

STURBRIDGE CONSERVATION COMMISSION (SCC)

Minutes for Thursday, April 20, 2006

7:07 PM Open Meeting

Members present: Dave Barnicle (DB) Chairman, Dave Mitchell (DM), Ed Goodwin (EG), Donna Grehl (DG), and Frank Damiano FD
Kelly Kippenberger (KK), Conservation Agent
Danielle Garry for minutes

7:08 PM CPA & Zoning Study Committee Updates

EG tables the CPA Update. He reminds SCC members that the OSV purchase is on the Town Meeting warrant.

FD states that he has missed the last two Zoning Study Committee meetings and he wishes to resign. DG volunteers to be on the Committee. DB accepts and states that Conservation Commission input is very important for the Zoning Study Committee

7:09 PM Minutes Approval

DB states that the members reviewed the 2/16/06 and 3/8/06 minutes prior to this meeting. DM motions to approve both meeting minutes as written. FD seconds, All in favor: 5/0

SCC members discuss the format of the meeting minutes. All members agree with the format changes including abbreviations for member names and bullet discussion items.

7:15 PM Walk In Session

1) D. Vizard present for discussion of demolition and reconstruction of a house at 124 Lane 10

- KK states that the SCC issued an Order of Conditions in September 2005 for the septic system. During the septic system permit process, members were concerned with the steep slope of the property.
- KK states that D. Vizard requested to speak to the SCC prior to filing the Notice of Intent for the house demolition and reconstruction—purpose of tonight's Walk In appearance. He wishes to get initial comments and concerns of the Board.
- KK states that her main concerns have to do with the slope of the property, construction access and that the house will be within 50-feet of South Pond. The house construction will also need clearance from Natural Heritage.
- D. Vizard shows the SCC a sketch of the new house footprint. He states that the footprint conforms to zoning regulations. He realizes the steepness of the property and states that the access path will be constructed after installing the sewer line already approved.
- DB states that the retaining wall must stay and he questions if the house will be the same footprint. DB states that the porch is not the house footprint. He questions the amount of tree removal.
- SCC members discuss if the porch is part of the footprint and if the Board will allow a larger house footprint.

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- D. Vizard states that the Building Code states that a porch is part of the building.
- FD shows concern for increasing the footprint of the house—he is considering the project new construction and it is within the 50-foot buffer zone. KK states that if there is more impervious area proposed in the 50-foot buffer zone, then the Notice of Intent must request a waiver and show mitigation for the new structure in the 50-foot buffer. She states that the project could be approved if there is an improvement to the Lake, such as plantings and enhancement to the buffer zone.
- D. Vizard states that the house is not visible to the Lake, there is a vegetated buffer to the Lake from the house.
- DB states that the Notice of Intent must be site specific. The Board will be looking for information regarding how many trees will be removed and how the contours of the property will change.
- SCC members question the status of the septic system work. KK states that the septic system reserve was installed near the garage on the flat portion of the lot. The sewer line to the house is not installed and she was informed that the office will be notified if construction on the sewer line will start. D. Vizard states that he needs approval prior to getting compliance for Title V.
- DM states that he will need construction details in the Notice of Intent, including a sequence and a list of machines to be used. It will have to be clear what is being done to protect the lake and the overall path.
- FD states that the project is pushing the envelope. He believes that the house should be pulled further from the Lake.
- DG states that her concern is the drainage of the property. The project should improve the property, the more trees removed the more generation of runoff.
- KK states that the plans to be submitted to the Building Inspector must be the same plans submitted to the SCC. The Building Inspector will only accept professional plans from either a Land Surveyor or Engineer.
- D. Vizard states that the project includes minimizing disturbance to the property.

PUBLIC HEARING

Discussion of Lake Vegetation Maintenance NOI Requirements

DB opens the Public Hearing at 7:36PM

Present: B.Gran

N.Applegate

Discussion:

- KK states that this is the first public hearing discussion on the Lake Maintenance Requirements. The SCC hosted two Task Force Meetings to develop a draft of the requirements—each Lake Association was represented at both meetings. The SCC made the requirements available to the public for review on 4/6/06 and this hearing was advertised in the paper on 4/6/06 and 4/11/06. Email notifications were sent to all Lake Association representatives and Lycott and ACT. ACT submitted discussion comments on 4/10/06, the comments were forwarded to the SCC members prior to this discussion.
- DM recommends discusses the ACT 4/7/06 letter and then opening discussion to those present. He states that the reason for developing these requirements is so that the SCC can issue Order of Conditions in accordance with the FEIR published by the state and the MA Wetland Protection Act Guidance for aquatic vegetation control.

