

**Town of Southeast  
Conservation Commission  
67 Main St.  
Brewster, NY 10509**

**APPROVED MINUTES FOR MARCH 22, 2005**

**Absent: Members Anthony (excused) and Tiernan (not excused)**

Call to Order at 7:35 PM

Pledge of Allegiance

Unanimous consent was given to open the meeting.

**Public Hearing – Vita Subdivision**

Motion, second and unanimous consent was given to open the public hearing. Chairman Fasano gave a brief explanation of the public hearing process to those in attendance. Paul Lynch of Putnam Engineering representing the applicants Antonina and Dominic Vita gave a brief description of the property (3 lot subdivision on 9 acres) and the activities to be conducted in the controlled area, specifically the drilling of a well and designating a septic expansion area within the wetland buffer. The mailings were presented and were in order.

Chairman Fasano - (CHAIR) – Questions from members of the SCC? There being none do the members of the public have any questions or comments? Thank you. Please state your name for the record.

Jodi Gireaux (JG) – Yes, thank you. I live right next to the property in question and originally the plan included the well and keyhole area that crossed onto my property. This situation was resolved, but I now understand that as a result of reconfiguring this area, the well has been placed within the wetland and I am very much concerned about it being there (in its current location as shown on the site plan map).

Paul Lynch (PL) – In fact, the well is in the buffer area, not in the wetland itself. In this case, the wetland is a narrow corridor associated with a stream on the property. The buffer limit was determined by soils around the stream. The area where the well is to be dug is an existing open lawn area.

JG – The buffer area still crosses over the property line – Is there no other location for the well placement?

PL – No.

CHAIR – Can you explain why?

PL – Certainly. According to Putnam County Health Department regulations, the well if down slope from an existing septic system must be a minimum of 200 feet away. I also have to maintain a 15 foot setback requirement from the adjoining property, and since I cannot adjust the property line because of the five acre lot size requirement, the well has to be placed at that location.

JG – Can you tell me about how many of these types of activities the SCC has approved?

CHAIR – Do you mean the drilling of wells in the controlled area?

JG – Yes.

CHAIR – And you want to know how many the SCC has approved? Well, since I have been a member and Chair person of the SCC, there have not been many. The SCC always requests that activities be conducted outside the controlled area if possible. The Putnam County Health Department sets the distance requirement – the ultimate positioning of the well may be based on various tests to determine its best location.

JG – Yes, but this was not the situation originally.

PL – No, what happened was that the cone came up into your area where the property is flat and you asked us to move the placement of the well farther away because if you ever wanted to do something in that flat area, the well would not be a hardship on you and that's why we placed it as far away from your property as we could get it.

JG – But now it is in the wetland area?

CHAIR – Yes. Again it is located in the buffer area and we (SCC) specifically addressed that concern at our last meeting.

JG – I wanted to be present at the last meeting, but wish to express my opinions tonight.

CHAIR – Duly noted. The Chair recognizes Ann Fanizzi.

Ann Fanizzi (AF) – What is the zoning?

PL – It is split between R20 and R40

AF – Is that the new zoning?

PL – Yes, although the lot size is larger, the current zoning remains intact.

CHAIR – Any further questions from the public? Board members?

Wetlands Inspector (GH) – What would you consider the detrimental effect of drilling a well within a controlled area? What would the negative impacts be?

PL – The immediate impact would be the inability to control the spoils during the drilling process.

GH – And every effort will be made to control spoils spillage during construction to protect the surrounding area? This is a temporary activity that will have a temporary impact upon the buffer. Once the well is dug there will no longer be a continuous ongoing impact to the controlled area.

PL – That is correct.

CHAIR – Further questions? There being no further questions, can I have a motion to close the public hearing?

Member Cuomo (DC) I'll make that motion

Member Langley (ML) – Second.

CHAIR – All in favor?

The motion to close the public hearing was unanimous; 5 for and 0 against. There were no abstentions.

CHAIR – Is there a motion to forward a positive recommendation to the Town Board for their review?

GH – I'll make that motion.

DC – Second.

CHAIR – All in favor?

The motion was approved by a vote of 5-0 with no abstentions.

### **Work Session**

The minutes for December 2004 and February 2005 were accepted as read.

