

# **STURBRIDGE CONSERVATION COMMISSION**

**Minutes for Thursday, August 21, 2003**

## **MEMBERS PRESENT**

D. Barnicle, J. Hoffman, E. Goodwin, and D. Mitchell

7:00 PM

A business only meeting is scheduled for Wednesday, August 27 at 7:00 PM.

## **WALK IN REQUESTS**

J. Bernadino attended to discuss the Sanctuary subdivision. An unidentified wetland was discovered during a check of the erosion control line. He submitted a site plan outlining the swale across lots 13 and 14. He noted that it only became evident during heavy rains this year. He stated that he dug test pits in the area but did not locate hydric soils along the gully. He noted that there was some indicative vegetation (ferns). He stated that he believed it to be a low collection point for area surface flow. He asked the SCC if they wished to take a site visit. Yes, on Saturday, August 23 at 7:00 AM.

## **CPA UPDATE**

Done, discussion regarded Holland Road land

## **MINUTES REVIEW**

Tabled

## **CORRESPONDENCE REVIEW**

Correspondence discussed and reviewed included; The Walking Weekend calendar, The Preserve environmental report from August 13 from EcoTec- D. Barnicle questioned how the outlet stream from the site could have no flow and questioned if it was functioning as planned, A letter from 51 S. Shore Drive requesting town assistance in addressing the driveway erosion caused by the installation of a drainage culvert to direct stormwater down S. Shore Drive, Mass Wildlife News, QQLA annual meeting notice scheduled for 8/24/03,

## **DISCUSSION OF NEW INFORMATION**

A quitclaim deed for 77 Fairview Park Road was reviewed and signed at the request of J. Malloy.

The SCC discussed the revised ruling on what now constitutes a quorum of a conservation commission. The previously held ruling was that a quorum of commissioners must be present and then a quorum of those present must vote in favor of a project for it to pass. The current ruling is that a quorum of the full commission must be present and a quorum of the full commission must also vote in favor of a project for it to pass. The commission discussed the legal grey area surrounding both rulings, as neither had ever had a legally binding court case set the precedent. Discussion also revolved around the number of towns that could not seat a full commission due to lack of volunteers and what would happen if one seat remained vacant. The SCC also discussed the flow of work when there were 5 commissioners vs. 4. The workload increases dramatically with one less member. The commission will work to fill the 5<sup>th</sup> seat and to also recruit part time or full time associates to help with some of the public service programs, site visits, and minor issues.

## **REVIEW OF SITE VISITS, SCHEDULED AT PREVIOUS MEETING**

**PUBLIC HEARINGS** - continuations for closure, review, amendment, and signing of OoC's and DoA's

NoI – G. Smith Associates for D. Ying for single family home construction and related at 241 Podunk Road.

D. Barnicle opened the hearing, present was J. Renke.

J. Renke submitted the abutter return cards. He outlined the location of the home, driveway, well and septic. The project is within the 100-foot buffer but outside the 50-foot buffer. No septic systems or wells are within 200 feet of the project site. J. Hoffman confirmed that there were no changes to the submitted plan from the site visit. None. That all work was proposed in the open field. Yes. D. Barnicle asked if there would be any alteration to the stonewall in front of or alongside the project site. He noted that they provided both erosion control for the wetland and the site and also provide irreplaceable habitat. J. Renke said there would be no alteration of the stonewall except for the driveway entrance. Those stones would likely be moved to the existing opening in the stonewall. J. Hoffman noted that although the septic was shown as being outside the 100-foot buffer, some of the grading was shown within the 50-foot buffer. J. Renke agreed and noted that there were no structures within the 50-foot buffer, only minor grading. D. Barnicle noted that the property was over 4 acres in size and asked if there had been any consideration given to moving the project entirely outside the 100-foot buffer. J. Renke stated that the majority of the property was wetland; the location shown was in an open, previously farmed field and provided a good location with minimal impact to the surrounding environment. J. Hoffman and D. Barnicle had visited the site and agreed. E. Goodwin and D. Mitchell will site visit on their own time prior to the next hearing.

A revised plan showing the property location and address are to be submitted. The hearing is continued to September 4 at 7:20.

3-NoI's and 1-RDA – J. Teachout of Jalbert Engineering for Paquette Realty for single family home lots along Trail Road, #'s 335, 337, 339, 341.

D. Barnicle opened the hearing, present were L. Eliason, D. Alarie, M. Riley, P. Howard and J. Teachout.

The SCC had not taken a site visit as no notice was given that the site was staked and ready.

