

STURBRIDGE CONSERVATION COMMISSION

Meeting Minutes for Thursday, January 4, 2007

7:04PM: Open Meeting

Members present: David Barnicle (DB) Chairman, Donna Grehl (DG), Ed Goodwin (EG), David Mitchell (DM) and Frank Damiano (FD) at 7:12PM
Kelly Kippenberger (KK), Conservation Agent

7:05PM Discussion of Proposed Fiske Hill 40B Project

Members discuss where the project is located. KK states that the Board of Selectman are reviewing the project and providing initial comments to the state. KK states that 40B projects are reviewed by the Zoning Board of Appeals and local bylaws do not apply.

7:06 PM: Discussion of Plimpton Property off Allen Road

KK distributes the letter from Waterman Design dated 1/3/07 notifying the Commission of soil investigations to be done on the Plimpton Property. KK reviews previous correspondence from 2005 when there was a complaint from an abutter of machine work. DG and DB recall walking the property along the cart paths in Fall 2005. Members discuss the property conditions: mostly upland, some intermittent streams, soils are not firm. DB recalls in 2005 there were several areas that looked like "perc" testing. Members state that KK should write a letter thanking Waterman Design for the courtesy, and ask where the property will be accessed. Also request contact information of the contractor and monitor and confirm that work near wetlands and streams is to be minimized (FD enters the meeting at 7:12pm)

7:18 PM: Appointment for 376 Main Street Violation

- P. Davis from Baystate Environmental present for discussion.
- KK states that an Enforcement Order was issued on 12/4/06 for excavation with no permits and no erosion controls. It appears that minor sediment entered the perennial stream, marsh area of the outlet of Cedar Lake. The Enforcement Order included a NOI deadline of 1/4/07 or fines. KK states that she spoke with the Environmental Specialist a few days ago and informed him that if a NOI cannot be filed within that time frame, then at least an evaluation of the sediment and proposed remediation should be done.
- KK states that she received the sediment evaluation on 12/29/06 and was informed that a NOI will be filed by 1/18/07. Additionally, Natural Heritage responded on 12/19/06 and have specific requests regarding the erosion controls (KK reads letter). KK states that erosion controls were installed as soon as she issued the Enforcement Order and verbal cease and desist. She states that the Commission should decide if the sediment should be removed prior to the NOI filing.
- P. Davis states that he visited the property as soon as the property owner signed the contract. The NOI will be filed by 1/18/07 no problem. The site plan is the hold up for the NOI.
- P. Davis states that there are beavers and/or muskrats present. It appears that some of the sediment in the photographs are from the dens in the banks of the stream.
- EG questions what work was done. P. Davis states that a handicap ramp was removed and some pavement. The NOI will include relocating the ramp and repaving the parking lot.
- DB asks how is roof runoff handled? P. Davis states that the building has no gutters and that could be why the sediment entered the resource. The amount of sediment is minor about 2-inches in depth. He used a hand auger to determine the depth of the sediment.

- DB states that he hopes the NOI includes a perimeter strip around the building, at least a foot-wide. KK states that the building did have landscaped areas around the building, she recommends seeing what is proposed in the NOI.
- P. Davis states that some of the sediment is from the beavers and muskrats, the banking is starting to slump and is visible since the water level is low.
- DB states that there is a steep slope leading to the wetland, maybe the property owner should armor the slope. P. Davis states that he is not sure that would work. He states that the slope slumping is not a critical situation, but wanted to make the Commission aware.
- EG questions if it was because of the draw down of the Lake. P. Davis states that it looks like there was a beaver impoundment near Route 20 that was recently removed.
- KK questions if the sediment will travel down stream if not removed. P. Davis states there is no flow in the area of the sediment, he doesn't think it will go anywhere
- Members state that they are okay with waiting for the NOI review to remove the sediment.
- Members state that they are okay with the NOI submittal prior to 1/18/07. KK states that if the NOI is not submitted by 1/18/07, then the owner will be fined. P. Davis agrees.

PUBLIC HEARING: Requested Continuance

NOI CONTINUED from 11/16/06: DEP 300-678. 186 New Boston Road, Single Family House and Reclassification of a Stream. Green Hill Engineering representing J. Boutiette

Hearing scheduled for 7:30PM. KK reads request for continuance from Green Hill Engineering. Members agree to continuance.

Hearing continued to 2/1/07 at 7:30pm

7:40 PM: CPC and Zoning Study Committee Updates

EG states that the CPC is discussion if CPC funds cover weed treatment in Lakes. The CPC has requested to get legal guidance from Town Counsel. The question is maintenance verses restoration. EG questions who owns the dams of the Lakes. DM states that he believes that the Associations have typically regulated the water elevations of the Lakes.

