

STURBRIDGE CONSERVATION COMMISSION (SCC)

Minutes for Thursday August 18, 2005

MEMBERS PRESENT 6:59 PM

Board Members: D. Barnicle (Chair), D. Grehl, and E. Goodwin

K. Doyle for minutes

7:00 PM WALK INS

1) G. Abrams for Enforcement Order at 43 Abrams Road: DEP 300-589

- Discussion of permit and on-going work/discrepancy
- Discussion of violation verses misunderstanding
- Violations include: No recording of the Order, No posting of the DEP Number, earth moving activities, tree removal, erosion controls installed inadequately
- Discussion of site walk
- Discussion of plan to be prepared by R. Para, delay in plan submittal
- SCC sees that the plan is incomplete
- SCC requests that the full package (narrative, plan and abutter information) be submitted prior to a site walk.
- Erosion controls are re-installed
- Area of erosion (landscaped area) has always been a problem on the property

7:19 PM – VOTE: RDA: SCC #05-18, 215 Charlton Road Xtra Mart. Decker & Company representing Drake Petroleum for pump island expansion work

- C. Decker present for Drake Petroleum.
- D. Barnicle informs applicant that the SCC has just enough members present to make a quorum, therefore all votes have to be unanimous
- K. Doyle informs SCC of new plans submitted—area of stock piling shown on plan.
- K. Doyle recommends a Negative Determination with conditions (stock piling as shown on plan, SCC be notified if de-watering is to take place)
- All catch basins are to be protected with hay bales.
- SCC questions the timing of the work, C. Decker states that the Planning Board process is yet to occur—mid-September.
- D. Barnicle makes a motion to approve the project with a Negative Determination. E. Goodwin seconds, all in favor: 3/0.

Hearing closed and Negative Determination with conditions to be issued. Applicant agrees.

7:25 PM CPA UPDATE

- CPA Update was tabled by E. Goodwin

7:34 VOTE: RDA: SCC #05-19, 126 Walker Pond Road—Mark & Kelly Macero property owners. Proposed house addition/garage

- K. Doyle briefs the SCC on the project and the site walk conducted by K. Doyle and D. Barnicle.

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- K. Doyle recommends a Negative Determination with conditions as discussed at the site walk (phasing of the work, erosion control installation and stock piling).
- D. Barnicle makes a motion to approve the project with a Negative Determination. E. Goodwin seconds, all in favor: 3/0.

Hearing closed and Negative Determination with conditions to be issued.

7:38 PM – PUBLIC HEARING

NOI CONTINUED: DEP 300-662. 12 Ridge Hill Road, Construction of a Single-Family House. Trifone Design Associates representing J. Lemieux.

D. Barnicle re-opens the public hearing, A. Trifone, D. Getman and property owners—Lemieux present. D. Barnicle informs applicant that the SCC has just enough members present to make a quorum, therefore all votes have to be unanimous.

SCC Comments-

- K. Doyle briefs the SCC on what has gone on since the last public hearing. The Isolated Wetland on property was delineated and K. Doyle reviewed the wetland line and moved 3 flags. The Applicant has submitted a “working plan” to the Commission for discussion of what can or cannot be done—work is proposed in the 25-foot no touch buffer zone to the isolated wetland.
- K. Doyle questions the fill area.
- D. Grehl questions what the fill will consist of, rock, loam, grass?

Applicant Comments-

- A. Trifone states that the area of fill is temporary, the wetland will need to be disturbed during construction—need room for the construction vehicles.
- D. Getman states that wetland replication areas are proposed to add to the area. The replication areas are proposed to have a better wetland community installed.

SCC Comments-

- The SCC discusses the difference of fill verses temporary disturbance.
- K. Doyle discusses give and take: wetland alteration for overall improvement to the property—rain garden and wetland replication with quality species. The isolated wetland is a disturbed wetland believed to be connected to the bordering vegetated wetland subsurface.
- K. Doyle reads to the Commission a letter submitted by an abutter, The Waringtons at 6 Ridge Hill Road.
- E. Goodwin states that he would like to do what is best for the wetland and for the property owners.
- E. Goodwin questions the town’s set back from the property line, from the roadway right-of-way. (Applicant points out the set back lines on the plan.)
- D. Barnicle states that the project must comply with the wetland bylaws, 25-foot no touch and 50-foot no structure. The SCC must not set a precedent
- E. Goodwin states that the is trying to make a buildable lot and protect the wetlands
- D. Grehl states that if the house is to be built, the wetland will never be the same
- D. Barnicle states that in the spring, the wetland has 2 feet of water in it. D. Barnicle states that if the house is built as shown on the plan, the backyard will be filled with water. What about when the applicant would like to improve the yard (add swing set, garden) the 25-foot buffer zone and wetland will be impacted.

