

STURBRIDGE CONSERVATION COMMISSION (SCC)

Minutes for Thursday November 3, 2005

MEMBERS PRESENT 7:06 PM

Board Members: D. Barnicle (Chair), E. Goodwin, D. Grehl, F. Damiano and D. Mitchell
K. Doyle for minutes

APPROVAL OF 9/22/05 and 9/29/05 MINUTES: D. Barnicle submitted minor changes. All in favor of approving both set of minutes with the changes: 5/0.

7:08 PM WALK INS

1. Kathy Titus for 96 Brookfield Road Tree Removal

- K. Titus present. K. Doyle gives a summary of the written request of K. Titus—top of tree is in danger with electric lines to her house and neighbor. Tree within wetland, would like permission to remove the tree.
- K. Titus states only the top third of the tree is threatened, on the property line. There would be no need to remove the stump. She called Mass Electric and they are suggesting to conduct the work since the tree is within their pole to pole right-of-way.
- D. Mitchell questions if the tree is flagged. If not, then to flag the tree.
- D. Barnicle states that the SCC can do a site visit on Saturday.
- K. Doyle questions if the tree is on the right or the left when pulling into driveway.
- K. Titus states tree on right.

7:09 PM DISCUSSION

Tabled and included:

- Discussion of Open Meeting Law on Site Walks and E-mail communication
- Allen Homestead 7-Lot Appeal Update
- Brookfield Road Development Update on Open Space
- Whittemore Woods proposed development—E. Goodwin requests that the SCC inform the other boards the that the project is not approved. K. Doyle to re-send Memo to Planning Board that states that Whittemore Woods project does not have Conservation approval—and permit is approval is required.
- SCC signs form that authorizes K. Doyle & D. Barnicle to sign financial paperwork
- The Preserve and final top coat paving on subdivision projects. K. Doyle to talk to G. Morse re: top coat problems.

7:32 PM – VOTE: NOI CONTINUED Under the Bylaw, SCC# 05-20. 176 Cedar Street, Proposed Laurel Woods Subdivision. EBT Environmental Consultants representing Escape Estates, Inc.

REQUEST CONTINUANCE TO 11/17/05 AT 7:20PM

K. Doyle states that A. Cormier from Escape Estates, Inc. requested a continuance due to final comments from Planning Board not being complete.

7:33 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

Approved 12/8/05

D. Barnicle re-opens the public hearing, L. Jalbert from Jalbert Engineering, S. Morrison from EcoTec, property owners/applicants, and applicant attorney (R. Caprera) present.

SCC Comments—

- K. Doyle states that since the last hearing, she had received revised Conditions from S. Morrison and was able to go through the revisions to make final edits.
- K. Doyle reminds the SCC that this project includes 5 different house lots and 5 different NOI applications—any motions made should reflect that.
- D. Barnicle states that the SCC should go through the Conditions to hear the final edits.
- K. Doyle goes through Conditions (see written changes in file): No. 7 should not be deleted, No. 23 changed, No. 36: (L. Jalbert states that the project will need an installation permit from Board of Health. Then the Applicant submits plans to Board of Health for Cert of Compliance—certifying that septic meets Title V.) SCC decide that Condition No. 36 is not needed. Changes to Conditions No. 63 through 65.

Abutter/Audience Comments-

- A. Wilson (21 Cedar Street) states that the plans are very creative. Although each lot can be done legally, the Town is struggling with the project. 20 years from now, the property owners will be in legal battle with each other. This project has been a challenge for Planning Board, Conservation Commission, Board of Selectmen and Board of Health—it is not going to work. The Town needs to decide how to prevent projects like this from happening.

SCC Comments—

- E. Goodwin states that the project is really not 5 individual lots, should be looked at as a whole. E. Goodwin recommends that the Commission vote on the project (5 lots) as one project. F. Damiano agrees.
- F. Damiano makes a motion that the SCC review the project as a whole (to include all 5 lots) and takes one vote on “the project”. E. Goodwin seconds. All in favor: 5/0.
- D. Mitchell makes a motion that the SCC approve the plans and all of the attachments and the (draft) Order of Conditions as revised. D. Barnicle seconds the motion. All in favor: 2 (D. Mitchell & F. Damiano). All opposed: 3 (D. Grehl, D. Barnicle, and E. Goodwin.) Project denied 2/3.
- Discussion: E. Goodwin states the project would not protect the wetlands long term. D. Barnicle states that Conditions could not be set to protect the wetlands overtime.