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- DM states that the ACT comments are not major and that the main concern has to do with the survey of the area and providing mapping. DG states that GPS survey is not always accurate. DM states that mapping of the vegetation can be done by inventory.
- DB questions what are the specifics of the aquatic vegetation maintenance control, does it target a certain type of plant. DM states certain areas will need to be targeted and treated specifically.
- DG states to keep the lake vegetation under control, the residents need to keep it cleaned. Issuing a new Order of Conditions will set up a clean slate.
- EG questions if the lakes are tested for mercury. DM states that mercury testing is done by the State. N. Applegate (Walker Pond) states to test the mercury, you can freeze the fish and bring it to the fisheries.
- KK states, in reference to the ACT comments, the Order can be for 5 years if requested and then there can be Extensions and/or Amendments. EG questions if that is too long and DM states he doesn't think so. KK states that a Condition could be to receive the yearly reports and to copy the DEP
- N. Applegate states that the Association has received draft comments from Lee Lyman of Lycott. Lyman is on vacation this week and could not make this meeting. Lycott has submitted a cost proposal for the Notice of Intent: \$2,800 with \$1,200 for the 1st year application and \$1,200 every application there after. DG questions if the Association pays for all the costs and N. Applegate states yes. DG questions the Association has requested a quote from any other companies. N. Applegate states he does not know of any other company to go to.
- DB suggests to N. Applegate to contact KK and she will be able to give names of the other businesses that do aquatic vegetation treatment applications and N. Applegate states he can not because he has a contract with Lycott.
- DB states that aquatic vegetation control by means of herbicides may not need to occur every year in some Lakes. DG states that too much herbicide is not good for the lakes and there are other ways to treat the weeds.
- DM states he feels the Lake Associations have done a great job managing the lakes and the best way to keep it managed is to fine tune the treatment. N. Applegate states one year they treated the lake twice and the cost is too high to treat twice each year. DM states maybe lake members should complain and speak their concerns to save money. DM requests that the discussion is based of technical review and not the costs involved.
- KK states she would like get the SCC's thoughts and concerns about the filing fees for the NOI and the certified mailing abutter notification requirement for the public hearing. Sturbridge requires abutter notification for 200ft from the property line, while the state only requires 100ft from the property line. In the case of Lake treatment, the boundary of the Lake is the property. An option could be to waive the 200ft abutter notification and require the notification to be to abutters within 100ft of the Lake. DM states he does not have a problem with that and DG agrees. KK states that the Commission would have to take a vote to specifically waive the 200ft notification requirement of the bylaw.
- As far as mapping goes, KK asks the commission if they would be satisfied with getting a print out of the colored USGS topography map and areas marked for treatment. DG states the treatment area should be surveyed. DM states that the plant species below the water line will need to be identified.
- N. Applegate questions why the burden is put on the Lake Associations to do this work. DM states that it is in the best interest of the Lake residents to take care of the Lake, it is a privilege to live on the Lake.

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- N. Applegate states that the Association does not have the money to do the NOI. DM states that treatment may not occur this year then. Last year the Commission stated that new NOIs would be required because of the guidance changes. This is not new news.
- N. Applegate states that no filing is needed for invasive species. He objects to extensive mapping, it is too expensive. DG states that the Lake should get volunteers involved. DM states that he is sympathetic of the costs involved, but information has been missing from the previous permit applications. State guidance has changed and that is why the Commission is requiring new NOIs.
- N. Applegate asks if he needs to notify the abutters by certified mail or by regular mail and KK states public meeting law requires it goes by certified mail. L. Jalbert (audience) states that some people have easement rights on the Lake and they may not get notified.
- DM states that they need to move on and any comments can be submitted to KK in writing.
- KK states for the record that the ACT comment letter did state that the SCC's requirements are appropriate and reasonable.
- N. Applegate states that maybe he should propose a warrant for Town Meeting to start a fund, SCC members comment that it would be a good idea.

Hearing Continued to May 18, 2006 at 7:30 PM to allow additional comments to be submitted

PUBLIC HEARING

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

DB opens the Public Hearing at 8:20 PM.

Present: D. Roberts and L. Jalbert from Jalbert Engineering, Inc.

Discussion:

- KK states that the last hearing was 3/8/06 and Jalbert Engineering submitted a conceptual wetland replication plan for review and comment. At the meeting, SCC members agreed that it could be a good plan as long as the replication area succeeded. KK reviewed the replication plan and provided a memo dated 4/3/06. Jalbert submitted revised plans on 4/14/06 and a written response to her Memo on 4/18/06.
- KK reviews the replication plan with the Commission and points out discrepancy wetland area. She states that the Applicant is proposing 423 square feet of wetland alteration to the area that is a possible wetland and a replication area of 4,300 square feet.
- EG states that the SCC would be allowing fill where it is not a crossing. KK states that the Wetland Protection Act allows up to 5000 square feet of alteration if it is not a limited project
- DM questions if the replication area is a good location that will succeed
- D. Roberts states they are going to create a low area and install wetland soils and plants.
- DM questions where the ledge is on property. L. Jalbert points out the possible area of ledge and the natural contours of the property and the natural flow patterns.
- DG questions if the ground water will be affected and questions what if the replication area does not work. D. Roberts states that the replication area will be inspected and monitored by wetland specialist.
- DB is concerned that water is going to be diverted off site. DM questions what water will be going to the replication area.

