

**STURBRIDGE CONSERVATION COMMISSION (SCC)**

**Minutes for Thursday May 18, 2006**

**MEMBERS PRESENT at 7:04 PM**

Board Members: D. Barnicle (DB) Chairman, D. Mitchell (DM), Ed Goodwin (EG), Donna Grehl & Frank Damiano (FD)

Kelly Kippenberger, Conservation Agent (KK)

Danielle Garry for Minutes

**7:05 PM Walk-In**

- L. Boniface present for 15 Tantasqua Shore Drive—discussion of a 3-seasoned porch to be built on an existing deck)
- KK shows the members the plans and states that the deck is just within the 100ft buffer zone to a wetland. The property owner is requesting to build a 3-seasoned porch on the existing deck, minimal disturbance. The porch is on sonatubes (9 footings).
- KK questions the SCC members if a Letter Permit or a RDA is necessary. She believes a Letter Permit would be fine with erosion controls. Members discuss.
- DM questions if there will be any change to the footprint and L. Boniface states no.
- FD states that there should be no stock piling, but if there is it should not be on wetland side.
- DG states that no trees shall be removed. L. Boniface agrees that no tree removal.
- FD Motions to allow Letter Permit approval with the conditions of erosion controls, no stock piling and no tree removal. DM seconds, All in favor 5/0.

**7:15 PM Walk-In**

- E. Paquette present for 101 Cricket Drive Enforcement Order (DEP 300-646)
- KK states that an Enforcement Order issued on 5/1/06 and at a recent site walk members noticed that the erosion controls were failing and the retaining wall proposed was not built—pile of rocks. She states that during the hearing process for the project, the Commission requested that the retaining wall to be done first and established because of the steep slope and the amount of earth work.
- SCC Members discuss the swale on property and the limit of clearing.
- E. Paquette reviews the photographs of the swale and silt fence location. He states that the run-off entering the property is from a catch basin and that he spread stone for the swale.
- DM states that the area needs vegetation and it appears that too much clearing has gone on.
- EG shows concern for the retaining wall and E. Paquette states the rocks are temporary. The retaining wall will not be a boulder wall, he is going to use the material to fill the garage floor and then build the retaining wall.
- EG wants to know the height of the retaining wall and he thinks the wall needs to be built first—before moving forward on the project. E. Paquette states the wall will be approximately 4 – 5 feet tall.
- DB states that the wall needs to be built prior to releasing the Enforcement Order, the retaining wall is very important. He suggests that the Commission conduct a site walk on Saturday to determine if the Enforcement Order should be lifted. SCC Members agree. DB states that the Commission will conduct a site walk and resume discussion at the June 1, 2006 meeting as Other Business. The Enforcement Order remains in effect.

**7:28 PM CPA Update**

Tabled discussion led by EG regarding recreation playing field locations.