L. Eliason submitted a letter into the file regarding concern for a small potential vernal pool (pvp) located on lot 1, behind the Big Alum Sewer Pump Station. D. Barnicle told those present that the SCC was aware of the pvp and had not yet conducted a site visit. When the site is flagged and staked, the commission will take a visit to confirm the delineation and to confirm the distance from the stream to the proposed edge of work. At that time review of the vernal pool will also take place. L. Eliason noted that she was very concerned for the vernal pool being so close to construction. D. Barnicle noted that it had not yet been reviewed on site and the plan was at this point a proposal. L. Eliason stated that she was also concerned that the steepness of the slope and the amount of fill proposed would impact the stream behind the property. D. Barnicle reassured her that the commission would definitely be reviewing all these concerns during the site visit.

J. Hoffman reviewed the site plan with the audience members and pointed out the locations of the homes in relation to the drop off shown by the topographic lines. He showed the distance of the stream on the site plan as being more than 200 feet from the edge of work and noted that these on paper met the regulations. The commission now had to confirm the facts in the field.

L. Eliason noted that the right to subdivide the land and develop it was being disputed in land court. J. Hoffman noted that he understood that and pointed out that the applicant had to make sure all other permits and legal documentation was in order before the project could proceed. He stated that a conservation permit did not give a person authority to begin if they did not also meet all other legal requirements. It only meant that the work as proposed could be done with reasonable assurance that there would be no adverse impact to the wetland or resource area. D. Mitchell noted that it was the SCC jurisdiction to make sure the applicant met the regulations.

D. Barnicle noted that under the SCC regulations, the vernal pool, if certifiable would be protected. D. Mitchell and D. Barnicle both noted it on the plan.

J. Teachout asked for a continuation to September 18, at 7:20 PM. She noted that she had spoken to E. Paquette; the site is not staked but will be before the next hearing continuation. The SCC will be called to arrange a site visit as soon as it is ready.

NoI cont. – J. Teachout of Jalbert Engineering for Pioneer Oil for office building construction for an above ground oil storage facility at 63 Technology Park.

D. Barnicle opened the public hearing, present was J. Teachout.

J. Hoffman, E. Goodwin, and N. Ryder had conducted a site visit. No wetlands were observed on the property. A Determination stating so was approved and issued by unanimous vote.

**PUBLIC MEETING** – To discuss remediation measures to remove sediments from Big Alum Lake and to prevent future erosion issues.

D. Barnicle opened the public meeting, present were J. Radner and S. Sanderson. No documentation of the water flow going over the catch basins or in had yet been obtained. The recent lake-monitoring program was discussed. It was noted that the TSS for the cove was listed as not detectable. N. Ryder noted that this was not possible as the fine sediments were so thick in the cove that you could not see more than a foot into the water. N. Ryder will check with the town water department to see if they can test for TSS or Turbidity.

**PUBLIC HEARING** – NoI – J. Teachout of Jalbert Engineering for J. Morin for removal and reconstruction of an existing single family home and related at 132 Lake Drive.

D. Barnicle opened the hearing, present were J. Teachout, J. Morin and P. Morin. They noted that the address was 132 Lake Road not Drive.

The SCC noted that J. Hoffman and E. Goodwin had taken a site visit. They noted that work would be within the 50-foot buffer, on the existing foundation for the most part. Due to the location of two wetlands, a second home, and a well, the home could not be moved much. The SCC discussed 2:1 mitigation and noted that plantings must be placed along the lakefront at a ratio of 2:1 planting to structure within 50 feet of the lake. No disturbance other than planting is to occur within 25 feet of the lake. The lot is flat. A planting plan must be submitted for approval to the SCC prior to the start of any work. The SCC agreed that the project was permissible as the location currently has an existing home, 2:1 mitigation will be provided, there will be no disturbance of the 25 foot buffer, minimal disturbance of the 50 foot buffer and the net gain to lake protection will be positive.

The commission approved the project as amended and conditioned by unanimous vote. A draft permit will be prepared for the 9/4 meeting. The hearing is continued to 9/4 at 7:20.

**PUBLIC HEARING** - NoI – J. Teachout of Jalbert Engineering for Falls Road Dam replacement in Walker Pond

D. Barnicle opened the hearing, present were J. Teachout, N. Applegate and D. Smith.

N. Applegate outlined the lower dam location near E. Stevens's property. He noted that the stones were not watertight and the dam was in danger of failing. He noted that the lower dam was to be resealed only, not taken down and rebuilt. The upper dam will be a complete replacement. The new wall will be ½ poured concrete and ½ stone. D. Mitchell asked if the basins were to be cleaned out. N. Applegate said they were still clean from the last repair 5-7 years earlier. There were little to no sediments in them. He noted that some of the work

would be done from D. Smith's property. D. Mitchell noted that if approved, the work should be done in the fall when there would be low water. N. Applegate stated that all work must be done by October or the state would take the money back.