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- DB states that according to MACC, 97% of replication areas have failed. The Commission needs to be reassured that the replication area does not fail.
- KK states she expressed to Jalbert Engineering this is a good plan if they are guaranteed the replications is going to work, i.e. hydrology, soil and plants.
- D. Roberts goes over the hydrology of the property with the Commission
- FD questions if they need to bring in a Wetland Scientist to review the replication plan. He questions if test borings need to be done.
- There is a brief discussion of the topography of the property. KK states that the property is disturbed, it has been plowed, cleared and the intermittent stream looks like it was previously dredged.
- FD states that it needs to be proven that the replication area will succeed.
- EG states he feels there is no reason to fill the wetland. His concern is to protect the wetlands and reasonable use of the land.
- KK states that the 400 square feet of fill is to a borderline wetland that was not part of the delineation submitted with the NOI. The replication area is 4,000 square feet in size and if it succeeds, it will be a benefit to the area. DM agrees with KK, but states that his concern is the hydrology of the property and the success of the replication area.
- DB requests a plan that will show the pre and post hydrology. He recommends that borings are done in the replication area to get a feel for the groundwater levels.

Hearing Continued to June 1, 2006 at 7:30 PM pending receipt of additional information.

PUBLIC HEARING

NOI for DEP 300-697. Proposed Stoneleigh Woods at 6-8 Chase Road and part of 9 Chase Road, 183 Charlton Road and 141 & 159 Fiske Hill Road. Waterman Design Associates Inc. representing Blue & Gold Development Group, Inc.

Discussion of opening the hearing begins at 8:45 PM

Present: W. Belec and P. Thompson from Waterman Design Associates
B. Griffin, New England Environmental, Inc.

Discussion:

- KK states that prior to opening the hearing, the Commission needs to evaluate the abutter notification, she believes that not all abutters were properly notified. KK wrote a memo with initial comments on 4/20/06. In her memo, she states that the certified abutter list included in the NOI is for 72 & 78 Hall Road, completely different address and locus for the project parcels. When the NOI was filed, she notified Waterman of the issue and requested that Waterman show the project locus on the Assessor Maps.
- W. Belec shows the members the ANR Plan and when the abutter list was obtained, the ANR plan had yet to be endorsed. The Locus of the project is a combination of many lots, some off Chase Road, Fiske Hill and the Charlton Road.
- KK explains that according to the Local bylaw, abutter notification must be done from the property line according to the most recent assessor map. The abutter notification was not done correctly in her opinion--it is from the project locus and not the property line. This is a big project

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and out of respect to the Applicant, she believes that all basis should be covered. She does not want to see the project appealed for procedure problems.

- DG states that project specifics cannot be discussed until the right abutters are notified, EG agrees.
- EG motions to continue the hearing opening until all abutters are notified--the abutter list shall match the project locus, DM seconds the motion, All in favor 5/0.

Hearing will open on June 1, 2006 at 7:50 PM

PUBLIC HEARING

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

REQUESTED CONTINUANCE

SCC Members accept request and continue the hearing to 5/18/06 at 9:20 PM

9:13 PM - SIGN PERMITS

SCC Members have time prior to the start of the next hearing and sign the following permits:

- ANRAD for DEP 300-690, 251 Arnold Road.
- AMENDED Order of Conditions for DEP 300-589, 43 Abrams Drive.
- EXTENSION for Highlands Order of Conditions, DEP 300-466.

PUBLIC HEARING

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

DB opens the Public Hearing at 9:17 PM.

Present: J. Presnosil, JMP Environmental

New Information Submitted: Newspaper Ad

Discussion:

- KK states that at the last hearing on 3/16/06 the Applicant representative did not have proof of the newspaper advertisement. SCC members agreed to open the hearing but if it was not advertised correctly, then meeting minutes would have to be read. KK reads 3/16/06 minutes.
- KK states she wrote a summary project memo on 4/5/06 that was forwarded to the Commission members for review. Key points from the memo include that the project has been on hold since September 2004. The Commission requested 3rd Party review and there were some financial delays. She requested that the applicant re-notify the abutters and re-advertise in the paper since it has been on hold for so long. The final delineation report by Art Allen of EcoTec is dated 1/25/06. The wetland boundary increased by approximately 27,964 linear feet. In KK's Memo, she requests to get updates of the logging activities and the status of the project in Holland. Also to take the buffer zones off the plan, only the resource areas should be shown
- SCC members recall being concerned with the resource area boundaries on plan sheet A2.
- J. Presnosil states that he feels if the members visit the site, it would explain the delineation better--especially in the areas of Riverfront. J.Presnosil goes over the topography map with the members.