**PUBLIC DISCUSSION**

**Discussion of Lake Vegetation Maintenance NOI Requirements—Continued from 5/4/06**

**DB opens the meeting at 7:36 PM**

**Present:** L. Lyman, Lycott Environmental  
C. Moran, Cedar Lake Assoc.  
D. Smith, Walker Pond Assoc.

**Discussion:**

- DM opens discussion by stating that the purpose of the hearing is to discuss any revisions to the 2006 draft lake maintenance requirements. The application of herbicides will require a NOI for 2007 treatment in accordance with the Regulations and Policies.
- L. Lyman states that the Order of Conditions to Walker Pond are still valid and not expired.
- KK states that Walker Pond has the most recent NOI filing/Order of Conditions issuance and the Order is still valid (3 years from issuance). Last year Big Alum and Cedar Lake requested Extensions to their Order of Conditions, and the SCC issued a 1-year Extension with the note that for 2006 treatment, a new NOI will have to be submitted.
- L. Lyman states that there is no need to deny an Extension Request. KK states that the Commission made it clear last year that new NOI filings are required for further treatment. The NOI filing must demonstrate compliance with the new Regulations put out by the state in 2004.
- L. Lyman states that they cannot proceed with the maintenance until the Commission proceeds with the process.
- C. Moran states that it is time for the Town to pay for the treatment. It is expensive to pay for the treatment and the permit application. The lake residents pay more taxes to the Town. DM suggests that the Lake Associations speak to the Board of Selectman on the financial aspect. The only issue brought up by the Associations for the NOI requirements is the financial burden of a new NOI, no technical review of the new requirements.
- C. Moran states that it is economically impossible. DG states that the Associations should go to the Town. Volunteers can do some of the NOI work—abutter notification etc.
- KK clarifies that the NOI application and the Order of Conditions permits work within the buffer zones to wetland resource areas. Orders can be Extended, however with the new regulations and documents from the state—all permits need to reflect the new documents that came out in 2004. Most of the DEP requirements are the same as the Town's requirements such as providing a list of plants that is to be treated and type of herbicide. Additionally, if the Association would like the Town to be the Applicant to waive the filing fee, that is an option.
- L. Lyman questions if they can make an Amendment after the expiration of the Order of Conditions. DM states no, it was clear in 2005 that a new NOI will need to be filed.
- L. Lyman states that D. Faulis of the DEP will require a Habitat Evaluation to be done for the Lake Treatment NOI. Very expensive survey of the Lake. KK states that D. Faulis is out of the western mass Region and that Sturbridge is central Mass. The NOI applications can be written to show that a Wildlife habitat evaluation is not necessary. DM states that he will have to look into the Wildlife habitat requirements.

- L. Lyman states that the Lake Maintenance is a good thing—the goal is to not let invasive species such as milfoil take over the lake. DM agrees and states that the Association's goals should be to eventually develop a Lake Management Plan. He states that if invasive species take over the lakes, a Rapid Response Plan can be filed.
- DM questions if Draw Downs are included in the NOI. DB states that typically a letter is done for the draw downs—the letter should be sent to DEP, Selectman and Conservation.
- L. Lyman states that the draw downs of the lakes will cost more money and states the DEP wants the draw down of 3 to 4 feet.
- L. Lyman questions that the Park & Rec Dept—Town Beach is tied into the Cedar lake Order of Conditions, it should be separated out.
- D. Smith states that the annual budget for the Lake Association (Walker Pond) has already been approved. The increased costs could prevent treatment this year. He questions the state beach treatment.
- DM questions if anyone has any technical comments on the NOI Requirement Checklist that has been circulating for over 2 months now. No comments. DM Motions to accept the NOI application check list as written. DG seconds the motion, all in Favor: 5/0. Discussion: KK states that the Town of Sturbridge wetland bylaws requires abutter notification for 200-feet. The Commission could require only 100-feet for the abutter notification—that would lesson the cost of the NOI submittal. DM motions to amend the vote to approve the Checklist with the revision of abutter notification being 100-feet from the Lake. DG seconds the amended motion, all in favor: 5/0.
- DM Motions that it is recommended that the Lake Associations have the town be the applicant to waive the filing fees, but the Association would be responsible for the Order of Conditions, EG seconds the motion. All in favor 5/0.

### **PUBLIC HEARING**

NOI CONTINUED from 4/6/06: DEP 300-683. Construction of a gazebo and walkway at 78 South Shore Drive. Jalbert Engineering representing G. Allard

Project Withdrawn: KK received withdrawal without prejudice request on 4/21/06.  
SCC Members accept Withdrawal

### **PUBLIC HEARING**

DEP 300-615 AMENDMENT: 14 Mashapaug Road, Single-Family House. Green Hill Engineering, Inc. representing James Dunn

**DB opens the meeting at 8:15 PM.**

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

**New Information Submitted:** Green Cards and Newspaper Ad to open public hearing

### **Discussion:**

- KK states that violations were observed in November 2005 when a Certificate of Compliance was requested. Applicant has been working with the SCC and As Builts were submitted in December. Now the formal Amendment request was submitted to allow for restoration of the driveway and run-off improvements.
- KK shows the members the new plans and states that the plans show the driveway to be corrected with removing the portion off property and relocating the turn-around, gutters are proposed but a foundation drain is not shown on the plan (photos from previous site walks)

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- M. Farrell states that a perimeter drain is on the property and he can show it on the plan. Also, the gutters have been installed.
- DG questions the grassy swale along the driveway, there is a lot of water in that area and there is an erosion problem. M. Farrell states the swale is in good shape and it is vegetated. It should get rid of the water problem.
- DB states that he was hoping for some rip-rap in the area of the swale and that the location of the drains need to be on the As Built plan. He recommends a continuance for revised plan.

