she had made note of Dr. Bridges' comments, but the CAC wasn't meeting regularly.

Ms. Curtis said a wetland permit was recently sent to the Planning Board because the DEC prohibited use of spray to kill invasive plants/the applicant had to scrape off 2 in. of soil instead. She said that if the CAC is thinking of creating some kind of ordinance they should see what DEC practices are, especially given that many wetlands in Town are DEC wetlands/local reviews have to be coordinated with DEC reviews.

Ms. Rosmarin asked how the CAC would coordinate with the DEC, and Ms. Curtis said it would be through the Planning Board.

Mrs. Butler said she would assume that the DEC would ultimately rule.

Ms. Curtis said the 2 types of wetlands are not always overlapping, so both parties have a role; when they conflict, they work it out.

Mr. Towers expressed surprise that the 2 wetlands have different boundaries.

Ms. Curtis said the DEC wetlands are mapped and numbered; when there is activity near one, they verify the boundaries again. She said she had spoken to the DEC once about the mapping of one of their wetlands, pointing out that ending it did not make sense because the stream was continuing. The DEC came out to verify the wetland and changed the boundary of theirs.

Mr. Towers asked what the criteria are for a DEC boundary versus a Town one.

Ms. Curtis said it is mainly an issue of size and also soil and stream flow.

Mr. Towers asked about the Finch Farm wetland permit.

Ms. Curtis explained that they wanted to remove invasive species and put in native plants using a non-harmful spray on the invasives, but the DEC would not permit use of the spray, so the ground had to be scraped/dug-up by hand to remove the invasives.

Ms. Rosmarin asked if herbicides are banned in Town, and Ms. Pooley replied that they only may not be used in wetlands.

Ms. Curtis added that the Town does not use chemical herbicides/there is a policy now about that and fertilizer with phosphates.

Mr. Towers asked if agricultural properties are exempt from these requirements.

Ms. Curtis said no one is exempt from wetlands restrictions.

Returning to the subject of goals, Ms. Tripoli asked if the CAC should meet again in 2 weeks and if they want to do research/look at the work of other area CAC's.

Mr. Towers said he has looked at the work of others on-line, and some are taking a much broader perspective on their responsibility to expand the word conservation to include non-natural resources. He said his reading of the Town law is that the CAC only covers natural resources. Others see conservation as including conserving the environmental quality of the town.

Ms. Tripoli said she didn't want to see the CAC take on more than they can handle. She remarked that maybe it was premature to discuss strengths/weaknesses and talent.

Mr. Towers said it would be good to have a mandate.

Ms. Tripoli agreed, adding that if they found they were offering advice that isn't taken, what would be the point.

Ms. Curtis commented that there are enough applications pending to keep the CAC very busy, especially if they want to make recommendations and reports.

Ms. Pooley asked how often the Planning Board meets, and Ms. Curtis responded that they meet twice a month.

Ms. Pooley thought the CAC should go to the Planning Boards to hear what is happening.

Ms. Curtis said the Planning Board would be interested to hear from the CAC. She said a major project called Highgate Woodlands is coming up, comprising 160 acres to be developed with 120 homes, that will entail a SWPPP, tree-clearing, and construction of a sewage treatment plant/private water system. She said the CAC will receive the 2-volume environmental impact statement is due soon.

Nancy Welo arrived at this time.

Ms. Welo told the group about herself, including her years on the Somers Conservation Advisory Board (formerly a council).

Ms. Tripoli briefly told Ms. Welo what had been discussed so far.

Ms. Welo said that in Somers, the CAC had timed agendas with line items and kept updated materials from meetings uploaded to the Web. She said availability of this information on-line facilitated follow-through.

Ms. Tripoli asked if the CAC could get information on to the Web.

Ms. Curtis replied that Marion LaFranco, assistant to the Town Supervisor, is the only person who can post things to the Town website. She offered to show Ms. Pooley the format for sending things to Ms. LaFranco for posting. Ms. Curtis said the CAC should get their agendas posted, and reports from the CAC to the Planning Board can be attached to Planning Board minutes.

Ms. Pooley asked the secretary if CAC meeting minutes could be posted on the Town site.

