

STURBRIDGE CONSERVATION COMMISSION
Meeting Minutes for Thursday, May 3, 2007

7:05PM Discussion prior to quorum (DB and EG present): Application of “ChemLawn” around Lakes. General discussion of (potential) bylaw amendment to include a 25-foot no-chemical buffer zone around lakes.

7:15 PM: Open Meeting

Members present: Dave Barnicle (DB) Chairman, Ed Goodwin (EG), Dave Mitchell (DM) and Frank Damiano (FD) at 8:00PM.

Kelly Kippenberger, Conservation Agent

Laura Hunter for Minutes

CPA Update

- EG states that the town hall renovations passed at Town Meeting and includes CPA Funding.
- EG informs the Commission that two vernal pools are on the River Land. KK agrees and states that she observed the isolated wet depressions during walking the property for the FCP.

Minute Approval

- DM motions to approve 3/1/07 meeting minutes and the 3/1/07 executive session minutes. EG seconds motion. All in favor: 3/0.
- DM motions to approve the 3/15/07 meeting minutes and EG seconds motion. All in favor: 3/0. KK states she will need a signed copy (certification that he read the minutes) of 3/15/07 minutes from FD.

Site Walk Updates:

1. 5 Vinton Road, DEP 300-607:

- KK and DB visited on 5/2/07. KK states that the Order was issued in August 2004 but the work has just begun. The tree clearing has started and erosion controls were yet to be installed. Work was stopped (verbal) and KK informed property owner and contractor that erosion controls need to be installed immediately and approved prior to starting work back up. KK shows the members photos and plans. KK states this will have to be watched carefully, she believes that the approved plan does not leave room for construction and that the contractor may be requesting to change the limit of work.
- DM states the hay bales need to be inspected and the area may need to be paved. EG agrees the area might need to be paved. Members recall the hearing for the project.
- KK states the Order has no special conditions but will need an extension and conditions can be added at that time.
- KK states the new property owner was unaware of the any conditions.

(7:25 PM C. Moran requests the Hamilton Rod/Gun NOI (DEP 300-739) for review.)

2. Chinese Restaurant:

- KK and DG visited on 4/26/07. KK shows members the photos and states that the culvert closest to the Route 20 washed out again. The beaver dam on the hotel property at bridge was

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not there, the wash out appears to not be because of the blocked stream at the bridge, there are other sources. KK will have to write a letter.

- KK states the water is too much for the culvert and at every large rain event this happens.
- DM states engineering needs to be done to allow more access for water.
- KK states that the big problem is that the drive is an easement that nobody uses and the owner does not maintain the easement.
- DM states that the the fundamental hydrology changed and “band-aids” are not the answer.
- EG states the hydrology is unacceptable and changed because “we” put something there.
- DB states the presence or absence of the Chinese restaurant does not change the problem with the water. It is a constant “thorn in our side” and could become a safety issue for Route 20.
- DM asks who pays the engineer for the fix. DB recommends sending a letter to the DEP. KK states this is private property and the easement is causing the problem. EG suggests getting Town Counsel involved.

3. 269 Cedar Street 4 Lots, DEP 300-701—300-704:

- KK states she and DG visited on 4/26/07 with EcoTec and the contractor. The wetland crossing was inspected and the monitoring well. The monitoring well was corrected since the Commission members visited the property in March. KK reports that the wetland crossing was in decent shape, not complete but stable. The replication area should be starting soon, but base line samples from the monitoring well need to be taken first. KK is to write a letter with results of site walk. No evidence of sedimentation in wetlands.
- KK states that the previous owner cleared the property in violation and left stumps, rocks, and other debris in the wetland that needs to be removed. Areas of restoration were looked at and it was discussed if removing the debris would impact the wetland more than leaving it. She adds that even the contractor thought it was “good habitat”. KK recommends taking the top layer of debris with minimal impact and removing some of the stumps and rocks left onsite. Her concern is that new property owners will continue to “dump” in the wetland.

PUBLIC HEARING

NOI for DEP 300-736: Aquatic vegetation herbicide treatment for Walker Pond. Lycott Environmental, Inc. representing Town of Sturbridge c/o Walker Pond Lake Association.

DB opens public hearing at 7:33 PM.

Present: L. Lyman, Lycott Environmental, Inc.

J. O'Brien, Walker Pond Assoc.

Submitted: NO NEWSPAPER AD SUBMITTED, Certified mail receipts submitted

Discussion:

- KK asks the Commission if they are willing to open the hearing without proof of advertising in the newspaper. The Commission agrees to open the hearing, as long as proof gets submitted. If it was never advertised in the paper, then the meeting minutes must be read next meeting—once it is properly advertised.
- KK states this is the first hearing on the project. Natural Heritage wrote a response on 4/25/07 stating that the project will not adversely affect any state-protected species under the WPA or the MESA. There is a general fisheries comment to follow the GEIR report to minimize impacts. The NOI includes spot herbicide treatment for Variable Milfoil and treatment to some floating plants. KK requests that the Commission receives an overview of the NOI request. Her one comment is that the NOI indicated that *phragmites* is present in the BVW south of the

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lake and that “management efforts should be considered in the future”. She wonders when and what the efforts will include.

