

STURBRIDGE CONSERVATION COMMISSION (SCC)

Minutes for Thursday March 16, 2006

MEMBERS PRESENT at 7:09 PM

Board Members: David Mitchell (DM) Acting Chairman, Ed Goodwin (EG) & Frank Damiano (FD)

Kelly Kippenberger, Conservation Agent (KK)

Danielle Garry for Minutes

7:10 PM CPA Update/Zoning Study Update

- EG briefly updates the members on the Old Sturbridge Village parcel acquisition
- FD briefly updates the members of the Zoning Study Committee Meeting on 3/9/06. FD requests the help of the Conservation Commission for their input on the updating of the Zoning Bylaws—he will have to draft a paragraph on the Town's water resources.

7:15 PM Site Walk Discussion

KK briefly informs the members of a site walk to Draper Woods

7:17 PM Walk Ins

- R. Caprera (Attorney) and L. Jalbert of Jalbert Engineering, Inc (the "Representatives") present for discussion and request to speak to the SCC on behalf of the project located at 269 Cedar Street (DEP File Nos. 300-649 through 300-653)
- DM states the discussion will only by 10 minutes and if over that time the applicant must make an appointment at the next hearing.
- Representatives agree. KK gives a quick summary of the project—SCC issued denial Order of Conditions for all 5 Lots, DEP issued Superceding Order of Conditions and the Bylaw approval is pending.
- Representatives request that the SCC re-consider the project rather than moving forward with the appeal to court. KK states that the Applicant has the option of re-filing a Notice of Intent
- L. Jalbert states that an alternative would be to lessen the number of Lots to 4 with 2 crossings
- EG questions if the project has received approval from the Board of Health for 5 septic systems. L. Jalbert states that he has not applied for Board of Health approval yet.
- FD suggests that the Applicant make an appointment and come back to the SCC with 3 alternative scenarios
- DM states that the SCC has an obligation to protect the wetlands. He is unsure if the SCC can discuss a project currently under litigation and appeal. He recommends that the SCC obtain guidance from Town Counsel
- L. Jalbert states that he is trying to help his client save money. R. Caprera states that the pre-trial is set for 4/11/06.
- DM states that he is unsure where the Commission stands legally to discuss the project. EG states that the Applicant should obtain Board of Health approval and he would consider 3 Lots instead of 5 Lots.
- KK states there are two (2) options: 1. Proceed with appeal or 2. Re-file the Notice of Intent.
- DM recommends that KK discuss the situation with Town Counsel to determine if the SCC could even entertain discussion of a project currently in litigation. DM requests that the Applicant comes back as a Walk In on the April 6, 2006 hearing.

PUBLIC HEARING

NOI CONTINUED: DEP 300-676. 85 Shore Road, Single Family House improvements-Decks, Patio and Dock. Property Owner C. Kilgore.

K. Kippenberger opens the public hearing at 7:38PM

Present: No one present for discussion

Summary by KK: The last hearing was 2/2/06. No new information has been submitted. ZBA application for Special Permit and Variance was filed & first ZBA hearing is set for 4/12/06.

EG motions to continue the hearing to April 20th, FD 2nds the Motion. All in favor 3/0.

7:40 PM Tabled Discussion

- EG states that there is a parcel of land off New Boston Road for sale—previous gravel operation, wetlands and vernal pools present. He thinks there is a violation of the MA Wetland Protection Act and requests that the SCC visits the property. He states there is a stream that runs into Cedar Lake and the DEP would need to get involved. DM states that a site walk is needed.
- KK states she received a phone call from the Army Corp of Engineers (ACOE) in reference to Breakneck Brook near Westville Dam (off South Road). ACOE informed her that there is major sediment entering the Brook and wetlands—coming off private property. KK shows the SCC the location on the USGS Topographical Map and states that she is in the process of scheduling a site visit.

PUBLIC HEARING

NOI CONTINUED: DEP 300-682. Septic System repair at 11 Shepard Place. Green Hill Engineering representing property owner I. Ethier.

K. Kippenberger opens the Public Hearing at 7:50 PM.

Present: M. Farrell, Green Hill Engineering

Summary by KK: KK states that the last hearing was 2/2/06 and no new information has been submitted. At the previous hearing SCC requested that the applicant consult with the Board of Health regarding the septic system alternative location.