Hearing closed. Five denial Order of Conditions are to be issued. The Orders shall state that the project was reviewed as a whole.

8:05 PM – PUBLIC HEARING:

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

D. Barnicle re-opens the public hearing, L. Jalbert and D. Roberts from Jalbert Engineering and G. Krevosky present.

SCC Comments-

- K. Doyle gives a quick summary of the project—she attended a site walk with D. Roberts and G. Krevosky. There were two areas of the property to be looked at for additional wetland areas. The first area was a small maple stand near the front of the property—doesn’t believe to be wet. The second area

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exists as open field/shrubs. Disturbed recently, cleared and soils disturbed. Area contains a majority of Meadow Sweet (wetland plant).

Applicant Comments-

- G. Krevosky submits one DEP data form. G. Krevosky states that there is a dominant of wetland indicator plants, but the species are "Fac+ species".
- G. Krevosky states that in 10.55(2)(c) of the regulations, an area doesn't have to be wetland if the dominant plants are only Fac+ species.
- G. Krevosky shows the Commission a soil sample of 4/4 chroma. He states that 4/4 is not wetland soil.

SCC Comments-

- D. Mitchell states that it is a very close call—the soil is borderline
- D. Barnicle questions if other people have looked at the wetland.

Applicant Comments-

- D. Roberts states that first Jalbert flagged the wetland and then another company and G. Krevosky finalized the wetland flagging. No plans were ever produced for the other wetland delineations.

SCC Comments-

- D. Mitchell states that he would like the Agent (K. Doyle) to go back into the field for a further look at this area. G. Krevosky states that it is a general wetland and he was hired for his expertise.
- D. Barnicle states that G. Krevosky needs to convince their agent, because the Commission will go with whatever she states.

Hearing continued until 12/15/05 pending site walk appointment. Applicant agrees.

8:30 PM – PUBLIC HEARING

NOI: DEP 300-676. 85 Shore Road. Single Family House Improvements—decks, patio and dock. Property Owner—Christine Kilgore

D. Barnicle opens the public hearing, C. Kilgore and abutters present (see sign-in sheet). K. Doyle receives the proper notification requirements (green cards & newspaper).

SCC Comments—

- K. Doyle summarizes the project to the SCC. The Applicant/property owner, Ms. C. Kilgore, received a stop work order from Building Inspector in June. A garage, sunroom and deck were built without a building permit, zoning permit and conservation permit. C. Kilgore claims that existing structures were on property and her contractor stated the no permits were needed. K. Doyle states she and D. Barnicle visited the property after the stop work order was issued from the BI. Photos were submitted from the direct abutters (Girourd) showing the before structures and the structures now. Structures now appear to be much larger in size. Deck within 2 feet of the Lake, shed hangs over property line. K. Doyle also states that a patio is proposed and a dock. For wetland resource areas on the property, there is Cedar Lake (Bank and Land under Water) and Bordering land Subject to Flooding (Zone A 100-yr flood).

Applicant Comments-

- C. Kilgore states that all structures have cement footings, no digging occurred. Patio material is waiting to be installed, been stored on property.

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- C. Kilgore stated that contractors told her that no building permits were needed. How is she supposed to know?

SCC Comments-

- D. Barnicle recalls visiting the property in the summer.
- D. Mitchell states this is the most violations he has ever seen
- F. Damiano states that the work is ultimately C. Kilgore—prop owner responsibility.
- SCC discusses the dock and patio
- Abutters present and submit more photographs.
- K. Doyle reads to the Commission the letters received from abutters.
- F. Damiano states that a site walk is needed.

Hearing continued to 12/15/05 at 7:50 pm pending site walk. Applicant agrees.

8:57 PM – PUBLIC HEARING

NOI: DEP 300-678. 186 New Boston Road, Single Family House and Reclassification of a Stream. Green Hill Engineering representing J. Boutiette

D. Barnicle opens the public hearing, M. Farrell from Green Hill Engineering and representatives from Opacum Land trust present (See Sign In Sheet). K. Doyle received the proper notification requirements (green cards from abutter certified mailings and newspaper).