D. Mitchell and N. Applegate discussed the concern of draining down the dammed ponds. J. Teachout stated that sand bags will be used to hold back the water and to keep sediments from going through and out. N. Applegate reviewed the dam reconstruction up stream from Falls Road, closer to the lake and noted that the dam work was holding well but the basin was filled with silt from Falls Road and needed to be dredged.

The SCC discussed the additional dredging and noted that it should and could be done using current funds as maintenance of an existing structure.

D. Mitchell and N. Applegate discussed briefly the lake monitoring TSS levels returned by the lab for the inlet and outlet near the boat ramp. Further discussion will be needed.

D. Smith, and the rest of the SCC discussed D. Smith's project to remove, recycle, and replace his asphalt driveway. At the same time as that is being done, he will be removing and replacing two culverts in the front. He asked for a letter permit. The Commission asked if the project was a one-day project. D. Smith said two. N. Ryder pointed out that the project was over and in a flowing body of water and really needed to be reviewed through an NOI or an RDA. She stated that the rest of the people in the audience had filed applications 2-4 weeks earlier, had scheduled an appointment, and had gone through the proper permitting process. She noted that D. Smith should schedule a hearing time and submit an application. The SCC agreed that a site visit needed to be taken and a letter permit filed at minimum before any approval could be given. D. Smith stated that he did not think a permit would be needed. D. Barnicle and J. Hoffman both noted that the process should not be as time consuming for single day minor repair project such as driveway maintenance. N. Ryder argued that culvert removal in a flowing stream was not a minor project even if it was related to driveway maintenance. She stated that the applicant was fully aware of the significance of the permitting process, as he was present for a NOI filing for a project adjacent to his driveway. She noted that the letter permit process was as minimal as a public review could possibly be. He should file for a letter permit at least. After further discussion D. Smith stated that there would be no excavation of soils, it was simply a removal and replacement project. The commission agreed to discuss the issue in general at a later date and noted that they would be on a site visit the following Saturday morning.

D. Barnicle asked if there were any further issues, comments, or questions regarding the Falls Road Dam project. None. A site visit will be taken on Saturday, August 23. The hearing is continued to September 4 at 7:20 PM. A DEP response and file number is still needed.

**PUBLIC HEARING – NOI - J. Teachout of Jalbert Engineering for Babineau for development of a carwash at 165 Charlton Road.**

D. Barnicle opened the hearing, present was J. Teachout.

D. Barnicle asked if the delineation for 165 Charlton and 10 Gifford was ready. J. Teachout stated that she was asking M. Marcus, who did the original delineation, to redo it. She noted that she did not have enough original documentation to evaluate why the delineation was done the way it was and the significance of certain decisions. The SCC and J. Teachout discussed the need to resolve the wetlands on 10 Gifford Road as they drained into the wetland on 165 Charlton Street. The hearing is continued to September 18, at 7:50 PM.

**PUBLIC HEARING – RDA cont. - J. Teachout of Jalbert Engineering for Robert Williams for determination of stream classification and retail building construction at 209 Charlton Street.**

D. Barnicle opened the public hearing, present was J. Teachout.

J. Teachout noted that she had done the soils and site samples and had checked with the Conservation Soils Service soils maps and confirmed that the soils had very good drainage. She noted that in reviewing the Wendy's file, the soils there had also had remarkably good drainage. She noted that she had checked 5 areas on site and had not been able to determine groundwater down to 3 feet. At the 3 foot level there is still no ground water. She noted that it would not be possible to determine further without a larger equipment. D. Barnicle and J. Teachout discussed the soil horizon depths. The A layer of topsoil is 9.5 inches deep, the B layer or subsoil is 14.5 inches deep. D. Barnicle asked what the SCS said the B layer consisted of. J. Teachout said sandy loam, which is extremely friable.

J. Teachout questioned if the 1999 negative determination was now determined to not be valid. D. Barnicle and E. Goodwin said that there was a clear flow of water in an established channel that had not been present in 1999. The water clearly enters the site, runs through it above ground part way, then drops below ground and then resurfaces again further down off the site. The nature of the watercourse is what needs to be determined so protective measures can be addressed.

D. Mitchell asked N. Ryder to obtain a copy of the SCS soils maps and the book that goes with them.

D. Barnicle asked what action the SCC wished to take.

D. Mitchell stated that as much information and evidence of hydrologic connections as needed should be presented. This evidence was not submitted during the 1999 hearing, although, at that time, the projects next door were not there. Now there is positive water flow and hydrologic issues.

