

**TOWN OF STURBRIDGE, MA
CONSERVATION COMMISSION**

**Thursday, July 16, 2015
Sturbridge Center Office Building, 2nd Floor**

Meeting Called to Order: 6:00

Quorum Check: Confirmed

Members Present: Ed Goodwin (EG), Chairman
David Barnicle (DB), Vice Chair
Donna M. Grehl (DG)
Calvin Montigny
Joseph Kowalski (JK)

Others Present: Glenn Colburn (CG), Conservation Agent
Anne Renaud-Jones, Conservation Clerk
Applicants and/or Audience Members: Leonard Jalbert, Andre Cormier, Frederick Shea, Susan Shea, Atty. Chris Myhrum, Glenn Krevosky, Peter Mimeault, James and Doris Smith, Chris Parent, Connie & Roger White, Bindiya & Vivek Jain, John & Cheryl Yacovine, Susan Waters, Mike Loin, Jill Roy, Robert & Evelyn Sullivan, Michael Choquet, David Zonia, Linda Jowett, Priscilla Gimas

Committee Updates:

- **CPA:** no meeting has been held; there are no updates;
- **Trail Committee** no meeting has been held; GColburn has walked the new Leadmine Trail work area; the Leadmine Trail bridge is coming along well; Heading south GC is concerned about the area where there will be fill used – because the bridge is “neck down” the stream; if this backs up, there is risk of new gravel washing out; the stream was already the full width of the bridge; DB will talk to Brandon; GC Whoever painted the Link Trail did a great job, we appreciate all that’s been down there....., Also there is there is a piece of 24” corrugated metal culvert that is not useful in its current position; it’s still in good shape - could it be used somewhere else?? Can we ask the Trails Committee to consider this? It is an eyesore where it is. DB: Redetsky Trail: 2nd half of the fill has not been completed on this trail; the fine gravel needs to be ordered. GC: do we know the status of the Arbutus Trail? DB not known.
- **Lakes Advisory Committee;** no meeting has been held; preliminary work has begun on the “Lakes Brochure”; a request has been sent to Commissioners requesting input on subjects to be addressed. Project will avoid duplication of the State’s booklet already being distributed.

Signing of the Plimpton Conservation Restriction

Walk Ins:

Gimas/ Waters Tree Removal 38 Farquhar Road: EG: A letter has been submitted from Northern Tree regarding the assessment of the four trees on property abutting Sue Waters property; this is not regarding a water resource, but a property that we have care, custody and control over. The letter has recommended removal of the four trees; The abutting owners are concerned of future failure if they are not removed. CM: The person signing this Arborist Report has signed as an Arborist Advisor, which is a title I have never heard of - We have always required a Massachusetts Certified Arborist as our required level of professional expertise.

The Commission will further explore the professional credentials of the Northern Tree inspector and continue this hearing at August 13th meeting.

Public Hearings

7:00 Notice of Intent DEP #300-908, 69 Route 84, (DPW fields), Parks & Recreation. Construction of recreational fields in Riverfront Area and Flood Zone A. GC: Waterman has completed the evaluation of the habitat, and the report has been submitted to Natural Heritage. This may be ready for discussion at the August 13th Meeting.