The secretary answered that she normally forwards minutes for posting after a group has met and agreed to approve them, adding that this is the reason minutes from groups who meet only occasionally never seem to get approved/have not been posted.

Ms. Welo suggested that meeting minutes could be e-mailed to members for their comments.

Mr. Towers asked if residents could attend a CAC meeting to present something for discussion, and Ms. Curtis responded that they could.

Ms. Welo asked what the protocol is for allowing non-members to speak at CAC meetings.

Ms. Tripoli said there really is none.

Ms. Curtis said not many people would be likely to come, as most are paying consultants/ wouldn't want to pay them to attend another meeting.

Ms. Welo said she also meant members of the public in general and asked who they should contact.

The secretary said people should start by contacting her/she can pass information along to the CAC.

Ms. Tripoli said the CAC should decide how often they will meet and remarked that it appears they already have work to do.

Ms. Welo commented that reviewing sites in order to get comments submitted early can be a big time commitment.

Ms. Pooley said she recalled going to the Highgate site, but the CAC did not follow-up with a report.

Ms. Welo said that in Somers the CAC always got permission from the land-owners to make a site visit, then made notes and reported to the Planning Board.

Mr. Towers asked what the boundaries are of what the CAC may comment on.

Ms. Welo said the CAC would usually comment on wetlands, tree-cutting and steep slopes, because of the potential for long-term site-degradation.

Mr. Towers asked what kinds of things would be recommended.

Ms. Welo remarked that some rules are already in place, for example the requirement to keep 500 ft. back from the reservoirs/300 ft. from reservoir spurs, minimum distances from a neighbor's well and septic. She noted that this is a problem in tight areas like the Peach Lake communities. Ms. Welo said the CAC recommended enforcement of septic checks years ago. Ms. Welo said another issue was manure from horse farms; the farms are not supposed to be right on top of streams and manure piles and composting are not supposed to be along the reservoir spurs. Farms in North Salem and other towns in the New York City watershed area are in the 60-day travel time, meaning the time it takes from when rain hits the ground, crosses over land and gets into the reservoirs.

Mr. Towers said it seemed the CAC would need to know what the regulations are before they can make recommendations, and this will take a lot of research.

Ms. Welo said that is true.

Ms. Rosmarin stated that Joe Bridges knows a lot of the rules/regulations.

Ms. Curtis the CAC doesn't have to know all the rules; the Planning Board has a lot of information, and the CAC may still ask questions and make suggestions. She said that for example, if a plan indicates that an important stand of trees will be taken down for construction of a house, the CAC may ask if the house couldn't be moved or re-configured to spare the trees.

Mr. Towers said that made sense from a suggestive point of view; objectively, there is a limit to the number of trees that may be cut down.

Ms. Curtis stated that sometimes a plan is re-configured. For a project on Hawley Road, the Planning Board asked for changes to lessen disturbance with cut-and-fill for construction of a full-scale road, requesting a change to either a private road or a driveway. The plan was changed and some steep areas were avoided/this was from a design and an environmental standpoint. The Planning Board also looks at safety, consulting the Fire Commissioner and the Ambulance Corp about roads leading to long driveways; a way of solving the problem is to put in pull-over areas along the way so 2 vehicles can pass. She said a change from a 50 ft. right-of-way to a 30 ft. one can save a lot of cut-and-fill, reduce tree-clearing and cut down on stormwater management, and this is the kind of thing the CAC may comment on. Ms. Curtis added that a lot can be learned from reviewing applications and attending Planning Board meetings.

Ms. Tripoli asked Ms. Welo if she had been able to measure the effectiveness of the Somers group when it was a Council/was their advice accepted.

Ms. Welo said once the Somers CAC became a board, it could still be overruled by a super-majority. She said the group found engineering reports and environmental impact statements very helpful.

Ms. Tripoli asked the others if they were amenable to researching CAC's of other towns and then meeting again when they have more information to work with.

Mr. Towers asked how often the CAC will meet.

The secretary explained that she can only help them with one, regularly-scheduled meeting per month.

Ms. Pooley said they should have a plan for attending Planning Board meetings.

Mr. Towers suggested the CAC should split responsibility for attending the meetings.

