

STURBRIDGE CONSERVATION COMMISSION (SCC)

Minutes for Thursday February 16, 2006

MEMBERS PRESENT 7:00 PM

Board Members: David Barnicle, Chair (DB), Ed Goodwin (EG), David Mitchell (DM), Donna Grehl (DG), and Frank Damiano (FD) at 9:37 PM

Kelly Kippenberger, Conservation Agent (KK)

Danielle Garry for minutes

7:06 PM CPA Update

Tabled. Discussion led by EG and included Town Records on CD, OSV and possible trail systems, and protection of the Town from perpetuity

7:15 PM Zoning Study Committee Update

DB asked D. Garry to give a brief update on how the Zoning Study Committee meetings are coming along. D. Garry states that the February 9, 2006 meeting included a table discussion where each member spoke of their concerns on the town survey, master plan and bylaws.

7:17 PM WALK IN

B. St. Hiliare present for 51 Holland Road Remediation. DEP 300-553.

- KK summarizes the project: previously the SCC approved the installation of four monitoring wells as a result of non-compliance issued from the state DEP. The monitoring wells came out positive for contamination and additional monitoring wells (approximately 50 more feet extended out) are proposed to evaluate the full extent of the contamination and how far it has traveled.
- B. St. Hiliare confirmed that one well was installed upstream of the existing artesian well and two monitoring wells downstream. He is proposing to install three more monitoring wells—about 50-feet from the existing wells and closer to the River
- D. Mitchell requests that B. St. Hilaire provides the Commission with a quick sketch of the area showing the location of the wells in accordance with the River. SCC Members discuss the location of the wells and the level of contamination (TCE). B. St Hiliare informs the SCC that the ground water is very high in the area and close to the surface. B. St. Hiliare states that he will install the monitoring wells during frozen conditions. KK states that the monitoring wells need to be installed, DEP issued a non-compliance and additional information needs to be obtained.
- DB motions to allow the additional monitoring wells but requests that hay bales are installed and that KK must be notified of the progress. DM seconds the motion, all in favor: 4/0

7:31 PM PUBLIC HEARING

NOI CONTINUED: DEP 300-689. 8 Eagle Avenue, Proposed church and property improvements. Jalbert Engineering representing New Life Fellowship. (vote on 3rd Party Consultant).

DB opens the public hearing, D. Roberts from Jalbert Engineering, Inc. is present. KK states that D. Roberts submitted three Engineering Firms to the office, however she had to contact the companies herself to get their resumes in order to make a good determination. The three companies are CME Engineering, Graves Engineering and Rekola Engineering. Based off the resumes submitted, she recommends CME or Graves.

- EG states that he prefers to not involve the town engineer (CME).

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- SCC Members review the resumes submitted by the three companies. FD makes a motion for Graves Engineering to review the project, DB seconds the motion, all in favor: 4/0
- KK requests that the SCC members clarify what Graves Engineering should review—the data submitted with the NOI and review the Stormwater information.
- EG states that the drainage situation needs to be dealt with, especially the problem at Route 131. The SCC needs to be sure that the project will not increase runoff and worsen the drainage problem in the area. KK states that the culverts on Route 131 have not been maintained.
- D. Roberts states that the Route 131 culvert receives a large drainage area. The subject property is one part of that drainage area. DM states that the SCC legally cannot make the Applicant responsible for reviewing the drainage problems on Route 131. The SCC can only request insurance that the proposed project will not increase the runoff.
- DB states it is important to have Graves Engineering contact KK relative to the scope of work.

Hearing continued April 6, 2006 at 7:50PM pending receipt of 3rd Party Review.

7:40 PUBLIC HEARING

NOI CONTINUED: DEP 300-688. 33&35 Bennetts Road. Demolition and reconstruction of a single-family house. Jalbert Engineering, Inc. representing J.Dunn

DB opens the hearing, D. Roberts from Jalbert Engineering and R. Dunn (Applicant) are present. KK states that revised project plans have been received. The revised plans include buffer zone revision, plantings along the shore line to mitigate for the deck being within the 50 foot buffer zone, and a sona-tube detail for the deck footings. She points out the location of the erosion controls to the SCC and proposes that double hay bales are needed and that the silt fence should be on the Lake side.

