

STURBRIDGE CONSERVATION COMMISSION

Minutes for Thursday, October 30, 2003

MEMBERS PRESENT

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

7:00 PM

MINOR WALK IN REQUESTS

- o J. Candelaria requested a letter permit to replace the foundation posts for his home at 272 Big Alum Road. The supports are collapsing. Most of the work will be done by hand; one excavation trench is needed to access an area under the home. Erosion control was reviewed. No soils are to be stockpiled on site. No work will be conducted within 50 feet of the lake. The commission is already familiar with the site from previous project reviews. Approved with conditions as stated in the letter permit, by unanimous vote.
- o J. Teachout of Jalbert Engineering noted she was submitting an application for a septic repair at 150 Podunk Road. She requested a site visit in advance of the hearing. Granted. D. Barnicle will conduct the site visit and report to the SCC on 11/20.
- o J. Teachout noted that the flagging and stakes for 10 Gifford and 165 Charlton Road were complete and requested site visits be scheduled. Site visits scheduled for November 16 @ 8:00 AM.
- o P. Perkins attended to request an amendment to an existing approved OoC for Jeznach for 12 Cedar Lake Drive for alternative access. He noted that the equipment needed to construct the addition would not fit between the two front buildings. He was requesting access from the side neighbors yard. The SCC discussed erosion control placement. P. Perkins then requested permission to add a stockpile area to the amendment. E. Goodwin noted that he had no problem with the alternate access as long as erosion control was extended. He would not approve of stockpiling or storing of any materials or dumpsters near the lake. The Commission approved the entrance change, with extended erosion control on the plan submitted by P. Perkins. The erosion control is to be no closer than 25 feet to the lake; the no-disturb buffer is to remain untouched. No dumpster, no stockpiling and no pushing the hay bale line any further back is allowed

CPA UPDATE

- o Tabled.

MINUTES REVIEW

- o The minutes of July 24, August 7, August 21, August 27 and September 4, were tabled to the November 20 meeting.

CORRESPONDENCE REVIEW

Correspondence reviewed and discussed included.

- o Preserve environmental reports, Allen Homestead environmental reports, Quabog Pond Botanist report, Special Town Meeting notice, A bylaw proposal request to town counsel from J. Malloy, St. Annes correspondence, MACC newsletter, Smart Growth correspondence, Workers compensation requirement memo, Cedar Lake drawdown notice, the upcoming staff meeting schedule, Commonwealth magazine, Notice that a baby eagle was shot on North Pond and information was being sought, Correspondence with A. Hanna regarding Millyard Marketplace, Mohawk Trail guided hike notice, Notice of training sessions with MIAA.

DISCUSSION OF NEW INFORMATION

- o The November 13 meeting will be postponed to November 20 due to lack of a quorum on the 13th. Two hearings had been continued and scheduled for the 13th to date and both were represented by J. Teachout of Jalbert Engineering. As she was present at the meeting, she gave approval to postpone the hearing continuations to the same time on the 20th. J. Teachout will contact the landowner and applicant; N. Ryder will contact the two abutters who attended. The change in meeting date will be posted.

REVIEW OF SITE VISITS

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

- o 78 Bullough Road – D. Barnicle opened the hearing continuation, present was J. Teachout. The final site plan with stream location as requested was reviewed and approved. The plan was approved as presented with no special conditions, by unanimous vote.
- o Falls Road Dam – DEP # still pending, no response on the review.
- o 28 Goodrich Road -

PUBLIC HEARING – 6 NoI's – W. Fricke for ExxonMobile for petroleum pipeline maintenance and repair at various locations from Hall Road to Holland Road, including, 52 Stallion Hill Road, 53 and 46 Holland Road, 8 Forest Lane, Commonwealth of Massachusetts property South of Route 20 approaching the turnpike entrance ramp, and 67 Hall Road.

D. Barnicle opened the public hearing, present was W. Fricke.

Submitted information-

- o Abutter notification cards for all 6 files. N. Ryder requested the cards be separated by application and resubmitted.