DG states that the Zoning Study Committee will have 4 amendments to the Zoning Bylaw on the annual Town Meeting, but they have nothing to do with Conservation

7:45PM Site Walk Updates

KK briefly mentions the recent site walks that she has gone on. No immediate actions necessary.

Allen Homestead with DEP 1/4/07

222 New Boston Road (DEP 300-590) erosion control check 1/4/07

Spaho 5-Lot Subdivision (DEP 300-720) 1/2/07

58 Main Street (DEP 300-713) 1/2/07

269 Cedar Street Lot 2 Erosion Control Check 1/2/07

7:50PM Sign Permits

7:52PM Approval of Minutes

FD moves the motion to approve the 11/2/06 Minutes as written. All in favor: 5/0

FD motions to approve the 11/16/06 Minutes as written. DM seconds the motion and has a few minor spelling edits. All in favor: 5/0.

PUBLIC HEARING

NOI CONTINUED from 12/7/06: DEP 300-724 for Septic system repair/upgrade and stormwater reroute at 31 Bennetts Road. Jalbert Engineering, Inc. representing J. Dulka

DB opens the public hearing at 8:02PM

Present: L. Jalbert, Jalbert Engineering
B. Kilcup (Septic manufacture)
JT Dulka

Discussion:

- KK states that revised plans were received on 1/2/07 that include changing the septic system to an Eljen Soil Absorption System (smaller impact area) and it is now located where the circular driveway is. Much better plan than what was previously filed. Board of Health status remains outstanding. The Board of Health has requested clarification as to why the system needs to be upgraded and changed from a tight tank.
- L. Jalbert submits pumping records and state that the tank was pumped in 2003, 2004, 2006 (pumping records are invoices from Slims)
- Members review photographs of the property from the site walk
- L. Jalbert submits state approval of the Eljen Septic System. B. Kilcup states that the new system will require a yearly inspection. FD states that he had issue with previous system and maintenance
- DB questions why tight tank to conventional system?
- L.Jalbert states that the new system will have annual basic maintenance and it is approved by Title V
- Discussion of tight tank verses new system. FD states that he doesn't have a problem with a property owner that wants to upgrade their system.
- DB states that there is a lot of water in the area, how do we know that it will work
- B. Kilcup states that it is a pre treatment system. He describes how the system will work to the Commission.
- DM states that there is a wetland area that is not shown on the plan, the wetland area is based off observations of visiting the property. The new system could be within 22-feet of a possible wetland area
- L.Jalbert reads state Title V setbacks for septic systems. He states that he moved the system as far as possible from the property line and the wet swale. He states that the new system conforms to wetland protection. KK states that the Board of Health has a 50-foot buffer requirement for system repairs. L.Jalbert states that buffer applies to regular septic systems
- FD states that he has no problems with the plan.
- DB questions if the applicant can verify that the water table is more than 2 feet down from the surface. L.Jalbert states that the water table is 30 inches from the surface and it will be a raised system
- EG questions why they have changed the system location and type from the original submittal L.Jalbert states that they shifted the system because of the wetland and the Eljen system is now proposed due to new information.
- EG states that an independent soil scientist should mark the wetland. L. Jalbert states that if the Commission requires that, that would be fine.
- EG questions what is the Board of Health's local set backs from wetlands. L.Jalbert states that a new system is to be 100 feet from wetlands, and a repair should be located the maximum distance feasible.

