

STURBRIDGE CONSERVATION COMMISSION

♣ **Minutes for Thursday, March 17, 2005** ♣

MEMBERS PRESENT

Board Members: D. Mitchell (acting as Chair), J. Hoffman, E. Goodwin, F. Damiano (7:15 PM)

Associate Members: D. Grehl

K. Doyle for minutes

7:00 PM

CPA UPDATE

- o No update

APPROVAL OF 2/17/05 HEARING MINUTES

- o D. Mitchell requests if any board members have comments on the hearing minutes, no comments mentioned. All in favor for approval—2/17/05 hearing minutes are approved.

DISCUSSION OF NEW INFORMATION / WALK INS

1) T. Earls present to discuss with Commission the filing procedure of converting a trailer to a single-family house.

2) C. Ellis and J. Smith from ECS Environmental (representing B. Babineau, property owner) present for discussion of Letter Permit application for site remediation at 150 Charlton Road. ECS Environmental submitted a Letter Report to the Commission for the approval of installing “injection wells” to remediate contaminated groundwater at 150 Charlton Road.

- K. Doyle stated that the locus submitted with the Letter Permit is slightly off and in fact, a perennial stream is on subject property in addition to possible other wetland resource areas.
- C. Ellis explains the injection procedure: a solution of 10% hydrogen peroxide is to be injected into the wells to treat the contamination. The wells are approximately 12-16 feet deep and about 4-inches in diameter. The wells will be locked and capped, about 6-8 rounds of injection for about 1 ½ years—3 months of monitoring after injections.
- A Historical VPH Groundwater Monitoring Data table was submitted to the SCC.
- C Ellis stated that notification of the injection treatments is required to the Board of Health and the Municipal Director (Administrator)—notification has not been sent yet. Work to be conducted as part of the Phase IV Site Assessment by DEP. Rubber-tired vehicles will be used to minimize disturbance.
- D. Mitchell requests a sketch of the contamination plume.
- D. Mitchell questions if there has been contamination testing in and/or near the perennial stream.
- **D. Mitchell and other SCC members agree that a NOI is required due to the nature of the work within the Riverfront Area in addition to the scope of the project itself.** Additionally, wetland delineation is required as part of the NOI and it is requested that the applicant provides the SCC with a diagram of the current plume.

3) Discussion of DEP File Number 300-480: 446 Main Street—Chinese Restaurant. Present were G. Valiton from Andrews Survey and Engineering, D. Ying and daughter as property owner / applicant.

- K. Doyle informs the SCC that new project plans have been submitted to the Commission for review. The plans show the location of the installed propane tanks in violation, where the erosion controls were installed and where the building has been constructed.

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- Discussion of the location of the propane tanks occurred, the tanks were installed where the water quality swale was proposed.
- The SCC discussed the wetland resource areas on site, beaver activity has caused the wetland to be altered.
- G. Valiton stated that the wetlands were originally delineated by hydric soils.
- D. Mitchell is concerned with the water elevation of the wetland and if the project can be effectively designed.
- D. Mitchell is concerned that the property owner/applicant is not in control of the project—that is why the project is not being build in accordance to plans and permits. The construction of the water quality swale is a major problem.
- D. Mitchell suggests that the applicant/G. Valiton does a new site evaluation including the water elevation (beaver activity), hydric soils, and water quality. Can the water quality swale be redesigned?
- **The applicant agreed to present the SCC with new information on 4/14/05 as a walk-in discussion.** Enforcement Order is in place, no work is to be conducted on property.
- K. Doyle informs the SCC and the applicant that Site Plan Review most likely will be required and the Building Inspector/Planning Dept. will be contacting the applicant/applicant representative.

PUBLIC HEARING

NOI CONTINUED from 1/20/05, DEP # 300-643: Para Eng. for Davis, 265 Holland Rd; SFH construction Applicant Representative, R. Para of Para Land Surveying Inc. requested a continuance of the project until April 14, 2005.

PUBLIC HEARING

ANRAD CONTINUED from 1/20/05, DEP # 300-640, 23 Hall Road—24 acre delineation. Waterman for R. Straus.

Applicant representative, B. Waterman of Waterman Design requested a continuance of the project until April 14, 2005.

PUBLIC HEARING

NOI CONTINUED from 2/17/05, DEP File No. 300-648: 118 Stallion Hill Road. Green Hill Engineering for Moore—Septic system repair/construction.

Applicant representative, M. Farrell of Green Hill Engineering requested a continuance of the project until April 14, 2005.

PUBLIC HEARING

NOI CONTINUED from 2/17/05: DEP File Number 300-647. 147 McGilpin Road. Green Hill Eng. for Wetherbee. Septic System Repair.

Applicant representative, M. Farrell of Green Hill Engineering requested a continuance of the project until April 14, 2005.