Discussion:

- M. Farrell states that he has spoken with the Board of Health Agent, he submits Revised Plans dated 3/8/06. M. Farrell states that he believes the Board of Health will be fine with the septic system re-location.
- SCC Members review the revised plan and question the location of the drainage pipes and if the pipes will need to be replaced. KK states the area is very wet.

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- M. Farrell states that the drainage pipes will most likely get crushed with construction and that the water actually comes out of the ledge. KK states the neighbors are concerned with a raised septic system. M. Farrell states that the work will be done in August when it is dry.
- KK requests more details on the plan regarding the replacement of the drainage pipes. SCC members agree. DM requests that M. Farrell gets a response from Board of Health.

Hearing Continued to May 4, 2006 at 8:40 PM. Revised Plans to be submitted. Applicant representative agrees

8:03 PM DISCUSSION:

- The Next Public Hearing was advertised for 8:10 PM start, M. Farrell requests that the Commission entertain a question. SCC Members agree.
- M. Farrell shows the SCC Members a plan of 93 Arnold Road, repair of a septic system for a Single Family House just outside of the 100-foot buffer zone. KK recommends the submittal of a RDA. SCC Members agree.

8:05 PM SIGNED PERMITS

- Laurel Woods Subdivision Order of Conditions SCC 05-20
- 109 Breakneck Road Determination SCC 06-06
- 33 & 35 Bennetts Road. DEP 300-688 Order of Conditions
- 299 Cedar Street DEP 300-686. Order of Conditions
- SCC 05-43 and SCC 06-01 through 06-5. 12 Wallace Rd (lots 1-6) Determinations

PUBLIC HEARING

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

K. Kippenberger opens the Public Hearing at 8:13 PM

Present: M. Farrell, Green Hill Engineering
C. Childress of Opacum land, Abutter

No New Information Submitted

Summary by KK: Last hearing was 2/2/06 and no new information has been submitted. SCC members have stated previously that a site walk needs to happen but has not been scheduled to date (weather permitting). KK states there are two issues with project 1) Re-classification of a stream from perennial to intermittent. 2) Work includes a stream crossing and wetland alteration near Natural Heritage Habitat. SCC members review the project plans

Discussion:

- SCC members discuss Natural Heritage concerns. M. Farrell states that he going to be working with Natural Heritage and their concerns.
- C. Childress states that she is concerned with changing the status of the stream. She shows the Commission a survey plan from the Registry of Deeds for the Land Trust. The stream empties into Cedar Pond, the stream may have been documented as dry due to beaver activity.
- FD questions the reason for the re-classification of the stream

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- DM states there is a need for a site walk. KK questions if the stream bank has been flagged in the field. M Farrell says yes. SCC Members discuss the stream crossing and the benefit of having a Professional Engineer design a bridge crossing.
- KK states that a lot of information is missing from the Applicant, including replication details etc. KK suggests that after a site walk has occurred, she will write a summary Memorandum to include outstanding information.
- SCC Members set a date of 3/28/06 for a Site Walk

Hearing continued to May 4th at 8:50PM. Applicant representative agrees

PUBLIC HEARING

NOI : DEP 300-694. 263 Cedar Street for proposed single-family house. Green Hill Engineering representing C. Soper.

K. Kippenberger opens the Public Hearing at 8:33PM

Present: M. Farrell, Green Hill Engineering, Inc.

Information Submitted: Abutter Notification Green Cards and Newspaper Ad.

Summary by KK: SCC Members review the project plan for a Single Family House. KK states that there is a perennial stream located off property to the west and a Potential Vernal Pool (PVP) located to the north. She states that according to the plan, most of the work is out of 100-foot buffer zone to a bordering vegetated wetland.

Discussion:

- M. Farrell states that the PVP is located off property and it is included in the wetland that was flagged. The PVP is an area of standing water that drains into the wetland. The property contains remnants of an old sawmill, boards, shed, sawdust etc. He also states the Applicant would like a yard in the back of the house and would like to remove the old debris and clean up the property.
- KK states she spoke with the Applicant (C. Soper) about removing the debris, he indicated that he wants to clean the property up and remove old wood, tires etc. He also indicated that there is “junk” in the wetland on the abutting property.
- EG states he would like to see limit of work staked out in the field for a site walk.
- DM suggests that the limit of the leach field is also staked in the field.
- KK suggests that M. Farrell contact the office when the property is staked and ready for a walk.