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- E. Goodwin states that he cannot go along with filling the wetland. He recommends going to ZBA to request moving the house at least 10-feet closer to the road.

Applicant Comments-

- Lemieux questions if they can receive SCC approval then go to the ZBA.

SCC Comments-

- D. Barnicle and D. Grehl state that they are not in favor of approving a project that is not approved by another board first.
- K. Doyle states that the project must be designed to not impact the hydrology of the property, the wetland capacity cannot change.
- D. Grehl states that if the house is moved closer to the road, less fill will be brought in and re-grading will be less.

Applicant Comments-

- D. Getman states that the swale and new wetland system will be beneficial to the area. There is a waiver in the wetland bylaw that discusses proving that the work will not alter the wetland. The proposed work will enhance the wetland community and trap sediment.
- D. Getman states that when the isolated wetland was flagged, he brought in peer review from Epselon (sp?), both agreed that the area is highly disturbed.

SCC Comments-

- D. Barnicle states that the applicant will need to prove that the wetland will continue to function as is
- K. Doyle stresses that the hydrology and flooding of the area cannot change
- D. Barnicle requests pre-post construction flooding monitoring
- E. Goodwin states that the key factors are 1) the construction phase—most damaging to the wetlands and 2) maintenance of the area post construction

Applicant Comments-

- A. Trifone states that the wetpond/rain garden was designed according to the roof size of the house.

SCC Comments-

- D. Grehl questions how the soil will be brought in place and will the house be brought up.
- K. Doyle states that the applicant should go to the ZBA and determine if the applicant can obtain a variance from the setback requirements due to wetlands.
- E. Goodwin agrees- he would like to see the house out of the 25-foot no touch.

Applicant Comments-

- D. Getman states that the project will provide compensatory habitat through the wetpond and replication.

Hearing continued to September 29, 2005 at 7:30PM, pending the ZBA process. Applicant agrees.

8:17 PM – PUBLIC HEARING

D. Barnicle re-opens the public hearing, representatives from ECS present (J. Smith and C. Ellis) and abutters—A Szumilas and Chip. D. Barnicle informs applicant that the SCC has just enough members present to make a quorum, therefore all votes have to be unanimous.

SCC Comments—

- o K. Doyle discusses what has gone on since the last public hearing—SCC conducted a site walk. The Applicant submits a summary of the Site Walk.
- o E. Goodwin questions the drill cuttings and tree removal.
- o D. Barnicle states that the project is a good project to clean the wetland/groundwater. The Applicant is trying to fix the situation to protect the wetland.
- o K. Doyle states that the proposed injection wells are a result of recommendations from DEP. DEP is aware of the contamination. K. Doyle requests the DEP tracking number.

Applicant Comments-

- o J. Smith states that the drill cuttings will be hauled off site.
- o J. Smith states that the tree clearing is to be selective and stumps are to be left in place. At the site walk, the Commission mentioned that a Condition could be that the contractor meet with the Commission prior to clearing trees. Well locations can be moved slightly to save trees.
- o J. Smith and C. Ellis discuss the DEP process and how it was decided that injection wells are needed.

SCC Comments—

- o K. Doyle states that an on-going condition will be restoration of the wetland.
- o E. Goodwin states that a bond may be necessary to ensure that the wetland is restored.
- o D. Barnicle states that a bond is a good suggestion—how do we know that ECS will be involved with the project at the close out.
- o E. Goodwin questions if chipping will take place onsite

Applicant Comments-

- o J. Smith states that the well locations will be staked and the drill rig operator will decide the best access to the well locations and meet with the Commission. The tree clearing will be minimized.

SCC Comments—

- o D. Grehl states that the wetland will have to be put back the way it was prior to installation of the wells.
- o D. Barnicle questions the Commission how they feel about the bond? He states that the bond will ensure that the site will be restored
- o The SCC members state that a bond is a good thing, especially if we do not know who will be in charge of the project in a couple of years.

Abutter Comments-

- o A Szumilas questions once the injection wells are complete, what kind of testing will be performed to ensure that the contamination is complete?
- o C. Sylvestry questions what happens to the wells, how will the residents be affected? Is the Board of Health on board with this process?