*Topics Discussed –

- o 52 Stallion Hill Road

Issues, Concerns, Comments–

- o Site visit was taken in advance.
- o No issues with the project location or submittal.
- o NHESP and DEP response and comments are required prior to approval

*Topics Discussed -

- o 67 Hall Road

Issues, Concerns, Comments –

- o The location was clarified as near the picnic tables along Hobbs Brook Trail.
- o A stonewall lies between the site and the BVW.
- o D. Barnicle questioned the water table level.

Applicant Responses-

- o There is a 3-4 foot drop to the BVW past the stonewall; the work will be above the water table.

*Topics Discussed -

o 8 Forest Lane

Issues, Concerns, Comments –

- o The site is in or adjacent to riverfront resource and NHESP estimated habitat.
- o The SCC clarified the location and access point.
- o Anomalies at these points are the result of 2-3 tool runs conducted the previous spring.
- o Magnetic anomaly tests were run the previous week and will be rerun this coming week. Anomalies are defined as having the pipe out of round, gouging, dents or inconsistent wall thickness due to corrosion.
- o D. Barnicle asked if the normal New England winters were driving rocks into the pipes and causing some of the problem.
- o D. Barnicle asked what type wall would be used for the repair.
- o A site visit is needed to confirm no potential impact to riverfront or habitat areas.

Applicant Responses-

- o W. Fricke stated that the companies years earlier decided to put the pipes in wet areas as they felt it would be less impact. The wetlands tend to have more, larger rocks surfacing each year due to the heavier freeze/thaw cycle. He noted that the mistake would not likely be repeated.
- o Single wall pipe will be used.
- o W. Fricke stated that Federal DOT guidelines would be followed for the repairs. The pipe will be drained, purged of fumes and then patched or welded.
- o The police and fire departments will be notified prior to any breaching of the pipe.

*Topics Discussed -

- o 253/245 Rte 20, South side of Route 20. (aka site 193)

Issues, Concerns, Comments –

- o Access to the site was confirmed as right past the 84 off ramp onto 20.
- o The SCC noted that the project was shown on the plan as being in riverfront.
- o A site visit is needed to clarify the proposed location.

Applicant Responses-

- o None at this time.

*Topics Discussed -

- o 253 Holland Road

Issues, Concerns, Comments –

- o No SCC issues.
- o NHESP and DEP response are needed prior to permitting.

Applicant Responses-

- o None at this time.

*Topics Discussed -

- o 253 Holland Road, South Side

Issues, Concerns, Comments –

- o No issues or comments.

Applicant Responses-

- o None at this time.

Proposed Actions-

- o The hearings for 52 Stallion Hill, 8 Forest Lane, 253/245 S. Side of Route 20, will need to be continued to give NHESP and DEP time to respond to the Riverfront and Habitat concerns and to give the SCC time to site visit and review.

Definitive Actions-

- o Motion to approve the plans as presented for 67 Hall Road, and both Holland Road sites. Vote-All in favor.

Information to be Submitted-

- o Abutter green cards categorized by project and NHESP/DEP response numbers

Potential Special Conditions-

- o Excavation trenches shall be minimized wherever possible
- o Natural vegetation shall be kept stable along side the work site and replaced on completion of the project.

Site Visit-

- o Site visits will be conducted to 8 Forest Lane, and to 253/245 S. Side of Route 20 on November 16.

Continuation-

- o 67 Hall Road, and 253 Holland Road, both sites, have all been approved, the hearings are continued to November 20, at 7:20 PM for formal closure and permit review, amendment and approval.
- o 52 Stallion Hill Road and 8 Forest Lane are continued to November 20 at 9:50 PM for review of any information submitted by NHESP and DEP.
- o 253, 245 S. Side of 20 is continued to November 20 at 9:50 PM for additional information relating to the stream shown in the work area.

PUBLIC HEARING – RDA. – R. McNally for single family home construction and related at 63 Bushnell Road.

D. Barnicle opened the hearing, present was R. McNally.

- o The SCC reviewed the project application.
- o The original filing had been denied due to self-imposed hardship in representing the project to the ZBA.
- o The applicant has corrected this.
- o The project was approved with conditions that no work or disturbance is to be any closer than 165 feet to the wetland or stream or vernal pool. No access will be allowed on Bushnell Road due to riverfront resource area. No further disturbance of the resource area or buffer will be allowed. This project constitutes reasonable use.
- o Motion by J. Hoffman, 2nd by D. Barnicle, Vote- all in favor.