SCC Comments—

- K. Doyle states that the NOI Application was submitted in two parts: to change the status of a perennial stream to intermittent and also to construct a single-family house and associated utilities. The SCC should first focus on the status of the stream.
- K. Doyle summaries the project: it is a Limited Project, Natural Heritage of Endangered Species is nearby, DEP commented on the Stream Crossing Standards and she has concern with changing the status of the stream—Stream Stats application appears to be inaccurate, photographs are unclear and there may be a beaver dam upstream
- E. Goodwin states that the lot was subdivided since the Wetlands Protection Act was in effect—self imposed hardship.
- E. Goodwin states that he would consider roadside build.
- K. Doyle recommends that the Commission first discuss the stream status, since the NOI was filed with the stream being intermittent.
- K. Doyle questions if the NOI was submitted to Natural Heritage, the house location is very close to an Estimated Area.

Applicant Comments—

- M. Farrell states that there is no room to build roadside.
- M. Farrell states that the project is allowed under the 86 Code (River's Bill)
- M. Farrell shows the Commission the photographs of the dry stream channel

Abutter Comments-

- H. Fife submits a watershed drainage sketch on the USGS Topo Map
- A. Smith requests proof of stratified drift component. He states there is a defined stream channel with stratified drift. (D. Mitchell reminds the Abutters that the Commission will request items from the Applicant's Representative)

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SCC Comments—

- F. Damiano states that the property owner has the right to cross the stream and build a home.
- D. Barnicle states that determining the stream status would have a major impact on the project
- K. Doyle states that if the stream is perennial, then the resource area of Riverfront Area (which has strict performance standards) is present on property.
- D. Barnicle states that he does not believe the watershed analysis by Stream Stats is right. The Watershed area looks too small.
- D. Barnicle states that the photographs may be questionable, there may be a beaver dam up stream.
- SCC discusses the Stream Stats program
- K. Doyle questions why change the status of the stream?

Applicant Comments—

- M. Farrell requests to change the status of the stream to save his client money and it is what it is—a dry stream. The lot was subdivided prior to the River's Act.

Abutter Comments-

- H. Fife states that there is a beaver dam at the Gun Club and near Mass Pike. There are brook trout in the stream

SCC Comments-

- D. Barnicle states that a site walk is needed and the Agent (K. Doyle) should be present.

Hearing continued to 12/15/05 at 8:10PM pending a site walk. Applicant agrees.

9:30 PM – PUBLIC HEARING

RDA: SCC 05-36. 45 Wallace Road, Stream Reclassification. Green Hill Engineering representing L. Walker

D. Barnicle opens the public discussion, M. Farrell and property owners (Cloutier)(sp?) present. K. Doyle receives the proper notifications.

SCC Comments—

- K. Doyle gives a quick summary of the filing, no work proposed just change the status of a perennial stream to intermittent. K. Doyle shows the Commission the material submitted with the application in support of an intermittent stream: photographs, Stream Stats, drought data.

Applicant Comments—

- M. Farrell states that the stream has been bone dry for two weeks from the culvert under Wallace Road.
- Cloutier states that there is a beaver dam and the stream dries up no matter what, when the dam was there and when the dam was not even there. He has been living there for 62 years and has seen no flow in the stream.

SCC Comments—

- D. Mitchell comments on the topography and the watershed basin information
- K. Doyle states that the beaver dam could augment the flow of the stream
- D. Barnicle states that he is opposed to changing the classification of the stream and he has witnessed the stream to be dry. A site visit is needed.

Hearing continued to 12/15/05 at 8:30PM pending a site walk. Applicant agrees.

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9:40 PM – PUBLIC HEARING

RDA: SCC 05-37: 164 Podunk Road, septic repair. Green Hill Engineering representing P. Tremblay.

M. Farrell present and requests to “postpone” this hearing because no abutters are present (the hearing was advertised for a 9:10pm start). He wishes to flip-flop with the Commission’s discussion of 70 Stallion Hill Road DEP 300-616 scheduled for 9:35 PM since the property owners (Zafaris) are present for discussion.