Applicant Comments-

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- C. Ellis states that the monitoring wells on property and around the identified plume will be tested for contamination
- C. Ellis states that hydrogen peroxide degrades over 14 days—the by product is Carbon Dioxide. The hydrogen peroxide only moves 10 to 15 feet out into the groundwater. No harm to resident wells.
- ECS representatives discuss the Board of Health's involvement with the process. Board of Health get notified of the remediation plan.

SCC Comments—

- K. Doyle states that the DEP is involved, the remediation is at a state level, not local.
- SCC can condition the project to include submittal of the plan to the Board of Health and DEP.
- SCC requests that the applicant comes up with a bond statement ensuring that the restoration will be completed.
- SCC will vote on the project once the bond is submitted to the SCC for review and approval.

Information to be submitted:

- Bond document.
- Board of Health comments/proof that the Board of Health is aware of the project.

Hearing continued to September 1, 2005 VOTE at 7:25PM, pending receipt of information. Applicant agrees.

8:38 PM – PUBLIC HEARING

NOI CONTINUED: DEP 300-664. 188 New Boston Road, Septic repair. Jalbert Engineering representing Charles Fey

D. Barnicle re-opens the public hearing, L. Jalbert from Jalbert Engineering, Inc. and M. Fey (property owner) present. D. Barnicle informs applicant that the SCC has just enough members present to make a quorum, therefore all votes have to be unanimous.

SCC Comments—

- K. Doyle states that since the last hearing, the SCC went on a site walk and had no problems with the project.
- E. Goodwin states that the Commission had a hard time locating the nearby wells.

Applicant Comments-

- L. Jalbert states that the project received approval from the Board of Health on August 1, 2005.
- L. Jalbert stated that the wells were located in the field.

SCC Comments—

- K. Doyle states that the erosion controls should be flip-flopped: hay bales on upland side and silt fence on wetland side.
- D. Barnicle makes a motion to close the hearing and issue an Order of Conditions. D. Grehl seconds the motion, all in favor: 3/0.

Hearing closed and an Order of Conditions approving the project is to be issued. K. Doyle to call property owner to pick up Order to be recorded. Applicant agrees.

8:48 PM – Public Hearing – NOI CONTINUED: DEP 300-666. 83 Cedar Street, house addition and clearing activities. Trevor Peloquin as property owner

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D. Barnicle re-opens the public hearing, L. Jalbert and T. Peloquin (property owner) present. D. Barnicle informs applicant that the SCC has just enough members present to make a quorum, therefore all votes have to be unanimous.

SCC Comments—

- o K. Doyle states that since the last hearing, the SCC conducted a site walk and revised plans have been submitted. The revised plans show a perimeter drain and additional plantings within the 25-foot buffer zone and the revised location of erosion controls.
- o D. Grehl questions the perimeter drain specifications.
- o D. Grehl questions the additional clearing of the saplings proposed by the applicant during the site walk.

Applicant Comments-

- o L. Jalbert goes over the perimeter drain details on the plan and the outlet.

SCC Comments—

- o K. Doyle questions the number of saplings to be removed and the location.
- o D. Grehl states that the saplings to be removed should be marked in the field and reviewed by the Commission—make it part of the Order of Conditions.
- o K. Doyle states that hay bales need to be at the perimeter drain outlet location for construction.
- o D. Barnicle states that he is okay with having a Condition for a SCC site walk to review the sapling removal.
- o SCC is okay with the plantings proposed.
- o D. Barnicle makes a motion to close the hearing and issue an Order of Conditions approving the project. D. Grehl seconds the motion. All in favor: 3/0.

Hearing closed and an Order of Conditions approving the project is to be issued. Special Conditions include notifying the Commission of the saplings to be removed and a site walk must occur. Applicant agrees.

8:55 PM – PUBLIC HEARING

NOI CONTINUED: DEP 300-667 (Enforcement Order): 289 Clarke Road Extension, Ronald Bachand property owner. Proposed beach cleaning, and erosion control remediation.

APPLICANT REQUESTS A CONTINUANCE FOR: Sept. 15, 2005 at 8:30PM

K. Doyle reads the continuance request to the SCC. K. Doyle informs the SCC that beach remediation and clean-up was determined NOT necessary, due to the Aug 6, 2005 site walk that revealed that a silt plume is no longer evident.

