

**STURBRIDGE CONSERVATION COMMISSION**  
**Meeting Minutes for Thursday August 2, 2007**

**7:05PM OPEN MEETING**

Members Present: Dave Barnicle (DB) Chairman; Donna Grehl (DG); Ed Goodwin (EG); and Frank Damiano (FD) at 7:09PM  
Kelly Kippenberger, Conservation Agent  
Laura Hunter for Minutes

**CPA and Zoning Study Committee Update(s)**

DG states there are no updates from the Zoning Study Committee. She adds that there is still discussion of the Route 20 zoning.

**Approval of 7/12/07 Minutes**

EG motions to approve the minutes. DG seconds motion. 3/0 all in favor of approving the 7/12/07 minutes.

\*FD arrives at meeting 7:09PM\*

**DISCUSSION: 266 Big Alum Road, proposed addition.**

**Discussion begins at 7:10PM**

**Present: L. Jalbert, Jalbert Engineering, Inc. (in audience)**

- KK states the Commission issued an Order for the house reconstruction on 8/2/02 (DEP 300-479), which has since expired. Attorney Robert George requested a Certificate of Compliance but the Commission required an as-built drawing since some changes have occurred (paved driveway, tree removal, deck etc.). She adds the as-built drawing has been completed but the issue is now the owner would like a house addition for an indoor pool for therapy. KK states she informed the builder that a Notice of Intent for the addition work would most likely be necessary but the builder asked it be run by the Commission to determine if a Request for Determination can be filed instead. She adds the builder feels a Notice of Intent may not be necessary since an option is to have sonatube footings dug by hand.
- KK reviews plans from 8/02 and recent as-built plans with the Board. She points out pavement areas and proposed area for pool and distributes a photo of the proposed pool submitted.
- KK states that originally, the addition was to be on the second floor, but now it may be on the first floor. The Builder submitted information that they may be two options for the addition--sonatubes or foundation. The Builder would like to expedite the permitting and would like to know what the Commission prefers to see a Request for Determination or Notice of Intent based on the proposed use of sonatubes.
- DB asks if it is all in the 100-foot buffer zone. KK responds yes and that the addition has changed from being on the 2<sup>nd</sup> floor with sonatubes to being on the 1<sup>st</sup> floor with a possible foundation (more excavation).
- FD states that because the pool is for therapy should not affect their decision.

- DB asks why there is such an increase in the impervious surface.
- L. Jalbert approaches the Commission from the audience and states there will be hand excavation with a shovel for the sonatubes.
- FD asks if he means to use a “ditch witch” machine or to actually dig by hand.
- L. Jalbert responds that it will be dug by hand with a shovel.
- KK questions removing the pavement in the 50-foot buffer zone that was not part of the original plan.
- EG asks if the addition is within the 100-foot buffer. He adds that if it is in the 100-foot buffer zone then a Notice of Intent should be done.
- KK questions if a Notice of Intent would be needed for either option, foundation or sonatubes. DB states that a Notice of Intent would be needed for either option, including sonatube footings. Other members agree.

### **DISCUSSION: Drainage at 71 Main Street**

#### **Discussion begins at 7:15PM.**

- KK states there was a complaint by the owner of 58 Main Street (DEP 300-713) that even though she is doing drainage improvements on her property, the pipe across the street at 71 Main Street is always full with water and never flows properly. KK states the property owner is wondering if the Town can do anything. KK told her that 71 Main Street is private property. KK consulted the DPW Director and was told the pitch of the area is a problem and that the pipe as is will not drain properly.
- KK reviews photos with the Board and states there was an Order of Conditions issued for 58 Main Street for parking lot improvements. KK states the property owner is concerned she did a lot of work and the drainage is still a problem.
- KK states that she has been contacted by the Massachusetts Highway Department (MA Highway) for the Route 131 improvements.
- DB asks what was the result from the last investigation by MA Highway in this area.
- KK states the water from Fairview Park Road bypasses the catch basins and runs down Route 131 and to this area. She adds that the MA Highway are replacing the catch basins with drop inlets. L. Jalbert (in audience) stated this was done this week.
- KK states there is no pitch at 71 Main Street and there is a long pipe under the parking lot on private property.
- DB asks L. Jalbert if he created the plans for the parking lot at 71 Main Street. L. Jalbert responds yes, many years ago.
- DB suggests obtaining a copy of the plans and contacting the owner of the Fiske Hill Plaza to repair the drainage problem.
- L. Jalbert states MA Highway worked this week cleaning out and repairing the small detention basins off Route 131.
- KK states it is not sufficient to clean the basins out as the slope of the land is so flat. KK suggests contacting MA Highway and letting them know that the Commission is concerned with this area.
- DB agrees. It is the consensus of the Commission to draft a letter to MA Highway.