Hearing Continued to May 4, 2006 at 9:10PM pending site walk. Applicant representative agrees

PUBLIC HEARING

ANRAD: DEP 300-635. Wetland Delineation review of 650 Route 15/Mashapaug Road. New England Land & Lumber (NELL) Property. JMP Environmental representing NELL.

K. Kippenberger opens the Public Hearing at 8:47 PM

Present: T. Hogan, JMP Environmental

Information Submitted: T. Hogan submits Green Cards from the certified abutter notification, however he does not have a copy of the newspaper ad. KK states that she emailed the Legal Notice to the JMP office and received confirmation from J. Prenosil. KK states that the SCC should not open the public hearing if it was not advertised to the public correctly. DM states that he will proceed with the hearing, but JMP Environmental must check the office tomorrow to see

if the hearing was advertised properly. DM states that if it was not advertised properly, then the second hearing must be advertised correctly and the hearing minutes (from tonight) must be read at the start of the next hearing. SCC Members agree.

Summary by KK: KK states that the project has been on hold since September 2004 due to multiple issues, therefore she requested that the applicant re-notify abutters and re-advertise in the newspaper of tonight's hearing. SCC requested third party review of the wetland resource areas and A. Allen of EcoTec, Inc. was contracted for the review. Several reports have been submitted to the SCC over the past year regarding the wetland delineation, the final report is dated 1/25/06. As a result of the review, BVW boundary changed from 22,494 Linear Feet to 27,964 Linear Feet. KK recommends that the SCC should get an update on logging activities and status update regarding the project in Holland. Additionally, KK states that she would like to review areas of the BVW that had changed through the review process.

Discussion:

- DM agrees with KK's recommendations. DM requests that the SCC goes over A. Allen's report. KK states that the major points of A. Allen's final report are: 1) significant change in the wetland area 2) Potential Vernal Pools 3) strip of land adjacent to Mashapaug Road – no wetland flagged, Mass Highway is the property owner 4) The property that goes into Holland is heavily logged. KK questions if JMP has completed the permitting process with the Town of Holland. T. Hogan is unsure.
- EG questions if KK has walked the property. KK states that she did a brief walk with A. Allen about 1 year ago (orientation site walk) but the project has been on hold for financial reasons.
- SCC Members review recent delineation plans—primarily Page A-2. Riverfront Area is on the plans and the 25-foot and 100-foot buffer zones. KK states that the buffer zone limits do not have to be on Resource Area Delineation Plans, no work is proposed.
- SCC Members discuss the wetland resource areas on the property. SCC Members states that the wetland areas are confusing and not clearly shown on the plan, Mean Annual High Water (MAHW), Riverfront Area, edge of wetland, edge of River etc.
- DM states that the board needs a better plan that outlines all resource areas.
- KK questions if the top of bank was flagged for the Riverfront Area and questions how the Riverfront Area was determined. T. Hogan is unsure but states that the Riverfront Area is pulled off the MAHW and some bank flags. KK states that the bank of the stream should be flagged to accurately show the limit of the Riverfront Area.
- EG states that he really needs the Riverfront Area clarified on the plan. He also thinks that the SCC should do a site walk—the property is too large.
- KK requests to T. Hogan that the plans are revised showing the resource areas more clearly (especially on Sheet A-2). The SCC should get an explanation of how the Riverfront Area was determined and what flags delineate what resource area.

Action Items:

JMP Environmental to check if the hearing was advertised correctly or not. KK to write a summary of the SCC concerns/questions and send to JMP Environmental.

Hearing continued April 20, 2006 at 9:15pm pending additional information. Applicant representative agrees

PUBLIC HEARING

3 NOIS CONTINUED: DEP 300-691, 300-692, 300-693. 83 Westwood Drive Lots 1-3. Proposed 3 Single Family Houses, Robida Engineering representing Choinski Construction.

K. Kippenberger opens the Public Hearing at 9:19pm.

Present: J. Robida, Robida Engineering

S. Choinski, Choinski Construction (Applicant and Property Owner)

Abutters – C. Moran, Ed St. John, etc. (SEE Sign In Sheet)

New Information Submitted: Preliminary plan submitted March 14, 2006. No comments back from Town Counsel.

Summary by KK: At the last hearing was 2/16/06, SCC members showed concern for the amount of earth work so close to the Lake. SCC Members requested revised plans minimizing the disturbance and pulling the houses away from the Lake. The septic systems are in litigation with Town Council (Lot 3 has a public sewer connection, Lots 1 and 2 have proposed septic systems). KK states that the plan shows two options for Lots 1 and 2: Option 1 is to tie into Town Sewer, Option 2 is to have a private system. SCC members review the plans for discussion.