- KK states that if commission feels it is a wetland then it should be labeled on the plan
- EG states that the wetland should be professionally marked and delineated.
- DG questions if ground water borings were done. She asks the owner if the basement is moldy. JT Dulka states that there is dehumidifier.
- FD makes a motion to approve the plan with EG suggestions delineating the wetland. DM Seconds the motion. Discussion: DM states that the wetland is small in size. FD submit wetland information after approving project
- KK states that there are multiple issues that remain. The driveway conflicts with what was approved 3 years ago for the housework and there is no Certificate of Compliance. She also states that there are drainpipes to be relocated on the property. DB states that the Commission does not know where the water table is and is a concern, the site is wet.
- L.Jalbert states that before any work is done, the area will be inspected by the board of health-- prior to system installation and after excavation.
- DG questions the subsurface drain to be relocated. L.Jalbert states that the relocation is not necessary
- L. Jalbert states that there is a pipe near the shed that is in poor condition. There is sheet flow from the abutting property.
- DB reminds the board that there is a motion on the floor and asks if any abutters are present. T. Chamberland (abutter) discusses the water on the property. He states that there is a drain in the front of the house and there was a sub surface drain installed from the area in front of driveway to avoid pooling, there was a lot of surface water in driveway. In the area of concrete near the house there is a 12in pipe buried that drains the cellar. The perimeter drain of the house drains directly to the Lake. He states that there are many issues on property
- JT. Dulka states that he did not know about the perimeter drain requirement, the contractor did it. He states that he wants to do the right thing and does not want to impact the Lake. The swale was dug prior to 1964 in an attempt to keep water away from house. The new system is the most minimal invasive system and it will put clean water back.
- DG questions what is going to happen to the drain. Members request clarification of drains to be removed & relocated. L.Jalbert states that the plans are incorrect.
- KK states that the plans should be revised to show what exactly is going on. DB agrees.
- FD states that it is unfair to hold up a vote for a typo on the plan. KK states that it is more than a typo.
- JT Dulka states that he has never seen the pipes run with water. When the house was under construction, the concrete truck got stuck in driveway, that is why the pipe was installed
- Discussion of where all the pipes are on property. FD states that revised plans can be submitted with the As Built drawings once the work is done. L.Jalbert agrees and states as built will be done
- KK does not advise the Commission to approve project changes through As Builts.
- DB reminds that there is a motion on the floor that has been seconded: approve the project and have revised plans be submitted showing the wetland delineation. All in favor: 2 (FD, DM) and 3 opposed
- L.Jalbert requests a continuance of the hearing to allow for revised plans to be submitted showing the wetland location and all drain pipes on property. Members agree that the hearing can be continued pending revised plans.

Hearing continued to 1/18/07at 8:20PM pending revised plans.

PUBLIC HEARING

NOI CONTINUED from 12/7/06: DEP 300-721 for Septic system repair at 46-48 Goodrich Road. Jalbert Engineering, Inc. representing R. Grzesiuk Trustee

DB opens the public hearing at 8:39PM

Present: L. Jalbert, Jalbert Engineering
R. Grzesiuk

Discussion

- KK states that revised plans were submitted on 12/15/06 that shows the elimination of three retaining walls and the tank is to be exposed, not buried. Much better plan than what was originally filed, less ground disturbance. Board of Health approval is outstanding, the Agent is looking into the possibility if a tight tank can be exposed and the Agent questions the wall footing on ledge.
- L. Jalbert states that the Board of Health has already approved an exposed system next door. L. Jalbert states that the affluent keeps the tank from freezing.
- DG states that the plan has approved, less ground disturbance and less tree removal. L. Jalbert agrees and states that the previous plan included work that was not necessary.
- DM questions if any blasting will occur. L. Jalbert states that the trench will be hand dug.
- L. Jalbert submits a photo of the small injector pump to be installed in the house.
- FD questions if the tank can be exposed, then why wasn't that proposed originally. L. Jalbert states that the person who did the design work assumed that the owner wanted the tank buried.
- KK questions if the work is still going to be from the roadway. L. Jalbert confirms and states that minimal tree clearing will be done, maybe two trees removed.
- DB questions how the proposed tank will connect to the bedrock. L. Jalbert states with a 2-inch hole and pin.
- KK questions the maintenance work on the deck and retaining wall for the house. R. Grzesiuk (from the audience) states that the deck will be the same footprint and it will not be enlarged.
- FD states that the plan is better because it shows minimal excavation and minimal tree clearing. He motions to approve the current plan. EG seconds the motion. All in favor: 5/0
- KK states that if any changes are made during the Board of Health process then the changes must be submitted to the Commission.

Hearing closed. Approval Order of Conditions to be issued

PUBLIC HEARING

NOI CONTINUED from 12/21/06: DEP 300-714 for 120 Lane 10, proposed house demolition and construction of a new house. Green Hill Engineering, Inc, representing Vizard

DB opens the public hearing at 8:52PM

Present: D. Vizard

Discussion:

- KK states that revised plans were submitted on 1/2/07 (access drive restoration plan) and her only questions at this point are: type of machinery to be used, how will gravel be removed, and monitoring of plants need to be more than one year.