- SCC Members discuss the location of the erosion controls
- SCC members request that no stock piling is on site. EG states that the dirt material should be placed into a container and not stockpiled. D. Roberts states no stockpiling would occur.
- DG questions the location of perimeter drain—not shown on the plan. D. Roberts stated that the perimeter drain location is up to the Architect. DB states the plans need to show the perimeter drain.
- SCC Members discuss ground cover vegetation and specific plant species.
- SCC Members discuss if the hearing could be closed, revised project plans submitted and the Order of Conditions be issued pending receipt of the revised plans. DB motions to close to hearing and issue conditions pending revised plans. EG seconds the motion, all in favor: 2/2 (DG and DB opposed).
- DB states that revised plans are to be submitted and the hearing is to be continued. The location of the perimeter drain must be shown and the erosion controls need to be modified.

Hearing Continued to March 2, 2006 at 7:20 PM pending revised plans

8:06 PM – PUBLIC HEARING

NOI CONTINUED: DEP 300-662. 12 Ridge Hill Road. Construction of a single-family house. Trifone Design Associates representing Jason Lemieux.

No one present. Written request for continuance—May 4, 2006 at 7:30 PM.

8:07 PM – PUBLIC HEARING

RDA: SCC 06-06. 109 Breakneck Road. Construction of a single-family house Jalbert Engineering representing Dalton Contractors & Engineers.

DB opens the public hearing and D. Roberts from Jalbert Engineering is present. KK receives the proper notification requirements (green cards from abutter notification and copy of the legal advertisement). KK summarizes for the SCC the location of the lot and the permitting history of the nearby lots. She states that an RDA was filed because no work is located within the 100-foot buffer zone (wetland on abutting property).

- EG states that he has walked the property in the past with other SCC Members, he does not need a site walk. He approves of the project.
- KK states that she walked the adjacent properties about a year ago, she would go out on a site walk to look at this property if the SCC feels it is necessary. SCC state that a site walk is not needed.
- DG questions the location of the perimeter drain—it is not shown on the plan. D. Roberts states that he will show the perimeter drain on the plan and that it will not encroach in the 100-foot buffer zone.
- FD motions to close hearing and issue a negative Determination pending receipt of new plans (perimeter drain to be out of the 100-foot buffer zone). EG seconds the motion, vote: 3/1 (DG opposed).
- DB states that he is comfortable with closing the hearing because the work is outside of the 100-foot buffer zone and is not close to a Lake.
- KK requests consent to issue the Determination in more than 21 days, not knowing when the revised plan will be submitted. D. Roberts gives consent.

Hearing closed. Negative Determination to be issued pending submittal of revised plans.

8:15 PM – PUBLIC HEARING

AMEND CONTINUED: DEP 300-589 Request to Amend Order of Conditions for 43 Abrams Drive (result of an enforcement order).

DB re-opens the public hearing, G. Abrams (applicant) is present. KK states that no new information has been submitted, she visited the site last month to inspect winter stabilization. Snow was on the ground at the time of the site inspections and she did not have any issues. The area of the property that exists as exposed soil is protected by a berm and hay bales. The Porch work is complete, the SCC is waiting for revised plans showing more details of the landscaping and rain garden.

- G. Abrams states he is working with Forge Landscaping to revise the plans.
- DG questions the nature of the rain garden. G. Abrams states that the area of the garden is a low area that fills with water and seeps.
- DB states that he is concerned with the construction delays and does not want the good planting season to be missed. He also states that the SCC needs time to review the revised plans. The SCC will not be responsible for holding up the project and missing the good planting season. Plans are to be submitted at least one week prior to the next meeting

Hearing continued to April 6, 2006 at 8:10pm pending additional information.

8:18 PM SIGN PERMITS

SCC members have additional time prior to the start of the next hearing (advertised for 8:20 PM) and decide to sign the following permits:

- Order of Conditions DEP 300-687: 126 Podunk Road, Proposed Single-Family House

- SCC 05-36. 45 Wallace Road, Stream Reclassification
- Cert of Compliance for DEP 300-523 9 Woodside Circle
- Enforcement Order, 98 Paradise Lane DEP 300-617

8:22 PM – PUBLIC HEARING

NOI CONTINUED: DEP 300-677. 246 Fiske Hill Rd, 2 single-family houses. Para Land Surveying representing the property owners (D.Cournoyer, L.George and M.George).

DB re-opens the public hearing, R. Para from Para Land Surveying, L. George (Applicant) and abutters are present (see sign-in sheet). KK gives a summary as of last public hearing and informs the SCC of what additional information has been submitted: revised plans with the restriction shown and a revised Operation and Maintenance Plan.

