

STURBRIDGE CONSERVATION COMMISSION (SCC)

Minutes for Thursday October 19, 2006

7:03 PM – Open Meeting by Dave Barnicle

Board Members Present: Dave Barnicle (DB), Chairman; Ed Goodwin (EG); Donna Grehl (DG)
Kelly Kippenberger (KK), Conservation Agent
Danielle Garry for minutes

7:04 PM – CPA and Zoning Study Committee Updates

- EG updates the Commission on the River land and the status of the contamination
- DG states that the zoning study committee is looking at revisions to the Zoning Bylaw. The committee is looking at changing the zoning from $\frac{3}{4}$ acre to 1 acre.

7:07 PM – Site Walk Updates

- KK states that she attended a pre-winter site walk at Draper Woods on 10/11/06 with M.Marcus & K.Rabbitt. The project looks good, no major outstanding issues. Additional plantings are needed on the slope of the Replication Area. DB recalls the promise from M.Marcus that the replication area will succeed.
- KK states that the Town Hall received a complaint regarding work at 18 Cedar Lake Drive. She visited the property earlier in the week and sent a violation letter. KK shows members photos of the violations (10/16/06)--work and excavation within 5 feet of Cedar Lake. The Building Inspector has no building permit for the property--he is going to issue a Stop Work Order. DB states he also visited the property, there are hay bales and silt fence installed at the Lake's edge. The silt fence was not toed into the ground.

7:18 PM – Minutes Approval

- DB questions if board members reviewed the 8/31/06 minutes. DB states that he has made minor misspelling edits. EG motions to approve the 8/31/06 minutes with the spelling corrections, DG seconds. All in favor: 3/0.

7:20 PM – Appointment with Town Administrator

Grant Discussion, Forest Management Plan for 47 Finley Road

- J. Malloy present for discussion. J. Malloy states that between the grant that the Conservation Commission obtained for forest harvesting and the Old Sturbridge Village parcel, there should be a revolving fund for open space parcels.
- J. Malloy passes out a draft warrant article for a public lands revolving fund. He states that the article can be on the Special Town meeting set for 12/11/06. Draft articles must be submitted by 11/16/06. Members discuss the wording of the article. KK questions if the article is written for just for land owned by the commission and J. Malloy states that it is for any town owned open space land.
- Members and J. Malloy discuss what the revolving fund could be used for: forest harvesting, parking areas, trail maintenance, education etc.
- KK states that the members can review the article and then vote on it at the 11/2/06 meeting.

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PUBLIC HEARING

NOI CONTINUED from 9/7/06: DEP 300-684 for Demolition and reconstruction of a house and installation of a septic system at 80 & 118 Leadmine Lane. Jalbert Engineering representing the applicant, G. Pinto

KK reads the request for continuance received 10/16/06. KK recommends an acceptance to the request. DG motions to accept the request and continue the hearing to the next available meeting. EG seconds, all in favor: 3/0. Hearing continued to 11/2/06 at 9:25pm

DB reminds members to review the environmental report submitted last meeting. L. Jalbert submits revised plans to accompany the environmental report.

7:37 PM OTHER BUSINESS

Members have time to discuss Other Business before the start of the next hearing

- DEP 300-437 for 53 Beach Avenue: Request for Certificate of Compliance

Members visited the property on 10/15/06 and DB states he is okay with issuing the Certificate, members agree. EG Motions to issue the Certificate of Compliance, DG seconds. All in favor: 3/0.

- Discussion of retaining wall repair at 240 Roy Rd and 242 Big Alum Rd

Members visited the site on 9/30/06, the site visit report states that the members are okay with the wall repair if done by hand. KK states that the property owner may want to do more work than just repairing the wall and she believes that he may be present later in the evening to discuss. EG questions what the property owner is looking to do and KK states that she believes he may want to create beach.

DB Motions to approve the Letter Permit with conditions: No increase in beach area and walls to be repaired by hand, EG seconds. All in favor: 3/0.