PUBLIC HEARING - NoI – BSC Group for Mass Turnpike Authority for reconstruction of the Cedar Street snowplow ramp leading to the Mass Pike to address safety concerns.

D. Barnicle opened the public hearing, present were R. McCullough and M. Devlin.

Submitted information-

- o No new information submitted.

Topics Discussed -

- o Snow ramp as is, creates a safety hazard to drivers coming on and off the turnpike. There is no room to slow or accelerate safely.
- o The proposal is to widen the ramp and add guardrail.
- o Replication is proposed at a 2:1 ratio.

Issues Concerns –

- o No TSS improvement is proposed, the current regulations require meeting 80% removal for all new construction.
- o Phase II stormwater is not proposed to be met.
- o R. McCullough outlined the outlet pipe with flared end with a 6-inch stone bowl shaped basin. He outlined the existing swale/BMP.
- o Replication is in the form of a micropool settling basin.
- o The replication area is also being considered a treatment area. R. McCullough noted that the state only required 1:1 mitigation
- o The SCC and applicants discussed TSS removal pre and post calculations for the site.
- o Surface water flow direction was reviewed.

SCC Comments, Concerns –

- o J. Hoffman questioned why the safety aspect was not addressed 10 years ago when the ramp was built. He noted the same concerns and regulations applied then.
- o D. Mitchell asked how deeply the cattails in the swale were planted. He noted that if they were planted in sufficient water depth they would outcompete the loosestrife which cannot tolerate permanently saturated conditions.
- o D. Barnicle questioned the swale outlet, he noted that it appeared to just end.
- o D. Barnicle questioned the compliance with Phase II stormwater, he noted that must now be complied with. He outlined instances when the pike released substantial amounts of stormwater runoff into the lakes and streams with no erosion controls.
- o E. Goodwin questioned why were not even considering complying with the 80% TSS removal regulation. He noted that they were not exempt from the WPA and that as these new sections were worked on, each one needed to be brought up to regulation.
- o J. Hoffman noted that the WPA stated at least 1:1 replication and noted that the requirement to allow any disturbance was discretionary based on local resource knowledge by the commission.
- o D. Mitchell requested that the area of fill be outlined and reviewed the topographical drop with the applicants.
- o D. Barnicle asked if there was an overland separation of the bowl and culvert. He noted that based on the size, if the 4 inches of rain in less than an hour rain storm occurred again, the basin would overflow and take all the TSS down into the wetland with it.
- o N. Ryder noted that the area was a feed source for a perennial stream leading into Cedar Lake.
- o D. Barnicle asked if street sweeping would occur.
- o D. Mitchell asked what the basis of the topo was.

Applicant Responses-

- o R. McCullough noted that he did not know why, but they did not account for safety in the original design.

- o R. McCullough noted that the swale was the BMP for the turnpike. He noted that he had not considered additional TSS removal as the Federal regulations were fairly new.
- o R. McCullough noted that the swale continues, only 200 feet from resources were shown.
- o M. Devlin noted that the current removal was unknown. He stated he could have that aspect looked at for the change in the ramp but felt it was excessive for the project size.
- o R. McCullough noted that street sweeping occurred when needed. He noted that the solid loading was low in the area. A mix of salt was typical for public safety.
- o The topos were based on a 1993 aerial photo.