- DG states that the driveway must be moved away from the wetland—there is a lot of water on property. R. Para states that the driveway will be gravel. EG states that he would like to take a look at the site and all of the water present.
- DM questions the phasing of the project, what if there is a time lapse prior to completing the second driveway? R. Para states that the driveway would be grassed. DB questions if the second driveway is not built, will the swales still function properly?
- EG states that he can see the construction of one house, but two houses will be tough.
- KK states that the problem with the project is that it is in violation with the SCC bylaws. The project has been going on for a long time, but the SCC has to review the project in accordance with the regulations in place now. There is work is right up to the 25ft buffer zone with a one to one slope. Additionally, The wetlands were approved through a Determination in 2003, it does state the Commission walked the flagged areas only and no other part was looked at. KK states that one house would be an alternative to the project and would minimize buffer zone impact.
- DG questions why Mass Highway hasn't been approached about getting the land back. R. Para states that the process would take 2 to 4 years.
- KK mentions the scenic road bylaw. R. Para states that the curb cut is valid for 2 years, he filed the scenic road application for one house, with a possibility of a second house.
- EG states that the project needs to minimize wetland impact, not maximize.
- L. George states with all due respect (summary): the project was previously approved by the SCC, but he had to withdraw due to Zoning Board issues. He is frustrated that the process has taken so long. He had meetings with KK to discuss the possibility of building two houses and she suggested the phasing. He is concerned that the SCC continues to have issues. He mentions that the SCC denied the project with one lot. He requests some type of guidance from the SCC. (L. George leaves hearing and defers all questions to R. Para)
- DB states the property owner has two options, either request a vote based on the plan currently submitted or allow the board to continue to discuss.
- KK states the board is trying to review the project according to the regulations and the wetland need to be protected. The project does not meet the current regulations. She recalls informing L. George that if he wishes to move forward with two lots, then to submit a plan with construction phasing (since one lot was denied by the SCC for the reason of not knowing if a second lot would be built and if there would be future impacts).
- R. Para states that he was under the impression that two driveways would be acceptable if the restriction was part of the project and if the driveway was gravel and not pavement. He states that his Client is disappointed, he thought they had clear direction from the SCC.

- DM states that realistically, given the nature of the project and the subject property, there is too much uncertainty for two house lots, the best way to get the project approved is to propose only one house lot.
- R. Para states that if there was only one house lot, he would be able to move the driveway away from the wetlands. EG states that it is a question of build-able area, not lot acreage.
- DB is unconvinced that the drainage plan will work. He will not vote in favor for the project as designed.
- C. Silvestri (abutter) questions the Zone 1 water resource area. R. Para states that the property is in Zone 2. A. Szumilas (abutter) questions re-directing water and the maintenance of the drainage structures.
- R. Para requests a “5-minute” recess to see if his client is still available for discussion. He requests to put the hearing on hold. DB allows the public hearing to be on hold until further in the evening (hearing continued, see 9:15 PM).

8:54PM PUBLIC HEARING

3 NOI'S: DEP 300-691, 300-692, 300-693: 84 Westwood Drive Lots 1-3. Proposed 3 single-family houses. Robida Engineering representing Choinski Construction.

DB opens the hearing, J. Robida from Robida Engineering, S. Choinski (applicant) and abutters are present (see sign in sheet). KK receives the proper notifications requirements to open the public hearing (abutter green cards and legal advertisement).

- KK provides the SCC with a brief summary of the project: SCC re-classified the stream in summer 2005 to intermittent. Three single-family houses are proposed and she is concerned with the steep slope on the properties and the closeness of the work to the Lake. At the time of the NOI submittals, KK recommended to Robida Engineering that the houses were pulled away from the Lake.
- J. Robida states that a fair amount of cutting and filling will occur on the property. He states that Lot 3 has Town sewer but Lots 1 and 2 will either have Town sewer (pending litigation) or septic system.
- DM questions the amount of earth work for the first Lot. KK questions if ledge is present. J. Robida states that it is sandy soils.
- EG questions three houses on the one lot. J. Robida states that the property has an approved ANR plan.
- SCC Members discuss the steep slope of the property and the amount of grading and earth work within the 50-foot buffer zone. DG states she has a problem with lawn and fertilizing on the Lake. DB states that the proposed cutting and filling is a major problem.
- Abutter present (E. St John) states that he is concerned with the traffic.
- SCC members discuss the septic system situation. DB is concerned about discussing a project that is currently in litigation with the Board of Selectman. KK is to follow up with Town Counsel.
- S. Choinski states that the septic system vs. Town sewer is in litigation for Lots 1 and 2. He prefers to not put a septic system on the Lake. Septic systems are also pending Board of Health. He does not want the project to be held up, that is why he is proceeding with proposed septic systems. He would consider dropping the litigation if it is to hold up the Conservation process. E. St. John questions the septic system installation.
- DB states that revised plans should be submitted with the houses pulled back from the Lake. KK will need to check with Town Counsel to see if the SCC can review a project in litigation. DM also requests that the amount of cutting and filling is provided to the SCC.