7:15 Notice of Intent DEP #300-tbd, 21 Bennetts Road, David Zonia & Linda Jowett. Second story addition and new deck in the buffer zone. Mike Loin, Bertin Engineering representing the owners: This is an existing single family house; the owners would like to add a second story with an 8' deck with stairs on the front of the house; the existing stairs are troublesome to Mr. Zonia's health; the deck will be 25' from the lake; the house is pinned to ledge on one side of the house; there is minimal impact to vegetation; no tree removals needed for construction. DZ: We are retired and have some health issues that restrict us somewhat; it would be a great help to have a place to sit and enjoy the lake, and we are eager to do things right; ML: the deck is along the water side; it will be pinned to the ledge in some places, not sure if we will also need a couple sona tubes, depending upon the soil; the decking will be spaced to allow water pass through, the stairs will allow drainage and there will be crushed stone beneath (the whole area is already small pea stone) CM: best to add some vegetation to increase stability and percolation rate (suggest hosta, etc) EG: site must already be at maximum coverage? ML: yes EG: so we should not be pushing the limit here; this is a very vertical site, one that we should not be pushing the limits on; is it possible to do a smaller deck along the side and not go towards the lake? ML: No, vegetation is basically non-existent, it is ledge and ledge face- it is not changing; there is no impact to the lake EG: our regs say new structures must be 50' from the lake ML: yes, but this commission has made exemptions based on the specifics of a site, and we propose that this plan is not increasing the impact on the lake. **Motion JK: to accept this plan as presented, 2nd: CM; Discussion:** CM if this is approved I would accept this with the addition of some vegetation wherever we can; it has potential to be thickly vegetated under the deck to aide absorption and filtration as water enters the lake. **DB:** I would want the Order of Conditions to include the prohibition of any permanent covering like a roof that would direct water downward. **Vote 2:2; DG Abstain; motion failed; Commission granted request for continuation.**

7:30 Notice of Intent, DEP #300-920, 38 Hamilton Road, Ky Nguyen. Wetland crossing for driveway. Construction of a SFH, septic system, and associated site work in the buffer zone. Mike Loin, Bertin Engineering representing Mr. Nguyen. Mr. Nguyen is unable to attend due to illness; ML: this project started some time ago; last fall we ran into question of wetland delineation being accurate; Art Allen of EcoTec came to the site – and adjustment made to the wetland delineation. Since then, we have re-flagged the wetlands and have relocated the driveway- this is the narrowest & only feasible access to create a wetlands crossing to the upper portion of the property for construction of a SFH ; We've shown 2 wetlands crossing that actually combine into one, there will be stone boulders along one side, several 12 inch culverts to prevent any backup flow that might jeopardize the driveway itself; Silt fence along driveway and along crossing; we've shown a 2:1 replication area; and have submitted a protocol on this plan (which was reviewed by Art Allen) We are asking for the Board's approval for an OOC for the NOI to access the upper portion of this site. GC: the replication protocols seem rather generic rather than specific towards this site; if we approve, we'll need more specifics ML: yes, it is mandatory that a wetlands scientist be onsite for the digging and replication purposes - there are many sites affected- it's rather hard at this point to be specific to each one at this stage of the project; GC yes but we can put in language that clarifies that the intent is to be cautious of and to maintain the health of the trees; ML I can have the wetland scientist write up a memo to the Commission regarding the replication between the treed area GC- I do see an underground conduit; how deep does this trench need to be ML 30 inches below the surface- right in the driveway whenever possible, and along the edge CM: what is width of the driveway? ML 12 ft drive lane plus 2 ft and 2 ft to boulders; CM: has Art Allen seen this driveway? ML: Art Allen has reviewed this whole plan... CM seems like some of these trees are in danger from the conduit trench in some areas? JK yes, it seems like one tree may need to be lost in that area- the area of the upland island... There are 2 large oaks in that section; seems like 1 may need to be lost... DB: This is a very large wetland area, and last winter the wetland area fluctuated constantly: DG: What about ice in that driveway? ML; We have the hydraulic connection with the peastone under the driveway, and the culverts going across to drain ; this design should compensate for this DG: how high are the rocks you're putting along the sides of the driveway? ML: only about 4 inches on either side to help the gravel stay in place...not a wall. DG: so snow and salt etc will plow over into the wetland: ML: we've shown a shoulder on each side; you could make a condition regarding this maintenance EG: are you tarring the driveway? ML: no, only gravel CM: if we have a 2:1 replication, why are we continuing to be concerned about this? Art Allen came out at our request, he gave his professional opinion, and he believes that the wetland replication will work. GC: According to the wetlands regulations, this plan DOES meet performance standards; they are replacing the wetlands at 2:1 because replication does sometimes fail; there are provisions for monitoring this site; they have to insure replication is successful or they are responsible for follow-up and correction of the problem. ML: the note on the plan says "replication areas will be inspected by a qualified wetlands specialist at the end of the growing season for a minimum of 2 years or until such time as the required 75% of vegetative cover with wetland species has been established" CM so that means a 75% of the 100% increase must be successful ML: yes DG: so you are thinking of cutting that one large tree? ML: yes, we will re-look at that- You have 2 expert tree professionals on your board- we hadn't considered that problem; their

suggestion makes good sense... so we may lose that one tree in order to keep our distance as far as possible from that 2nd tree.... We will be having a pre-construction meeting before work is started, and we can make sure this commission is on board with the final location of the driveway....