*Hearing Continued on July 20, 2006 at 9:10 PM pending revised plans. Applicant representative agrees.*

### **PUBLIC HEARING**

RDA SCC 06-10. Septic system repair at 93 Arnold Road. Green Hill Engineering representing property owners, Angers.

**DB opens the meeting at 8:26 PM.**

**Present:** Mark Farrell

**New Information Submitted:** Green Cards and Newspaper Ad to open the Public Hearing.

#### **Discussion:**

- KK summarizes that this is a septic system installation, repair to an existing system. She visited the property and has no concerns. The area of the septic is within a lawn area, wetlands down steep slope and with properly maintained erosion controls, she predicts no issues. KK shows the members the plans and photographs and points out the location of the hay bales and wetland resource areas.
- M. Farrell states that the existing leach field is to be abandoned in place in accordance with Title V.
- DB states he has no issues with the project.
- FD Motions to issue a Negative Determination, DB seconds. All in favor 5/0.

*Hearing closed. Negative Determination to be issued. Applicant representative agrees*

### **PUBLIC HEARING**

NOI DEP 300-698: Driveway crossing at 118 Clarke Road (related to single family house DEP 300-626). Jalbert Engineering, Inc. representing Quality Contracting and Building LTD

**DB opens the meeting at 8:30 PM**

**Present:** D. Roberts, Jalbert Engineering, Inc.

L. Jalbert, Jalbert Engineering, Inc.

C. Rizy, abutter

**New Information Submitted:** Green Cards and Newspaper Ad to open the Public Hearing

#### **Discussion:**

- KK states that the Commission requested a NOI to be filed for the driveway widening—instead of an Amendment to the Order of Conditions (300-626). She states that she wrote a memo to the commission dated 5/15/06 outlining her review of the filing and concerns. Her main concerns included an alternative analysis (easement over existing driveway).

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- KK clarifies that the NOI proposes to fill 190 square feet of wetland and a replicate 380 square feet because the driveway needs to be widened in order to have proper frontage. She requested to get some type of As Built so that the commission can accurately see how much wetland has been filled, technically more wetland has been filled than what was originally approved—if in fact the driveway is not in the right location.
- D. Roberts submits a colored sketch showing the original approval and the current location of the driveway. D. Roberts states that the new plans do show the As Built condition of existing crossing and the direct abutter said no to a plan of land transfer (telephone call)
- DM suggests speaking with the neighbor again. The Members have a brief discussion of the plan approved in 1997.
- EG questions what is the width of the existing driveway and KK states 24-feet. D. Roberts states on the old plans the application was approved by the commission to be built in the center of the two lots and it was built about 6-feet off to the North.
- KK states that according to the file, Mr. Rizy bought 120 Clarke Road and the commission issued an Enforcement Order in 2001. B. Caron, who was the applicant for the driveway (120 and 118 Clarke Road) had not built the replication area—that is why the Enforcement Order was issued. Since that time Mr. Rizy was involved.
- EG states he feels this is a violation of the Order of Conditions—more wetland was filled. He questions if the Commission should require the crossing to be corrected.
- L. Jalbert states that with 190 square feet filled in wetland and 380 square feet of replication, the project is not an environmental impact. Removing a portion of the driveway that is already established may have more of an impact
- EG states it would probably be easier for the owner and abutters to correct the position of the road. DB questions who would be responsible to fix it.
- EG states that the driveway was put in the wrong location and that the Commission cannot give another crossing.
- Members have a brief discussion of crossing. DM states that the driveway is functioning and that removing and relocating would do more damage. DB brings up the retaining wall and the location of the culverts at the crossing.
- C. Rizy states there is a large tree in the area of wetland alteration.
- DB states that a versalok retaining wall is preferred. EG agrees and states that the versalok wall may require less alteration. Discussion of the retaining wall.
- EG states that the Commission should visit the site to look at the area of alteration and the replication area. SCC members agree. KK states that the plans should be revised to show the change in the retaining wall.