- J. O’Brien gives an overview of the NOI. DB asks if the state park is involved. L. Lyman responds that are not yet involved.
- L. Lyman states the proposed management plan for Walker Pond is the same as it has been for the last 8-9 years. The focus is on the swimming areas and the beaches and they are using state approved materials that require a license to apply.
- DM requests a copy of the license. KK states this is one of the conditions.
- DM asks about the 10.6 “infested” acres and if the map reflects those areas. L. Lyman responds the map includes the areas they believe to be infested.
- DM states the vegetation is very sparse. L. Lyman agrees. DM then asks where the treatment is being applied.
- L. Lyman, J. O’Brien, and the Commission review the map of the proposed treatment areas. DM requests Figure 2 be marked with treatment areas. L. Lyman marks up Figure 2 as requested.
- DM asks about appropriate locations to post signage. L. Lyman states the signs are being posted at the beaches. DM requests sign location list be submitted. J. O’Brien states the boat ramp will also have signage. DM states he would like a list of all signs for reference.
- KK asks if Figure 2 shows where invasive species are located. L. Lyman states the marked areas are treatment areas and there will be some invasive species left.
- DM states it would be better to treat areas when there aren’t too many kids around.
- DM requests raw data points for lake records. He states there should be 20-40% coverage and it looks like less than 20% in the littoral zone. L. Lyman responds that it is less than 20%.
- DB states the 20% is too low and does not have to be the acceptable number. KK asks if these are just the treatment areas. L. Lyman responds that the beach areas would ideally be at 0% and then discusses vegetation at other state lakes.
- KK states that according to the map there is a habitat feature at the middle beach. L. Lyman states it is an overhanging tree and that treatment is 25 ft away from any habitat.
- DM asks if qualifications of staffing can be provided and suggests a replacement page for Table 2 (removal of bridle shiner).
- DB states the data is being collected on all the lakes for a database at Town Hall.
- DM asks L. Lyman to consider alternative management plans.
- L. Lyman reviews the list of information requested by the board; newspaper ad, GPS data for weeds, delineation of beach areas, qualifications of treatment staff, signage, and removal of bridle shiner on Table 2.
- KK recommends continuing the hearing and DM states they have already heard from Natural Heritage.
- L. Lyman asks if the hearing will close if all the information is submitted by the next meeting.
- DB states the hearing will close as long as it was advertised correctly and all information is submitted, L. Lyman does not have to be present.

Hearing continued to May 17, 2007 at 7:15PM pending advertisement in newspaper and additional information.

PUBLIC HEARING

NOI CONTINUED from 4/5/07 for DEP 300-734: Lake Management Plan to control aquatic vegetation on SOUTH POND. ESS Group, Inc. representing Town of Brookfield c/o QQLA.

DB opens hearing at 8:00PM (FD enters meeting)

Present: C. Nielsen, ESS Group, Inc.

Discussion:

- KK states at the first hearing, questions were raised regarding Natural Heritage comments, the use of a possible siltation boom (if necessary) and that a list of plant species needs to be submitted. Natural Heritage wrote a response letter on 3/27/07 (in boxes for review) and they list three endangered plant and three endangered bird species within the Lake boundaries (recall that the Lake is in three towns, Sturbridge being the most southern). Natural Heritage indicated that the species under the WPA will not be affected, however under MESA; Natural heritage is putting the condition in place that the herbicide treatments must occur during summertime low water periods (Aug & Sept) and the NOI is conflicting stating that it will be in early summer. KK questions how will this impact the effectiveness of the herbicide. Additionally, she needs clarification of what methods are to be done where.
- C. Nielsen submits a plant list and states it is not based on work ESS conducted but a report completed in 2006 by Aquatic Control. He also states the report was done during the peak growing season and includes the dominant plants.
- KK asks if this list is specific to Sturbridge. C. Nielsen replies it is not. KK asks if the list could include plants that are not found in Sturbridge. C. Nielsen responds that it is probable.
- C. Nielsen states that the specific plant control in Sturbridge will be by hand pulling with divers. QQLA volunteers are going to go through training, however some areas are too deep for QQLA volunteers.
- KK asks if Sonar is going into Sturbridge. C. Nielsen replies not yet. KK states the Order will need to specify what treatments will occur in Sturbridge, as the NOI includes other treatment methods. C. Nielsen replies that Aquatic Control prepared maps that include areas that could be potentially treated in the future.
- DM states that no areas outside of what is mapped are to be treated without approval. KK states the NOI was submitted with herbicide, mechanical harvesting, hand pulling, and benthic barriers.
- DM asks if barriers are in Quabog now and C. Nielsen replies yes. KK asks if Quabog is North Pond. C. Nielsen replies yes.
- C. Nielsen states a harvester is being purchased.
- DM explains benthic barriers are fiberglass mesh designed to control growth.
- KK requests clarification that the Order is for hand pulling and/or herbicide in Sturbridge only. C. Nielsen confirms. EG asks if that includes the harvester and DM replies no.
- DM states that a condition should be added to include that individual treatment is limited to ¼ acre.
- FD states he is more concerned with what people will do around their own dock using herbicides. DM states they cannot use chemicals, only a mechanical harvester.
- FD asks if permission would be for a harvester only.
- EG states the milfoil is problematic and chopping it up with the harvester will lead to floating plant pieces in the Lake, not a good idea. C. Nielsen states it could be problematic.
- DM suggests a condition that areas for harvesting cannot include presence of fanwort or milfoil (invasive species).
- DB questions what is being done about all the invasive species in North Pond.