Abutter Concerns –

- o None present

SCC Responses-

- o D. Mitchell noted that if the fundamental conditions of the pike and the swale are not changed, the conditions for the resource areas adjacent to it won't change.
- o D. Barnicle stated that for the changes proposed, the minimum 80% TSS removal needed to be targeted. If it could not be reached, then an explanation and justification needed to be presented. He acknowledged that while the area may be small, the pike was one of the largest releases of sediments and contaminants in the area. He noted the consistent problems with the north side of Cedar Lake.
- o D. Barnicle stated that the issue was not the size of the project, the issue is that the traffic flow and trucks that plow snow, sand and salt closer to the edge of a resource area the commission is trying to protect.
- o J. Hoffman noted that 80% TSS removal was not a new concept and should not be a surprise issue. It predates the current Federal stormwater requirements. D. Barnicle noted TSS removal concept is 20 years old.
- o E. Goodwin noted that until a site visit was conducted and TSS removal considered, there was no point in further discussion. He noted that unless the applicant shows proof that there will be no damage to the wetland and stream he can not approve the project.
- o The location and placement of the mitigation area needed to be reviewed on site.
- o D. Mitchell noted that the directing drainage also needed to be considered. He stated that based on the current application, basically no one knows where the stormwater goes. D. Mitchell noted that if the area was being called a treatment area, the SCC needed to see evidence that this is where the water actually goes.

Proposed Actions-

- o Commission will site visit as a group.
- o The replication area is to be flagged.
- o Phase II (no sediments leave the site) and 80% TSS removal need to be met or the deficiency justified.
- o Water flow direction needs to be verified.

Definitive Actions-

- o None at this time.

Information to be Submitted-

- o Revised plans addressing the above stated concerns.

Site Visit-

- o Scheduled for Saturday, November 16.

Continuation-

- o Continued to November 20 at 10:10 PM.

PUBLIC MEETING – LA Sugrue for Westville Properties and J&W Company to address outstanding issues relating to an Order of Conditions for 51 Holland Road for hazmat cleanup within the riverfront resource area for the Quinebaug River.

D. Barnicle opened the public hearing, present were L. A. Sugrue and B. Briere.

Submitted information-

- o S&A File # 159-03 response to EO dated October 22, 2003.

Topics Discussed -

- o Initial excavation is completed for the imminent hazard area. 25-30 5-gallon buckets of additional soils were removed than originally anticipated.
- o 5-15 field screen for metals is on order.
- o Digging has started at site 55-20, the paint can area, 3-4 buckets of soil have been taken out.
- o Analytical data from the site was reviewed by location. (see the report noted)

Issues Concerns –

- o All the sites need to be field screened for metals before the excavation can be called done.
- o Excavation will be repeated until the concentration levels drop out of the hot zone. Testing will be repeated each time a new layer is removed.

SCC Comments, Concerns –

- o E. Goodwin asked what was being done with the removed soil.
- o D. Mitchell confirmed that with each new layer of excavation the soils were being removed from both the bottom and sides of the pit.
- o D. Mitchell noted that some of the sample test results seemed higher than the original test data.
- o D. Mitchell noted that there were some archived results and some groundwater.
- o D. Mitchell asked if the samples screened by Tighe and Bond had been analyzed.
- o D. Barnicle asked where the comparative analysis was.
- o D. Barnicle noted the chain of custody submittal dates. He noted that she had received lab results on 9/9 but SCC did not see them until 10/23.
- o D. Barnicle asked what happened to the results of the collection dated 8/23.
- o D. Barnicle noted that the well was capped on both the 14th and the 28th. He requested specific information be included as part of the record.
- o D. Barnicle asked when or if groundwater sampling had been taken. He asked for specific dates.
- o D. Mitchell asked if there was any evidence of where the plume migrated.
- o D. Barnicle noted that the lead was over the limit on all the samples. He asked if that was common.
- o D. Mitchell asked how deep the wells would be installed. He noted that 5 feet screened would be the minimum.
- o D. Barnicle asked why the vinyl chloride kept popping up and asked if this was typical for wells.
- o E. Goodwin asked how and when the excavated soils would be removed.