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- DG questions if the stream has defined banks. J. Presnosil states there are no defined banks in the swamp area. The Riverfront area was determined off the elevation in some areas of the stream. There are also beaver dams in some areas of the property.
- KK states that it is important to understand how the Riverfront Area was determined. She states that typically Riverfront Area is determined by the Top Of Bank flags, but in this case there are no flags on the River banks. J. Presnosil reviews with the Commission the areas of the property that have flooding and where the Riverfront Area was determined off of the topo.
- EG questions how the topography was determined. J. Presnosil states that it was generated off aerials and also using spot elevations.
- DM states that the 200-foot buffer zone shall be on the plan to show the limits of the Commission's jurisdiction.
- FD motions to approve the delineation with conditions that the 200 foot buffer should be shown, DM 2nds. Discussion on the motion: DB states that the project is too premature to approve, he would like to walk the property. EG agrees, it is a large parcel and he would not feel comfortable approving the delineation without walking the property. All in favor of approving the delineation: 0/5. SCC members agree to take a site visit prior to voting on the project.
- J. Presnosil states that he would be happy to show the Commission the property. He also states that Holland has already approved the delineation in their Town. (submits ANRAD from Holland).
- KK questions the vernal pools. J. Presnosil states there are 3 potential vernal pools on the Sturbridge property and 2 on the Holland portion.
- DB states that there needs to be a site visit and that he would like to see the vernal pools on the visit and the areas of Riverfront. J. Presnosil agrees.
- SCC schedule site visit for 4/29/06 at 8:00am

Hearing continued to June 1, 2006 at 8:30 PM.

10:05 PM OTHER BUSINESS

1) Discussion of Extension Request for Lot 30: 38 Tannery Road (DEP 300-560) and Lot 31: 34 Tannery Road (DEP 300-550)

KK states that the Applicant previously requested the change the retaining walls to stone from versalok. The Commission denied the request. The Applicant is also requesting a 3-year Extension to the Order of Conditions. Both lots do not have houses built, but the lots are cleared and stumped and a trench has been dug for the retaining wall.

DB makes a motion to allow a six-month Extension from the expiration for both permits. EG seconds the motion. All in favor: 4/0 (DG not present for vote and discussion)

2) Discussion of Sturbridge Retirement Corp. Extension: DEP 300-528.

KK states that she met with the Applicant last week, the Order of Conditions was for water well installation. There are no changes from the original proposal, the project was held up at the state level.

DB makes a motion to extend the Order for 1-year. EG seconds the motion, all in favor: 4/0 (DG not present for vote and discussion)

3) Discussion of Tax Land (3/6/06 memo) and Chapter 61 Land (3/17/06 Memo)

1. 75 Farquhar Road – *EG motions to accept, DM seconds. All in favor: 5/0.*
2. 466 Leadmine Road– *DB Motions not interested, FD seconds. All in favor: 5/0.*
3. 265 Cedar Street - *SCC members request to visit the property*
4. 549 Main Street – *DB Motions not interested, FD seconds. All in favor: 5/0.*
5. 13 Cross Road – *SCC members request to visit the property*
6. 178 Breakneck Road - *SCC members request to visit the property*
7. Podunk Pike 205A – *DG Motions to accept, EG seconds. All in favor: 5/0.*

4) Discussion of 64 Main Street Emergency Permit

KK states that the Building Inspector has deemed the repair/replacement of the access to the building as an Emergency (determined unsafe). KK states that she has no issues with issuing a Letter of Emergency requesting a RDA after the fact.

EG states that a letter should be sent but no follow up is necessary--there is no expansion of the structure proposed. Other SCC members agree.

5) Discussion of Outdoor World (DEP 300-696) Revised Plans

KK states that she has visited the site and work has started. She is fine with the requested change, very minor--the request is for relocation of the spillway. Weekly reports have been submitted to the Office, KK shows members photographs

DM motions to accept and approve the change, FD seconds. All in favor: 5/0

6) Discussion of New Wildlife Guidelines

KK informs the Commission of the new Wildlife Habitat Guidelines published by DEP. Discussion of Appendix A Form and Appendix B Form

11:10 PM Meeting Adjourned