9:00 PM – PUBLIC HEARING

Multiple NOIs CONTINUED DEP Nos. 300-649 through 300-653. Five Single Family houses at 269 Cedar Street (Lots 1-5). Applicant: M. Valandre and/or T. Reardon Builders, Inc. Rep: Jalbert Eng. and EcoTec

D. Barnicle re-opens the public hearing, P. McManus from EcoTec, L. Jalbert, R. Caprera, and property owners present. D. Barnicle informs applicant that the SCC has just enough members present to make a quorum, therefore all votes have to be unanimous.

SCC Comments-

- o K. Doyle states that a revised easement deed was submitted to the Commission. K. Doyle reads the revised deed and notes the changes.
- o D. Barnicle states that the project proposes a unique situation and he is concerned with the new property owners and the wetlands.

Applicant Comments-

- R. Caprera discusses the deed and the importance of nuisance = interference with property (noise, smell, problem etc.) Nuisance is a “phase in law”.
- R. Caprera discusses the restriction and the deed as an encumbrance on the land—from property owner to property owner. How it is written, the property owners could acquirer temporary restraining orders.

SCC Comments-

- D. Barnicle is concerned with immediate solutions if something goes wrong with the septic. How could the Order of Conditions be written to protect the town, wetlands and abutters? The deeds are not clear as to who is responsible for what.
- K. Doyle questions the access to the septic systems and the use of one path by all property owners. How do we know the wetlands will be protected overtime, how do we know the property owners will not “mow” their own path through the wetlands to their septic? K. Doyle does not want segregation of the wetland system.
- D. Barnicle states that it is important to 1) prove the long term maintenance of the systems and the long term protection of the wetlands 2) determine what is happen with the monitoring well, long term

Applicant Comments-

- R. Caprera states that he did not know about the monitoring well on Lot 2. The monitoring well information will need to be added to the easement deed for Lot 2.

SCC Comments-

- D. Barnicle states that the burden of the monitoring well is only on the Lot 2 property owner?
- D. Barnicle questions if a housing association would work better than having a shared responsibility?

Applicant Comments-

- R. Caprera states that yes, it is the responsibility of the Lot 2 property owners to maintain the monitoring well
- R. Caprera states that funding for a home owners association is not practicable.
- P. McManus states that from observing other Conservation Commissions—it is easier to “ring one doorbell” of the individual property owner than to track down the home association.

SCC Comments-

- K. Doyle states that the Order of Conditions will be difficult—it will have to be very thorough.
- D. Barnicle asks the applicant if they want a continuance or a vote.
- D. Grehl states that she is concerned about the project
- D. Barnicle states that he is concerned with writing the Order of Conditions to protect the wetlands to the maximum extent and the carrying out of the Order of Conditions concerns him as well.
- D. Barnacle states that he would feel better to have all 5 SCC members vote rather than the 3.
- K. Doyle questions the SCC members if they would entertain EcoTec drafting the Order of Conditions for the SCC to review and comment on.

Applicant Comments-

- P. McManus states that S. Morrison from EcoTec was headed in the right direction with drafting an Order of Conditions. He could work with K. Doyle.
- L. Jalbert requests a continuance for the project.

SCC Comments-

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- D. Barnicle states that EcoTec can work with K. Doyle to draft the “nuts and bolts” of Order of Conditions for review. The Order of Conditions will need to be detailed—also the easement deed needs to be revised.

Hearing Continued to 9/15/05 at 8:50 PM. Applicant agrees.

9:40 PM – PUBLIC HEARING

NOI: DEP 300-668. 127 and 135 Main Street, Proposed Commercial Building and Parking. Jalbert Engineering representing Maple Hill Realty LLC

D. Barnicle opens the public hearing, L. Jalbert and D. Roberts present from Jalbert Engineering, Inc. and F. Arsenault (sp?) present. D. Barnicle informs applicant that the SCC has just enough members present to make a quorum, therefore all votes have to be unanimous. K. Doyle collects the property abutter notification requirements (green cards & public advertisement).

SCC Comments-

- K. Doyle briefs the SCC of the proposed project: Commercial building with associated parking facilities, stormwater management and utilities. K. Doyle states that there is 100-sq ft of wetland alteration as a result of the stormwater management system discharge and a 200-sq ft of replication is proposed. K. Doyle states that the project includes many plans that show different information (exp: erosion control plan, stormwater plan etc.)