Applicant Responses-

- o Removed soils are being stockpiled on site near the cart path with booms on poly. The area is covered and rolled up so no materials can migrate. All soils will be removed from site at one time when excavation is complete.
- o Soil was being excavated from the entire pit. Composite samples are taken from opposite corners of the base of the pit and opposite sides of the pit.
- o Some test results were higher further down. She noted that the results from the previous Saturday were not back yet, so she did not know what the larger picture would show.
- o A comparative analysis of the two samples had been done. She noted that the comparison was not documented, it was via phone call to the lab.
- o L. A. Sugrue noted that she did not receive a copy of the lab data until much later than 9/9. She acknowledged that she was having issues with the lab.
- o The 8/23 lab sample results showed cross contamination and were retaken. She noted that the results of all prior samples no longer existed.
- o She noted that there had also been issues with holding times.
- o L. A. Sugrue noted that she had been on site several times and had several sample dates, she did not have the field data with her.
- o L. A. Sugrue stated that groundwater monitoring wells are still to be installed. She had intended to do them Saturday but could not hand auger them due to the hard pan.
- o Worcester County tends to have soils with high arsenic and lead frequently. L. A. Sugrue noted that the amounts needed to be put in perspective. The maximum levels are very conservative.
- o Wells will be installed 5-10 feet deep.
- o Vinyl Chloride is man made, not natural.
- o L. A. Sugrue noted that while it did not mean the entire site was clean, Tighe and Bond did an excellent job sampling and screening the overall site.
- o The samples will be removed to an incinerator on completion of excavation.

Abutter Concerns –

- o B. Brierre stated that his guess would be the vinyl chloride and hydrocarbons are coming from the Exxon Mobile pipeline.

SCC Responses and Discussions -

- o D. Barnicle noted that he would like to see the past data even though it was cross contaminated for comparison purposes. L. A. Sugrue said she could not submit it. D. Mitchell and L. A. Sugrue discussed in detail the cross contamination and whether it was lab or site oriented, and lab timing issues.
- o D. Barnicle requested all field data times and actions.
- o D. Barnicle requested a specific report as to when, where and how groundwater monitoring wells would be installed around the artesian well. D. Mitchell and L. A. Sugrue discussed possible locations for wells to maximize relevant data.
- o L. A. Sugrue noted she would like to take groundwater samples from the side of the river and sediment samples from in the river. D. Mitchell noted that for SCC purposes, assuming no major future development, samples from the soils near the river should be fine. He noted that until groundwater emerges there is not an ecological problem. The levels being noted would not impact the plants. A minimum of 3 flow through, groundwater sample wells, by the Quinebaug should be planned. Surface water in the Quinebaug would not be accepted.
- o D. Barnicle and D. Mitchell discussed the levels of volatiles. D. Mitchell noted they would be a concern if the water was for drinking, ecologically however, no. He noted that if the plume extends to the edge of the Quinebaug, and water is then being pumped for use, there may be a problem.

- o D. Mitchell noted that the area could never be used for a school or playground. D. Mitchell and L. A. Sugrue reviewed the normal exceedence levels and triggers.
- o D. Mitchell noted that the vinyl chloride is the result of breakdown of chlorinated hydrocarbons from other products. D. Mitchell and L. A. Sugrue noted that the soils would be tested to see if it was coming from the pipeline rather than the dumping. D. Mitchell noted that if it was, there would be a bigger signature. He felt it was more likely from a small dump site.
- o D. Mitchell and L. A. Sugrue discussed the effectiveness of on site screening for metals. D. Mitchell noted that some samples should be sent to a lab for confirmatory analysis.

Proposed Actions-

- o SS-20, S-11, and S-14 all need to be rechecked. Date to be done is 11/1.
- o Plans to reduce the safety hazard from the excavation areas needs to be addressed.

Definitive Actions-

- o None at this time.

Information to be Submitted-

- o Information to submit to the SCC are dates of testing, dates of well capping, installation dates for monitoring wells downstream, water sample results from area just off the Quinebaug.
- o Additional lab data from confirmatory samples is to be submitted.
- o All data is to be submitted to the SCC on or before December 4.

Continuation-

- o The hearing is continued to December 11 at 7:30 PM.

PUBLIC HEARING - NoI cont – New England Environmental, for Swiacki, for Whittemore Woods Subdivision Infrastructure. Also present will be A. Allen of EcoTec.

PUBLIC HEARING – NoI cont.– New England Environmental, for Swiacki, for Whittemore Woods Subdivision for single family homes and related. Also present will be A. Allen of EcoTec.

D. Barnicle opened the public hearing, present were M. Marcus and A. Allen.

Submitted information-

- o No new information submitted at this hearing.
- o Email correspondence from SCC and A. Allen since the 10-16 meeting was entered into the record.

