

STURBRIDGE CONSERVATION COMMISSION (SCC)

Minutes for Thursday April 6, 2006

Open Meeting

David Barnicle opens the meeting at 7:09 PM

Board Members Present: David Barnicle (DB), Chairman; David Mitchell (DM); Ed Goodwin (EG); Donna Grehl (DG); and Frank Damiano (FD)
Kelly Kippenberger (KK), Conservation Agent
Danielle Garry for Minutes

CPA and Zoning Study Committee Update

- EG requests the board's support in the Town's purchase of OSV land (to be funded through the CPC). DB makes a motion to support the OSV land purchase, DM seconds the motion, all in favor 5/0.
- FD states there is no Zoning Study Committee update since the last Meeting. The verbiage of the Rural and Suburban Residential section of the bylaw needs to be reviewed and approved by the SCC. FD makes a motion for KK to review the paragraph, DM seconds, all in favor: 5/0. KK states that she will contact the Town Planner for additional information.

Minutes Approval

DB questions if the Board has reviewed the December 8, 2005 and December 15, 2005 meeting minutes. KK states that she did not receive any comments. DB makes a motion to accept the 12/8/05 and 12/15/05 meeting minutes as written. DM seconds the motion, all in favor: 5/0.

7:16 PM WALK-IN

269 Cedar Street (Lots 1-5) DEP File No. 300-649 through 300-653

Present: D. Roberts, Jalbert Engineering, Inc.
R. Caprera, Attorney

Discussion:

- KK states that at the last hearing, L. Jalbert and R. Caprera were present and wanted to discuss with the Commission project alternatives instead of pursuing the appeal to Superior Court. The SCC questioned if the board could entertain discussion on a project that is currently under appeal. KK states that she spoke with Town Counsel and was verbally informed that there should be no reason for the board to negotiate the project, unless they want to. The Applicant needs to decide how to proceed, either with a new filing or continue with the appeal, the Commission really can't tell the applicant how to proceed. KK states that she does not have any comments from Town Counsel in written form.
- R. Caprera states that he would like to discuss an alternative with the Commission. D. Roberts presents the Commission with a plan that shows four house lots instead of five lots.
- EG states that the project has been going on for sometime and he is unsure how to proceed. He has many concerns that include 1) misleading the Applicant, the Commission voted to deny the project 2) No abutters are present for the discussion—violation of public meeting law and 3) There is not a new filing in front of the board, the project is in legal action. EG also questions the board if they are willing to negotiate the project.

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- DM states that it a tough situation, he questions if discussing the project is illegal.
- EG questions that if the board looks at the new plans, would the board be advising or negotiating?
- D. Roberts states that the Applicant would like to have the opportunity for dialogue with the Commission and that the State has reviewed everything and issued an approval. FD states that he has no problem with looking at the plan simply for discussion. DM states that he has no problem, DG has no problem reviewing the plans either. DB states that D. Roberts has 5 minutes to show the Commission the revised plans.
- D. Roberts states that the plan shows a reduction in lots, there is 4 house lots instead of 5. There are no more sewer easements, as all sewer lines are on individual properties. Two crossings instead of one crossing. The second crossing is in an area of upland.
- KK states that the Board of Health has not approved the septic systems to her knowledge, and the Board of Health indicated that 3 houses were preferred. KK also states that the project does have a reduction in lots, however more disturbance is in the 25-foot buffer zone with the two crossings.
- DB states this project needs an appointment for a public hearing. He also feels that the plan being presented is an improvement. FD agrees that the alternative is an improvement.
- EG has no comment
- DB states the applicants needs to make the decision if they want to make an appointment
- R. Caprera states he will call KK to make an appointment.

7:33 PM WALK-IN

130 Lane 9 Beach clean-up, Letter permit

Present: J. Tasse

Discussion:

- KK summaries to the Commission the letter permit request and shows the SCC members the photographs that were submitted. J. Tasse wishes to remove some trees near the Lake and also wishes to rake beach area.
- J. Tasse states that the request is an annual clean-up of the property near the Lake, he also would like to cut shrubs and trim trees on the path to the Lake. He eventually would like to install a patio. KK states she has not taken a site visit.
- DB questions if the root system of the trees will be removed. J. Tasse states no. The trees to be removed include a large dead pine tree and dead birch tree. He would like to take the trees down eventually. The distance between the trees and the high water level is about 6-7 feet.
- DB states he would like to take a look at the site.
- EG states he would like a list of things that need to be done.
- KK recommends that J. Tasse files a RDA for the work.
- DB states that the Commission should take a site visit on Saturday, 4/8/06. SCC Members agree.