- D. Vizard states that some gravel will be removed from the access path—the gravel at the edges leaving the center gravel. Most of the compaction of the trap rock will be from a small machine used for the construction of the house. The outer edge of the access rock will be removed, leaving about an 8-ft wide path.
- DM questions what will be done with the removed rock. D. Vizard states that he will use it for the drip line around the house
- FD states that the gravel does not need to stay on the access path. D. Vizard states that it will be compacted from the machine use, it would be more detrimental to remove it all.
- KK states that the monitoring should be more than one year.
- Discussion of the gravel access width. KK looked at the 12/21/06 minutes and confirms that the Commission wanted a 6-foot wide path left, not 8-feet wide.
- FD states that the applicant just wants a driveway, never in a million years would he allow this construction—too steep of a slope, but it is grandfathered.
- DM states that the access should be changed to 6-feet and the plantings shall be monitored for 3 years.
- DG requests to review the number of trees to be removed. She counts 18 trees to be removed. DG shows concern for a clump of birch trees holding back the bank. D. Vizard states that he knows of the trees DG is referring to and he is concerned with the health of the trees.
- KK states that the erosion controls are the limit of work. D. Vizard states that the trees are to be stumped. DG states that the trees are important to the resource.
- DM makes a motion to approve the project with amended plans: 6-foot wide path after construction, 3 years of monitoring, and only 18 trees to be removed as indicated on the plan. EG seconds the motion.
- D. Vizard states that the vehicles used will be small machines.
- All in favor: 4/1 (FD opposed)
- Discussion of woolly adelgid for hemlocks. D. Vizard recommends that the Board reads an article on saving hemlock trees

Hearing Closed. Approved Order of Conditions to be issued.

PUBLIC HEARING

NOI CONTINUED from 12/21/06: DEP 300-720 for proposed 5-Lot subdivision at 12 & 30 Farquhar Road. Bertin Engineering Associates, Inc. representing The Spaho Corp. (20-minute discussion on DEP 300-583—previous project on subject parcel. New project discussion continued to 1/18/07)

DB opens the public hearing at 9:28PM

Present: H. Blakeley, Bertin Engineering (in audience)
Abutters (in audience)

Discussion:

- KK states that the purpose of this discussion is for the Board to review the previous condo project DEP 300-583. No discussion of the new proposal shall occur until the next hearing 1/18/07. The condo project that was approved by the Conservation Commission in December of 2004 does not have approval by the ZBA, so the project is not a “valid” project so to speak. I believe the Commission wanted to review the Open Space for the Condo project and the wetland resource areas delineated previously. Approved plans by the Commission are dated 12/16/04—12 acres

was to be Open Space and 4.5 acres were to be a conservation easement. The wetlands were originally delineated by WET, Inc. and reviewed by BSC Group.

- Members review old plans. DB points out to the Commission members who were not on the board at the time of the condo project (DG and FD) where the open space was to be and where the wetland crossing was to be.
- Members review the open space plans. Members review the Order of Conditions
- C. Blanchard approaches the table. He questions the Open Space for the Condo project.
- DB states that the Condo project included access to the open space with two spots for the general public.
- Members review the project plans and comment that the Condo project went before the board on multiple occasions before getting an approval.

OTHER BUSINESS (As Time Allows)

1) Discussion of DEP 300-314: 120 & 118 Clarke Road at 9:42 PM

- Present for discussion: C. Rizy, property owner of 120 Clarke Road, Atty E. Neal and L. Jalbert representing the owners of 118 Clarke Road.
- KK states that this discussion is from a letter that the Commission sent out in October notifying the two property owners that there are violations with DEP File No. 300-314. The Commission gave a 75-day deadline for a response and the deadline is about 1/8/07. No information from C. Rizy yet and the Commission received a letter from Neal Law Office representing the Howertons stating that the As Built drawings represent the location of the driveway. I sent out a reminder on 12/20/06 to both property owners stating that the As Built drawings do not provide details of the replication area.
- C. Rizy states that he requested a letter of compliance from B. Lucia of WET, Inc. for the replication area. The Commission answered back that a certificate cannot be issued until after a growing season. He sent 3 emails to the office after the growing season to N. Ryder (Conservation Agent at the time) but never heard a response. C. Rizy states that he took over the problems of the property and recalls asking the Commission what can he do to make it right. He did the replication and thought everything was fine, five years have gone by and he questions why is there a problem now. He recalls members telling him that the replication area was the best in Town. He attended many conservation meetings over the years, he doesn't understand why he is back in front of the board.
- FD states for right or wrong, the driveway not built in accordance to the plan which created a hardship for the abutting property owners. He comments that the restoration may have went well, but questions why the driveway issue hasn't been resolved.
- C. Rizy states that things happened between the new homeowners, he went out of his way to tell them of the potential issues with the Lot. He spent a lot of money on his house and spent a lot of time warning the potential owners.
- FD states that the issue can be resolved with a slight modification of the property line. If such a simple solution exists, why do the wetlands need to suffer.
- EG questions if C. Rizy was the property owner at the time of the driveway construction. C. Rizy answers he never had anything to do with the driveway
- EG wonders if B. Caron sold the properties with rights of ways. KK states that the Commission issued an Enforcement Order to C. Rizy, owner of 120 Clarke Road and B. Caron, owner of 118. That is when C. Rizy did the replication areas.