Hearing continued to March 16, 2006 at 9:00 PM pending revised plans.

9:15 PM – PUBLIC HEARING

NOI CONTINUED: DEP 300-677. 246 Fiske Hill Rd, 2 single-family houses. Para Land Surveying representing the property owners (D. Courmoyer, L. George and M. George).

Hearing continued from earlier in the evening (see 8:22 PM). R. Para and abutters present.

- R. Para states that L. George left the building and he is unable to get in touch with him.
- R. Para requests a continuance and that the SCC does not vote at this time.
- SCC Members discuss their individual concerns on the project. EG states: 1. Would like to see one driveway as far from the wetland resource area as possible to minimize impact 2. Site walk to observe the surface water on property and that he will allow a continuance but the SCC should vote next meeting and a withdrawal is not allowed.
- DM states that he is not in favor of two driveways with phased construction, one driveway for minimal impact.
- DG suggests that R. Para redesigns the project keeping in mind the SCC concerns. The current design is not good. There is a lot of water on the property.

Public Hearing continued to April 6, 2006 at 8:30 PM pending revised plans.

9:22PM PUBLIC HEARING

REQUEST FOR AMENDMENT: DEP 300-550. Lot 31 at 34 Tannery Road in the Allen Homestead Development. Guerriere & Halnon, Inc. representing Noel Homes Realty.

DB opens the hearing. E. Mainini of Guerriere & Halnon, Inc and S. Bavosi of Noel Homes are present. KK receives a copy of the legal notice. E. Mainini states that she left the green cards from the abutter notification on her desk. SCC members agree that it is fine to proceed with the hearing, if it is found out that the abutters were not properly advertised then a second hearing will be necessary. KK states that she believes the abutters were notified because she did receive a call from an abutter. E. Mainini states that she will mail the green cards that very next day.

- KK summarizes the request for an amendment—to change the retaining wall on property from versa-lok to a stonewall (detail on plan). In April 2005, M. Suprenant made the request in the form of a letter and the commission stated that the change would require a formal amendment to the Order of Conditions.
- KK states she spoke with the building inspector in regards to the difference between a versa-lok wall and a stonewall—is there a difference structurally. The Building inspector stated that any wall over 10 feet in height requires a building permit. KK also points out that the wall detail includes filter fabric within the wall structure. EG questions the type of stone used.
- E. Mainini states that Noel Homes will build the walls, and the walls are structurally safe. The distance from the wetland and the wall will not change from the original approval. The wall will have filter fabric and the Building Inspector will be inspecting the walls to make sure they are structurally sound. A stonewall will save some money for the applicant.
- KK states there is a proposal for a 3-year extension to the Order of Conditions as part of this amendment.
- EG states the wetland profile side is approximately 7-feet wide, he questions if this is going to require the wall to be built wall closer to the wetlands.
- E. Mainini states that the limit to disturbance is not changing from the approved plans, just the wall

KK makes an announcement that the time is past 9:30 PM, the SCC can now open the next hearing for 38 Tannery Road, as it is directly related to the current hearing for 34 Tannery Road

9:32 PM PUBLIC HEARING-

REQUEST FOR AMENDMENT: DEP 300-560-Lot 30 at 38 Tannery Road in the Allen Homestead Development. Guerriere & Halnon, Inc. representing Noel Homes Realty.

Discussion continues from above. The Request for Amendment is the same for 38 Tannery Road—Change Versa-lok Wall to a Stone Retaining Wall:

- E. Mainini and S. Bavosi explain to the SCC the design of the stonewall vs. the Versa-lok wall. For a stonewall, the rocks are piled on top of each other which is pre-standing weight and keeps the wall structurally safe.
- EG states that he sees no reason to change the wall type. The stonewalls that are already built in the Allen Homestead development are in bad shape. SCC members discuss the existing stonewalls in the development. E. Mainini states that this stonewall will be different, it is a retaining wall and it will be built by Noel Homes. DM states that the SCC is trying to protect the wetland to the maximum extent.
- DB states that he is disappointed in the request. He believes that a Versa-lok wall is the best way to protect the wetland and that is what was approved. He needs an over-riding reason to convince him that a stonewall is better than the Versa-lok.
- S. Bavosi states that a Versa-lok wall does not have rods that go into the soil, there is fabric in between the blocks and plastic pins are in the wall.
- DB states that the architect for the project insisted on the Versa-lok wall for a reason. S. Bavosi states that the stonewall includes 2000 pounds of rock with gravel vs. blocks (versa-lok). E. Mainini states that the stonewall will meet building code. DB questions if the stonewall will provide more protection to the wetland. E. Mainini states that the stonewall will not provide better protection, but not less either.
- DB states that it needs to be proven that the stone wall will provide better protection to the wetland in order for him to approve the change.
- EG makes a motion to reject the amendment requests for 34 and 38 Tannery Road (DEP 300-550 and 300-560), DM second the motion. All in favor of the rejection: 4/0.
- DB states that the Applicant stated that there is equal protection, in order for the SCC to approve a change, there needs to be better protection of the wetland.