Ms. Pooley said the same should apply to site walks with Bruce Thompson and Joe Bridges.

Ms. Welo stated that she is not available on Wednesday evenings when Planning Board meetings are held (first and third weeks), but she would always like to go on the walks.

Ms. Curtis pointed out that the Planning Board meetings may also be viewed on-line when they do not plan to report, and she recommended the CAC look at the agenda; there may be meetings of no interest to the CAC. She said the next Planning Board meeting in 2 weeks will cover changes to 2 cell towers and proposed amendments to the Zoning Code.

Ms. Welo commented that the CAC has only 1 incomplete copy of the Town Code, and Ms. Curtis said it is available on-line.

Mr. Towers asked if the Planning Board agendas are up-to-date on line, and Ms. Curtis replied that they are.

Mr. Towers asked about meeting minutes, and Ms. Curtis said they are posted once they've been approved.

Ms. Tripoli asked if the CAC will plan to meet on the third Thursday of the month at 7:30 pm.

Ms. Welo said she will be late sometimes, but she will try for 7:30.

Ms. Pooley said the meeting can be held at 8 instead of 7:30.

Ms. Tripoli said she will research the Bedford CAC and asked what other towns should be looked at.

Ms. Pooley said she will take Pleasantville, and Mr. Towers said he will take Scarsdale and Red Hook.

Ms. Welo said she will read up on Somers.

Ms. Tripoli asked if the CAC should discuss pending activities next and said 806 Peach Lake Road was on the agenda.

Ms. Curtis said this property has had numerous wetland permits. In the past Monomoy received approval to put in a major interior driveway, connecting the farm to the owner's residential lot. The approval process took 2 years; work began, and halfway through the job, the driveway was constructed through a wetlands area not approved for it. Ms. Curtis said a Violation was issued, and the DEC became involved also. Now retrofitting is being done and 2 sections need to be re-done/stabilized because the storm water management was not working. She explained that the initial plan required a lot of cut-and-fill and tree-removal; the Planning Board asked that an existing horse trail be followed, even through the wetland to avoid the need for such a lot of cut-and-fill and tree-cutting. The DEC agreed, and the plans were completely re-done. On a second site-walk, the DEC changed its mind and the original plan was revised a little. Monomoy is now doing reinforcement in areas to protect the wetlands.

Mr. Towers asked if there was any penalty for not following the approved plan.

Ms. Curtis said the Town imposed no penalty. A goal was to make sure everything is stabilized and functioning; to undo what was done would be worse.

Everyone looked over the drawing of Monomoy Farm.

Ms. Tripoli commented that there is nothing for the CAC to do at this point, if the mitigation is nearly complete.

Ms. Welo said they should have a site walk later in the year to see what plants are growing there.

Ms. Curtis said a monitoring plan is in place.

Mr. Towers said he would recuse himself from involvement with Monomoy Farm because he lives next door.

Ms. Welo asked how often the Monomoy monitoring plan will be reviewed.

Ms. Curtis said she could not remember but it is all in the protocol. She offered to provide the CAC with the monitoring plans for Bridleside and the Dubin property.

Ms. Tripoli asked how the CAC will get the monitoring plan for Monomoy Farm, and Ms. Curtis answered that it was part of the original approval which the CAC should already have.

Ms. Tripoli asked if the CAC would say "no further action" with respect to Monomoy Farm.

Ms. Welo suggested keeping it on a list for follow-up.

Everyone agreed.

The discussion turned to the Miller application for 201 June Road (home of the Butlers, parents of Mrs. Miller).

Ms. Tripoli noted that the CAC would have 30 days to report/make a recommendation of any kind if they do a site-walk. She said the application dated to 2010.

The secretary stated that the application was filed in 2010 for the sole purpose of having Dr. Bridges confirm the wetlands flagging the Butlers had done.

Mrs. Butler explained that there is a stream on the property which necessitates application for a wetland permit. She said the plan is to build a new, larger house with a different footprint than the existing house although in approximately the same area.

Ms. Welo asked what amount of land will be impacted.

Ms. Pooley read from the application that the area of disturbance is projected to be 8776 sq. ft., adding that this will require erosion controls but not a SWPPP.