Discussion:

- J. Robida states that the revised plans show that the house on Lot 1 was pulled back 41 feet from the Lake, the house on Lot 2 was pulled back 22 feet and the house Lot 3 was pulled back 31 feet. A retaining wall has been added to Lot 3 to minimize the grading. Also on the plan, cut and fill calculations were added for informational purposes. (KK sets a copy of the plan on the layout table near abutters for viewing)
- DM states that his concern is the sandy soils and the easy transport for nitrates. The wells are located at the minimum distance from the septic systems.
- SCC members discuss septic system verses Town sewer.
- J. Robida states that the Applicant would like to tie into the town sewer instead of septic systems
- EG states he prefers to not see a plan with two options, it is either private or public septic. He requests that the plans are revised to show either one or the other, no options. S. Choinski states that he can show septic systems on the plan
- DM states that he has another concern with the limit of work and the houses being located on a steep slope. The hay bales should be closer to the construction area, limit the clearing. There is a large knoll to be removed on Lot 1—big concern. KK questions the 8% slope bylaw
- KK states that many abutters are concerned with septic systems on the Lake. She reads 2 written letters from abutters that oppose private septic systems (see file).
- C. Moran states that he represents the Cedar Lake Association and the concern with private septic systems. The lake residents have spent a lot of money to tie their septic into the town sewer. The lake has gotten cleaner since Town Sewer has been put in and the nutrient levels are low in the lake.
- DM questions to C. Moran if he has been to the Selectmen with the concerns of private septic systems, Moran states no.
- S. Choinski states his preferred option is to tie the three Lots into the town sewer. He applied for the sewer connection well in advance of the sewer moratorium, but the Board of Selectman denied the connection for Lots 1 and 2 on 6/15/05

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- C. Moran shows the SCC a Map of Cedar Lake when the Town put in the sewer line. Brief discussion that Applicant created a hardship for sewer on Lots 1 and 2. The Lot has one Town sewer connection (on Lot 3), but Applicant subdivided the Lot
- EG states that the Town is growing by sewer. Lots can be ½ acres in size, that is the problem—large lots being subdivided into small lots.
- DM states they must do a site walk and the house locations need to be staked in the field.
- S. Choinski asks if it is possible to get approval or non-approval of the septic plan to get the project going. DM states that since the type of sewer is unknown, that is impossible. If there is going to be Town sewer then the location of the houses will have to change—further from the Lake.
- FD states regardless of the sewer issue, he is very concerned with 1 Lot being subdivided into 3 Lots on the lake—a lot of bull dozer activity and earth work.
- E. St. John states that the material of the lot is gravel and will “perc” easy.

Hearing continued Mary 4, 2006 at 9:20 pm pending site walk and revised plans removing the sewer options. Applicant agrees.

PUBLIC HEARING:

NOI: DEP 300-696, 19 Mashapaug Road, Fuss & O'Neil representing Resorts USA for restoration work at Outdoor World.

K. Kippenberger opens the Public Hearing at 10:05 PM

Present: J. Zahner, Fuss & O'Neil
P. Moreschi, Fuss & O'Neil
J. Briggs, Resorts USA

Information Submitted: Green Cards and Newspaper Ad.

Summary by KK: KK reminds the Commission of the status of the property—earthen berm of pond on property blew out During October 2005 rain. Outdoor World worked with the Commission and removed silt from the wetland in early December 2005. Now, the NOI has been submitted and includes roadway and dam restoration work. SCC members view the project plans. KK states that she visited the property and the proposed work is okay.

Discussion:

- J. Zahner presents to the Commission the plan on an easel and colored. He states the dam failed during the storm and eroded about 200 yards of material into the wetland, and about 140 yards were removed by hand per the Commission’s approval. Some areas of sand are still present in the intermittent stream. He reminds the Commission that when the septic system was repaired a few years ago, it shows the access road in the 25-foot buffer to the wetland (pre-existing). The camp sites in the area of the washout need to be restored with pea-stone.
- DM states he has concern with the sand traveling in the stream and that a berm at the road may need to be created to re-direct runoff
- P. Moreschi states that minimal flow occurs through the stream and most of the remaining sediment has formed deposits. He would like to address the berm at the pond and make it stable.
- J. Zahner states that the dam is not under jurisdiction of the state DCR and in order to repair the dam, the height of the dam must be raised. The dam could fail again if not done correctly—seepage or overflow.