PUBLIC HEARING

ANRAD CONTINUED: DEP 300-690. 251 Arnold Road, Proposed Wetland Delineation Approval. Trifone Design Associates representing the property owners(s) S. Arcuri, M. Tropeano and P. Sodano

KK opens the public hearing at 7:40PM

Present: F. Trifone, Trifone Design and Associates

Summary by KK: KK states that the filing is for a wetland delineation approval and she walked the wetland line with Eco Tec, Inc and there were no flag changes. KK sent a Memorandum to the SCC members dated 4/4/06 that summarized any outstanding issues. KK states that Sheet 3 of 3 of the plan set was revised to show a flag that was not surveyed in—KK informs F. Trifone that the revised plan dated 4/6/06 is not stamped. She recommends going through the memo and approving the ANRAD with conditions. KK summarizes the property, large wetland system with a steep slope. There is an existing barn, cart-path and a sand area that appears to be a previous horse area. Part of the wetland system is a beaver pond, beaver activity is within the perennial stream. The Riverfront Area was determined off Top of Bank Flags, a portion of the stream does not have defined banks, but the outer most portion of the channel was flagged. KK states she is fine with delineation.

Discussion:

- EG questions how many acres is the property? F. Trifone states approximately 54 acres.
- EG states that the property is large and he would like to check the wetlands.
- KK states that for the most part, the boundary of the wetlands is well defined and based off of the topography. There are potential vernal pools on the property (KK points out the areas of potential vernal pools). KK also states that there are areas of intermittent flow where the centerline is flagged. The flags represent the outer most resource, some flags represent BVW and some represent bank to intermittent flow.
- DB states that he too would like to look at the property, concerned with the time of year and the lack of vegetation for the wetland delineation
- KK refers to the Memorandum she wrote and recommends conditions with the ANRAD.
- SCC members discuss the two potential vernal pool areas and any conditions.
- KK recommends that the SCC approve the wetland delineation, approve the Riverfront Area and the locations of the potential vernal pools. There could be a condition that the potential vernal pool areas are inspected in the spring and all information be copied to the commission.
- DM states that the Commission should declare the areas to be potential vernal pools and it is up to the Applicant to prove otherwise.
- KK states that the 200-foot Riverfront Area needs to be on the plan, only the 100-foot Riparian Zone is shown. The plan will need to be stamped.
- SCC members discuss the property. FD states that he is confident that the wetland delineation is fine if the Agent has reviewed it. DG states that she reviewed a portion of the property and the delineation was good. DM makes a motion to approve the Delineation plan with potential vernal pools. FD seconds the motion. DB adds to the motion that the Memorandum dated 4/4/06 is part of the file and is also approved by the Commission. All in favor: 5/0

Hearing Closed. Order of Resource Area of Delineation to be issued. Applicant representative agrees.

PUBLIC HEARING

NOI CONTINUED: DEP 300-689. 8 Eagle Avenue, Proposed Church and property improvements. Jalbert Engineering representing New Life Fellowship.

K. Kippenberger opens the Public Hearing at 8:00 PM.

Present: D. Roberts, Jalbert Engineering

Summary by KK: KK states that Graves Engineering, Inc. submitted a letter to the Commission on 4/6/06 and recommends that the Commission review the letter. SCC Members agree to go through the Letter one item at a time (10 items).

Discussion of Item #1 (refer to Graves Engineering, Inc letter dated 4/6/06)

- DB questions the bottom of the leaching pit and DEP guidelines.
- KK states that the point of the infiltration pit is to have the water infiltrate into the ground, if the pit is too deep, water will be stagnant and not infiltrate. D. Roberts agrees.
- D. Roberts states that the infiltration pit as designed would work.
- DB questions what would it take to comply with the DEP guidelines. D. Roberts answers they would need a detention system worth \$6,000.
- EG suggests that he feels the system should be in compliance with DEP guidelines and that the SCC should continue on with reviewing the Letter. Other members agree.