## **DISCUSSION: Mike McKnight for 31 Bennetts Road Planting Plan**

**Discussion begins at 7:21PM.**

**Present: M. McKnight (property owner)**

**Attorney E. Neal (7:30PM)**

- KK states the Commission required the new owners to install plantings since the driveway is in violation of the Order for DEP 300-529. She adds the new owners have questions about the planting plan.
- M. McKnight states he spoke to E. Neal about the previous owner's responsibility for this planting plan. He adds that E. Neal indicated the previous owners (Dulka) are responsible and Mr. Neal was to be here for this meeting.
- KK asks if they want to change the species in the planting plan.
- M. McKnight distributes photos of the property showing the proposed planting areas and asks how plantings at the shed are going to help—it is already heavily vegetated.
- FD states the idea was to close the open gap between the shed and the lake and provide a natural buffer. M. McKnight responds that their well is in that area and again reviews the photos of the area.
- FD asks who prepared the planting plan. M. McKnight states the plans were done by Jalbert Engineering, Inc..
- DB states he would like to visit the site to review the planting plan to see if the plan is realistic and perhaps make better suggestions.
- KK states the planting plan was never approved. She adds it was submitted at the request of the Commission and then the Enforcement Order was issued for the tight tank repair and the planting plan was never approved.
- M. McKnight states he realizes the planting plan needs to be done by September but there will be a lawsuit against the previous owners if a Certificate of Compliance is not obtained.

**\*\*E. Neal arrives.**

- Members discuss visiting the site and when everyone is available.
- DB states the site visit will be scheduled for August 6, 2007 at 7:00PM.
- KK discusses scheduling site visits in the "off" hours. Members are not concerned.
- M. McKnight states he will be present and submits his photos for the file.

*Discussion continued to August 16, 2007 as a Walk-In pending site walk.*

## **PUBLIC HEARING**

**NOI: DEP 300-748 for house demolition and new house construction at 21 Valley Road.**  
**Property owners Michael and Linda DeVine presenting.**

**DB opens public hearing at 7:32PM**

**Present: M. and L. DeVine, property owners.**

**Submission: Newspaper ad and receipt cards received in office 8/2/07**

## Discussion:

- KK states this is the first hearing on the project, which includes razing the existing cottage and other structures on property and building a new house that is handicap accessible. She states the Commission approved a revised planting plan for the 25-foot buffer zone as part of a Negative Determination for a dock installation (SCC 06-31). She adds that although the house is within the 50-foot buffer zone and it is larger than the existing house, the property owner is willing to remove other existing structures closer to the water and improve the stormwater drainage with pavers on gravel driveway and the addition of a foundation drain. She states Natural Heritage gave clearance in a letter dated 7/27/07.
- KK reviews photos and the plans with the Board. She points out existing structure(s) and the proposed structure on the plans. She states the entire property is flat with grass and the owners have already installed the buffer zone planting plan, replacing one species of invasive grass called bearberry (correction: Japanese Barberry). She reviews the photos and architectural drawings of the proposed house with the Board.
- EG asks if the existing gazebo is removed. L. DeVine responds that it has not been removed yet. EG asks if it will be removed. L. DeVine responds yes, it is to be removed as part of this project.
- DG asks if the proposed house is three stories. L. DeVine states it is a two-story house with a full walkout basement.
- The Board reviews and discusses the plans.
- L. DeVine thanks the Commission and in particular KK for the assistance with the filing. She states she filed for a variance and a special permit, which was approved in November of 2006 and then received her DEP file number for the Notice of Intent.
- She states that one photo of the property shows a shed, but the shed near the roadway has already been removed. She adds that the plantings were done prior to filing this Notice of Intent. She states there was one species of grass that has been deemed invasive and is no longer available.
- L. DeVine stated she received approval from the Harbormaster on 11/20/06 for the dock.
- DB states he is concerned with moving the house closer to the lake and adds the Commission is trying to protect the Lake and discourage houses being closer to the Lake. He adds there will need to be a more natural buffer between the lake and the active areas. He states the use of pavers is "brilliant" and should help with erosion.
- L. DeVine states there is gravel now and adds the pavers will provide a more porous surface.
- KK states the house is not closer to the water, but rather the footprint is larger and therefore more house within the 50-foot buffer.
- DB asks about the size of the house. M. DeVine responds the existing house is 850-sq ft and the proposed house will have a 950-sq ft first floor (refer to plans for confirmation).
- FD states they are tripling the size of the house. M. DeVine states they worked with the architect to downsize the house but it is an Americans with Disabilities Act compliant house with an elevator and wider hallways.
- FD states the home is beautiful with a finished walkout basement and a full first and second floor. He adds the house is almost 3000-sq ft. M. DeVine states it is approximately 2800-sq ft.