*Hearing continued on July 20, 2006 at 9:20 pm pending site walk and revised plans. Applicant representative agrees.*

### **PUBLIC HEARING**

NOI CONTINUED from 4/6/06: DEP 300-689. 8 Eagle Avenue, Proposed Church and property improvements. Jalbert Engineering representing New Life Fellowship.

**DB opens the meeting at 8:52 PM. (EG joins discussion at 8:54 PM).**

**Present:** D.Roberts, Jalbert Engineering, Inc.

L. Jalbert, Jalbert Engineering, Inc.

Pastor Kurt

**Discussion:**

- KK states that Jalbert Engineering submitted additional information on 5/15/06 and that Graves Engineering (third party) wrote a written response received today 5/18/06 (in members boxes for review). KK gives each member a copy of the Storm Water Management Operation Plan. She suggests that Jalbert Engineering go over the changes. She shows the members the plans and states her concerns with the maintenance, also specs of the underground facility.
- D. Roberts shows on the plans that they have met the guidelines of Stormwater Management. An underground storage unit is now proposed to allow seepage and the erosion controls have been relocated to the property line. A swale is proposed behind the building with a standard leaching pit. The only condition that they have exceeded is the 2-year storm, a 3-inch restrictor is proposed and for maintenance purposes, the restrictor cannot be any smaller.
- DM questions if small mammals get inside the pipe. D. Roberts states that a rodent guard will be installed at the end of the pipe.
- D. Roberts states that revising the BMP, there is more work within the 100-ft buffer zone. He states that the clean out of the system is included and he can forward a copy of the Spec booklet for the underground system.
- DG questions the construction sequence. KK questions the grading of the swale, the mitigation shown on the plan near the driveway and she wants to clarify the Operational Management Plan.
- There is a discussion of the Maintenance Schedule. D. Roberts agrees to clarify the Operation & maintenance Schedule
- EG questions how much wetland is being lost near the driveway with the plantings and D. Roberts states none. EG states that the 25-foot buffer zone restoration must be done first.
- DG states that they need a construction sequence prior to any work.
- Pastor Kurt questions about the building permit and not sure when they will start construction KK states the permits are good for 3 years and Extensions can be requested. Additional permitting with the Planning Board/Zoning Board is necessary.
- Pastor Kurt states they first would like to move rocks, plant trees, and remove the green house, they may not build for another 1 ½ years. KK states that the green house is close to the wetlands and located off property. DB states that approval from the property owner to remove the green house is needed. Also, a letter permit from the Commission (not shown on the plans).
- DG states that the third party review worked well.
- FD agrees and makes a motion to approve the project and EG seconds the motion. Discussion includes Special Conditions of a revised Operation & Maintenance Plan, Construction Sequence to be submitted and a letter for the green house removal. All in favor 5/0.

*Hearing closed and Order of Conditions to be issued. Jalbert Engineering, Inc to receive Original for recording.*

**PUBLIC HEARING**

NOI CONTINUED from 4/6/06: DEP 300-677. 246 Fiske Hill Road. One single family house. Para Land Surveying representing the property owners (D. Cournoyer, L. George & M. George).

**DB opens the meeting at 9:17 PM**

**Present:** R. Para, Para Land Surveying  
C. Sylvestri, abutter

**Discussion:**

- KK summaries that the revised plans were submitted 4/27/06 and the plans show the driveway out of the 50 foot buffer zone, a versalok wall was added and additional culverts were added. She requests that R. Para go over the project changes with the SCC.
- DB states that the plans show a great improvement.
- C. Sylvestri questions if the Commission can approve a plan without current septic system approval. KK states that the perc test has expired. DB states that they can Condition the project to require the Applicant to come back with any changes.
- C. Sylvestri states that a scenic road permit is needed. R. Para acknowledges.
- R. Para states that a perc test is to be done, but the location of the system is most likely where it will go.
- FD Motions to approve the plan, DG seconds the motion and revises it to include Special Condition that the versalok retaining wall must be built first. All in favor: 5/0.