Due to the requested continuances for the 7:20 PM, 7:40 PM, 8:00 PM and 8:10 PM scheduled hearings, the SCC discussed non-project related business at 7:20 PM. The scheduled 8:20 PM public hearing started on time.

OTHER BUSINESS (conducted at 7:20 PM)

Tabled and included:

- o Discussion of revising Wetland Bylaw application fees. K. Doyle to check with other Town Boards regarding their filing fees.

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- o Discussion of New NOI Forms (checklist, procedure etc.) The SCC makes a motion to approve the new NOI Forms, all in favor.
- o Discussion of revising Wetland Bylaw Regulations to incorporate Simplified Review

PUBLIC HEARING 8:20 PM

NOI—101 Cricket Drive. Jalbert for E. Paquette, construction of a SFH and associated work.

DEP File No. 300-646

D. Mitchell re-opened the public hearing, present were L. Jalbert representing the applicant and prospective buyers, B. & M. Aquadro.

SCC Comments –

- o K. Doyle informs SCC that L. Jalbert submitted revised project plans with the location of the house moved, as requested by the SCC at the 2/17/05 hearing.

Applicant Comments –

- o L. Jalbert goes over new plans with the revised house location. He stated that the new location of the house is not aesthetically pleasing to the prospective property buyers.
- o B. Aquadro states that he just found out about the revised house location. Not happy with the revised location, does not desire that house to be so close to the abutters. He questions what they can do for mitigation for the original proposed house location.

SCC Comments –

- o F. Damiano states that it is not in the interest of the SCC to discuss aesthetics. The revised house location is a better location, more stable of a slope. On a personal note, you could even have the entrance of the house be in the rear facing the wetlands and stream.
- o D. Mitchell is concerned with the grading to occur on site. Concerned with the swale and runoff from Cricket Drive.
- o E. Goodwin questions the level of consistency, how close will the house be to the wetlands in both locations.

Applicant Comments –

- o L. Jalbert states that in the revised location, the house is about 73 feet from the wetland. There is a 12/13 foot difference between the two designs. L. Jalbert states that other options are to install a VersaLok wall (a 5-ft wall in the back) to help with long term erosion etc. The house is parallel to the contours of the property.
- o B. Aquadro requests that the SCC comes up with a solution for mitigation for the original design/house location.

SCC Comments –

- o D. Mitchell advises the applicant to request a continuance and addresses the following concerns: 1) steepness of slope 2) house proximity to the wetlands 3) swale and run off mitigation (piped) and 4) amount of fill to brought in

Abutter Concerns-

- o No abutter present

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Information to be submitted –

- o Additional project information / plans addressing SCC concerns (see above)

D. Mitchell continues project until March 31, 2005 at 8:10 PM pending receipt of new information.

Applicant representative agrees.

PUBLIC HEARING

Multiple NOI filings for 269 Cedar Street (Lots 1-5). DEP File Numbers 300-649

through 300-653. Applicant: M. Valandre and/or T. Reardon Builders, Inc. Rep: Jalbert Eng. and EcoTec

D. Mitchell opened the public hearing, present were S. Morrison from EcoTec and L. Jalbert representing the property owner. The property owner was present in addition to abutters, however did not speak during hearing process (see Sign In Sheet).

S. Morrison hands in to the SCC the abutter notification green cards and public advertisement “tear sheet”. L. Jalbert hands in a check for the required local bylaw wetland replication fee.

SCC Comments –

- o K. Doyle briefed the SCC on the project: 5 NOIs filed per single family house lot, property is an approximate 12 acre lot with 5 ANR lots. Septic systems are proposed in the rear of the lots, a wetland must be crossed in order to access the septic-wetland crossed via existing cart path. The septic systems are located in the area of the property that passed the “perc” tests. The applicant has proposed wetland mitigation, Riverfront Area restoration and buffer zone restoration with the project.

Applicant Comments –

- o S. Morrison gives an overview of the project and discusses with the SCC project specific issues. Maintenance of the septic systems will be required, no woody vegetation is allowed on the septic fields. Wetland replication is proposed as required in the local Wetland Bylaw. Wetland and Buffer Zone restoration is proposed, the property was previously logged and there are areas of debris and soil stock piling in and adjacent to the wetlands on property. Alternatives were looked at when designing the project, alternatives such as no build, individual wetland crossings and fewer houses.

SCC Comments –

- o D. Mitchell questions if a community septic system was considered as an alternative.
- o E. Goodwin questions what areas were considered for the “perc” tests. He requests that the plan shows where the “perc” tests occurred, more specifically, if the area of the proposed house locations were tested. If a septic system were to be in the front of the lot, where would the house and well be?