Topics Discussed -

- o M. Marcus requested that the discussion be directed to where the applicant should proceed based on discussion with the Planning Board. He wanted to know if the issue of the roadway should continue to be pursued. He acknowledged that even if the roadway was pursued, the lot layout would need to be changed.
- o The SCC discussed the PB meeting of Tuesday, November 21.
- o The email regarding WPA and TOS wetland bylaw thresholds was discussed.
- o All work has been removed from the 25 foot buffer.
- o There is still structure within the 50 foot buffer, this may be alleviated if G. Morse approves the change in the roadway ROW's.

Issues Concerns –

- o Through road, the SCC felt that it did lead to irreparable damage to the wetland. The deciding factor was whether this could be mitigated or conditioned.

- o Reasonable use, the cumulative effect and impact from the entire property development including ANR lots, infrastructure and home lots has not been discussed or addressed. What will the cumulative damage be?

SCC Comments –

- o D. Mitchell noted that until he knew for certain if Planning and DPW would not allow anything but a through road, regardless of how it was submitted, any further information or advice from experts would not be useful. He noted that the presentation to the Planning Board did not include any options that actually met the zoning and planning requirements.
- o J. Hoffman confirmed that letters of support for the through road to PB were on file for Police/Fire.
- o E. Goodwin noted that to date no formal plan showing all impacts, all the little ANR's and complete use of the property had been submitted. So far, since the through road was denied, all the SCC has is concept plans. He noted that he could not vote in favor of something for which he did not have specific final details.
- o J. Hoffman questioned if 1/3 of the homes were allowed, would the same impact result.
- o D. Mitchell stated that with wildlife and hydrology corridors the impact would be greatly reduced.
- o N. Ryder noted that without full cumulative impacts outlined as one presentation, reasonable use and overall impact could not be determined. The submittals had broken down and fractured the larger picture.

Consultant Response-

- o A. Allen asked if the police and fire supported a through road for emergency access or for full use.
- o A. Allen noted that this application (as most do) started with zoning and added environmental concerns as an afterthought. He noted that environmental issues were off the table at the start.
- o He noted that if you looked at it from what could reasonably be accessed on upland properties. If you assume the crossing will be allowed, the applicant could add more lots than they have. The applicant focused on the level area.
- o He cautioned that despite that fact, it would not mean the lots currently proposed do not exceed reasonable impact.

Applicant Responses-

- o The letters from PD and FD did not stipulate emergency use or public use.
- o M. Marcus noted that one proposal showed a sewer easement with gates to block public use but not emergency vehicle use.
- o M. Marcus noted that the discussion regarding conflicting regulations now should be between the Planning Board and the SCC not the applicant.
- o M. Marcus noted that during the delineation in 1999 or 2000, he had stated on site that the Whittemore area would be the location of a proposed through road and that impact would likely be proposed.
- o M. Marcus noted that A. Allen had also recommended changes to the hydrology, which are not yet on paper. He noted that he did not want to put any more on paper until the SCC agreed that the through road would be reasonable.

Abutter Concerns –

- o No abutters attended.