D. Mitchell motion to close and require a Notice of Intent with information on hydrology be submitted.

2<sup>nd</sup> – E. Goodwin

Disc – none

Vote – All in favor

**PUBLIC HEARING - NoI – Bertin Engineering for Ed Galonek and Dan Matte for construction of a gravel overflow parking lot at 500 Main Street.**

D. Barnicle opened the public hearing, present were M. Loin, E. Galonek, and Tim Gresenz of the Sturbridge Heritage Motel.

M. Loin outlined the proposal, which is to add 22 parking spaces to the back section of 500 Main Street. Access will be from Whistling Swan due to the grade and the stream crossing. The parking lot is graded to a single catchbasin. No water from 500 Main Street is to be discharged into the Whistling Swan parking area. The lot will be gravel and will be pitched away from the Whistling Swan. He outlined the 25 foot no disturb buffer, the erosion control line and a drainage swale. D. Barnicle asked if he was cutting into the hill above the stream. M. Loin said at the highest point, the retaining wall would be 4 feet up, but there would be no cutting into the hill.

D. Mitchell asked if the lot was being leased to the restaurant, and if it would be seasonal or year round. Yes, year round. D. Mitchell asked where snow removal storage would be. E. Galonek said it would be plowed to the back of the lot, if a couple spaces are lost it would not be a problem. D. Mitchell asked for a specific area to be designated as snow storage. M. Loin agreed that would be done. D. Mitchell asked if the drainage system was designed for a large storm. M. Loin noted that the storm water would be directed to the catch basin, as the lot would be v-shaped. The water would then travel through the separator, the outlet pipe, into the swale and

finally under Rte 20 toward the Quinebaug. T. Gresenz clarified the direction of flow and confirmed that there would be no additional flow off the restaurant parking lot running into his motel parking area.

D. Mitchell clarified that there would be 2 different drainage systems, one for low flow and the second for heavy downpours. M. Loin agreed and noted that for low flows, the water would perc through the gravel lot, for heavy flows, it would follow the path through the catch basin. D. Mitchell asked if the frozen soil in winter would reduce or eliminate the perc rate through the gravel. M. Loin said that would not be a problem as the pitch to the catch basin would be 3 feet; the lot would still handle the water. D. Mitchell said he had a concern as to what impact would occur if the system overtopped. M. Loin said that for safety, he would add an earthen berm to resolve SCC concern.

D. Barnicle asked if the swale was being left as is. M. Loin said it would be left, he noted that he would prefer to pipe it and bring the parking area through that way but could not because of SCC regulations.

J. Hoffman asked if the parking area would be gravel or crushed stone.

T. Gresenz noted that during heavy storms the water was going right over the berm along Rte 20 and was flooding his property. M. Loin noted that he looked at the area after hearing about the problem and noted that the hotel was located at a low spot in that section of Rte 20. He stated that Rte 20 was incorrectly graded in that area causing the water to bypass the catch basin during heavy flows. T. Gresenz stated that the June 20<sup>th</sup> storm flow blew out the stonewall along the front of his property. He noted that he watched the water flow and that it came directly down the Whistling Swan parking area and entrance.

J. Hoffman noted that the water runoff from the Swan may be a Building Inspector and DPW issue and noted that it violated the law to develop a lot in a manner that it put water flow on someone else's property. T. Gresenz noted that the overflow also occurred during the June 30 storm. The SCC requested that N. Ryder contact DPW and Mass Highway and see if they could check the problem and clean the drains along Rte 20.

D. Barnicle asked if there were questions or comments regarding the parking area. M. Loin noted that by flattening the driveway, they were reducing the flow into the swale resulting in more water being recharged directly into the ground. D. Barnicle stated that if the point of recharge is above the swale, then the swales purpose is being diminished. The SCC and M. Loin discussed drainage on site. D. Mitchell asked if the retaining wall would use boulders. M. Loin said 2-foot diameter boulders.

E. Goodwin confirmed that the entrance to the parking area would be 300 feet in from Rte 20, along a single lane roadway/driveway. M. Loin stated that most of the lot runoff, sheet flows down the driveway to the edge of Rte 20. E. Goodwin asked if the proposed lot was at the same elevation as the back parking lot. Yes. D. Barnicle suggested that a condition be added to any OoC that the elevations of both lots need to be the same to prevent drainage from the parking lot from entering the Whistling Swan area. M. Loin stated that the entrance would be the same elevation but the lot would pitch away from Whistling Swan.

D. Mitchell noted that he still had concerns with the drainage system getting short-circuited, especially in winter. If the water drains into the Whistling Swan, a bad situation would be made worse. M. Loin stated that the SCC would have final approval through the Certificate of Compliance. He noted that the SCC can be sure it is pitched correctly and working correctly before they release the project.

D. Barnicle asked where the edge of tree cutting would occur. At the 25 foot buffer line. D. Barnicle stated that he wanted the site marked and approved prior to any cutting.