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- DM questions if they are proposing a seepage drain to keep embankment dry. An overflow area of rip-rap is proposed at the outlet. DM also questions if the dam will impact the storage capacity of the pond, J. Zahner answers no—the outlet elevation is not going to change.
- KK questions the erosion controls and points out that a shed is to be temporarily removed.
- FD questions if the earthen berm/dam will need some type of armoring. What is the finished material? J. Zahner states that the dam must be loamed and seeded, no woody vegetation on the dam as the roots systems will impact the dam.
- KK questions the dewatering that is proposed for the dam construction. J. Zahner states that approximately 2.3 feet (water level) will need to be dewatered in order to work on the embankment. It is going to be pumped out with a floating, electric pump. The contractor that is working on the project has worked with Fuss & O'Neill for years and specializes in dam construction and working near water.
- KK questions how long the project will take. Estimated at about 1 to 1 ½ weeks.
- DM states that he does not want the draw down of the Pond to be more than 1 month.
- J. Briggs emphasizes that he wants the project to be done as soon as possible and states that he would like all work to be done by Memorial Day.
- DM states that he is okay with the dam work but is still concerned with the wetland along the side of the road and runoff entering the wetland. He suggests that boulders are placed at the road's edge. Other members agree with the boulders.
- KK states that the property owner is looking to Fuss & O'Neill to draft plans for improving the stormwater management of the property. The plans will be submitted to the Commission for review, it could be an Amendment to this Order of Conditions.
- EG questions the grassed dam. P. Moreschi states that the grass will have to be maintained and inspected. The integrity of the dam cannot be compromised, no woody vegetation and no rodents.
- SCC members discuss Special Conditions for the project: Weekly updates to KK of the ongoing work, adding boulders along side of the road near the wetland, monitoring reports and a construction timeline from the contractor, use of best management practices for the dewatering, no pesticides/herbicides on the dam.
- FD makes a motion to approve the project with Special Conditions as discussed, EG seconds the motion, All in favor: 3/0.

Hearing closed and approval Order of Conditions to be issued. KK to send original to Fuss & O'Neill for recording.

10:47 PM OTHER BUSINESS

- Discussion of 170 Cedar Street Letter Permit SCC 06-08

KK states that Escape Estates submitted a Letter Report for a Single Family House at 170 Cedar Street. A Letter Permit was submitted because the wetland resource areas are across the street and behind existing houses. The curb-cut of the new driveway is barely in the 200-foot buffer zone to the wetland. KK states that she visited the property with SCC Member, D. Grehl and both had no issues. The driveway is going to be long and up a steep slope, the project has incorporated small detention basins to collect runoff from the driveway—the driveway will be pitched to the basins. Erosion controls are proposed. SCC Members have no issues and agree to have KK write a letter permit with any necessary Conditions.

- Discussion of Lot 2 Brook Hill Road Letter Permit SCC 06-09

KK states that the property owner has submitted a Letter Permit for installing an in-ground pool. The property owner also would like to put in a fence and shed in the 200-foot buffer zone to a wetland and intermittent stream. The property owners have already cleared the property not knowing about coming to the SCC for approval. KK states that she can write a letter permit with Conditions such as, no stock piling on wetland side of the property, hay bales are needed and plantings are needed as well. EG questions why they cannot stay out of the 200-foot buffer zone. DM states he has no issues with the Letter Permit and Conditions. SCC members agree that KK can write letter permit approval with necessary Conditions.

- DEP 300-673: (209 Main Street) Lot 4 Rom's Restaurant – revised plans

KK states that Jalbert Engineering, Inc. submitted revised plans for Lot 4 showing that the location of the garage is to change, but the limit of work does not change. KK states she has no issues with the minor revision and questions the SCC members if an Amendment is required. SCC members agree that the revision is minor since the approved limit of work does not change. SCC members agree that a formal Amendment to the Order of Conditions is not necessary.

- Discussion of Lake Maintenance Requirements

DM states that it is too late to go over any changes. He requests that the SCC members review the documents and be prepared for discussion on 4/6/06. SCC members should get comments to KK no later than 4/5/06. KK is to email the members the current documents for review. SCC members agree.

11:00 PM Meeting Adjourned