SCC Responses and Discussion-

- o The SCC reviewed the proposals submitted to the PB in detail. It was noted that no proposal had been made that met the regulations and no proposal had been attempted which showed no impact and why that was not feasible.
- o The SCC, consultant and applicant discussed the possibility of a proposal with gravel through road for emergency, utilities and plowing but no through road for public use. Whether or not that would be agreeable to DPW, Fire and Police was an unknown. A pathway for plowing, emergency and utilities could be much narrower, create less impact and preserve wildlife migration.
- o The SCC, consultant and applicant discussed reasonable use. The concept stems from case law in Beverly approximately 15 years earlier. The case law involved a stream crossing 3 times. In short, the court determined that the applicant created its own hardship and determined that the 2nd and 3rd crossings and phases of the proposed development were unreasonable use in terms of environmental impact compared to economic return. The court stated that reasonable use was guaranteed, maximum use was not and in this case, would not be allowed. A second case in Carlisle dating to 1992 supported the courts decision and essentially set precedent for commissions to allow reasonable use but not necessarily maximum use.
- o The commission discussed the reasonable use compromise arrived at on both the Highlands and Sanctuary subdivisions. Preserve as well. They noted that the developer had been able to create an economically feasible project while tremendously limiting environmental impacts. This was not the case with Whittemore Woods.
- o J. Hoffman noted that the plan from the start threw conservation issues laws and regulations in as an afterthought and last consideration. The commission was still looking at improving a bad project rather than looking at a good environmentally sensitive project that met all town board regulations equally. He noted that there was no reason why the applicant could not have started from a project that met all the regulations of both the planning and SCC.
- o A Commissioner noted that the amount of money spent by the applicant pushing for maximum impact and use was self imposed. No effort had been made at all to start with a reasonable project.
- o N. Ryder noted that the plan originally and now did not even attempt to meet current SCC regulations. Variances were being requested for new construction. She noted that these variances were intended to be allowed on pre-existing lots where hardship would otherwise occur.
- o E. Goodwin noted that he was tired of the applicant playing the Planning Board against the SCC to get as much as possible rather than starting from a reasonable point. E. Goodwin noted that Swiacki had sold off all the ANR lots prior to submitting the Subdivision, now he had to go across wetlands to maximize the remaining upland behind the ANR lots. E. Goodwin noted that he was completely opposed to allowing this.
- o A Commissioner noted that the cost of the engineering kept coming up. It was the applicants own doing to spend that much. Why should the environment have to pay the price for W. Swiacki's financial gamble.
- o The SCC unanimously agreed that the fact that a potential impact had been noted informally during an earlier delineation, did not mean the crossing was acceptable or would be permitted or that it was reasonable. They noted that no details regarding impact had been submitted at that time to evaluate.
- o J. Hoffman noted that up to 5000 square feet of impact is discretionary on the part of the commission, not required if the commission does not feel it has been warranted.
- o D. Barnicle noted that the SCC needed to focus on the impacts to the resource areas. He stated that this was truly a unique site, which needs to be protected.
- o D. Barnicle noted that the consultant had also rejected the Fairview Park redevelopment proposal. He noted that a new door for discussion had been added.
- o J. Hoffman noted that the road as originally presented would not be approved. He needed to know what the Planning Board would accept. M. Marcus noted that the commissioners had been clear all along that they were not happy with the through road and with what the issues were. D. Barnicle

agreed and stated that the SCC now needed to look at the entire package, this piecemeal approach leads to many small impacts, what is the overall impact.

- o E. Goodwin questioned if a through road designed as a horseshoe off Fairview had been considered and presented. M. Marcus stated that a horseshoe had been looked at but rejected as not buildable due to grades and blasting.
- o E. Goodwin asked A. Allen if the site/project was proposed as well as it could have been. A. Allen said no.
- o The SCC unanimously noted that they still had concerns with the wildlife corridors and segmentation and with the hydrology impacts.

Proposed Actions-

- o D. Barnicle noted that representatives from Whittemore would be meeting with Planning the next morning. He noted that the Commissioners could attend the meeting but that no discussions relating to the Whittemore Woods hearing should be held as it would be outside the public hearing. N. Ryder noted that if the hearing was continued at the moment to that set time and date in public hearing it would be legal. All interested parties had the opportunity to be present.
- o M. Marcus noted that he was looking for a vote at the December meeting. He noted that the applicant will amend the plan to include A. Allen's changes if the SCC agreed to accept some version of a through road at that point.

Definitive Actions-

- o None at this time.

Information to be Submitted-

- o No new information at this time. Existing information needs to be discussed and reviewed.

Site Visit-

- o None at this time.

Continuation-

- o The public hearing is continued to Friday, October 31 at 9:00 AM. The hearing is continued also to November 20 at 6:45 PM and continued again to December 11 at 7:50 PM.

PUBLIC HEARING – NoI cont. – Para Land Surveying and Engineering for A. Davis for septic system installation for a proposed home at 254 Holland Road. (proposed home location is outside the 200 foot buffer, septic is 160 feet from wetland, should have been filed as an RDA)

D. Barnicle opened the public hearing, present was R. Para.

Submitted information-

- o No new information submitted.