- Request for Extension: DEP 300-596 for 264 Brookfield Road

KK states that J. Fearing wished to be present, however she was notified that he was in the hospital. He is requesting a 3-year Extension to the single family house project--Order of Conditions was issued 6/24/04. KK states that no work has started due to complications with frontage and access to the property. Members recall the project and are aware of the access issues--the property is located between Mt Dan Road and Paradise Lane. EG states that the property was in litigation for awhile, legit delay in the project and makes a motion to Extend the Order for 3 years. DB seconds the motion, all in favor: 3/0

- Hinman Street Apartments

L. Jalbert from Jalbert Engineering present and requests to speak to the Commission prior to next meeting. He states that he was contacted by an Attorney in regards to the Hinman Street apartments. KK states that she was also contact by an Attorney for the Request for a Certificate of Compliance , the Order of Conditions was issued in 1985. She believes L. Jalbert was contacted because is/was the engineer on the project. L. Jalbert states that they want him to go to the property but he cannot get involved for nothing. KK states that it is up to the property owner to prove to the Commission that the work was done in compliance. DB states that an affidavit from the Engineer may be necessary if the work was done 20 years ago.

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PUBLIC HEARING

NOI CONTINUED from 9/28/06: DEP 300-695. 11 Library Lane, Septic System Repair/Replacement. Jalbert Engineering, Inc. representing F. Lyford and the property owner's (Polk).

DB opens the public hearing at 8:02 PM

Present: L. Jalbert, Jalbert Engineering, Inc.

Discussion:

- KK states that revised plans were submitted on 10/13/06 that included clarification of which trees are to be removed and which trees are to stay. Commission is concerned about the large trees to be removed off property and requested documentation to be submitted from the property owner—Walker Pond Assoc.
- KK shows members the revised plans of the trees to be removed, stock pile location and the area of the leaching pit changed to a tight tank.
- L. Jalbert explains the temporary ramp to be built for construction access. The area of the ramp will be restored once the work is complete.
- EG states he wants clarification of trees to be removed and questions if hay bales can be moved to close the work area better. L. Jalbert confirms that the hay bales can be relocated. L. Jalbert states that they are still waiting for the letter from the Association for the trees.
- DG questions if there are any alternatives to taking the trees down. L. Jalbert states that the trees have to be removed for the swing of the construction vehicles. DG states that it is a shame to remove such large trees for a temporary reason.
- L. Jalbert states that the machine cannot drive over the existing system, there is a liability. Replacing the existing tank would be very costly.
- DB states that the applicant should consider replacement of the trees coming down.
- EG Motions to continue the hearing in order to receive plan revisions showing a revised hay bale location and area of plantings and the letter from the Association regarding tree removal and replacement. DG seconds. All in favor 3/0.
- Discussion continues.
- DB states trees or shrubs should be planted to stabilize the soils. EG would like to wait for the continued hearing to make that decision with the other commission members.

Hearing continued to November 16, 2006 at 8:30 PM pending revised plans and information.

PUBLIC HEARING

AMEND CONTINUED from 9/28/06: DEP 300-550 for 34 Tannery Road (Lot 31 Allen Homestead/Tall Pines Development). Revised location of house, driveway etc. Guerriere & Halnon, Inc. representing Noel Homes Realty Trust.

DB opens the public hearing at 8:12 PM

Present: E. Mainini from Guerriere & Halnon, Inc.

F. Noel from Noel Homes Realty Trust

Discussion:

- KK states that proper public hearing notification was received on 10/9/06—the 9/28/06 meeting was advertised correctly. A revised plan was submitted via email today, at the last meeting members requested that the plan be revised to show all present structures. KK states that the property is still

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under a stop work order and she was informed that the property was hydro-seeded for stabilization. KK questions the close proximity of the house to the access of the detention basin.

- E. Mainini states she did the topography survey on Monday and met with F.Noel in reference to the location of the infiltrators on the plans. She states that Richard Manville (engineer) could not be at the meeting tonight.
- E. Mainini reviews the original approved plan by the Commission and the recently changed plans. She states that the driveway is much smaller resulting in less impervious surface--about 1,000 sq ft less. She states that the new plans indicate better protection to the wetlands. She goes over the status of the lot, where the rip-rap is located and the disturbed areas.
- E. Mainini states that the sewer and water lines are already in, the retaining wall is complete and very little work is left to be done—they need to extend the rip rap and construct the house. Some grading is left to do as well.
- KK states she is concerned with the access to basin and forwarded it to Greg Morse for comment.
- E. Mainini states that as long as the house is not located in the access, then it is fine.
- EG states he has no questions.
- DG states that she cannot believe the retaining wall, it is a real barrier to wildlife.
- DB questions the rip rap slope near the drainage basin. F.Noel states that he installed the stones just for construction.
- EG Motions to accept the amended plans and issue an amended order after comments from Greg Morse regarding the access to the basin are received, DB seconds. All in favor 3/0.