Discussion of Item #2

- DB questions why Jalbert Engineering believes the project is re-development when the project includes constructing a new building. D. Roberts states that the NOI was filed as re-development since there is no new parking lot. The project is going to use existing parking lot. D. Roberts agrees that the new building is new development and not re-development.
- FD questions if this is a new construction project, D. Roberts states yes.

Discussion of Item #3 and #4

- DB states that these items may be a moot point. DB states that he would like to see all DEP Standards to be met.

Discussion of Item #5

- KK states that the Hydrology calculations need to be submitted for the stormwater system.
- D. Roberts states that the calculations were not submitted since the building is located outside of the 100-foot buffer zone. D. Roberts states that the DPW Director will be reviewing the Stormwater Calculations. SCC Members discuss the DEP Stormwater Guidelines
- KK states the only type of project exempt under the Stormwater Management policy are those that include development under 4 lots (residential). This project is a commercial building and therefore calculations must be submitted.

Discussion of Items #6, #7 and #8

- KK states that these items have to do with the Operation and Maintenance Plan and construction of the project.
- DB states that the Operation and Maintenance Plan does not identify the owner of the Stormwater Management System. DB is also concerned with the wording “to be accepted by the Town”. D. Roberts states the town does not have responsibility of the system, but will need to be reviewed once installed by the DPW Director, the owner is responsible for maintenance.
- KK suggests changing the wording on the Operation and Maintenance Plan to read “Town approval” and not Town acceptance

- KK states the Operation Maintenance Plan does not specify post construction or pre-construction.
- D. Roberts states the contractor is responsible the Operation Management Plan during construction and the owner is responsible after construction.
- EG recommends that the Applicant shall submit a response to Graves Engineering letter and include the comments suggest by the board. A revised plan should be submitted.
- DB states that he is pleased with the 3rd Party review comments letter. D. Roberts states that a lot of the information that Graves Engineering was claiming to be missing was not submitted since the project is out of the 100-foot buffer zone. DM states that the project should be brought into compliance with DEP Standards and that it is within the Commission's discretion to request that the standards are met. DG agrees.
- DB makes a motion that the Commission accept Graves Engineering Letter and that Jalbert Engineering should provide a response and revised plans in compliance with DEP standards. DM seconds the motion, all in favor: 5/0.

Hearing continued to May 18, 2006 at 8:35PM pending receipt of additional information. Applicant representative agrees.

PUBLIC HEARING

AMENDMENT CONTINUED: DEP 300-589 Request to Amend Order of Conditions for 43 Abrams Drive (Result of an Enforcement Order).

K. K opens the Public Hearing at 8:40 PM

Present: G. Abrams, property owner

Summary by KK: Additional information has been submitted to the SCC that includes a Narrative dated 11/17/05, landscaping information submitted 2/23/06 with photos. All the work is to be approved as an Amendment to the Order of Conditions as a result of an Enforcement Order—work was being conducted in violation. The Original permit will expire on 5/27/07. Also, KK questions the retaining wall repair verbally mentioned to her by the property owner. Board members review the plan.

Discussion:

- G. Abrams apologizes for the delay in getting the SCC information. He states that he proposes to finish the walkway from the driveway to the house, grass some of the area, and install the pond and vegetation. He believes that a depression at the 580-foot elevation will help with the run off going to the Lake and will resolve water problems.
- KK recommends that the Board reviews what the Landscaper submitted (30-40 plants in a 6 inch deep pea stone drainage area).
- G. Abrams also states to plant garden beds and shrubs under the windows.
- DB questions if this is a turf maintenance program. G. Abrams states they are aware there is no fertilizer allowed on the property, no turf maintenance will be done.
- DB mentions the project states to restore the porch and he questions if they are adding pillars to the porch or a concrete pad. G. Abrams states they are only restoring the disturbed part of the porch, which is a 15 foot section directly in front of the window of the house on the driveway side.
- KK questions if they are going to repair the stone retaining wall in the future. G. Abrams states yes, they plan on restoring the stone retaining wall by replacing the fallen rocks. KK states that it will need to be done when the water is drawn down.
- DB states that a letter permit should be submitted for the wall repair.