Applicant Comments-

- F. Arsenault states that the wetland was dug out 35-years ago. She is the property owner and 35-years ago her husband dug the ditch to drain a cellar hole.

SCC Comments-

- E. Goodwin states that the resource area is now an intermittent stream.

Applicant Comments-

- D. Roberts discusses the stormwater management system proposed. A Vortechnic unit is proposed and the increases the TSS removal to 95%.
- D. Roberts goes over the layout of the project and all of the proposed work. The property is 1.25 acres zoned commercial

SCC Comments-

- D. Grehl confirms that the stormwater management system does not eliminate the amount of discharge, but limits how fast the water is coming off the site.
- D. Barnicle questions the culvert beneath Route 131
- K. Doyle states that the work is over 1 acre requires a NPDES permit from the EPA and a Stormwater Pollution Prevention Plan.
- K. Doyle questions if the catch basins are to be deep sump with hoods.
- D. Barnicle questions why a portion of the site is already cleared.

Applicant Comments-

- D. Roberts states that the culvert is a 15-inch culvert beneath Route 131
- D. Roberts states that the stormwater system is a baffle system
- D. Roberts states that the vegetation to be cleared is not complete—occurred a couple of years ago.

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- D. Roberts informs the SCC of the work within the 25-foot and 50-foot buffer zones—emergency access as required by Fire Chief.

SCC Comments-

- D. Barnicle states that the site should be staked for a site walk.
- K. Doyle questions if a curb cut is needed, if so, are any MEPA thresholds met?
- K. Doyle questions the zoning of the property
- E. Goodwin questions the lot coverage for commercial verses zoning
- E. Goodwin questions if Open Space was considered.
- K. Doyle states that a \$200 Wetland Replication Monitoring fee is needed
- D. Barnicle requests a continuance so the Commission can walk the property. He requests that the property is staked prior to the site walk.

SCC continues the Hearing until 9/15/05 at 9:10PM. A Site Walk is to be scheduled for Sept 3, 2005 and the Applicant should stake the property prior to the site walk. Applicant agrees.

10:05 PM –BUSINESS

Appointment: E. Mainini for Allen Homestead Extension DEP 300-419

- E. Mainini submits As-Built drawings to the Commission and a Letter explaining the As-Built
- Detention Basin 2: 1 foot of fill needs to be brought in and more material needs to be dredged out of the basin bottom. The outlet was installed correctly.
- Detention Basin 1: The berm needs to be raised about 1 foot and the Forebay is too small.
- D. Barnicle questions how we know these grades are needed, will the design work?
- E. Mainini states that she cannot answer the question if the design will work, however that is what was approved. E. Mainini's company cannot certify the project until the detention basins are built to approved specs. Requesting a 1-year extension to the permit to fix the basins and submit correct as-built drawings.
- D. Barnicle makes a motion to grant the 1-year extension for the detention basin as-builts, however any other work must come before the Commission for approval. E. Goodwin seconds the motion. All in favor: 3/0.

SCC Members Sign:

- RDA: SCC #05-18, 215 Charlton Road Xtra Mart
- RDA: SCC #05-19, 126 Walker Pond Road
- RDA: SCC # 05-16, 4 Cormack Road

OTHER BUSINESS

Tabled and included:

- Discussion of 8/20/05 Site Walks
- FCP at 37 Breakneck Road. K. Doyle informs the forester of the local process.
- Discussion of DEP 300-663, 271 Cedar Street ANRAD. K. Doyle informs SCC that Art Allen is the 3rd Party reviewer for the wetland delineation.
- Update of Empire Village, 446 Main Street. DEP 300-480. K. Doyle shows SCC recent photographs of the site work. K. Doyle satisfied with work.
- Discussion of 13 Library Lane South—Hennessy property. K. Doyle informs and reads to the SCC the 2nd Variance request. All members of the SCC state that no work can take place within the 25-foot and 50-foot buffer zone. Wetland Resource Areas are too sensitive and the work will impact the wetlands.

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- K. Doyle informs the SCC of 224 Brookfield Road individual sewer hook-up. SCC Members intend to do nothing at this point.
- K. Doyle informs SCC of 78 Fairview Park Road violations. SCC members request that K. Doyle obtain photographs from the current property owner if possible. K. Doyle to speak with M. Judson
- Discussion of the complaints regarding the Plimpton Estate off Allen Road. Site Walk for Monday 8/22/05 at 12noon.

Motion to adjourn: 11:21PM