Hearing closed and Enforcement Order is released. Amended Order of Conditions to be issued once comments from Greg Morse are received.

PUBLIC HEARING

NOI CONTINUED from 9/28/06: DEP 300-697. Proposed Stoneleigh Woods at 6-8 Chase Road & parts of 9 Chase Road, 183 Charlton Road and 141 & 159 Fiske Hill Road. Waterman Design Associates, Inc. representing Blue & Gold Development Group, Inc

KK reads the request to continue the hearing received 10/19/06-- the applicant wishes to present the changes when all members are present. Copies of the detention basin outlet revisions submitted 10/12/06 are in the member boxes for review prior to next meeting, the project revisions include removing the detention basins out of the 25-foot buffer zone. EG states that is good news.

DB Motions to continue the hearing to November 16, 2006 at 8:40 PM, EG seconds. All in favor: 3/0.

8:40 PM OTHER BUSINESS

(time available prior to start of next hearing)

- Members Sign Permits
- Members discuss site visits on 10/28/06 and work session on 10/20/06
- J. Veneziano present for 242 Roy Rd and 240 Big Alum Rd: DB states that the Commission already granted approval for the wall repair by hand. J. Veneziano states that he was going to talk to the Commission about creating more beach, but no longer cares to do so. Members state that repair of the wall is ok, but creating more beach would need a permit. J. Veneziano questions the drainage and flooding issues on Lake Road and the addition of a culvert. EG states that he should consult Greg Morse. The Commission cannot allow the wetland to drain, the culvert will have to be set at the right elevation.

DB opens the public hearing at 8:54 PM

Present: B. Babineau

A. Stone, Alton Engineering

Discussion:

- KK states that Members visited the property on 10/17/06 with the Applicant and Representative. The wetland delineation approval and the determination of a ditch are outstanding (stream reclassification to intermittent was previously granted). At the site walk it was made clear that the Commission is only reviewing the west side of the wetland. Members requested that the Applicant submit additional information in regards to the delineation and compare the area to the Act and the Bylaw. Letter was received today at 4:00pm dated 10/19/06 from A. Stone, copy in mailboxes for review.
- KK states this is a difficult determination due to the disturbance and the hydrology of the site. Her comments are that there is no specific soil information included in the letter and the area of the ditch with flowing water is a concern.
- At this time the Conservation Members review the letter dated 10/19/06.
- KK reads from the Town Wetland Bylaw the “Definition of a Stream” and shows the members the area of the plan where the ditch had flowing water.
- A.Stone reviews the area of wetland flag A-14 with the members. Under the Act, a ditch is not a stream if flowing into a resource, it needs to be flowing within or out of a resource to be jurisdictional. He does not disagree with the Commission that the area does have some wetland plants. At Wetland flag A-13 he states that the wetland vegetation is greater than 50 % of wetland indicator species but there is not really the presence of hydric soils.
- KK questions if there are soil specific information in the letter and A.Stone states no.
- DB states that the property has been disturbed, there is no layers in the soil and there was flooding by beavers, which the applicant has taken care of. Even the ditch had beaver dams, meaning water was flowing. The review is very site specific.
- A.Stone states he does not disagree with DB but there is compact soil in the area--hard ground. It is not an ecological wetland area.
- DG states that the times that she has visited the site, where the ditch takes a turn there has always been flow. Water is present in the area.
- EG agrees with DG and states that there is a great deal of flow because of new construction and impervious area uphill from the property. The area has continuous underground flow. He is uncomfortable with the wetland delineation. He believes that the ditch was dug to keep the upland portion of the property dry
- A.Stone states he feels the main part of the ditch is not a stream. He does agree that there is an influx of ground water at the bend in the ditch.
- DB states that he is not willing to approve the delineation as it is shown. The applicant must decide if he wants a vote or re-flag the wetlands.
- A.Stone states he contacted the developers regarding the issue’s at hand, but has not received a reply so at this time he would agree upon a continuation.
- DB suggest to close the hearing and request a Notice of Resource Area of Delineation. KK agrees to close the hearing, issue a Positive Determination and request a Notice. A. Stone states that there is no real difference between a RDA and a Notice of Resource Delineation except the form. KK states the main difference is the filing fees and DEP File. Herself and the members have spent a lot of time