- DM motions that the Commission should issue an Amendment to the Order of Conditions to include the recently submitted proposed work. EG seconds the motion, all in favor: 5/0. G. Abrams agrees to submit a letter report to the Commission for the retaining wall repair. KK states that she will contact G. Abrams when the Amendment is ready for pick up.

Hearing closed. Amendment to be issued. Application agrees.

PUBLIC HEARING

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

KK opens the Public Hearing at 8:52PM

Present: R. Para, Para Land Surveying and Engineering

Abutters: A. Szumilas and C. Sylvestri

Summary by KK: Revised plans were submitted on 4/5/06 that include one house lot and the gravel driveway within the 50-foot buffer zone. KK states that the NOI forms need to be revised to reflect the project change. All new information needs to be submitted to DEP. Approval from the Board of Health and Planning (scenic bylaw) is required.

Discussion:

- DB has a concern with receiving the revised plans the day of the meeting, no chance for review. R. Para states his engineer was out of town and could not stamp the plans.
- KK informs that Commission that the perc test has expired and re-approval by the Board of Health is required. The gravel driveway is in the 50-foot buffer zone and there are alternatives. The members review the revised plans.
- FD states that the driveway should be pulled out of the 50-foot buffer zone. DM and DB agree.
- KK shows where there is a retaining wall at the driveway and there is a 1 to 1 slope and rip rap up to the driveway. FD questions the 1 to 1 slope being too steep and R. Para states he would have to slope it closer to the wetlands.
- EG states that he would like to see a VersaLok retaining wall, minimizes disturbance. R. Para states that the VersaLok wall is a barrier to wildlife, animals like stone walls.
- DG states that the property has a lot of surface water.
- R. Para states that the driveway is shown where it is to be straight. His preference is to use a boulder type wall and to keep the driveway straight.
- EG states he has a problem with a boulder wall, his concern is it takes up too much space.
- DG questions the culvert locations on the plan. Her concern is that the path of water will be altered, the water should be directed away from the driveway and continue towards the wetlands.
- EG questions if there could be a large culvert put in to divert the water to.
- A. Szumilas (abutter) states they had a lot of water last year and C. Sylvestri (abutter) states with a lot of rain, the water comes out of the ground.
- R. Para states he can add a swale on the side of the driveway to help the water situation. The water will divert into a pool on the lower side. DB agrees that may be a good idea.
- DM states that the revised plans is an improvement to the project, one house is much better than two houses given the high ground water on the property.
- R. Para states he will need to do another perc test and he will use the existing cart road for access. KK states that no wetland impacts can occur with the perc testing.
- C. Sylvestri questions how will the project impact the drainage that is there now.

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- EG states that the drainage culvert should have rip rap at the end and the water should be able to spread into natural vegetation. The velocity of the water should not increase.
- KK summarizes the outstanding issues of the Commission: pull driveway out of the 50-foot buffer zone, Versalok wall to minimize the buffer zone impact, a larger culvert and swale on the north side of driveway, rip rap and flared end at the culvert outlets. SCC members agree.

Hearing Continued May 18, 2006 at 8:50pm pending revised plans.

PUBLIC HEARING

NOI: DEP 300-695. 11 Library Lane, Septic System Repair/Replacement. Jalbert Engineering, Inc. representing F. Lyford and the property owners (Polk).

KK opens the Public Hearing at 9:30 PM

Present: D. Roberts, Jalbert Engineering, Inc.

Summary by KK: KK requests a copy of the newspaper ad and green cards from abutter notification. D. Roberts complies. KK summarizes the project to the board: second house on the property requesting a repair to the septic system, tree clearing and new septic system (leaching pit) within 60 feet of the lake. This project has not been approved by Board of Health. A site walk is needed.

Discussion:

- D. Roberts states that he spoke with Agent and the Board of Health is leaning towards approving this project.
- KK states there is an exiting house and bunk house on the property. KK shows the board the plans and indicates an area of vegetation to be removed, areas of stock piling is identified on the plans, and the Applicant is proposing to put in a leaching pit and abandoned the cess pool.
- EG questions if the lot is to be sub-divided. D. Roberts states no, there is only one property owner.
- DM questions if the capacity of the proposed leach pit is based on having one bathroom at the bunk house. D. Roberts states that a cess pool can be replaced with a leach pit. The project is in compliance with Title V.
- D. Roberts states that he believes the bunkhouse is a summer cottage and designed for 1 bathroom.
- EG states he would like to visit the property. He questions if the current system is a failed system, D. Roberts states yes.