Terravest 3 – The applicant, representative is Terri Hahn from LADA. At last month's meeting, the SCC requested and received ten days prior to the present meeting written

responses to several concerns expressed by the members and public comments. Specifically, questions were related to the Atlantic White Cedar Swamp, north of Lake Tonetta and the Cedar Swamp Preserve, identified as the wetland west of Lake Tonetta. Tonetta Lake drains into Tonetta Brook which discharges to this wetland and eventually to the Diverting Reservoir. Documents submitted to and received by members of the SCC indicate that the drainage from the T3 site does not discharge in the direction or into the wetland west of Lake Tonetta. The projects' environmental consultant and biologist wrote studies and conducted site evaluations to identify cedar swamp, west of Lake Tonetta but found none (any type of cedar specimen) to exist. Drainage patterns conclude that there is no flow toward the north end of Lake Tonetta where the Atlantic White Cedar does exist.

Previous high water levels west of Lake Tonetta remain unexplained. Water levels have returned to normal and the applicant's representative attests that the high water levels may have been seasonal or a result of MTA and DEP projects that are currently in the vicinity, but not to the T3 project.

As requested by the SCC, the applicant submitted for review an alternative layout highlighting the specific changes recommended by the SCC, modifications to lessen buffer disturbance. Also at the last meeting, there was discussion and general consensus that to save twenty mature trees that serve as a visual barrier for the abutting property, SCC members would revert back to the modified plan that had included part of the maintenance driveway to be in the extended buffer.

Board member Cuomo commented on the criteria for approval based on Section 78-4 (g) of Local Law #9, Fresh Water and Wetlands Protection Law of 2003. He stated that four of the six criteria for granting approval for a wetland permit were not met. He noted that even as the T3 project stands now with 5.71 acres of buffer disturbance, proposed activities will have a serious and detrimental impact upon the controlled area and the surrounding watershed area and will certainly lead to a degradation of water quality. As evidenced by what Mr. Cuomo observed at T2 and the Highlands Project regarding storm water control measures and soil erosion and sedimentation problems both before and after construction, he cannot find a compelling reason to believe that this project design would be better prepared to handle the problems experienced at the Highlands and T2.

Ms. Hahn 's rebuttal included professional written opinions that proposed activities would not have a serious, detrimental effect on the wetlands. Secondly, there will be no wetland disturbance. Disturbance is limited to the buffer area. Water quality reports, including a water budget analysis , drainage patterns and flows and a storm water pollution prevention plan have been reviewed extensively by the Town planner and engineer, NYCDEP and NYSDEC. These reviews took into consideration public comment during the SEQRA hearing process. Storm water basins were modified to accommodate greater infiltration and prevent soil compaction around the basins perimeter. Additional plantings were required around the basins by the NYSDEC to provide for greater nutrient.

The episode at the Highlands was unfortunate, but the problem with erosion control occurred at the beginning of the project during construction at a time when the contractor did not follow the plans as designed. Nevertheless weekly monitoring of storm water controls is conducted by NYCDEP and periodic inspections by NYSDEC, especially during storm events.

Further discussion ensued regarding the importance of buffers in protecting wetland dynamics. Section 78.4 (g)(2) was discussed and reviewed. It was noted that the added protection afforded by the extended buffer provisions of the new law allowed for increased protection for the wetlands. The Planning Board required the applicant to submit alternative proposal. Their choice as supported by their findings statement was the modified proposal that allowed for 8.7 acres of disturbance to the buffer areas. This choice was made because it generated the least amount of phosphorous output – thereby enhancing water quality. The SCC asked for and received modifications that further lessened the disturbance of the buffer areas by almost 3 acres, removing several activities from the controlled areas.

George Hauser made a motion to recommend that the SCC forward a positive determination to the Town Board for their further review. Seconded by Board member Tringali. The vote was 4 in favor and 1 against (Mr. Cuomo). There were no abstentions.

### **New Business**

Mr. Cuomo reported seeing snow covered fill on the Ross Allan property site at Salmons Daily Brook Farm. George Hauser will inspect the lot and report to the SCC at the April meeting.

Adjournment at 9:10 PM.

Respectfully submitted,

Stephen V. Fasano  
Chairman  
Conservation Commission  
One Main Street  
Brewster, NY 10509