Applicant Comments –

- o L. Jalbert shows the SCC where the “perc” tests occurred and failed.
- o L. Jalbert explains that if a leach field were to be in the front of the lots, then the well would have to be in the rear of the lot near the wetland.

SCC Comments –

- o D. Mitchell requests that the plan shows all of the failed “perc” test locations.
- o D. Mitchell requests more information on the site remediation and removal of the debris.
- o J. Hoffman states that another alternative is to have fewer homes—1 or 2 houses, that would be a less impact to the buffer zone and the wetland areas.

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- o D. Grehl questions if the cart path on property is used on a regular basis.
- o F. Damiano questions the width of the cart path, would the width of the road be the same for 1 septic pipe verses 5 septic pipes.
- o K. Doyle shows the SCC the crossing detail on the project plans and requests from the applicant that the applicant includes the septic pipes in the crossing detail (to be beneath the culverts).

Applicant Comments-

- o S. Morrison states that approximately 9,000 sq. ft. of debris removal is proposed in the wetlands and buffer zone. The restoration protocol is included on the project plans.
- o S. Morrison states that lesser homes is not a preferred option to the applicant.
- o L. Jalbert states that the cart path is over 100 years old, is an old connector road.
- o L. Jalbert states that the cart path is approximately 15-feet wide and will remain the same width.
- o S. Morrison states that revised project plans can be done, would want to submit one package to the SCC.

SCC Comments-

- o D. Mitchell questions the condition of the land where the septic systems are proposed.
- o D. Mitchell questions the amount of tree cutting that will be necessary.
- o J. Hoffman questions the amount of upland on each lot. 0.9 Acres of upland should be on each lot.
- o D. Mitchell questions the nitrogen load of the septic systems

Applicant Comments-

- o S. Morrison states that it has been about 1 year since he has been on site, but recalls a portion of the septic system area to be disturbed (previous disturbance/clearing). Portions of the leachfield area are undisturbed. Riverfront restoration is proposed with the project in areas within Riverfront Area that will not exist as the leach field (i.e. areas of site prep and grading).
- o S. Morrison states that the septic design meets Title 5 code.

SCC Comments –

- o D. Mitchell requests more information on the restoration.
- o K. Doyle states that she met with S. Morrison and requested a few things from the applicant and wants to inform the SCC. 1) documentation from the Zoning Board relative to the easements of the property owners etc. For example, who will be responsible for “wetland alteration” the property owner or the easement owner i.e. Lot 5’s septic line crosses over Lot 3 and Lot 4 within the 100-foot buffer zone. 2) Details of the crossing to include the septic pipes. 3) Project will require a 401 Water Quality Application with DEP due to wetland alteration and subdivision of lots. However, applicant will do a deed restriction in lieu of the Water Quality application. 4) Stormwater Management Policy applies, more than 4 single-family houses proposed. 5) Board of Health is concerned with the nitrogen levels in the areas of the septic systems. Board of Health requests that the applicant speaks with them as soon as possible.
- o J. Hoffman states that the individual property owner will be responsible for whatever work is on his property, regardless if it is part of another property owner’s easement.
- o J. Hoffman states that the project can treat the roof runoff as part of the Stormwater Policy.
- o D. Mitchell questions where the reserve field is for each lot

Applicant Comments-

- o S. Morrison states that for restoration, approximately 400 saplings will be planted. Saplings will be red maple and red oak.
- o S. Morrison states that the applicant will apply for a deed restriction and he will look into the Stormwater Management Policy.
- o L. Jalbert shows D. Mitchell where the reserve leach fields are to be located.

SCC Comments-

- o D. Mitchell states that he wants to do a site walk soon, after snow is gone.
- o E. Goodwin wants to see on the plans 1) information where “perc” testing has occurred (from Board of Health) and 2) limit of tree clearing to be shown clearly on the plan.
- o D. Mitchell is concerned with the nitrogen loading and would like to see the estimates.
- o D. Mitchell requests that K. Doyle looks into the Potential Vernal Pool (PVP) data base
- o K. Doyle states that there is an isolated vegetated wetland (IVW) within the vicinity of the property and requested that the applicant reviews their notes from delineation to see if they believed it was a PVP.

Applicant Comments-

- o S. Morrison states he can look into the nitrogen loading information, but it may be difficult to estimate that.
- o S. Morrison states that during the wetland delineation (Art Allen) it was believed that the IVW area cannot hold the water to be a PVP.

SCC Comments-

- o D. Mitchell requests that the applicant agrees to a continuance until March 31, 2005. Information to be submitted to the SCC includes a report from the Board of Health regarding the “perc” testing and stormwater information.
- o D. Mitchell states that a site walk will need to happen after the March 31, 2005 hearing.