The site map was displayed and everyone looked it over. There was some confusion over what they were seeing because it appeared that only parts of the wetland/buffer areas to be disturbed were included on the map. Ms. Welo said that the wetland buffer delineation line is customarily included in the map legend, but it is not part of this one.

Ms. Welo noted that the new house will have 5 bedrooms and asked how much larger it will be and how many baths it will have.

Mr. Butler said the existing house consists of 2000 sq. ft.; the new house will have 4100 sq. ft. He pointed out how the footprint of the new house is drawn around the footprint of the existing house.

Ms. Welo asked if there isn't a utility easement on the property.

Mrs. Butler said there is; that and the water make it a difficult parcel to build on.

Ms. Welo noted the driveway and asked if it will remain gravel. She said she asked because a paved driveway would increase the amount of impervious surface.

Mr. Butler said the driveway will probably remain gravel.

Mr. Towers asked how large the lot is, and Mrs. Butler answered that it is 4.5 acres.

Ms. Curtis said she could see the wetland/buffer-zone delineations in the area around the house site, adding that it is not unusual to do only the area of activity.

Ms. Welo said it is usually assumed that activity pertaining to construction of a house will all be in the vicinity of the house. She suggested that if the existing house is to be demolished, perhaps the new house could be taken out of the buffer area.

Mr. Butler said that would not be possible; given the utility easement and the wetlands, the house can only be constructed where it is shown.

Ms. Welo asked how many more bedrooms and baths are to be included in the new house.

The Butlers said all that has been dealt with through engineers and the Department of Health.

Ms. Welo said sometimes people plan to put a well or the septic in the buffer area without knowing.

Mrs. Butler said the well is already present, and Mr. Butler said the septic is in place also.

Ms. Curtis asked if the septic will need to be increased, and Mr. Butler said it will.

Ms. Curtis asked if there is an expansion area required, and Mr. Butler replied that his daughter (who now owns the property) has been taking care of things.

Mrs. Butler said she thinks they have received DOH approval of the plan.

Ms. Welo related a story of people who received DOH approval mistakenly; when their septic failed and they could not afford to have it completely re-done, they lost the Certificate of Occupancy for their home.

Ms. Pooley asked what the next steps should be.

Ms. Welo said the site plan should really include the full wetland buffer area, adding that the Butler must have paid a lot of money to get the information.

Mrs. Butler said the entire area was flagged.

Ms. Pooley said Bill Gerard used to get all the plans mailed to him and asked if Ms. Welo would like to get them going forward.

Ms. Welo said she will accept the plans.

Ms. Pooley said she thought the next step would be receiving word of the site inspection with Bruce Thompson and Joe Bridges. She added that after the site walk, the CAC would have 30 days to report.

Ms. Curtis said the 30-day time-frame usually starts from the time an application is considered complete, noting that that can take some time with Planning Board

applications. She said that if Dr. Bridges agrees with Ms. Welo that more information has to be shown on the site map, then the application would not be complete.

Ms. Welo asked when the Butlers' daughter hopes to have the house finished.

Mr. Butler replied that he didn't see what that has to do with the CAC.

Mrs. Butler said her daughter knows it won't be done in a few months. She added that she and her husband were quite surprised to see the CAC agenda posted with their daughter's application listed on it.

The secretary explained that the CAC has always received copies of all wetland permit applications and correspondence relating to them.

Ms. Tripoli reminded the Butlers that the CAC is advisory and not regulatory.

Ms. Welo said it is not a case of one team versus another; everyone is working together to see the house built successfully with a functioning septic system.

Mr. Butler said he is already dealing with an engineer, the DOH, the Building Inspector, etc.

Ms. Tripoli said the CAC does not wish to delay the project in any way. She stated that they will await further information and perhaps discuss it at their next meeting.

Ms. Curtis suggested they include Highgate Woodlands on their next agenda. She said information is available to the CAC through the website and one CD; if they want to see the plans they should look at the ones the Planning Board has. She said the subject property has been under application since 1983.

Nancy Welo moved to adjourn at 9:10 pm. All were in favor.

Respectfully submitted,


Janice Will, Recording Secretary