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reviewing this application and visiting the site on many occasions. She states that the Commission should look into revising the local regulations to only allow a RDA for small wetland delineations.

- EG states that he is willing to continue the hearing to get a response from the developers of the property and/or re-flag the wetland. But he cannot approve the delineation as shown. EG motions to allow continuation for additional information, DB seconds. All in favor: 3/0.

Hearing continued November 16, 2006 at 9:10 PM pending additional information

PUBLIC HEARING

NOI CONTINUED from 9/28/06: DEP 300-708 for 9 Library Lane, construction of a driveway. Jalbert Engineering, Inc. representing the property owner George Hammond

DB opens the Public Hearing at 9:24 PM

Present: L. Jalbert, Jalbert Engineering
G. Hammond

Discussion:

- KK shows members the revised plans submitted 10/12/06 and goes over the changes--revisions to the pitch of the driveway and changes in the plant species. KK states that her only concern is that temporary hay bales should be at the end of the driveway.
- L.Jalbert reviews the trees in the rear that may be removed due to the grading.
- DG questions if the grass is going to be mowed along the driveway and G. Hammond states no, he wants it to grow back naturally.
- EG Motions to approve the project with the condition that hay bales are to be placed at the end of the driveway, DB seconds. All in favor 3/0.

Hearing closed and approval Order of Conditions to be issued

PUBLIC HEARING

NOI CONTINUED from 9/28/06. DEP 300-717 for 144 Lake Road, proposed re-construction of a closed porch. Jalbert Engineering, Inc representing John Argitis

DB opens the public hearing at 9:29 PM

Present: L. Jalbert, Jalbert Engineering
J. Argitis

Discussion:

- KK states members visited the property on 10/15/06 and revised plans were submitted on 10/17/06 as a result of the site walk and include removal of the existing walkway, relocation of the stairs, and revisions to the garage roofing. KK shows members the revised plans and states that the proposal is to remove the deck and increase the size of the porch on footings. The distance to the lake of the porch matches the distance of the deck to the Lake, 4 feet. The applicant has agreed to remove the walkway and loam & seed, relocate the stairs away from the Lake. She has no issues with the project.
- J.Argitis states he did additional planting; he planted four Mountain Laurel at the north side of the house near the lake. He ensures that there are no erosion issues on the property.
- DG questions if the property is still divided and J.Argitis states that they are two separate addresses but he owns both properties.

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- DG questions if there are any alternatives such as using the footprint of the deck. J.Argitis states that he looked into using the area of the deck but the roof pitch lines make it complicated.
- L. Jalbert states that the new porch will only be 4 footings, minimal ground disturbance.
- DG questions if the existing roof drains go into the Lake. J. Argitis states yes. DG questions if the new porch will have gutters. J. Argitis states that if the commission would like gutters then he can install them. Members state that it is not necessary.
- DB states that it appears that the Applicant is willing to work with the Commission, the plans show all of the member's requests at the site visit.
- EG states that the property is flat so there really is no concern for erosion if the hay bales are installed. Members agree and state that the walkway should be natural ground.
- EG Motions to accept plans as revised, DG seconds. All in favor: 3/0.

Hearing closed and approval Order of Conditions to be issued.

PUBLIC HEARING

NOI After The Fact: DEP 300-719 for 400/420 Route 15 Culvert Repair. Bertin Engineering Associates representing Pilot Travel Centers LLC

DB opens the public hearing at 9:40 PM

Present: M. Loin, Bertin Engineering Associates
G. Harris, Pilot Store Manager

Newspaper and Green Cards: M. Loin states that it was completed but forgot to bring to hearing. Members agree to open the hearing, with the understanding that the proof must be submitted to the office tomorrow. If it was not advertised correctly, the meeting shall be re-advertised and the minutes will have to be read.