- L. DeVine states she wanted to maintain the integrity of the home and still accommodate a wheelchair if the need arises.
- FD states he has a problem taking three season homes and turning them into large, year round residences. He adds that the only reason the Commission is talking about this is because there is a house already there. He states that if there weren't a house there, the Commission would not even consider the proposal.
- M. DeVine states the house may be disproportionate because of their needs.
- KK asks about the footprint. M. DeVine states 850-sq ft. EG asks if that includes the area of the shed. M. DeVine replies no.
- EG adds up the coverage of all the structures on the site. DG states the lot coverage goes from 13% to 20% (refer to plan for exact numbers).
- DB asks about setbacks. M. DeVine states the house will be moved back an additional three feet to correct the setback.
- FD asks if the driveway on the side of the house will stay. L. DeVine states it is gravel now and will be changed to pavers.
- FD states they are building a "premium" house on the lake. M. DeVine states he takes exception to the comment. He adds that his current health situation is the only reason they are before the board with these plans; the house needs to be handicap accessible.
- EG asks the property owners if they would consider converting the 25-foot buffer zone to natural plantings and eliminate lawn altogether.
- KK clarifies to the property owners that converting lawn in the 25-foot buffer zone to natural plantings would be mitigation for a larger house in the 50-foot buffer zone. EG states he is looking for a compromise.
- M. DeVine asks if they would still have access to the lake. EG states they could put in a walkway.
- L. DeVine states that once the hay bales are gone, they can expand on the buffer zone plantings.
- EG asks about drainage. KK states there will be a roof and a foundation drain. L. DeVine adds there will be a 500-gallon leach pit.
- M. DeVine states this house will be an Energy Star house and adds these homes have fewer problems.
- DG states there is a 25-foot no touch zone and a 50-foot no new structure zone. She states her personal opinion is that she does not like tall houses along the lake, but says again that it is her personal opinion and not a conservation issue.
- FD states he does object to a big house in a prime location on the lake. He adds that most people would "kill for a location like this with a house like this". DB tells FD his position has been duly noted.
- DG states she will expect a lot of mitigation in return for approving the house in this location and would like the buffer zone to be an actual buffer (with natural plantings) and not an English garden.
- L. DeVine states she is not sure where else she can have mitigation until the hay bales are removed. KK points out area that could be used for plantings that now has hay bales until post construction.
- DG asks what is behind the house (Valley Road side). KK states proposed seed and loam. M. DeVine comments that the Commission does not appear to like grass and states

he is willing to do whatever needs to be done. L. DeVine adds she can work with KK to determine the best plantings for the property.

- DB asks KK for additional comments. KK responds she has none at this time.
- DB states there are two choices; can have a vote on the proposed plan as it is, or can continue the hearing to allow the applicant time to provide more information.
- EG states he would look to see the house moved to the road setback of 30-feet from the plan setback of 31-feet. M. DeVine states the existing well might cause that change to be problematic.
- EG states he would also like to see natural wetland plantings on the property, not just grass. M. DeVine asks if this would be true along the side of the house as well. EG states anything within the 50-foot buffer that is not grass would be beneficial.
- FD asks about the well and the tie in to town sewer. He states the driveway along the side of the house could be removed to protect the lake from change of use in the future. He adds that by removing the driveway (boat ramp) in the 25-foot buffer zone would provide a fair amount of protection.
- M. DeVine states he is not sure what FD is asking. KK states he is asking for the full 25-foot buffer zone to be restored. EG adds that there is not a run off problem now, but if the area is changed to organic and the driveway is still used for a boat ramp, there could be some erosion into the lake.
- FD states he wants the boat ramp eliminated altogether. M. DeVine states he will have a problem with that. FD adds that everything the applicant is requesting does not help the lake. M. DeVine responds that this project is an improvement to the lake area. FD states gravel is more impervious than pavers and would be better. Members discuss what is more pervious, gravel or pavers.
- M. DeVine states he is willing to eliminate all the lawn areas on the property and put in natural plantings.
- DG asks about any fill on the property. KK states there will be some fill on the north side of the house. She adds according to the plan, there will be a natural swale that will need some grading.
- L. DeVine asks KK if she should work with her on determining the plantings that would be considered a natural buffer to the lake. KK states the documentation she has given to L. DeVine should help to determine the best species for plantings. DG asks the applicants to consider trees.
- L. DeVine asks if there will be a site visit. DB states the photographs are enough to determine the "lay of the land".

*Hearing continued to August 30, 2007 at 7:50PM pending revised plans showing buffer zone enhancement.*

## **PUBLIC HEARING**

**NOI: DEP 300-749 for proposed parking and stormwater facilities at 13 Main Street (Route 131). Jalbert Engineering, Inc. representing R. Leo.**