Hearings closed for 34 and 38 Tannery Road (DEP 300-550 and DEP 300-560). Amendment requests are rejected.

9:50 PM OTHER BUSINESS

Leadmine Lane FCP

- Many abutters are present for discussion (see sign in sheet). KK opens the discussion with a summary of Forest Harvesting—governed under the Massachusetts Forest Cutting Act regulated by the state's Dept. of Conservation and Recreation. Filing a Forest Cutting Plan (FCP) exempts the applicants from filing under the Massachusetts Wetland Protection Act. However, the Town of Sturbridge has implemented local review of the FCP in the Town bylaws. The local review enables the commission to walk the site and then provide comments to the Board of Selectman, which ultimately approve the FCP.

KK states that she walked the site with the Applicant, R. LeFleche (DB and DG also present on site walk) and shows the other SCC members photographs of the property. SCC members briefly discuss the property

- KK reads to the SCC a draft letter to the Board of Selectman.
- DB reads letters from concerned abutters. In summary, abutters are concerned with impacting Leadmine Lake and problems with the private road. EG states that Wetland Crossing 1 should not be an option. There is no reason to cross the wetland, only a very small harvest is proposed within that area.
- The SCC opens the floor to the abutters present (the following is a summary of the lengthy discussion):
- M. Palmer states there are no dry periods during the summer, there are two brooks on the property that flow directly into the Lake. He is concerned with silt entering the Lake if the trees are cut down. Also, he is very concerned about the equipment going through the brooks and silting the area.
- J. Rondeau confirms that the area is very wet and that it all flows to Leadmine Lake
- J. Zajac reads the definition of Conservation and states concerns for the logging activities
- S. Cierpich wants to know when logging can begin and also states concerns.
- Residents are concerned with the traffic and the maintenance of the private road.
- Leadmine Lake Association representatives are present and state concerns for sedimentation entering the Lake.
- DM states that the SCC understands all concerns but the SCC is limited to what they can do, FCPs are approved on a state level. DB addresses some concerns by explaining FCP Best Management Practices in crossing brooks (bridge placement—stable crossings)
- EG explains that the SCC have limited authority over logging.
- DB states that the Board of Selectmen approves the FCP with Conditions from the DPW Director and the SCC. KK reads the concerns of G. Morse, the DPW Director to the SCC.
- DB requests that the SCC revise the letter to the Board of Selectman and include the following Conditions: 1. eliminate wetland crossing 1 (WC-1) 2. A bridge is used for stream crossing and bridge is to be approved by SCC prior to use.
- EG adds that the SCC should recommend that the bond is increased, that G. Morse designates the roads to be used by logging vehicles and that the Town selects specific times for logging vehicles (not during bus route times etc.).
- DB recommends to all abutters that they take pictures of the roadway if they are concerned and to watch out for silt entering the Lake. If silt enters the Lake as a result of the logging, to call the SCC office right away.
- DB makes a motion to approve the FCP and write the Board of Selectman a letter with Conditions and recommendations as discussed. DM seconds the motion. All in favor: 5/0. KK to write letter after public hearing and submit.
- F. Petrucci (abutter) and B. Kenyon request a copy of the FCP Map.

11:26 PM: Review of Open Space Plan

SCC Members go through Open Space Plan. Overall, all SCC members approve of Plan. Some minor edits include: Page 43, page 58, page 50 and Appendix C—employee names.

11:30 PM: 52 Mt. Dan Road Letter Permit

KK shows the SCC members the sketch submitted by Charlton Well Co. Her recommendation is that a more detailed sketch is submitted and hay bales are installed. EG states that the well should be out of the 50-foot buffer zone. KK to request that the well is out of the 50-foot buffer zone to Big Alum Lake.

FINAL Approved 4/20/06
Meeting Adjourned 11:35 pm