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- C. Nielsen states that North and South Ponds as well as the 7-Mile River are loaded with fanwort. He discusses the probable source of the milfoil and fanwort and states that they are looking into herbicide applications in Brookfield and East Brookfield. However it is cost prohibitive to use herbicide in Quabog Pond because of the concentration of vegetation. DM states that not every lake has to be free of vegetation.
- C. Nielsen states the state is looking to clean up the boating channels and shorelines, monitor their use. South Pond is controlling weeds by treating the source and cleaning up the existing vegetation.
- DB asks why a screen cannot be put in place at the North/South Pond connector to control the backwater. DM states there has been a screen in place since 1991 to control high levels of phosphorous. C. Nielsen states there has been resistance from East Brookfield over the height of the gate and backflow of the water.
- C. Nielsen states there is bulrush along the shoreline, one of the species identified by Natural Heritage. C. Nielsen states the water level cannot be at the elevation of the bulrush beds during treatment, that is Natural Heritage's comment. DM states they will need a statement to that affect.
- KK asks if the bulrush is in Sturbridge. C. Nielsen replies it is in North Pond. KK requests clarification of where in North Pond and how close to Sturbridge. C. Nielsen replies it is in East Brookfield and Brookfield. KK asks if they can get a letter from the Natural Heritage that the mapped priority habitat for the bulrush is not present in Sturbridge.
- DM asks about the timing of the treatment. C. Nielsen states the treatment is typically done in June for herbicides and would accept a condition that no herbicide treatment can be done without a letter from Natural Heritage.
- KK states she would like the bulrush information. KK reviews all the special conditions for the project including but not limited to: individual treatment cannot be more than ¼ acre, mechanical harvesting cannot be in areas of invasive species, work is to only include hand pulling and herbicide treatment, no herbicide treatment until correspondence and clearance from Natural Heritage.
- DM makes motion to approve the Order with special conditions. FD seconds motion. All in favor: 4/0

Hearing closed and approval Order of Conditions to be issued.

PUBLIC HEARING

NOI for DEP 300-737: Proposed single family house demolition and reconstruction at 56-58 Shore Drive. Jalbert Engineering, Inc. representing A. Godin. This filing is related to DEP 300-707.

DB opens public hearing at 8:30PM.

Present: D. Roberts, Jalbert Engineering, Inc.

Newspaper ad and certified mail receipts submitted.

Discussion:

- KK states this is the first hearing on the project. KK requests that the Commission recalls that a denial Order of Conditions was issued last summer (DEP 300-707) due to lacking of information—no mitigation for the 50-foot buffer zone encroachment. This new NOI includes shrub plantings around house and on the steep slope to lake. She believes the proposed housework is the same as before. Natural Heritage wrote a letter on 4/27/07 clearing the project

for WPA and MESA. DEP had a comment that reads “Provide wellhead protection for the new well location as appropriate”. Outstanding concerns from previous application included property stabilization, mitigation for plants (which has been incorporated) and drainage to the lake.