**DB opens public hearing at 8:15PM.**

**Present: L. Jalbert of Jalbert Engineering, Inc.**

**Submissions: Newspaper ad and receipt cards submitted.**

**Discussion:**

- DB asks if this property is on the same side of the street as Jack's Gas. L. Jalbert replies it is across the street and is the old Mapplebeck property.
- KK states this is the first hearing on the project, which includes converting an existing residence to a beauty salon with parking lot and stormwater improvements. She states there is an existing gravel area to be paved; however the application states there will be a reduction in impervious surface when in fact it will be an increase. She adds the DPW has reviewed the project (7/19/07 memo) and the project will need zoning approval. There is a steep drop from the proposed work location to the wetlands. She adds she has no real issues with the project, however she feels the operation and maintenance plan needs to be revised to include sweeping and catch basin maintenance.
- KK reviews the photos and the plans with the Board.
- DB suggests pavers verses pavement for erosion control. FD states he likes DB's suggestion.
- L. Jalbert reviews the plans with the Board and discusses the area to be cleaned up and cleared.
- DG asks about piling snow in the area and what is there now. She adds there may be a potential vernal pool.
- KK states right now there is stockpiled debris on the property, wood chips, metal scrap etc..
- DG states she is concerned with salt and sand getting into the wetland. KK states she believes there is enough of a buffer between the parking area and the wetland.
- L. Jalbert discusses the wetland and the slope.
- DB states he would like a site visit before hearing more on the project.
- L. Jalbert describes the best area to access the wetland and states that the wetland is flagged (done in June).
- FD motions to approve plan as presented since the Agent has no concerns. No second.
- DG states she would like a site visit.

*Hearing continued to August 16, 2007 at 8:40PM pending a site visit*

**\*\* L. Jalbert submits plan for 271 Holland Road showing one parcel (DEP 300-747).**

**PUBLIC HEARING**

**NOI CONTINUED from 7/12/07: DEP 300-731 for proposed single-family house at 70 Westwood Drive. Green Hill Engineering representing S. Simpson. This NOI replaces DEP 300-672.**

**DB opens public hearing at 8:26PM.**

**Present: M. Farrell of Green Hill Engineering  
S. Simpson, property owner.**

**Discussion:**

- KK states at the last meeting members voted (2/2) and denied the location of the house shown on the plans. She adds that outstanding concerns included potential erosion problems, tree clearing and slope issues. She received a revised site plan on 7/31/07. The

changes she saw are: removal of stairs to the beach and the addition of a foot path to the lake; a paved driveway instead of gravel; additional tree clearing; it appears the house is located closer to the lake with additional tree clearing and vista pruning for a beach. She recommends a presentation of the project changes.

- DB asks the applicant to give a brief presentation on the plan changes.
- M. Farrell states the house was moved 15-feet closer to the lake, there were changes to the area to be cleared that are now shown as grass, the second driveway is now to be paved, and there will be an area at the lake cleared for a small private beach.
- FD states the house location was denied at the last hearing and he was under the impression that the house was to be moved further from the lake.
- M. Farrell states these plans were made to the owner's specifications and adds that if it is going to be denied by the Commission, the applicant will appeal. He adds this is a solid plan and will protect the lake and the surrounding area.
- DG motions to accept the plan as presented. EG seconds motion.
- FD states he feels baited and adds he thinks the applicant is looking for a denial so he can appeal.
- M. Farrell states he is protecting the 25-foot buffer by leaving it undisturbed, the vast majority of the 50-foot buffer will be undisturbed, and the vast majority of the 100-foot buffer will be undisturbed. He continues that the owner has been trying to get approval for six months and had hoped the house would be under construction by now.
- DG states the last plan was approvable with the addition of more mitigation and she thought the project was headed in the right direction. She adds she will not raise her hand to approve this plan; it clearly goes against what the Commission asked for.
- S. Simpson states he was under the impression only the house location was denied. DG states that she understands his frustration, but the Commission must protect the Lake. There were outstanding concerns about erosion that were not answered.
- DB states he has no comments on the plan.
- KK states that if this plan is denied and appealed by the applicant and the DEP issues a Superceding Order under the Wetlands Protection Act and the project is also approved in Superior Court for the Bylaw appeal, the Commission loses the ability to condition the project. She also adds that the Superior Court process can take up to one year.
- M. Farrell states this is not a controversial project and he feels the DEP will approve the plans as presented.
- S. Simpson and M. Farrell state they were told that EG could not vote on the project last meeting. KK replies that is not true, she stated that she would have to look into the details of who missed meetings. She looked into it and EG only missed the 7/12/07 meeting and he certified that he read the minutes.
- DB states that a motion is on the floor with a second, there needs to be a vote.
- Vote: 0/3/1 (EG abstained). 7/31/07 plans denied.