Hearing continued to May 18, 2006 at 9:05 pending site visit.

PUBLIC HEARING (posted for a 9:10 PM start)

NOI CONTINUED: DEP 300-683. Construction of a gazebo and walkway at 78 South Shore Drive. Jalbert Engineering representing G. Allard.

KK states that the Applicant representative requested a continuance to 5/18/06.

SCC members grant continuance.

Meeting scheduled for 5/18/06 at 7:40 PM

9:44 PM OTHER BUSINESS

1) Discussion of Lot 4 Bentwood Drive Revisions (DEP 300-679)

D. Roberts of Jalbert Engineering present for discussion. KK states that revised plans were submitted on 3/27/06. The building on the approved plans was the wrong sized building. The building is to be for elderly, wider doorways and hallways etc. KK recommends that the SCC to approve revised plans and that a formal Amendment to the Order is not necessary. KK states the building will be 84 feet away from the wetland area but the limit of work does not change. KK questions if the project received an approval from Board of Health on the septic, D. Roberts states yes, but he does not have that information. FD motions to accept the revised plans as is, DM second the motion, all in favor: 5/0

2) Discussion of Highland Order Extension Request: DEP 300-466.

T. Moss is present for discussion. KK states that Commission issued a 6 month Extension to the Order of Conditions in the fall which expired on March 17, 2006. The applicant is re-requesting an additional 6 month extension because the top coat of the roadway has not been installed, the asphalt plants are now open and the paving can now take place. T. Moss states that no work has been done in the 200-foot buffer zone since the Order needs to be Extended. DB makes a motion for a 6 month Extension from 4/6/06. FD seconds the motion, all in favor: 5/0

3) Discussion of Local Filing Fees

KK sent revised fee worksheet to members for review. KK would like to enforce all local fees as described in the Regulations. All permitting fees for all boards are to be re-evaluated in the near future. SCC members agree to the revised local filing fee worksheet. DB motions to accept the revised filing fee calculation worksheet, DM seconds, all in favor: 5/0

4) Discussion of Preserve Letter to 99 New Boston Road for Stream Repair

Unanimous in agreement of letter, all in favor 5/0.

5) Discussion of Gravel Pit Area off New Boston Road

DB states that he and EG visited the property on 3/22/06 and the old gravel pit is filling up with water due to the beaver dams. The sand pit abuts the Hamilton Rod & Gun Club property. There is no vegetation and his concern is the potential for sand to enter into Cedar Lake. EG and DB agree that KK should contact the DEP to see what can be done. KK states that pictures will need to be taken and she will visit the site.

6) Discussion of Breakneck Brook complaint from ACOE

KK states that she and DG walked the property with the ACOE on 4/4/06. KK shows the SCC members photographs of silt in Breakneck Brook due to a breached berm. Violation Letter to go to property owners (off South Road). EG states he would like to take a look. SCC members agree that a violation letter needs to be sent requesting the property owners to meet with the Commission

7) Discussion of SCC Comment on Lake Management NOI Requirements.

KK states that she received comments from Aquatic Technology Control, Inc. The first public hearing discussion is 4/20/06 at 7:30pm.

8) Tabled Discussion

DM states that he renewed his 3-year term with J. Malloy. This will be his last term on the Commission. DB briefs the Commission on the *Mullen Rule*. He is seeking guidance from Jim Malloy/Town Counsel on the *Mullen Rule*

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DB questions what the other members think about Volunteer help from residents to certify vernal pools, visit certificate of compliance sites etc. FD states that it would be good to get someone in the office to volunteer time, answer phone etc. DM states that it may be difficult to get people to volunteer time. KK states that it would be cumbersome to train a volunteer, it would be difficult for someone to learn what we do on a volunteer basis. Time consuming to train. Other members agree. EG states that the Commission used to be involved with High School Students and certifying vernal pools.

Meeting Adjourned at 11:20 PM