- KK reviews photos with the board and asks the applicant to fill out a form for the Board of Health.
- DM states that this project was denied. KK states that the Commission requested that the house be moved away from the Lake and the applicant didn’t want to move the house, so a denial Order was issued. Now, a new NOI has been filed that includes mitigation for the new work in the 50-foot buffer zone.
- KK then reviews plans and proposed plantings with the board. DM asks if the house is in the same location. KK responds it is.
- KK states that according to the plan, when the foundation is being dug the material is to be hauled away so there will be no stockpiling. KK also states that one of the larger issues previously was the drainage pipe across the street and not knowing where the outlet was. Members recall wondering if the pipe was going to be where the foundation is proposed and if it discharged directly to the Lake.
- D. Roberts states he contacted the DPW and no one knows where the pipe goes and that the catch basin is currently full.
- DM states the pipe is municipal in origin. KK states it is on a private road and therefore the property owners are responsible for maintenance.
- DM asks who owns the road. D. Roberts states the road is a common area and all can access it.
- DM/D. Roberts discuss the location of the setback on the north side and location of the leach field. D. Roberts states that where the septic system is located prevents the house from being moved closer to the road. D. Roberts states there is a 1500 gal. Title V tank to be put in instead of the 1000 gal tank – which leads to the leach field that is to stay. KK replies that there needs to be Board of Health approval and that the form needs to be filled out and submitted to both Boards.
- DM questions what changes have been made to the project for the new NOI. D. Roberts responds that all new changes were in response to the Commission’s concerns. FD recalls that the Commission had many concerns.
- EG states the catch basin outlet has not been resolved. FD states it goes through the property and discharges to the Lake, he is very concerned about it.
- KK states the Commission does not want any surprises when excavation begins. D. Roberts responds that the pipe may be under the property, but it is not functional since the catch basin is completely full with sand etc. DM states the pipe most likely runs to the lake.
- EG states they need to know who has ownership of the catch basin. D. Roberts responds that his client does not own the basin and he is not responsible for maintenance. KK states clarification is needed, she comments that it may be in the applicant’s best interest to clean out the basin.
- DM states there will need to be a solution if the pipe is found during excavation.
- FD states the property owners need to do more than just improve the home, they need to improve the area around the home through mitigation. FD responds that the Commission needs to know if the pipe goes through the subject property and who is responsible for maintenance.
- DB states they need to clarify a list of potential solutions. It was a two bedroom, 3-season house and that is not what is proposed. He continues that with the change of use there will be

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an environmental impact. DB asks if the footprint of the new structure is relatively the same. D. Roberts responds yes.

- DM states he has not looked at the suggested plantings. DB states they are proposing eight low bush blueberry plants and that is not enough for mitigation. D. Roberts states they are going to include slope plantings. DM asks D. Roberts to point out on the plan where the plantings will be. D. Roberts states the area will be terraced.
- D. Roberts states he did what he could to find where the pipe outlets and found no information. KK states the pipe comes out along a wooden terrace.
- EG asks if the property owner owns to the center line of the road. D. Roberts states as far as they can tell, no. EG states he wants a more definitive answer and continues that if they want his vote, he needs the information.
- FD suggests cleaning out the catch basin and conducting a dye test to determine where the pipe goes. D. Roberts asks who pays for the test. FD responds that it may be in the applicant's best interest to find out where the pipe is and where it goes.
- D. Roberts states it could go through the abutter's property (D. Grehl). FD states that he really thinks the pipe goes directly through the applicant's property.
- DM states he wants to know the ownership of the area near South Shore Drive and the catch basin; a contingency plan for the pipe; and information on how ornamental plantings provide enhancement to the resource area and are considered adequate mitigation.
- D. Roberts states they are trying to stay outside the 25 ft buffer. DM states the proposed plantings are within the 25 ft buffer.
- KK states she wants to know who is responsible for the catch basin. D. Roberts provides assessors map showing that the road is owned by the town.
- DB states he would like to see the existing footprint and the new footprint; proposed plantings that will sufficiently replace the removal of large trees. He states plants that grow no more than 6 ft are just vista plantings, there needs to be mitigation for trees. D. Roberts states they are trying to stabilize the ground. KK states she would like to see stabilization plantings on the slope. DM thinks the mitigation should enhance the buffer zone
- D. Roberts requests a continuance.
- EG states he needs to visit the property.

Hearing continued to June 7, 2007 at 8:15PM pending additional information.

PUBLIC HEARING

NOI for DEP300-739: Proposed aquatic vegetation herbicide treatment in the private ponds on the Hamilton Rod & Gun Club property at 24 Hamilton Road. ACT, Inc. representing the Hamilton Rod & Gun Club.

DB opens public hearing at 9:06PM

Present: D. Meringolo from Aquatic Control Technology

R. Komar and B. Grandone from Hamilton Rod & Gun Club

C. Moran from Cedar Lake Association

Newspaper ad submitted (Certified mail receipts submitted 5/3/07)

Discussion:

- KK states this is the first hearing and recommends that Commission get an overview of the request. The project includes herbicide treatment to 4 private ponds. KK is concerned since

there is no mapping provided for Pond 4. Her initial questions are what is the access like to the ponds and any wetlands/streams to be crossed? Also, is the application to be an initial spot treatment application?