*Hearing closed and denial Order of Conditions to be issued.*

## **DISCUSSION: Public Land Advisory Committee (PLAC) and Leadmine Mountain Property**

**Discussion begins at 8:37PM.**



**Present: P. McGarrah of the PLAC**

- KK states she received an email from T. Chamberland, a member of the PLAC, asking the Commission to review the rules for the Leadmine Mountain property. The rules need to be posted in order to be enforced.
- DB states there are three trails that have already been blazed and adds that T. Chamberland is proposing to use an old Army Corps of Engineers kiosk that is currently on the property. He adds that he wants to discuss the safety rules that will be posted at the kiosk.
- Members review a copy of the drafted rules. DB states he would like to add a rule for people to stay on marked trails and there is no swimming unless otherwise noted.
- EG states there will be an exception for hunting and fishing. Hunters will not stay on the trails.
- FD asks about motorized vehicles. DB responds there are no motorized vehicles allowed.
- DB states he would like to rename the property to “Robinson Crusoe Conservation and Recreation Area”.
- KK asks if that would be for the entire property. DB states the entire property was the camp.
- P. McGarrah suggests adding “Camp” to the name. He adds that the property is often called “Arbutus Park” after the founders.
- FD states he walked the property the other day and feels once the buildings are gone the camp connection will be lost.
- DB states Camp Robinson Crusoe ties to the history of Sturbridge.
- FD asks why the camp closed. P. McGarrah replies the land was sold to Old Sturbridge Village (OSV) and the camp was rented to the son of the original owner for a few years without much success.
- P. McGarrah and FD discuss the camp buildings.
- DB states there is a website with information on the Camp and its history. He then asks KK if there is anything she would like to add.
- KK states she thought the safety rules were the purpose of this meeting. She adds she spoke with the Town Administrator about enforcing the rules. She states the only enforceable rule is the ATV rule which people can be arrested for ATV use on the property.
- KK states she does not want the Conservation Office listed as the contact for the rules. She would rather the Town Hall be listed since she is in and out of the office.
- DB restates the two additions to the safety rules; hikers/mountain bikers on designated trails only and swimming not allowed except in designated areas.
- KK asks when this is voted on, what will happen next. DB states it will go to the Department of Fisheries and Wildlife for review and comment.
- FD motions to approve the safety rules with the two additions. EG seconds motion. 4/0 all in favor or approving the rules.
- KK states they will be posted at the parking area for now. She states the PLAC should present name choices for the property to be voted on.

## **PUBLIC HEARING**

**NOI CONTINUED from 6/7/07 and 7/26/07: DEP 300-737 for proposed single family house demolition and reconstruction at 56-58 South Shore Drive. Jalbert Engineering, Inc. representing A. Godin. This filing is related to DEP 300-707.**

**DG recuses herself (direct abutter)**

**DB opens public hearing at 8:55PM.**

**Present: L. Jalbert, Jalbert Engineering, Inc.**

**E. Godin, relative of property owner.**

**D. Grehl, abutter.**

### **Discussion:**

- KK states DG must recuse herself as she is a direct abutter. She adds that at the last meeting on 7/26/07 there was no quorum, so there was no project discussion. She states she sent a review memo on 8/2/07 describing the events that have occurred between meetings. KK asks if members and L. Jalbert reviewed the memo, all reply yes. She states the outstanding issue is still the drainage of the property, capping the pipes and abandoning the current drainage system and how it will affect the lake.
- FD asks L. Jalbert about the gravel catch basin with no outlet. He shows photographs, he states that he put a hose in the basin and the water discharged directly to the lake. He adds that he understands the problem with this being on private property and across properties but feels the drainage cannot be abandoned, as it will impact the lake and the road.
- EG asks about property boundary specifics on the plan.
- L. Jalbert shows a property survey from 7/17/85; Book 539, Plan 2 on record with the Registry of Deeds. He then shows plans and discusses the right of way versus the width of road as stated on a survey in 1960.
- KK states the edge of the travelled way is not the same as the right of way. She adds that all private roads have a legal right of way and the travelled way is within the right of way.
- L. Jalbert states South Shore Road right of way is 50-feet wide as per the survey done in 1960 and again in 1985.
- FD asks if that means no one owns it. L. Jalbert states that is exactly what it means; no one owns it. He adds that Mr. Godin does not own it and does not have the responsibility and liability for it. He adds that the basin is not on Mr. Godin's property and there is no drainage easement on his property. He states that the actions of the Commission and the abutters have caused liability to Mr. Godin by exposing the catch basin that is not conforming to state code and the excavation of material was not to state code. Material taken out of a catch basin is considered hazardous waste.
- L. Jalbert states they are still proposing to fill the pipe with concrete and cap it. He adds that any potential lawsuit will be dealt with if it happens. He adds that in looking at other parts of the road there are more severe soil issues upgrade from this catch basin.
- L. Jalbert states the drainage is not on Mr. Godin's property and therefore not his responsibility.

- FD states the catch basin outlet goes through his property. L. Jalbert responds this was done without Mr. Godin's permission.
- L. Jalbert states that the only outstanding issue is the drainage and all other aspects of the project have conformed to the Commission's liking. He adds they have proposed a solution to the outstanding issue by capping the pipe and will deal with a lawsuit if it comes to that in the future.
- DB states the DPW has looked at the proposed solution and feels it will cause issues with the road.
- DB states he would like to take a 5 minutes recess for EG to finish reading and certifying the minutes from 6/7/07 before proceeding to a vote.

\*\*\*\*\* PUBLIC HEARING IN RECESS \*\*\*\*\*

- E. Godin states there is a conflict of interest as D. Grehl has not left the room.
- DB states as an abutter she can be present in the room as she was invited to the public hearing in the capacity as an abutter when the NOI was filed.
- KK states that this is actually the first public hearing for this project where the abutter has been present (5/3/07 and 6/7/07 meetings she was absent).
- E. Godin states he just wants to move this along, as it has been in front of the Town for two years.
- DB states it is not the fault of the Commission that the applicant changed engineering firms and has not provided vital information about the drainage.