Discussion:

- KK states that DEP has yet to issue a DEP file number, so the hearing cannot close. NOI is for work that occurred as a result of an Emergency Order. The NOI included a timeline of construction and plenty of photographs. Herself and Greg Morse commented on the NOI—KK reads 10/13/06 email requesting to clean out pipes and monitor. Applicant representative is claiming that Phase II does not need to occur, KK recommends that additional documentation needs to be submitted.
- KK shows the members the photographs that were submitted with the filing. KK states that CJ, the Pilot construction manager would like to be present at the next hearing to address the Commission's concerns.
- DB questions the emergency and why Pilot took two months to respond. KK states that the Pilot contact changed from the initial sink hole to when the work was done. Pilot has apologized in writing for their lack of response.
- M.Loin states that he agrees that the gravel in the pipe should be cleaned out.
- M.Loin explains why the sink hole occurred, bad construction during the access road installation. He believes that Phase II does not need to happen and that the rest of the pipe is in good shape.
- EG Motions to continue the hearing so all members are present, DG seconds. All in favor 3/0.
- Discussion continues of the clean out of the culverts. KK states that the culverts should be cleaned out and monitored to see if the silt is from construction or from damaged pipe. Members agree.
- DB states that that Commission needs to know if the culverts were put in at the same elevation. M. Loin states that the pipes were put where the original pipes were. The new pipes are concrete cased and the other pipes were metal, a 36 inch section was in the middle of the hotel access road.

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- KK state to M.Loin that pictures need to be taken of the cleaning and monitoring of the pipe and M.Loin agrees. M. Loin states that especially after rain photos will be taken.

Hearing continued November 16, 2006 at 9:25PM

10:02 PM - OTHER BUSINESS

- Discussion of the Sanctuary DEP 300-470

KK states that the Sanctuary Permit expired 9/3/06. The Extension permit stated that top coat was to be installed on 11/17/05 and that as built are to be submitted. A violation letter went out on 10/12/06 requesting that T. Moss be present tonight to address the expiration of the permit. The Commission should consider fines.

DB suggests that KK call, email and send letter to T.Moss on Monday and explain that if he does not respond by Friday, October 27, 2006 then fines will start--retroactive from Monday October 23, 2006. There is absolutely no reason the Commission should be ignored. The project is not in stormwater compliance and the permit has expired.

EG Motions to send a second letter requesting a response by 10/27/06 or fines, DB seconds. All in favor 3/0.

- Discussion of 468 Leadmine Road: Request for Certificate of Compliance DEP 300-612.

KK states that members visited the property on 10/15/06. Members visited last year and found erosion issues and the driveway was built in a different location.

DB states that everything is stable enough for the Certificate of Compliance, but he suggests plantings where the driveway was supposed to be. He is concerned with erosion entering the road and there is a major wetland across the street. He states that the applicant needs to come to let the Commission know of what types of plantings will be planted. Members agree and KK to write a letter to applicant with requests.

- Discussion of 190 Lake Road: Letter Permit for shed.

KK states she visited the property on 10/18/06, she has no issues. She shows members the photographs and the submitted sketch. She states that crushed stone will be installed first and then the shed will be put on the stone bed. No trees will be removed.

EG Motions to issue a letter permit approval, DB seconds. All in favor: 3/0.

- Discussion of 90 Westwood Drive: Request for Certificate of Compliance DEP 300-507.

KK states she visited the property on 10/18/06 and she shows members the photographs and plans. She states she has no issues--the applicant added stone beneath the deck, a gravel walking area on the sides of the house and gutters. There appears to be no erosion issues.

DB states that it is a major improvement from when he walked the property about 2 years ago. DG Motions to issue Certificate of Compliance, EG seconds. All in favor: 3/0.

- Discussion of the Mullin Rule

Members state that the Mullin Rule would be helpful. DB states that attendance at all meetings was not required for Conservation Commissions--previously confirmed by Town Counsel. DB motions to allow Mullin Rule. DG seconds, all in favor: 3/0.

Meeting Adjourned 10:30 PM