Motion JK: to close the public hearing; 2nd CM; Vote AIF

Discussion: GC: in the OOC, we need to be clear that the intent in replication is to save the trees that are there - so replication must take place between the trees CM: I'd like to see jurisdiction overview on removal of a or two trees to preserve significant other trees, and keep pipelines out of tree root zones as much as possible

Motion: JK: to accept the plan as submitted; 2nd CM: Motion failed. Vote: 2:3 against (JK, CM in favor);

7:45 Request for Determination of Applicability, 30 Birch St, Joseph Kuliesh. Replace existing deck. Work in the buffer zone. Documents: photo and sketch of house/deck presented JK: sketch provided of plan of house; EG: All commissioners have visited this site; does anyone have problem or recommendations? (no) DG: very apparent that this is in the exact same place:

Motion EG to close the Public Hearing; 2nd CM; Vote AIF Discussion: none GC: Work in buffer zone; Negative determination #3; this project does not require filing of NOI.

Motion CM to accept plan as presented; 2nd DB; Vote: AIF

8:00 Notice of Intent, DEP #300-926, 170 Lake Road, Frederick & Susan Shea. Raze and rebuild a SFH with addition and garage in the buffer zone.

Documents presented: receipts of certified mailings to abutters, copy of the legal ad, and cover letter for map of record, Site Plan, Points of Mitigation Narrative, Points of Mitigation Drawing, Infiltration Calculation Report. Letter from EBT Environmental (Glenn Krevosky)

Myhrum: When we were last here we presented a revised plan making an effort to move the planned building back 25'; that plan was rejected. Three questions were presented by the commission at that meeting

EG: if you don't know if you can build on that foundation or not, doesn't that raise a level of uncertainty

DB: You have a slice of project within the 50' BZ; the plan should provide more mitigation

DG: what are you doing to give back to the lake

We have confirmed thru public records request that this commission has consistently allowed for foundations within the footprints of existing structures, so that is what we are presenting, a newly built foundation at the same elevation as the existing structure. To address mitigation concerns, we have installed a trenching system akin to a rain garden, are planting native species and placing padding along the shoreline; the map shows significant increase in vegetation. All of this has been designed to enhance the health of the lake and has been incorporated specifically to address concerns expressed by the Commission in previous meetings. We also have presented a letter from Mr Krevosky stating that these plans do not harm and indeed enhance the conditions of the resource area. CM: how much impermeable area is on the property now? LJ: Lot coverage existing is 2036sf proposed lot coverage is 2577 sf; it's an increase of 500 sf of impermeable area within 50- 100' BZ CM: Where is the greatest increase in impermeable area? Myhrum: All beyond 50' BZ except for small triangle area shown on the plan EG: The minimum distance for a new structure will be 50 from any resource area. The 50' no structure buffer new structure setback will not apply to any structure existing prior to adoption of these regulations; however, new structures being removed and replaced must comply with regulations in effect at the time of reconstruction. Why do you feel we should allow you not to comply? Myhrum: We are rebuilding this foundation in the existing spot- that has routinely been allowed by this commission. The area of proposed addition is within 50 ft zone: the criteria stated in the regulations is feasibility, not possibility; which has been allowed in multiple circumstances by this commission EG: are there any comments from the audience?

Lynn Hutchinson 168 Lake Road: My husband and I are neighbors and friends of the Sheas and would like to speak very highly of their character; we have seen and like the plan, we respect the team they have put together; they have brought in an environmental specialist, and we are sure they have made these plans according to the letter of the law....and we want to give our support.