Motion by J. Hoffman to accept the project as amended with conditions as noted. D. Mitchell – 2<sup>nd</sup>, Discussion – no additional, Vote – all in favor.

**PUBLIC HEARING - NoI – Green Hill Engineering for Marin Realty for single family home construction and related at 97 McGilpin Road, (pka – lot 1 of 143 McGilpin Road)**

D. Barnicle opened the public hearing, present were M. Farrell and M. Sosik.

M. Farrell outlined the resource area, the 100-foot and 200 foot buffer lines, and the revised lot lines. He noted that the lot had been revised to keep the house and associated construction outside the 200-foot buffer. M. Sosik noted that the land along the wetland would only be impacted in order to bring a driveway up to access the house. D. Barnicle asked where this was in relation to 83 McGilpin. M. Farrell said this was the next lot over. D. Mitchell asked if this was the lot with the vernal pool on it. D. Barnicle said it was. M. Farrell outlined a culvert between this lot and 83 McGilpin and showed where it crossed under McGilpin Road. M. Sosik stated that he had a wetland scientist (David Getman) look at the lot and inspect the area and noted that it had been evaluated as an inland marsh not a vernal pool. He noted that he could have D. Getman come in to speak with the commission.

E. Goodwin asked for clarification of the wetland lines. He questioned that the wetlands were not connected on the plan. M. Farrell stated that they were separate, isolated, wetlands. D. Mitchell noted that the driveway was within 20 feet at the top corner of the lower wetland. M. Farrell stated that for the most part the driveway was over 25 feet from the wetland. He outlined the driveway location and stated that at one corner point the slopes were steep. He stated that a plateau at the toe of the slope is within the 25-foot buffer for part of the stretch, but not by much. M. Sosik stated that the topographical issues further from the wetland resulted in a more invasive project in terms of cut and fill. M. Farrell noted that it was flat closer to the wetland and would result in less impact. Due to ledge upland, a wider swath of trees would need to be disturbed.

D. Mitchell stated that the SCC had consistently protected the 25-foot buffer, he noted that there was an alternative here, an existing alternative. M. Sosik agreed that there was an existing alternative and that he could push the driveway up but felt that the impact would be greater. M. Farrell stated that there were no wetlands within 200 feet of the house. D. Barnicle asked if the septic was within the 200-foot buffer. M. Farrell stated that it was shown on a separate plan.

E. Goodwin stated that the Commission would have to take a site visit to see how sensitive the area is.

J. Hoffman stated that the further the project was from the wetland, the more protection the wetland would ultimately have. He noted that while it might be more difficult for the developer to not disturb the 25-foot buffer that was life.

N. Ryder noted that two years earlier, the lower wetland had shown clear signs of being a certifiable vernal pool. She noted that it was reviewed and added to the local list at that time. If it no longer was a vernal pool, the environmental review showing that it was not and why needed to be submitted to the SCC. M. Sosik stated that the environmental reviewer was a conservation commissioner from Princeton. D. Mitchell asked when the area was looked at. M. Sosik said two weeks earlier. D. Mitchell questioned this and noted that the timing for review was clearly outside the standard time frame for identifying vernal pools. J. Hoffman stated that the SCC needed to recheck the vernal pool regardless for environmental evidence. D. Barnicle agreed that the commission needed to see it. J. Hoffman noted that delineating the wetland and checking the vernal pool would take a significant amount of time, not 5 minutes. He stated that the site should be ready prior to the commission scheduling time to go out.

M. Farrell stated that a culvert under McGilpin Road drained the area, he did not feel that it could support enough water for a vernal pool. N. Ryder noted that two years earlier there were no signs of a culvert under the road. M. Farrell noted that it had been recently cleaned.

E. Goodwin stated that the wetland needed to be clearly marked and the centerline of the road staked before the SCC went out to see it. He stated that they also needed to discuss the vernal pool issue. J. Hoffman asked how difficult it was to identify a vernal pool this time of year. N. Ryder noted that it was difficult but not impossible. She stated that she was more concerned that the delineations and vernal pool reviews for all the lots along this road had come in at unusual times of the year. Winter for delineations when the snow was too deep to see the ground and fall and winter for vernal pools when it was either dry or frozen over. D. Mitchell noted to M. Sosik and M. Farrell that the SCC would take the timing of the review into account in making any decision. J. Hoffman summarized that evidence now was not meaningful. He noted that he would not overturn an observation that the area is a vernal pool based on observation by the clerk earlier at a time appropriate for certification. M. Farrell stated that whether or not the wetland was a vernal pool, the impact was minimal, with the project simply skirting the edge to get to upland area.

N. Ryder stated that the issue was self-imposed, she noted that condition 33 of the Order of Conditions for 83 McGilpin prohibited development within 100 feet, if the area was shown to be a vernal pool. She noted that the applicant had subdivided the land after that and could have found access in other ways.