*Hearing closed and Order of Conditions to be issued. Applicant representative agrees.*

**PUBLIC HEARING**

NOI CONTINUED from 4/6/06: DEP 300-695. 11 Library Lane, Septic System Repair/Replacement. Jalbert Engineering, Inc. representing F. Lyford and the property owners (Polk).

**DB opens the meeting at 9:33 PM**

**Present:** D. Roberts, Jalbert Engineering, Inc.

L. Jalbert, Jalbert Engineering, Inc.

**Discussion:**

- KK states that SCC members attended the site walk on 5/17/06. The concerns are: removal of trees off the property and the amount of tree clearing on a significant steep slope. The Commission requests that project alternatives are exhausted.
- L Jalbert reads the State Deed and he says that the deed allows the installation of septic system and they have the right to remove trees to put in a septic.
- L. Jalbert states that this is the only place to put the system in and it was approved by the Board of Health.
- DG states that the existing system is being driven over by cars and does not think the trees need to be removed.
- DB has a concern of the hillside being corrupted.
- D. Roberts states that the septic needs to go on top of the hill because they can not meet the set back for the well.
- Alternative locations are discussed.
- D. Roberts states that the Board of Health requires a 25-foot radius of no trees near the leaching pit.
- EG states that this is not an acceptable plan. The SCC needs to speak with the Board of Health, there are alternatives that exist that will not have an impact on the Lake.
- DB states that the removal of trees and the steep slope will cause erosion control problems.

- FD questions if the Commission is obligated to allow the project. KK states that the Commission's job is to review the project in accordance with the Wetland Regs.
- L. Jalbert states that Board of Health approval is already granted, they can get an emergency status declared. D. Roberts states that sewerage is going into the Lake with the failed system
- EG states there is nothing in the bunk house, he walked through and saw no bathroom or no facility
- DM states he is confused, if there are no facilities, why do you need a septic system—what is the source of sewerage?
- KK states that the Commission's concern is the potential for erosion and sediment into the Lake. Are there any alternatives and can the tree roots be left in place. D. Roberts states yes, they will be stumped and grounded.
- FD makes a motion to deny the project. DG seconds the motion. Discussion: DM states he cannot vote, he feels he needs to visit the site. All in favor of the motion to deny: 2 (FD and DG), opposed: 2 (DB and EG). Split Vote, therefore discussion continues.
- KK states she will speak with the Board of Health and find out if less trees can be removed.
- SCC members request to continue the hearing to determine if alternatives exist.

*Hearing continued July 20, 2006 at 9:40 PM. Applicant representative agrees*

### **PUBLIC HEARING**

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

### **DB opens the meeting at 9:56 PM**

**Present:** C. Kilgore

R. Uzasas

### **Discussion:**

- KK states that the ZBA did not grant a Variance and the three structures (deck, sunroom and garage/shed) must be removed.
- C. Kilgore questions the nature of the Order of Conditions since it will be for removing the structures.
- KK questions the footing of the structures and what will be removed and C. Kilgore states that the structures are on sonatubes.
- FD suggests to keep the sonatubes where they are, to be cut flush and covered.
- DG questions how low the water level is now and C. Kilgore states she is unaware.
- DB states that they need to install hay bales for the removal of the structures and that the fill over the sonatubes will need to be stabilized.
- EG wants to know why the Zoning Board denied the project and C. Kilgore states because of the small lot size. She states that the Zoning Board stated that this project would have never been approved even if she tried to get approvals prior to building
- DB states that the SCC has regulations in terms of the wetland with a 25 foot no build and a 50foot no structure buffer zone from the Lake.
- C. Kilgore states she would like to put in a temporary shed and EG states she will need to speak with the Building Inspector. KK states that she believes any structures under 120 sq ft does not need to go to the Building Inspector—but better check with him for sure.