\*\*\*\*\* PUBLIC HEARING RESUMES \*\*\*\*\*

- KK states that EG has certified that he read the 6/7/07 minutes and now there is a quorum for a vote.
- DB states he has a problem voting for a project that has a potential to cause erosion to a resource area and adds the DPW Director has stated that is a potential.
- L. Jalbert states that in the event the pipe is capped the sheetflow will be across Mr. Godin's property, which will have less of an impact than a direct conduit to the lake.
- FD states he is making assumptions about how the water will flow.
- DB states it is a different argument with the pictures submitted by FD. He adds the Commission did not know it was a direct line to the lake.
- L. Jalbert strongly states they said the basin was full of silt and they would not dig it up. He adds they took pictures of the two pipes at the Lake and reviewed surveys of the property from 1960 to present and were relatively cognizant of the drainage easement on the property. He states there is nothing on record about the drainage easement and they did not want to dig up the catch basin and stockpile the materials directly adjacent to the basin that discharges to the lake as it is considered hazardous material. He adds that now the silt created from the catch basin excavation by the abutter goes into the basin and discharges directly to the lake.
- FD asks about the material of the pipe. L. Jalbert states the picture depicts a plastic pipe. FD asks when plastic pipes became available and adds not until the 1980s. He states this

pipe cannot be considered a pre-existing condition. L. Jalbert states if it was put in, it was done illegally and without the knowledge of his client.

- FD states this is the problem with house reconstruction on the lakes in Town. He states he feels property owners should want to improve the lake and there should be a shared interest in solving the drainage problem. He adds it is a reasonable cost to repair the catch basin.
- L. Jalbert states that if Mr. Godin assumes responsibility for repairing the catch basin, he then becomes liable for it. He then states that if the other property owners on the road would like to participate in a class action, his client would be willing to participate in the improvements.
- E. Godin states the problem with the storm drains has been an issue for many years and now has fallen to the property owner of this parcel to repair. He adds that many new houses have been built in the area but it is now their responsibility. He adds that if a solution can be agreed upon he would like to see it stated in writing with details on how to fix it and how much it will cost.
- KK states it is a community problem but unfortunately the problem became evident with the proposal to build on the Godin property.
- E. Godin asks if there is an engineer present to offer a solution.
- KK reads from an email sent by the DPW Director.
- E. Godin asks if during excavation the pipe is exposed and is rerouted around the house that would be acceptable to the Commission.
- KK states there is a direct discharge of sediment from the catch basin and although rerouting is an idea, it will not improve the situation and sediment will still go into the Lake.
- DB states the engineer indicated the drainage was not legal and there is not a sump.
- FD states the plan presented earlier in the discussion by L. Jalbert was ideal and is a onetime expense for the homeowner.
- KK asks if there is a road association. D. Grehl (abutter) states there is not a road association and the Town is not responsible for maintaining private roads.
- EG states he cannot approve this plan with the outstanding drainage issue and feels the plan is incomplete.
- E. Godin asks if it is incomplete because the storm drain goes through the property. EG responds yes. E. Godin asks if it is an option to reroute. L. Jalbert responds no.
- EG states he cannot approve an incomplete plan. E. Godin asks if capping the pipe is out of the question. EG responds yes.
- KK states the reason it is out of the question is that there is no way to know where the water will go once the pipe is capped—there will be potential impacts to the lake.
- E. Godin states that because there is a drainage issue on the other side of the road it should not be his problem.
- FD asks when the property was purchased. E. Godin states 1987. FD asks if they put the pipe in. E. Godin replies no.
- L. Jalbert presents an alternative plan to E. Godin. He then addresses the Commission and states he has visited the site and has photographed the area for future work. He states the area is within a drainage area where the structure is at the lowest point in the road. He adds that all surrounding roads are sloping into the basin to allow water to flow into

the basin. He adds that the current pipe is undersized and is impossible to assume a six-inch pipe will accommodate all the water. He states a new 12-inch pipe running in a northerly direction down South Shore Road would accommodate the water flow. He states a stone gutter and stone check dams would also be required to break up the velocity of the water. The water would ultimately discharge to the intermittent stream.