E. Goodwin asked to move the hearing along. J. Hoffman stated that to be fair to the applicant, if the SCC knows this is not a good time to identify that the wetland is not a vernal pool they should let the applicant know. E. Goodwin noted that he had never seen the two wetlands as separate before. N. Ryder agreed that they were when the lower wetland was identified as a vernal pool earlier. E. Goodwin stated a site visit was required for this project. E. Goodwin stated that the whole vernal pool issue was new to him, he had never heard it mentioned in correspondence. N. Ryder pulled several documents referencing the vernal pool on the lot from application files for the other Marin Realty/McGilpin lots subdivided out of the original lot and for abutting property.

A site visit will be scheduled after the applicant stakes the lot informs the commission that it is ready. The hearing is continued to September 18<sup>th</sup> at 9:30 PM.

**PUBLIC HEARING - NoI – Green Hill Engineering for Milt Raphaelson for septic system repair at 26 Tantasqua Shore Drive.**

D. Barnicle opened the public hearing, present was M. Farrell.

M. Farrell outlined the lot layout and the proposed septic location. He noted that it was close to the water. The current system is 25 feet from the water, the proposed system is 40 feet from the water. J. Hoffman questioned why the system could not go further to the right. D. Mitchell said from the plan it appeared he could slide it down a little. M. Farrell said he tried to keep the system 105 feet from the well to allow a little shifting. E. Goodwin asked why it could not be slid down and back away from the well and the lake. M. Farrell said that both locations required work at the top of a slope and were edged by trees in the parking lot. He said he might be able to lengthen it and go out a little. E. Goodwin said the issue was that further from the lake is better. J. Hoffman asked what the state minimum requirement was. M. Farrell said for new construction, 50-feet, this is an existing home and qualifies for a variance. He noted that the Board of Health tried to keep new systems 100-feet from wetlands, but on existing lots that was not always possible. D. Mitchell stated that M. Farrell would need to shift the system as far from the lake as possible. E. Goodwin said the site needed to be seen. D. Barnicle asked if the lot could be staked for a Saturday site visit. Yes.



Site visit to be held on 8/23. Public hearing continued to 9/4 at 7:20 PM.

**PUBLIC HEARING - RDA – Green Hill Engineering for J. Curboy for septic system repair at 10 Curboy Road.**

D. Barnicle opened the public hearing, present was M. Farrell.

M. Farrell outlined the project, noted the existing home, garage, well and barns. N. Ryder noted that the stream shown on the plan was intermittent, but the same stream shown on the USGS topo map was perennial with the small pond being a potential vernal pool. She asked if M. Farrell was asking for a reclassification. M. Farrell said the landowner had told him that N. Ryder had said the stream was intermittent because it dried up part of the year. N. Ryder said that was not correct. She had spoken with the landowner about stream designation in general, streams that dry up can be classified as intermittent. She noted that did not mean that the commission had reclassified this stream. She noted that the applicant either needed to submit evidence showing the stream was intermittent, or needed to show that there were no other alternatives to placing the system as shown, within the perennial riverfront resource area. The Commission agreed that a site visit was necessary.

Site visit scheduled for 8/23. Public hearing scheduled for 9/4 at 7:20 PM.

**PUBLIC HEARING - NoI – Paradise Beach Association for tree removal and construction of a patio and landscaping adjacent to Big Alum Lake, at 104 Paradise Lane.**

D. Barnicle opened the public hearing, present for the beach association was, Darrow Hanesian, Pete Conly, Lee Cappola, and Rick Para. Present as abutters and lake residents were, Paul Lamarine, Barbara Hitchcock, David Stevens, T. Gresenz, Nancy Gresenz, John Field Jr, Joel Casaubon, Tom Liro, Edward Clorutuo, ? Gravell, Janet Garon and Robert Garon.

N. Ryder noted that although there were many abutters present, there was no proof that abutters had been legally notified. P. Conly noted that he did not know about the hearing until the previous evening, he stated that the office had never informed him of the time and date of the hearing. N. Ryder noted that applicants are notified of the hearing date when applications are received by the office, that was standard procedure. She questioned how so many people could be present if no one knew of the hearing. P. Conly asked if he could make a preliminary presentation to the commission. J. Hoffman stated that the entire process and project would have to be repeated at the next hearing to ensure that any additional abutters wishing to attend could hear the project. N. Ryder agreed that the entire review would have to be repeated. The Commission agreed to hear the project proposal for the benefit of all those abutters who had taken the time to attend. They noted that the process would be repeated at the continuation to be held on September 4<sup>th</sup> at 9:30 PM.