Topics Discussed -

- o Site dimensions and distances to resource areas were outlined.

Issues Concerns –

- o N. Ryder noted that a stream, pond and several wetlands were present across the street but not shown on the plan.

SCC Comments –

Applicant Responses-

- o R. Para noted that he did not think it would be impacted as it was across the street.

Abutter Concerns –

- o None present.

SCC Responses-

- o Additional resource area information is needed on the plan. J. Hoffman noted that existence and impact were two different things. He noted that the SCC could not evaluate for impact without all relevant information available on the plan.

Proposed Actions-

- o None at this time.

Definitive Actions-

- o None at this time.

Information to be Submitted-

- o A revised plan showing all resource areas and distances.

Site Visit-

- o To be scheduled after revised plan is submitted.

Continuation-

- o Continued to November 20 at 7:20 PM.

PUBLIC HEARING – RDA – Waterman Design for SPL Development for resource area delineation and determination of mean annual high water at 450A Main Street.

D. Barnicle opened the public hearing, present were B. Waterman and W. Belec.

Submitted information-

- o A plan had been submitted prior to the hearing.

Topics Discussed -

- o An aerial ortho of the site was shown and outlined.
- o The site is predominantly White Oak, with Pine Black Birch and Cherry.
- o Beaver flooding of the adjacent ponds has raised the water level tremendously.
- o The 100 foot and 200 foot buffers were outlined.
- o The edge of the flowing brook was outlined.
- o The property boundaries were outlined.
- o The riverfront falls primarily within the BVW.
- o 2 farm ponds on the west were identified.

Issues Concerns –

- o None at this time, a site visit is needed to verify the wetland flags. The filing is for a delineation only, no project work is proposed.

SCC Comments –

- o D. Barnicle asked what methods were used for the delineation.
- o D. Barnicle asked if all the natural features such as stone walls were shown.

Applicant Responses-

- o B. Waterman said he had used vegetation and soils. Several borings had been taken and topography verified using nearby markers.
- o 2 stone walls run along the north of the property.

Abutter Concerns –

- o None present.

SCC Responses-

- o None at this time.

Proposed Actions-

- o Site visit is needed.

Definitive Actions-

- o None at this time.

Information to be Submitted-

- o No new information is needed until the delineation is verified or challenged.

Site Visit-

- o A site visit is scheduled for November 16.

Continuation-

- o The hearing is continued to November 20 at 7:20 PM.

PUBLIC HEARING –New Forestry Application Review –

- o Holland Road by S. Gerrish –
- o D. Barnicle noted that there was no work on wetlands or vernal pools.
- o No skidders will be used to prevent erosion.
- o S. Gerrish will notify D. Barnicle so the site can be monitored during work due to the extreme slopes.
- o No new cutting will be done for at least 5 years.
- o D. Barnicle recommended approval.
- o Approved by unanimous vote.

NEW BUSINESS

- o NPDES-NoI's for the town and turnpike federal phase II stormwater were reviewed.
- o The town and turnpike are waiting for review and approval or notice of deficiencies.
- o The SCC will need to discuss formal legal fining options at the next business meeting. There are three options available.

OLD BUSINESS

- o E. Goodwin will check the Hill lots on Mashapaug Road. He noted that the last time he went the path along the back was not stabilized and stockpiling was evident. He will recheck.
- o D. Mitchell requested a copy of the chapter 91 regulations.

OTHER BUSINESS

- o D. Mitchell asked N. Ryder to request a copy of the biological survey done by Lycott for Cedar Lake.
- o Follow up to the letter to new residents discussion was tabled.
- o Follow up to the Planning regulations discussion was tabled.
- o New Boston Road issues with JCJ correspondence was reviewed, action is ongoing.

LETTER PERMITS

- o The Letter permit request for Eckhardt for Library Lane needs to be filed as an RDA so abutters can comment. The project is not minor and is controversial. Unanimous.
- o The Burgess School Road permit was approved as there is no ground work. All work is on the second floor of an existing home.

CERTIFICATES OF COMPLIANCE

Motion to close and adjourn, 12:00 PM, approved by unanimous vote.