- DB asks what L. Jalbert is proposing. L. Jalbert responds he is proposing to re-route the drainage water to a stream, which is currently dry. D. Grehl (abutter) states the stream has heavy flow in the spring. KK states it is shown intermittent on the USGS map. L. Jalbert states the water would be diverted to that stream and then ultimately to the lake and it would be costly (estimated at \$25,000.00) to do the re-route work.
- EG asks if that can be done in front of other people's property. L. Jalbert states it would be in the right of way of the road.
- E. Godin states the other homeowners should be assessed for a project like this. KK agrees, it would benefit all residents.
- E. Godin asks if the Commission is proposing he spend \$25,000.00 on drainage for a single-family house. DB states the applicant's representative presented an alternative solution and the Commission is discussing it.
- E. Godin asks if he agrees to spend an additional \$25,000.00, would he get the approval vote. FD replies yes and states it is the right thing to do—improving the water situation. E. Godin states that is his opinion. FD replies his opinion counts for his vote.
- KK states the reason for the drainage to be addressed is because of the sedimentation to the lake. She states the current plans show the pipe being capped and the Commission can only address what is stated on the plans. She adds that if they hit the pipe during construction it could cause a problem.
- E. Godin asks what would happen if they didn't hit the pipe. KK responds they just do not know what would happen with the water if it were capped. She states that L. Jalbert already said a 6-inch pipe was not sufficient for the water.
- L. Jalbert states that if, during excavation, the pipe is hit, they will notify the Commission and if they don't hit the pipe, they'll forget about it.
- DB asks what happens to the water now. E. Godin states the basin has been plugged for 10 years and the water now flows down the road and to the lake.
- EG states the drainage plan proposed earlier in the discussion would greatly improve the drainage to the area. KK agrees the \$25,000.00 plan is great but states that the Commission cannot ask Mr. Godin to pay for it as part of his house project.
- EG asks if the DPW would consider supplying the materials. KK states they have done that in the past for some private roadwork but is not sure what they would do in this case.
- L. Jalbert requests a continuance to request information from the Town on supplying the materials to install a new structure including a 12-inch pipe, rip-rap, and swale and he will furnish the calculations.
- DB states the drainage runs through Mr. Godin's property making him liable. L. Jalbert proposes to take that liability away from Mr. Godin by running the drainage down the road instead of across the property.
- KK asks why the new system wouldn't be run through the property rather than down the road.
- L. Jalbert states running it through Mr. Godin's property would hinder the value of the property and would rather see the lay of the land used instead. His client does not want

to be liable for the road drainage on his property. He adds he will submit hydraulic calculations.

*Hearing continued to August 30 at 8:10PM pending discussion with the DPW Director.*

**PUBLIC HEARING**

**NOI CONTINUED from 6/7/07 and 7/26/07: DEP 300-732 for proposed single house and driveway wetland crossing at 130 Brookfield Road. Para Land Surveying, Inc. representing Rearick.**

**DB opens public hearing at 9:58PM**

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

**D. and E. Rearick, property owners.**

**Discussion:**

- KK states DG cannot vote on the project due to Mullin Rule as she missed the 5/3/07 and the 6/7/07 meetings. She continues that at the last meeting on 6/7/07, members agreed to review draft special conditions sent out via email on 7/24/07. She recommends the Commission review the special conditions with the applicant's representative.
- KK reviews the plans with the Board.
- DB asks R. Para if he has any comments on the conditions.
- R. Para asks about Condition #38 and the repair of equipment breakdown. KK reads the suggestion for revising Condition #38.
- DB asks about the pitch of the road to the swale. KK states it is not really a swale and more like a stone shoulder. DB asks if it is necessary to have this area and adds they need to make sure there is no net loss of wetlands. R. Para states this will be an enhancement to the wetland area.
- DB states the replication must be done before the Certificate of Compliance will be issued. R. Para states the replication will be done first under the supervision of a wetland specialist.
- DB states he is concerned with the flow of water to the wetland. R. Para states water from the driveway will feed the replication area and the area will be excavated.
- KK asks about soil testing for ground water elevations in the replication area. R. Para states no soil testing was not done.
- KK states she is concerned with staging for construction at the start of the project. R. Para states the hay bales will be placed in the wetland area first then the wetland will be crossed. He adds it will take one to two weeks for the hay bales, the tree clearing, and the base to be set. He states that whoever buys the lot will have to abide by the conditions.
- DB asks if they will use the driveway as much as possible. R. Para states they will only use the driveway.
- KK asks about access to the shed. R. Para states he does not believe the shed is being used now.
- D. Rearick states the shed can be accessed across the backyard of the existing home.
- DB asks the members if they are set with the Conditions and if there are any other questions or comments.
- KK reviews the changes to Condition #38.

- DB states the best stockpile area is on the driveway. KK states the driveway goes through the wetland then there is a replication area and adds the only spot outside of the 100-foot buffer is up by the house.
- FD motions to approve the project with the drafted special conditions. EG seconds motion. Vote: 3/0/1 (DG abstained) in favor of approving the special conditions.

*Hearing closed and approved Order of Conditions to be issued.*

## **OTHER BUSINESS:**

### **1) Enforcement Order for The Highlands (DEP 300-466)**

- KK states the Enforcement Order was sent via Certified Mail on 7/27/07 and the return receipt card was received but there has not been a response to date.
- KK distributes the Enforcement Order for signatures.
- DB reads from Enforcement Order regarding fines and meeting date and time.
- KK states she did receive the return receipt card so the property owner (T. Moss) has received the Enforcement Order. She adds it appears that the drainage is not being maintained, there is sediment in the basin that discharged sediment to the wetland. She continues that the houses have been constructed but there is no seed or loam present.
- EG states that KK should call the property owner next Thursday if she had not heard from him.
- DB states that if KK has not had a response by Thursday, 8/9/07 she should start the fines then. Members agree.