- DM states that the temporary shed will need to be out of the 50-foot buffer to the Lake.
- C. Kilgore questions the distance of the hay bales and if the existing shed could be cut in half and moved out of the 50 foot buffer zone. The members agree but they can't make that decision.
- DG questions if they plan on putting vegetation around the temporary shed and C. Kilgore states they have no plan, they were going to seed and grass it.
- DM states that the existing plans should be modified to show the hay bale line. KK states that she can write the Order with Conditions for the hay bales, removal of the structures and that the sonatubes shall be cut flush with the ground. DM motions to issue the Order of Conditions to remove all structures as determined by the ZBA with the Conditions mentioned by KK. DB seconds, All in favor: 5/0.

*Hearing closed. Order to be issued for the removal of structures.*

### **OTHER BUSINESS at 10:14 PM**

#### **1) Discussion of Beaver issues at Opacum Land Trust – 14 Audubon Way. SCC 06-14**

- Present for discussion: C. Childress, Opacum Land Trust and S. Hilliker, Human Society
- KK states that the SCC members visited the site on 5/10/06, reviews photos and sketch. She states that there is a bridge crossing over a perennial stream. Beavers are damming where they hear water and she shows the members where the dams are. There is flooding on the trails and the Board of Health is deferring to the SCC for approval.
- S. Hilliker states he wants to drop the level of the pipes to one foot, add two additional pipes onto the two sides of the four pipes that are there now, which will make six pipes all together. Also, rebuild the stonewall.
- KK questions how long will it take for the water level to get down and S. Hilliker states about three or four days.
- KK also states that the culvert is not doing anything. This is always a problem and they need a permanent fixture. She questions to S. Hilliker, if he plans on installing beaver deceivers
- Members discuss the flooding issues and the proposed improvements
- DM suggest to remove the weir and keep existing four pipes and see how that works.
- KK states that with the culvert not working, there is no flow under the bridge.
- C. Childress states that the stream is flowing, they need to remove the dam and lower the pipes.
- KK states they need to protect the stream and the stream banks. SCC members discuss lowering the level of the wetland—not in favor of draining the wetland.
- The SCC members agree that S. Hilliker will use his best professional judgment in removing the dam and lowering the water level and repairing the flow. SCC members state that KK must be notified of all procedures.

#### **2) Discussion of 83 Cricket Drive (DEP 300-615) Cert of Compliance/Planting Plan**

- P. Montalto and J. Dulmaine present for discussion
- KK states that the SCC denied the recent request for a Certificate of Compliance at the site of inspection due to the steep slope and planting plan never coming before the SCC.
- DB states there needs to be plantings on the steep slope—it is not stable

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- P. Montalto states that the closing is tomorrow and that he will work with the Commission. He states that an extra \$4000 is included in the sale for repairs of the slope
- DM questions if the landscaper included soil with the estimate and J. Dulmaine states yes with four inches of loam.
- KK states they need a planting plan to stabilize it.
- DB states that the property owner is responsible for the Order of Conditions and doing the plantings
- J. Dulmaine states that the landscaper suggested strong perennials.
- KK states that the property owner is responsible. The Order of Conditions is still valid and that the Commission can issue fines if the slope is not stabilized with plantings and have a planting plan. J. Dulmaine states that a Planting Plan will be submitted.

3) Discussion of 9 Vinton Road (DEP 300-608) House location changes. Revised Plans Submitted.

- R. Hubon present for discussion
- KK states this is a tweaking of the house location from the original approval. Shed to be removed, there is a perimeter drain around the house. She recommends a site visit.
- EG states that the changes are minor and motions to accept changes, FD seconds. All in favor 5/0.

4) Discussion of 11 Bennetts Road Stop Work issued by Zoning Officer/Building Department.

- KK visited the property on 5/9/06 due to complaint received. New shed being constructed in place of an existing shed. Members review photos. Building Inspector issued stop work--at time of inspection, no erosion occurring. She does not anticipate any issues.
- SCC members agree that KK shall write a letter indicating to stay within the footprint.

5) Discussion of 109 Breakneck Road (SCC 06-06)

- House location changes. Revised plans submitted, SCC members agree that changes are minor—plan accepted.

6) Discussion of 232 Roy Road LP for Fence.

- KK visited the property on 5/10/06. Fence ok, must be installed by hand and clearance from the ground.

**Meeting Adjourned 11:30 PM**