P. Conly reviewed the plan as presented and outlined the following existing features, shed, stairs, parking area, and sand area. He noted that they were proposing to remove 13 trees, replace the existing sand area with a patio or porous pavers, and add a dock. R. Para added that they also would be putting in concrete platform to anchor the dock on land adjacent to the lake. The platform would be 4 feet deep by 4 feet wide and would be used to hold a floating dock in place. P. Conly said they could alternatively dig postholes to support the dock, it did not need to be a platform.

P. Conly stated that previously they had requested a tree-clearing permit. D. Barnicle and J. Hoffman had gone out on site. Based on that visit, he noted, that he now understood the 25-foot was a no disturb area. He noted that on this lot, except for the 25-foot buffer, there was very limited area that was flat and useable. He noted that they had no plans for a building and hoped to get more use than is there now. He noted that the lot served 7 families and, except for the small area, contained a lot of ledge.

D. Barnicle asked if the shed would stay or be removed. Stay. P. Conly noted that the area to be used to attach the dock was already disturbed by stairs. D. Barnicle asked what the area was on the left hand corner looking toward the lake. P. Conly said it was a fence put up by a neighbor on association property.

D. Barnicle asked if there were any questions from the commission.

D. Mitchell asked if the parking area shown would be effected at all. P. Conly said it would not, no cars parked there now except for maintenance. At most, 3 cars could fit there.

J. Hoffman stated that the plan, as presented was a blatant disregard of the regulations. He noted that an area already existed that is useable and had been previously permitted. There did not even appear to be an attempt to use the existing disturbed outline. P. Conly stated that the existing sand area was not sanitary due to geese and neighborhood cats. He noted that the association felt that a patio or pavers would be better. J. Hoffman asked why they did not simply put pavers in the existing framed sand area. P. Conly said the association would like to expand the area as it is too small for the number of people who use it.

D. Barnicle asked how many families would be using the lot. 6-7. P. Conly noted that with the amount of overgrowth there was very little sun. He noted that the families would get more enjoyment out of the property with the improvements shown.

D. Mitchell noted that the regulations to protect the lake were very strict. No new disturbance within the 25-foot buffer zone. No structures within the 50-foot buffer zone. He suggested that they consider pulling the proposal back to improvements within the limit of the existing use area. He stated that if they then needed to expand they should expand toward the landside of the property, not the lakeside. P. Conly noted that behind the existing use area was ledge. D. Mitchell said they could work a more sensitive design than they have shown us. He suggested they try wrapping something around the shed. P. Conly said there was a lot of overgrowth from trees that would need to be removed.

J. Hoffman noted the original permit for the lot was to create a useable area with stairs, a shed etc. to allow reasonable use of the property. He asked N. Ryder to dig up the file, from 1994 or 1995. R. Para said they were not trying to overuse the property but felt that in comparison to what else was allowed on the lake in the past, they were being abused. D. Mitchell noted that in the past more invasive projects had been allowed. The commission had seen the impact and had amended the regulations to protect the lake where it saw need. He noted that the regulations as they exist now were designed to protect the lake and were the ones the commission had to go by.

D. Barnicle asked if there were any comments or questions from abutters.

P. Lamarine of Mt. Dan Road stated that abutters had not been notified. N. Ryder and J. Hoffman both noted that the presentation would be repeated. The applicants were giving a preliminary review of the proposal since so many abutters were already in attendance. Rather than have them take another evening, the commission chose to let them speak tonight if they wished. P. Lamarine stated that there may only be 7 families involved in the trust now, but how many more would there be if the land in back was developed. He also stated that he did not think the regulations allowed people to strip the 50-foot buffer of all vegetation and allow impacts for use. D. Barnicle stated that the regulations did not allow that. The applicant was making a presentation, the commission would hear it, conduct a site visit to view the property and then come back and discuss the proposal with the applicant. He noted that no decisions had been made.

B. Hitchcock noted that she was a direct abutter and had not been legally notified. She stated that she had a letter outlining her concerns and questions. She read the letter, too quickly to get all the details down, the items are summarized below. N. Ryder requested she submit the letter to the file for the record.

1. She was told 30 years earlier, when she bought her lot that the one next to hers was not buildable.
2. When the association took down trees years earlier, they created tremendous erosion problems for her property. The erosion flows down her driveway and under her garage, there is silt in her yard from the trees being taken down.
3. The noise level from the trees being removed and the people use going up has increased.
4. There are no toilet facilities on the site, is there plans to connect to the sewer line?
5. The sand lot attracts raccoons, wild cats, insects, and other pests that were not there before.
6. How many people in total will be able to use the lot. How many docks and boats will that add and how will that effect the lake?
7. What procedure do they have to go through so people can access this beach legally?
8. She was concerned about kids being left alone unattended by the lake.
9. She noted concern regarding people congestion and boat traffic from added use.