D. Barnicle agrees to rotate the agenda. K. Doyle reminds D. Barnicle that the final hearing is scheduled for 9:25PM.

9:40 PM – APPOINTMENT

70 Stallion Hill Road Violation/Wash Out DEP 300-616

- M. Farrell and C. Zafiris (property owner) is present
- K. Doyle questions if the erosion controls were installed prior to the October storms.
- C. Zafiris states that all erosion controls were installed and the Order was recorded at the Registry. The Town has a drainage problem on the street and the amount of water that entered the property was disastrous.
- M. Farrell states that the lot is stabilized and the drainage needs to be corrected.
- E. Goodwin states that the Commission must deal with the landowner, not the Town.
- F. Damiano states that it was an act of Mother Nature
- D. Mitchell states that a site walk is needed. SCC to conduct a site walk.
- C. Zafiris submits photographs for the Commission’s files.

9:50 PM – PUBLIC HEARING

RDA: SCC 05-37: 164 Podunk Road, septic repair. Green Hill Engineering representing P. Tremblay.

D. Barnicle opens the public hearing and M. Farrell present. When K. Doyle requests the proper notification requirements, M. Farrell states he forgot his project folder. K. Doyle states that green cards and newspaper advertisement is to be handed in, along with proof of submittal to Natural Heritage.

M. Farrell states that he did notify the abutters and advertise in the paper correctly. D. Barnicle states that if he is stating it for the record, then it is okay. Green cards and newspaper to be submitted to the SCC Office as soon as possible (K. Doyle received the proper notifications on Tuesday November 8, 2005).

SCC Comments—

- D. Barnicle states that the plan is accurate.
- D. Mitchell states that he has no problems, registered sanitarian designing a septic system.
- D. Barnicle states that he can do a site visit to re-confirm the accuracy of the plans.

Applicant Comments—

- M. Farrell states that the property currently has a cess pool, that is why the new system must be installed.

Hearing continued to 11/17/05 at 7:25pm for a vote pending site walk and submittal of information. Applicant agrees.

10:00 PM – PUBLIC HEARING

RDA CONTINUED SCC #05-34. 84 Westwood Drive, Stream Determination. EcoTec, Inc. representing S. Choinski

D. Barnicle re-opens the public hearing and S. Morrison from EcoTec present.

SCC Comments—

- K. Doyle states that the SCC visited the property on 10/22/05. Members of the SCC believe that the stream could be intermittent, judging off the data that was submitted as part of the application and site investigations.
- SCC discuss the StreamStats application.
- E. Goodwin questions how a drainage basin is determined

Applicant Comments—

- S. Morrison states that a drainage basin can be calculated by hand by utilizing the topo-map and connecting high elevations.

SCC Comments—

- SCC discusses if there are beavers in the area
- D. Mitchell states that the site conditions did not indicate that the stream was perennial and flowing year round. D. Mitchell makes a motion to reclassify the stream to intermittent. F. Damiano seconds the motion. All in favor: 5/0
- Discussion: E. Goodwin states that he is not comfortable with the drainage basin calculations (in general)

Hearing closed. Positive determination to be issued reclassifying the stream from perennial status to intermittent. No other wetland resource areas were identified. Applicant agrees.

10:15 PM –OTHER BUSINESS

Appointment: 444 Main Street—Gregory Cormier (Update by K. Doyle)

Tabled and included:

- K. Doyle states that she and D. Barnicle conducted an on-site meeting with G. Cormier, property owner of 444 Main Street Village Motel.
- Beaver dam removed, water flowing
- G. Cormier to maintain the area until proper paperwork is submitted to SCC for flow devices.
- G. Cormier to continue removing beaver dam on a regular basis—by hand.

Appointment: Outdoor World Campground (19 Mashapaug Road) represented by Fuss & O'Neil

- Shane from Resorts USA and two representatives from Fuss & O'Neil present
- K. Doyle provides a quick summary of project to SCC: blow out of earthen dam on property during October rain. Sediment into wetlands, repair of the parking area and dam has been conducted. NOI to be submitted for restoration work.
- Fuss & O'Neil states that the dam is stable and they are currently working with the State and Dam Safety to determine if the dam on property falls under the state's jurisdiction (size of impoundment). Dam size is approximately 6-feet high.
- SCC discusses the removal of the sediment from the wetland. Fuss & O'Neil states that the wetland on property is an isolated wetland from the system—there is a chain linked fence that is a barrier for animals. The majority of the shrubs and trees are unharmed, herbaceous plants are smothered.
- SCC and Fuss & O'Neil go over 11x17 plan that shows the extent of the fill area. Dark areas on the plan designate heavy deposit of coarse sand and the lighter shaded areas are where the deposit is less than 3-inches.