- D. Meringolo states there are four ponds on the Hamilton Rod & Gun Club property and there is good information on three of the ponds. He continues that there is variable milfoil present which is considered non-native to Massachusetts. He states the ponds are shallow and the goal of the treatment is to manage the nuisance level of vegetation. Pond 1 does not need much treatment.
- DM asks if recent treatment has been done. D. Meringolo states there has never been treatment on pond 1 and vegetation is scarce. Ponds 2 and 3 need the most attention.
- KK states the Order is for three years and if they are not treating pond 1 this year will there be a potential for treatment in the future. D. Meringolo states they would like to treat pond 1 at some point. KK states they would need to condition for notification of treatment to pond 1.
- DM asks if there is any swimming in the ponds. D. Meringolo asks present club members. B. Grandone states there are swimming areas on pond 3. D. Meringolo states all 3 ponds have direct access and pond 1 has some grassy areas. KK asks about roads between the ponds. D. Meringolo states there are dirt roads to all ponds.
- D. Meringolo states there will be spot treatment on pond 2 for milfoil. Pond 3 is only 16 acres and only the southern half of the pond will be treated. DM asks where the southern part is and D. Meringolo points out the treatment area on the map and states the northern part has no beach.
- DM asks B. Grandone if they stock trout in the ponds. B. Grandone states they spend \$2k on trout between now and Father's Day.
- D. Meringolo states they are filing a report with the DEP and providing information on the treatment including how annual management leads to plant reduction over time.
- DB states there will need to be an actual assessment of the ponds to identify the areas that need treatment. D. Meringolo states that pond 3 has milfoil all over the place, pond 2 has 20% scattered milfoil, and pond 1 has bottom cover vegetation and virtually no milfoil on the surface.
- KK asks about habitat features and states the Wetland Protection Act Regulations have restriction for habitat features. D. Meringolo states they could do habitat documentation this summer, but since they are small private ponds, wildlife features are everywhere. KK reads from the WPA Guidance for Aquatic Plant Management as D. Meringolo reviews the maps with DM.
- DM asks about beaver and muskrat dens. B. Grandone states there is definitely beaver present but he has not seen muskrat.
- EG asks why the island does not show in the map. KK responds that the map is layered and the top layer is hiding the aerial photo.
- DM asks where the 20-40% of vegetation removal is cited from as the norm. D. Meringolo states the Connecticut DEP posted the 20-40% statistic.
- DM states the application states June treatment and the table states August/September treatment. D. Meringolo states the table is correct and treatment would take place in August/September.
- DM asks if any hydro-raking has been done. D. Meringolo states pond 2 was raked in 1997. DM asks if the bottom is sandy and rocky. D. Meringolo stated there is less than one foot of soft sediment on the bottom.
- DM asks if they have considered any alternative management plans.

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- C. Moran (abutter from Cedar Lake Assoc.) states that the Gun Club was never part of the task force for permitting. He continues that the NOI for Hamilton is using baseline data from 1995. He comments that the board should require more current data and continues that there is no GPS information. He also questions the cost of treatment and the inconsistencies in the figures between the other Lakes and the lakes on the Gun Club.
- DM states he would like GPS mapping done. C. Moran states all lakes are required to have a definitive species study. D. Meringolo states the study was conducted in 2005. DM states a 2005 study is considered current.
- C. Moran asks if any lead testing has been done on the water and asks if Cedar Lake can be notified of any treatment. DM and KK discuss resident notification for other lakes. KK states they will add notification to Cedar Lake Association in the conditions.
- KK asks about habitat features not being documented. DB states that these ponds are different than the big Lakes, there are no people on the ponds and they are private. Also, there are habitat features everywhere.
- DM states he would like the conditions to include; mapped target areas for spot treatment, habitat features, 2 week notification to Cedar Lake, pre and post treatment reports, and recognition for pond 1. D. Meringolo asks if the requirements are to be done prior to treatment. DM states the habitat can be done after the fact.
- EG makes motion to approve the Order with conditions. DM seconds motion. All in favor: 4/0 to approve.

Hearing closed and approval Order of Conditions to be issued.

PUBLIC HEARING

NOI CONTINUED from 4/5/07 for DEP 300-720. Proposed 5-lot subdivision at 12 & 30 Farquhar Road. Bertin Engineering Associates, Inc. representing The Spaho Corp.

DB opens public hearing at 9:40PM.

Present: H. Blakeley from Bertin Engineering Associates, Inc.

Discussion:

- KK states that at the last meeting, parking for the open space was discussed and the members were to review the potential conditions. KK drafted special conditions and recommends a review of the conditions one by one. Members agree. H. Blakeley offers to go over her questions and comment first.
- H. Blakeley states that for Conditions No. 35, she would like the stock piling buffer reduced to the 50-foot buffer zone for Lot 1 only. DB comments that stock piling for each lot should be on the specific lot. H. Blakeley responds that there will be brief stockpiling while foundation is being excavated. A majority of Lot 1 is within the 50 to 100 foot buffer zone and that is why she is requesting the change for just lot 1. Members agree.
- H. Blakeley states that Condition #39 should read "slope stabilization plantings and seeding installed". KK states there will need to be stabilization prior to construction. DM agrees the slope needs to be stabilized. H. Blakeley is concerned that the landscaping will need to be done before construction. Members agree to change the wording to "slope plantings".
- DM asks if any board members have concerns with any condition prior to #39.
- EG asks what happens to this project given the current housing market. H. Blakeley states the owner is planning on building the road and houses very soon. EG states that he is concerned

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that the Lots will be opened up and then sit if not sold. KK states that there are stabilization conditions and seasonal site walks to prevent that situation.