- C. Rizy states that he knew the driveway was in error when he bought the property. Spent a fortune to build the house, tried to do the right thing. 5 years have since gone by, why is the Commission bringing this up now.
- EG states that from a moral point of view, when you (C. Rizy) bought the land, you thought they had a right of way. The driveway was shared and you bought the property with a shared driveway—the intention for a neighbor was there.
- C. Rizy states that he went great lengths to show the people (Howerton) the situation.
- FD states that he wants to see the problem go away. From a wetlands point of view, he wants to see the right thing done without land disturbance. C. Rizy should make it right.
- FD comments that there is no Certificate of Compliance for DEP 300-314 and now the Commission realizes that the driveway is in error
- DM states that he understands why C. Rizy is aggrieved however he does not believe that any rights or privileges were denied. It was intended to be a shared driveway down the middle of the two properties
- FD states that he will never vote to allow the driveway to be expanded into the wetlands.
- E. Neal states that the superceding plan before DEP is an as built of the driveway (DEP 300-698). He respectfully requests that the Commission acknowledges that the Howerton's are in compliance
- C. Rizy states that the Building inspector has an As Built for the driveway—he needed it for the Certificate of Occupancy
- DB states that the Commission should compare the two plans, the Howerton's As Built with Jalbert Engineering and the As Built on file.
- C. Rizy states that he has been a good neighbor, he has been in front of the Commission at least 11 times trying to do the right thing.
- EG states that the Commission cannot allow an additional wetland crossing.
- C. Rizy states that the driveway is not in the right spot.
- DB recommends that the Board review the Building Inspector plans on file
- KK states that the Commission has a couple of options: 1) The denial is going through the appeal, it is an open process or 2) request a Certificate of Compliance with a full evaluation of the driveway and the replication areas.
- E Neal states that if an occupancy permit was issued then it was issued on a false set of facts
- FD states that he would be willing to issue a cert of compliance for the wetland replication area
- L. Jalbert states for the record, the property adjustment plan was signed by the Planning Board, however no transfer of property was done. KK recalls and states that the Conservation Commission has an approved Order of Conditions with the property line adjustment, that is why the project was denied—there are alternatives that exist that do not result in more wetland alteration.
- Members decide to compare the plans on filed with the Building Inspector
- C. Rizy states that he will produce something in writing to the Commission by January 8th.

2) Discussion of 58 Main Street (DEP 300-713) at 10:25 PM

- H. Blakeley, Bertin Engineering present for discussion.
- KK states that she did site walk on 1/2/07. Dewatering already started and some field changes like the type of culvert was made. Despite the change in culvert, the site looked good and was told that construction will be done by the end of the week

- Members review the letter by Bertin Engineering that explains the changes.
- H. Blakeley states that the pipe under Route 131 is undersized. DB states that if the property owner wanted to discuss the issue, the Commission could provide a letter for support that the Route 131 pipe need to be replaced.
- H. Blakeley states that the water running from the dewatering has been clean, no silt
- DB states that more riprap for protection at the outlet and inlet.
- H. Blakeley states that the catch basin and resurfacing will be done later.
- KK states that the property needs to be stable and all changes need to go to the Commission in writing for review.

3) Discussion of Shepard Parcel correspondence at 10:39PM

KK states that T. Chamberland sent an email requesting a formal response from the Commission. The consensus of the board is to send a letter with a list of environmental concerns and with a statement about how the Commission is uncertain about setting precedence about overturning land set aside for open space and converting to development.

4) Other Business

DB requests that the members give new ideas to KK about the Annual Town Report. The Board really should be involved with writing the report, not the Agent. The Annual report is a way to show the Town what the Commission has been doing.

DB requests that the board members think about devoting more time to public outreach. What about sending out letters to everyone on the Lakes about pesticides. What about getting more involved with Open Space. He requests that the members start thinking about ideas that the board can do other than public hearing related work. DM states that an Associate Member would be a good idea. The Associate member could manage goals and public outreach tasks. EG states that the Quinebaug River is disturbed and the Commission should get more involved with the River.

Meeting Adjourned: 11:15PM