D. Barnicle thanked the audience for their comments and apologized for the lack of proper posting and assured them the office would be more careful in making sure that the same error did not happen again. N. Ryder informed D. Barnicle and the audience that the legal posting made by the office had been correct, the posting on the town clerks board, and the web-calendar had been correct, the notification to other boards and committees in town had been correct. The commission had been notified of the hearing time and date correctly. The only missing notification was by the applicant in neglecting to notify the abutters. She noted that clear instructions regarding timing of hearings as well as procedure to notify applicants was in bold type on the front cover of the application form as well as on the website information page. And while it was entirely possible that the applicant did not get the message regarding the hearing time and date, and, missed the instructions on how to notify abutters, it was highly unlikely, although any thing is possible, that the message regarding time and date had not been sent by the commission office. Even if by some unlikely chance it had not, the information was posted as a draft agenda on the Commission office bulletin board two weeks prior to the hearing. The information was also available to the applicant by simply calling the office. Public hearing dates and times are set a minimum of two weeks prior to the actual hearing date.

Lee Coppola stated that he would address the concerns brought up by this audience during the official presentation at the next meeting. In addition all abutters would be notified.

E. Goodwin stated that the commission also needed to schedule a site visit. Site visit will be Saturday, August 23.

The public hearing is continued to/started on September 4, at 9:30 PM

**PUBLIC HEARING - NoI – Guerriere and Halnon for Allen Homestead for construction of 2 single family homes and related at lot 17, #23 Tannery Road, and lot 18, #21 Tannery Road.**

D. Barnicle opened the hearing, present was E. Mainini.

D. Barnicle noted that work on the water quality swale looked good, netting hay and seed were all down.

E. Mainini outlined the lot locations, noting that the topography created a natural berm between the two lots and the wetland in back. While the lots were in a jurisdictional location, it would be virtually impossible for any erosion to migrate into the wetland. She noted that the driveways would have to be blasted. D. Mitchell and E. Goodwin noted that they had walked the site and agreed with E. Mainini's analysis. D. Barnicle confirmed that

no site water was leaving the site, all was being recharged on site. Yes. D. Barnicle asked if there were any questions or comments. None. Both lots were approved by unanimous vote. A permit will be ready for signatures at the next meeting.

**PUBLIC HEARING –New Forestry Application Review**

No new applications.

**NEW BUSINESS – OLD BUSINESS – OTHER BUSINESS – LETTER PERMITS - CERTIFICATES OF COMPLIANCE**

The Sturbridge Isle Hotel fill area was discussed, a request to stabilize the area with mulch was denied. Vegetation is the only long-term method to prevent continued erosion into the river below.

The SCC reviewed the upcoming MACC courses. D. Barnicle, D. Mitchell, and N. Ryder will attend fall training sessions.

The owner of the home at 43 Glendale Road is using the entrance to DEM land as a driveway to the property blocking access. N. Ryder noted that she had contacted DEM and informed them of the problem. J. Hoffman requested that the original site plan be reviewed and a letter sent to the landowner showing that is not part of the project and noting that the pile of debris must be removed. Photos of the site are to be mailed to DEM. J. Hoffman noted that public access should be restored. N. Ryder noted that the landowner placed boulders to block the way. N. Ryder is to check with G. Morse and DEM to see if they placed the boulders.

The SCC discussed the Long Ave stream into Cedar Lake. D. Mitchell and J. Hoffman noted that the color is likely due to Iron Oxides and is clearly metallic and not organic. The SCC reviewed the site photos. D. Mitchell noted that based on description and photos, the color was likely naturally occurring.

Stockpiling of soils at the end of Gladding Lane was discussed. The fill is outside the buffer to the jurisdictional area but within land subject to flooding and a feed source for the lake. J. Hoffman noted that it was jurisdictional and needed haybales. N. Ryder noted contractor was going to install them. D. Barnicle requested a letter be sent requiring stabilization and a plan to effectively stabilize the area be submitted.

D. Barnicle asked if the lab results from LA Sugrue had been submitted. Not yet the deadline is by the 9/4 meeting.

The SCC discussed, in very lengthy detail, a letter to be submitted to the Planning Board regarding conflicts between the SCC and PB regulations. A list of items to include in a draft letter to be ready for the 8/27 business meeting was prepared. The draft will be reviewed then and finalized.

The SCC discussed the letter from Tim and Nancy Gresenz regarding the waterflow off of Rte 20 onto their property and the damage it has caused. The SCC requested that N. Ryder submit a copy of the letter to Greg Morse and Mark Lev to see if there was anything that could be done to help the situation.

**Motion to close at 11:30 PM approved by unanimous vote.**