### **2) 120 Lane 10 (DEP 300-714)**

- KK states that at the last meeting the SCC released the Enforcement Order. She visited the property on 7/31/07 with Mark Farrell and has made some additional erosion control requests. She states the discussion on site included the construction egress. She adds the builder is requesting a paved construction egress for safety. The egress does have erosion occurring and it will continue to erode as is (not all is compacted gravel). She states the property owner has submitted a proposal via email for the egress and she clearly indicated that an Amendment to the Order would be necessary.
- KK states they brought in loam to create a pad for the well drill to sit. She recalls her conversation with the builder about loading and unloading materials and why he wants the egress paved. She then reads an email sent by D. Vizard. She states she responded to his email suggesting an amendment to the Order of Conditions be submitted.
- DG states they talked about this problem early on in the project and knew bringing in materials down the steep slope would be an issue.
- DB states an engineer should have cancelled the project if it did not have pavement on the driveway.
- DB states the consensus of the Board is to require an amendment on the Order of Conditions.

### **3) Discussion Grand Trunk Trail**

- KK states the Army Corps received a grant for Sturbridge and Southbridge to complete the Grand Trunk Trail (GTT) from Southbridge to River Road. She states the major

obstacle is 75 Farquhar Road for Natural Heritage and Endangered Species Program (NHESP), vernal pools, and wetlands, etc. She adds that at one point, members of the Commission agreed that utilizing the existing cart roads on property would be the best option. She would like to Commission's permission to draft a letter to NHESP requesting a re-evaluation since one of the species has since been de-listed.

- KK reviews the map of the GTT with the Board and points out 75 Farquhar Road, which was referred to as the "turtle hurdle" about three years ago. She adds there was an extensive wildlife study done, but since then one species has been de-listed. KK states that in 2003, NHESP still had issues with boardwalks being installed.
- EG states that utilizing the existing trail on the property is the best solution.
- KK states a boardwalk would harness people into one small area and then she discusses the wetland delineation done on property by G. Krovoski. She points out possible alternative trail routes on the map.
- The Board selects Option A (using existing trails) as the best possible alternative and reaches a consensus for KK to draft a letter to NHESP for review on 8/16/07.

#### **4) Private Lake Roads**

- DG states she has lived on South Shore Road for 12 years and that over the last six or seven years the drainage has functioned as long as the catch basin was kept clean. She adds she tried to form an association and no one was interested. She states that once the new houses were built the additional runoff from the driveways and the roofs were too much for the culverts. She states the lakes are being ruined by the private roads and suggests some kind of regulation about building a certain distance from the shoreline to allow for runoff into the ground.
- DB states these houses are out of the SCC jurisdiction.
- KK states the problem is the maintenance of the private roads. She adds the roads are supposed to be maintained by the residents and they are not. She continues that new houses are adding to a existing drainage systems that have been around for years and probably need to be upgraded to handle more flow and clean the water before discharge.
- KK states the Town Selectmen allot \$5,000.00 annually for the maintenance of private roads.
- DB states that they need to come up with a possible solution.
- KK suggests evaluating private roads and then determine the best solution.
- EG states the Commission needs to be unrelenting on new houses to make sure drainage issues are being addressed.
- DB states not all the roads can be paved. KK states if the roads were paved they would have to meet stormwater guidelines.
- DB states the Town would not go for it as it would raise taxes. DG states the Town needs to know there is a problem.
- No resolution on discussion.

#### **5) 246 Fiske Hill Road (DEP 300-677)**

**Present: R. Para, Para Land Surveying, Inc.  
C. Silvestri, abutter.**



**Discussion:**

- C. Silvestri asks for an update on 246 Fiske Hill Road.
- KK states she received an update that day and the contractor has replaced culverts #2 and #3 and they appear to be in the right place as approved on the plans. That are has been re-seeded. She continues that the owner is in financial trouble and is working to stabilize the site and then sell it. KK reads from the written site update.
- KK states that by next week the pavement debris will be removed.
- R. Para states the grass is looking better but will need more time for growth.
- DB asks that a report be submitted next week after the “black stuff” is removed.
- FD asks how close they are to lifting the Enforcement Order. DB states they are not close as the financial trouble is hindering the work that needs to be done to comply with the Order of Conditions.
- C. Silvestri states he just wants to see the site done properly and the shoddy workmanship corrected so the abutters do not have to live with a bad situation. He then asks the Board that the abutter concerns be made available to any potential buyer.
- KK states it is in the file and available to anyone who wishes to see it.
- DB recalls his conversation with R. Lyon and states that if funding becomes available, Mr. Lyon will be addressing the stabilization of the property before the winter season.

**6) Discussion of Site Walks**

13 Library Lane  
271 Holland Road  
60 Streeter Road  
EC Check at 376 Main Street  
31 Bennetts Road

**7) Sign Permits**

**MEETING ADJOURNED AT 10:55PM**