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- SCC members request that the full extent of the washout is shown on the plans, where is the wetland resource area boundary (no delineation). K. Doyle recalls other areas of major sediment deposit on property that is not clearly shown on the plan.
- D. Barnicle states that the buffer zones and the wetland shall be shown on the plan so the SCC can get a feel for the full extent of the damage.
- SCC discusses the conflicts of what is in the field and what is shown on the plan. Fuss & O'Neil state the goal of the plan was to be a preliminary plan for discussion.
- F. Damiano states that they want to do the right thing.
- SCC discuss the dam: E. Goodwin questions if the earthen dam will be put back to how it was or if it will be improved. D. Mitchell questions if the Dam Safety Commission is not responsible for the dam, then who is, who will design it? Fuss & O'Neil states their Engineer will re-design the restoration of the dam if the State does not have jurisdiction. D. Mitchell questions where the dam failed. Sean from Resorts USA states the dam failed to the left of the spillway. F. Damiano states that the earthen dam was so saturated that it could not withstand the water pressure. E. Goodwin requests that the SCC visit the property and review the dam and the wetland fill.
- SCC discusses how to proceed: D. Mitchell requests that the plan shows the depth of the sediment in the wetland in increments. K. Doyle requests that the wetland is flagged in the field and shown on the plan so the SCC can determine how much sediment is actually in the wetland.
- K. Doyle to visit property with property owner and Fuss & O'Neil to determine the extent of the alteration. SCC members to visit property. Discussion to continue once revised (preliminary) plans are submitted showing the full extent of the wetland damage. A restoration plan is to be submitted to the SCC.

Appointment: 70 Stallion Hill Road Violation/Wash Out DEP 300-616

See 9:40PM Discussion

Appointment: Tom Moss for the Highlands Subdivision DEP 300-466

- T. Moss present and submits a request for a 3 year Extension request for the Highlands Subdivision DEP 300-466 and a 1 year Extension Request for the Sanctuary Subdivision DEP 300-470.
- T. Moss states that the Sanctuary Subdivision is complete, top-coat is to be installed within two weeks. The 1 year Extension is to do As-Builts and request a Certificate of Compliance.
- SCC discusses the detention basins on site and the top coat installation
- E. Goodwin makes a motion to approve of the 1 year Extension with a Condition that the To-coat must be done in 2 weeks (by November 17, 2005). D. Mitchell seconds the motion. All in favor: 3/2 (D. Grehl and F. Damiano abstain—new SCC members that are not familiar to the project.)
- T. Moss requests a 3 year Extension for the Highlands Subdivision because the project has just really started. The first house is under construction: Lots 10 and 11 are loamed and seeded for stabilization—Lot 11 the house is constructed and Lot 10 has the foundation installed.
- SCC discuss the top coat installation and the functioning of the Stormwater Management System
- E. Goodwin makes a motion to not extend the Order for 3 years, but Extend the Order for 6 months. That would enable the Applicant to continue stabilizing the property for the winter and install the top coat—in 6 months the Applicant can re-visit the project with the SCC and request a further Extension. D. Barnicle seconds the motion. All in favor: 3/2 (D. Grehl and F. Damiano abstain—new SCC members that are not familiar to the project.)

11:35 OTHER BUSINESS

Tabled & Included:

- Capital Planning

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- Discussion of 37 South Shore Drive DEP 300-596: Request to Amend Order of Conditions should be filed.
- Update of 14 Mashapaug Road 300-615: SCC members agree that As Built Drawings shall be submitted by 11/17/05 or fines shall be instituted

Letter Permits:

- Leadmine Boat Ramp: SCC members concerned with if the ramp is a state ramp, who is responsible for maintenance? SCC members concerned with amount of material, SCC requests an estimation of material to be removed. SCC members to visit the property.
- 144 Lake Road tree removal: OK

Motion to adjourn: 11:55 PM