- DB states that on Condition #45 any field changes must be submitted to the Commission or the Agent prior to being done in the field. Members discuss what is considered a “field change”
- DM states a minor change would be moving a house 5+/- ft as long as it does not affect the wetland. KK responds that she likes to know of all changes in writing, easier for the Certificate of Compliance process.
- DB asks if there are any other changes. H. Blakeley requests clarification for “lot painting” in Condition #54. She recalls that the Planning Board does not want parking spaces to be painted, but that signs can be posted. KK removes “lot painting”.
- DM asks who is responsible for the “life of the property” in Condition #50. KK states that if the road is ultimately accepted by the town, the town will be responsible. However until that point, the applicant is responsible for maintenance. DM asks what about before all lots are sold. H. Blakeley states the property owner would be responsible.
- KK adds property owner is responsible for maintenance and upkeep of swale.
- No other members have comments.
- EG motions to approve with conditions. FD seconds motion. All in favor: 4/0 to approve with Special conditions and minor changes discussed.

Hearing closed and approval Order of Conditions to be issued.

PUBLIC HEARING

NOI CONTINUED from 4/19/07 for DEP 300-724: Septic system repair/upgrade and stormwater reroute at 31 Bennetts Road. Jalbert Engineering, Inc. representing J. Dulka.

DB opens the public hearing at 10:00PM.

Present: D. Roberts from Jalbert Engineering, Inc.

E. Neal from Neal Law Office

Discussion:

- KK states that there was a request to withdraw the Notice of Intent Application without prejudice. KK reads request to withdraw from Jalbert Engineering dated 4/17/07. She recommends allowing the withdrawal and will follow up with a letter.
- DM motions to approve withdrawal request. EG seconds motion. All in favor: 4/0
- FD questions why it was requested to be withdrawn. KK answers that the property was sold.

Project withdrawn and hearing closed.

Discussion (10:06PM): Request for Certificate of Compliance for DEP 300-529, 31 Bennetts Road.

Present: D. Roberts from Jalbert Engineering, Inc.

E. Neal from Neal Law Office

Discussion:

- KK states that the second issue is that there has been a request for a certificate of compliance for MA DEP 300-529, construction of the house. The Commission requested a planting plan to

be submitted since the driveway was built as a circular drive—a change from the approved plan. A planting plan was submitted on 5/3/07 that includes some shrubs and trees near the lake and rip-rap to the outlet areas. KK's recommendation, since the property was sold on 4/12/07 is that the Commission issues an Enforcement Order, requiring that the plants are installed this growing season and established prior to issuing the Certificate. To make matters worse, KK visited the property on 5/2/07 and excavation occurred on property (without hay bales) near the tight tank and there is a random trench dug as well. The Board of Health indicated that the excavation occurred without them knowing and has no idea why. The tank passed Title V on 3/1/07 and was brought back into compliance. KK shows photos and states there should be no reason for excavation; the Board of Health was not aware of any excavation and they issued a stop work.

- E. Neal states at the closing, the new owners hired a contractor (R. Desmarais). He discovered a pipe and removed it (the trench) and removed the pump chamber.
- EG questions whom Jalbert and E. Neal are representing. Both E. Neal and D. Roberts respond the previous owner, Dulka.
- DB states there are issues that need clarification, for example has the property been sold. E. Neal responds yes. DB states that the new owner has violated the Wetland Protection Act.
- KK states the two issues in front of the Commission is a request for the Certificate of Compliance from the previous owner that includes plantings for mitigation and a potential Enforcement Order for excavation around a tight tank. However, she is concerned that the new owners will not do the plantings.
- D. Roberts states the alarm was going off in the tight tank, which concerned that new owners and lead to the excavation near the sealed tank.
- DB states that the tight tank issues is more Board of Health. KK states that the excavation was within 100 ft of the Lake and therefore within the jurisdiction of the Commission.
- DB states he still does not know where the pipe came from or where it goes and also states there will be no Certificate of Compliance until the plantings are established. He states that maybe the Commission should start fining.
- KK states they can only impose fines after a written warning is submitted.
- FD motions to issue an Enforcement Order to the new owners. KK states the Enforcement Order would be issued requesting hay bales and attendance at the next meeting.
- DM states the Board of Health has primary position with the tight tank.
- E. Neal asks if the planting plan is sufficient. EG states the actions from the new owner have changed the attitude of the Commission.
- DM states the plantings are not meant to just beautify the property but need to increase the naturalistic buffer between the house and the lake and also to interconnect the habitat to the water. DM asks for the planting plan to state why the proposed plantings are good for mitigation.
- EG states there will not be a Certificate of Compliance approval tonight. He states that even though the Board of Health has issued an enforcement, the Commission should also issue an Enforcement Order and require hay bales to be set in place immediately.
- EG motions to issue Enforcement Order. DM seconds motion. All in favor: 4/0.