Applicant Comments-

- o S. Morrison agrees to a continuance

Abutter Comments-

- o Abutters present. R. Fortier states that he lives across the street. Just curious about the project. The pond across the street is on his property. It was dug out many years ago and is fed by spring water.

SCC Comments-

D. Mitchell makes a motion to continue the project until March 31 at 8:30 PM. All in favor.

Information to be submitted (See above):

- o Board of Health information
- o Stormwater information
- o Revised plans showing the sewer detail and perc locations etc.

NEW BUSINESS

Tabled and included:

- 1) Letter Permit by James Vaill at 336 Leadmine. K. Doyle said that Building Inspector requested that the applicant get sign off from SCC because a culvert may need to be installed per DPW. K. Doyle visited site, no wetlands and no issues. SCC reviewed letter, D. Mitchell provided comments and no issues by the SCC—letter permit OK.
- 2) Brief discussion of Allen Homestead Project DEP No. 300-419. K. Doyle states that the applicant will possibly be in on March 31, 2005 to speak with the Commission in regards to the Erosion Control Monitor.
- 3) Discussion of 126 Clark Road—Nextel Project. DEP File Number 300-416. Present for discussion were V. Drouin from Green Hill Mountain Communications and N. Ryder, property owner (former SCC Agent).
 - V. Drouin initiates discussion with SCC by reading a letter that N. Ryder submitted to the SCC.
 - N. Ryder wrote a letter to the SCC requesting that the SCC act on the project immediately, that the project was held up by the town (not at the whim of the applicant or property owner) and that it is now

finally approved by Zoning/Planning and would like the SCC approval to go forth with the project. There is no reason to delay the project further, the project was previously approved by the SCC and no changes have occurred from the original design and approval.

- K. Doyle states that the Original Order of Conditions has expired and the Amendment that was issued by the SCC is not an extension of the permit. (Amendment process for a project is listed as Policy 85-4). Through conversations with MA DEP and Town Council, it is recommended to the SCC that the applicant must re-file a NOI because the permit has expired.
- D. Mitchell states that the amendment process is a policy—not a regulation and provides the Commission with guidance and recommendations.
- E. Goodwin questions why K. Doyle contacted DEP.
- K. Doyle stated that she contacted DEP because she wanted clarification on the amendment process--if the Commission can review any and all of the project or just what is being presented as an amendment. It was advised to also contact Town Council since the project was controversial.
- N. Ryder states that the project is still valid and not expired due to Condition No. 4 listed in the amendment.
- N. Ryder requests that the SCC is consistent with previous decisions made in the past, the SCC has granted project approvals and amendments to applicants where the projects have no real change. Letter permits can give written project approval for minor project changes. N. Ryder requests a letter permit approval for the project.
- J. Hoffman agrees that no changes to the project have occurred—the wetland impacts are the same from the original filing and approval. E. Goodwin agrees.
- N. Ryder states that she wants something in writing from the Commission tonight, enough is enough.
- Commission agrees that approving the project at the property owner's request is okay. No new impacts to the wetlands will occur. Commission acknowledge Town Council's recommendation to refile NOI, however the Commission agrees that in the past minor amendments to projects have occurred that did not follow DEP Policy on amendments.
- N. Ryder specifically requests approval in writing tonight.
- K. Doyle questions how to proceed. Should the SCC issue an amendment or an extension to the permit?
- N. Ryder does not want an extension.
- K. Doyle is concerned with the recording of the permit and what is shown on the property deed, especially for project completion and the certificate of compliance process. The project amendment issued in Nov of 2002 states the wrong location of the tower. K. Doyle suggests withdrawing the amendment and issuing an extension of the original Order.
- N. Ryder does not want to withdraw the amendment. Neither the Original Order nor the Amendment have been recorded since construction has not started due to the legal and zoning issues.
- N. Ryder wants a letter permit approval by the Commission to attach to the Order.
- D. Mitchell states that the applicant should have come to the SCC for an extension to the Order.
- N. Ryder states that she wants a letter tonight signed by the Commission.
- E. Goodwin states that no one has ever demanded that from the SCC.
- SCC members disagree. N. Ryder leaves meeting.
- SCC agrees to write a letter permit to attach to the Order of Conditions extending the project. This is consistent with how the SCC has handled projects in the past and the SCC has already approved the project, there are no changes from the original approval. D. Mitchell makes a motion to approve project via letter permit, F. Damiano seconds the motion, all in favor and none opposed.
- K. Doyle drafts letter for review. All SCC members review letter, minor edits are made and SCC members sign letter approving the project to be built in accordance with the Original Order of Conditions. The letter is to be attached to the Order of Conditions and the permit is extended for 3 more years.

Approved 3/31/05

- V. Drouin takes the original letter for the recoding and 2 copies for Green Mountain Communications and N. Ryder.

Motion to close hearing, 11:20 PM, approved by unanimous vote.