Enforcement Order to be issued requiring new owner to appear on 5/17/07. No Certificate of Compliance.

PUBLIC HEARING

NOI Continued from 4/19/07 for DEP 300-732: Proposed single house and driveway wetland crossing at 130 Brookfield Road. Para Land Surveying, Inc. representing Rearick.

DB opens public hearing at 10:24PM.

Present: R. Para from Para Land Surveying, Inc.

Discussion:

- KK states that since the last hearing, the Commission did a site walk on 4/22/07. Results from the site walk included concerns for where the replication area is proposed. KK apologizes for being out for a few weeks and has yet to review in detail the additional information submitted on 4/6/07. KK requests an opportunity to review the information in depth and conduct a site walk to review the wetland delineation. KK recommends a continuance, but request discussing the replication area location tonight. Other things to think about: from looking at some projects that are currently under construction and in violation, there seems to be a problem with the amount of work area needed for driveway crossings. It seems that a lot of the time, the contractor needs more room for construction than what is shown on the plan and most of the time the project is shut down in violation. KK states that all plans should have the real limit of work defined.
- R. Para responds that if the work area is expanded it will disturb more wetland.
- DB states that often the single unit is considered and not what is going on around it. DB states that he recently got a call from an abutting lot with a house at a higher elevation and there was 6 in. of water in their basement during the last storm. R. Para responds that these are different properties on different lots and water levels are not the same on each hill. KK states that the hills in the area tend to generally seep water.
- DB discusses replication area. He questions the elevations and the success of the plants.
- R. Para submits plans with new replication area and states it is the same area as previously discussed but the middle of the replication area is lower than the surrounding wetlands and therefore creates a bowl.
- KK states that the goal of the replication area is to recreate the area that was altered and enhance the wetland. The current location of the replication area will cause steep slopes into the wetland area. R. Para states that the area he is creating will allow water to pool and sit for infiltration.
- DB asks about the stonewall. R. Para responds that the stonewall will not be removed.
- Member discuss the trees in the replication area. KK states the wetland monitor will indicate what trees should stay during a walk through prior to replication construction.
- DM states that if the construction area is to increase; the replication area will need to be increased. R. Para states they will take the excavation removal and put it into the replication area. KK indicates that additional, clean hydric soil will need to be installed since the replication area is 2:1. Also, the area to be altered may not contain excellent hydric soils.
- KK asks to identify stockpile areas on the plan.
- R. Para states that there is an outstanding issue of mitigation for the 25 ft buffer. He states there is an old shed on the property and wetland flags are tied to the rear corner of the shed. He asks if they should remove the shed for mitigation. Members discuss access to the shed. DM comments that mitigation should be improving an area.

Hearing continued to June 7, 2007 at 8:35PM pending site walk and additional information.

1. DEP 300-677: 246 Fiske Hill Road – ENFORCEMENTS/STOP WORK ORDER

- R. Lyon, Lyon Construction present for discussion and abutters, C. Sylvestri and A. Szumilas
- KK states an Enforcement Order was issued on 4/25/07. She continues that the board has gone out several times and she visited the site last week and has photos. Her concerns include: messy construction, unauthorized pumping of ground water, sedimentation problems, work on the house location prior to establishing the driveway and drainage (direct violation of condition 32), wider driveway than approved, issues with location of driveway and culverts under driveway and no notification to the Commission. KK also indicates that she has an issue with finding out about problems from abutters and not the contractor.
- Currently the project is shut down. There is a lot of soil and a lot of water and the ground is unstable. KK shows photos and states that the discussion tonight is to determine how to resolve all the outstanding problems. A new surveyed plan is needed and the site needs to be buttoned up until resolved.
- R. Lyon reviews the plan of the middle culvert with board and states the excavator set the culvert at the wrong height. DM asks if that will be corrected. R. Lyon responds yes that he was in the middle of correcting this when the site was shut down.
- EG asks if the culverts are too high. R. Lyon responds that one is approximately 1 foot too high and the other is about 2 feet too high. KK states this could be the result of the contractor hitting water, panicking and placing the culverts at the wrong elevation to get them installed quickly.
- DB asks if there will be an engineered drawing submitted for the culvert changes. R. Lyon responds yes. DB states there will need to be plans that show changes for all the culverts since changing one will affect the others.
- KK states the conditions on the permit stated no construction in the house vicinity is to be done until ground work was complete and stable including culverts and swales. She asks if the width of the road is due to the culverts and if there are materials present for the retaining wall. R. Lyon responds that the rock installation was stopped.
- DM states the elevation of the culverts caused the buildup of water. R. Lyon responds that with the water build up, the culverts were crushed.
- FD asks how they were crushed with 1 ft of cover. R. Lyon responds that there were multiple trucks entering the property in a short time, which wore away the cover and resulted in the culverts being crushed. KK comments that heavy machines should have not been driving over the culverts to access the house location.
- EG asks if the materials used are standard. DB states that is not the board's decision on what materials to use.
- FD states a crushed pipe is a big failure and asks how this will be prevented from happening again. KK asks how long before the storm did the failure happen. R. Lyon responds that the culverts were set on 2/13/07 and then 40 truck loads passed over on 3/14/07 and on 3/15/07 the culvert problem was discovered and was fixed at the same elevation. He continues that three days before the last storm the last culvert failed due to the high traffic and the wrong elevation.
- KK asks when the pump was put in place. R. Lyon states after the storm.
- DB states he has very little confidence that things are being done correctly.
- DM asks when R. Lyon discovered the grades were wrong. R. Lyon responds this past Monday.

- FD states that two culverts were crushed and asks why after the first one failed there was no investigation into the reason or why weren't the other culverts checked.
- EG states they need to discuss the perimeter drain and hay bales. R. Lyon points out hay bale line on the plan.
- FD suggests a third party review of the site. DB suggests re-engineered plans for the project
- DB asks R. Lyon if the plans were reworked as is, will the project work. R. Lyon responds no, there is not enough cover over the culverts.
- FD asks if he is qualified to make that determination because someone will need to be held accountable.
- KK states that it appears that the coverage over the pipes are the problem. She continues that the owner will not have as much traffic on the driveway and this is a construction issue.
- DB states the driveway should be 12 ft wide and the actual measurement in the field was 16 ft. R. Lyon reviews the width of the road and the driveway cross-section.
- DB states the cellar hole has been dug and should be filled. R. Lyon responds that the cellar hole is currently catching the water and holding it. FD agrees the cellar should be filled. KK states that it is filled with water, it is a safety hazard but the water would need to be pumped before filling it. KK states they need to take baby steps to correct these issues.
- DB states that the problems have to be solved and that a third party engineer should be hired. R. Lyon states he would like an opportunity to prove the board wrong.
- DB states there are puddles on the site with oil/gas in the water, the site is a big mess.
- DB suggests a third party review to review the site and have a site monitor.
- EG would like the project corrected as quickly as possible.
- R. Lyon states he would like to set the culverts to the proper height, add the retaining wall, and then have the property inspected. DM states he is worried about water on the site.
- FD asks about the area being stumped. R. Lyon responds that the entire area near the house is not stumped. FD then questions KK thoughts on a third party review. KK states that a plan can be approved but that does not mean it will work in the field. KK thinks that it is important to have the site as is evaluated and corrected with new plans.
- FD states someone needs to monitor the project and read the Order to ensure the conditions are being met. EG asks if there is too much water how will it be handled. KK responds that changes would need to be made to the plan.
- KK states that for a third party review, she can give the applicant three names legally, but that the third party review is at the applicant's expense.
- DM suggests putting the culverts in and monitoring them. KK states the swales will need to be installed as well to know if the system will work. Members discuss the difference between an environmental monitor and a construction monitor. Members think a construction monitor is best for this case.
- DM motions to allow culvert installation as a first step and to monitor the site. DB agrees and they need to get the water to move. EG states the debris needs to be cleaned up from the site. DB states there is excess soil on Mr. Szumilas' property because of culvert failure and it will need to be removed.
- DM and abutters discuss groundwater and sheet flow on property.
- EG motions to proceed with phased approach with a third party monitor. FD seconds motion. All in favor: 4/0 to approve phased approach to include the first phase of: monitoring the erosion control line, rebuilding culverts with proper coverage and secure a site monitor.
- KK questions how quick R. Lyon will act on this because the site is in bad shape. R. Lyon replies that he will get a monitor as quickly as possible.

FINAL Approved 6/7/07

- KK reminds everyone that the Enforcement Order remains in effect until the Commission votes for release. R. Lyon to submit information on third party monitor as soon as possible.

2. 18 Cedar Lake Drive, DEP 300-728: Change in well location.

- KK states sketch received 4/27/07 that shows the well location. KK states she is fine with letter approval but has questions in regards to access to the well site etc.
- Board in agreement with letter approval.

3. Westwood Drive Sewer Project Change: DEP 300-718

- KK states there were revised plans submitted on 4/24/07. Cross Country run eliminated and the project will have less impact. KK fine with letter approval. (DM cannot vote on change)
- Board in agreement with letter approval.

4. 245 Walker Road, Proposed Pool: DEP 300-655

- KK states DB visited on 4/12/07. Proposed pool within limits for single-family house construction according to sketch. She states she is ok with letter approval, additional hay bales and location of stock pile must be identified.
- DB states there is to be no pool water pumped into the wetland and there should be an amendment to the NOI. Members disagree and think a letter permit is fine.
- KK adds that the hay bale limit has not changed, she can add specific conditions to the letter. DB states a letter with conditions is fine. Board in agreement with letter approval with conditions.

Sign Permits

New/Old Business

- Planning board meeting on 6/8/07 cancelled.
- DB requests that a letter goes out requesting Hobbs Brook water testing.

Public Meeting adjourned at 11:59PM