Glenn Krevosky : I did a site visit; this lot is degraded - we will replace the existing pea stone with loam and plantings- and tilt the driveway to direct the runoff towards the swale; My goal was to improve quality of the water reaching the lake and keep the shoreline stable, no trees are being removed.

GK then offered suggestions for further improvements, including installation of a deep sump basin where the road runoff is currently running into the lake.

Myhrum: this was not expressed previously as a concern by the commission- the Sheas have already offered significant enhancements - the enhancements currently presented are already priced at approx. \$12,000 - DB: without this basin, Glenn's (Krovosky) letter certifies that "with the proposed measures, construction of the residence as shown on the plan will significantly enhance the lot condition and provide a substantial net. GC: they've done a good job of addressing a problem that we identified, and it also helps the Sheas... The plans that we're seeing have a lot of improvements, they have

given a lot to the lake; grass swales, pea stone removed, grass being planted, winterberry and a great selection of other plantings... this project, even without the deep catch basin, is a great improvement

EG: we are adding a second story, and moving a garage closer to the lake, and if everyone on the lake did the same, it would not be good for the lake.... The fact remains that we have regulations in place restricting new structures within the 50ft buffer, and this is a build within the 50ft, Myhrum: We started this proceeding with a plan that in my opinion was a very good plan. We came back to the commission a 2nd time with a new plan moving the house back 25 feet - The plan was rejected; The Sheas need approval before they lose their construction season; This process has cost the Sheas a great deal of money to get back here tonight ... Projects similar to the Sheas have been approved and built all over the lakes -
Motion DB; 2nd DG, Vote AIF to close the public hearing

JoeK asked for clarification on the "Possible vs Feasible" discussion" in the Bylaw regarding the distances for builds on the lake Myhrum: It appears in Section 1.1.p7 and the regulation states "for structures existing within the 50' buffer (*which ours does*) which are not being not removed (*which our is not because we're leaving the footprint*) but for which the footprint is changing (*which ours is*), any increase in footprint must take place at the greatest feasible distance from the resource area"
Motion DB to approve the July 8 plan as presented 2nd Donna Vote: 4:1 (EG against)

Enforcement

26 Audubon Way, Bindiya and Vivek Jain. (VJ); Conservation easement violation.

24 Audubon Way, John & Cheryl Yacovone. (JY); Conservation easement violation.

22 Audubon Way, Robert Achi. Conservation easement violation.

All parties were present.

Agent comments: I was asked about a deck project on an address on Audubon way, and as I looked up the GIS maps online, I saw what appeared to be alterations to adjacent properties that have conservation easements on them. I sent a letter to the property owners and asked them to appear here tonight before the Commission.

Bindiya and Vivek Jain, John & Cheryl Yacovone, and Robert Achi: All homeowners spoke to the fact that they were all first owners of these properties, and that the areas had been hydroseeded by the builder when they bought their properties 10 years ago. They said they had been informed that it was conservation land, that it could be mown, but that no other activities or structures could be placed on those sections. Homeowners expressed concern about being required to let the areas re-naturalize because of potential tick and other insect issues. Commissioners discussed that no harm was being done to the properties, that all owners respected other limitations of the easement and there appears to be no intention of further violation.

Commission Consensus: To take no action

Letter Permits

84 Paradise Ln, Roger & Connie White. 5 trees. Joe Kowalski is their Consulting Arborist: Joe also recused himself from the Committee's vote. Agent comments: Confused because application was for 5 trees; a lot more than 5 trees were flagged at site visit CW: yes, after second consultation with consulting arborist, we determined that there were more trees that needed removal - problem is "wooly adelgid". Trees that could be saved have been treated by JKowalski; there is also that larger tree (shadbush) by the shoreline that has split and has decay; JK (consultant) has determine that that cannot be treated or cabled.

Motion DB; to approve plan as presented; 2nd DG Discussion: DB: applicant has already gone thru treatment process with those trees that can be saved, I think we should proceed; Commission discussed and agreed there was really no place on the property for any mitigation plan **Vote: approved 3:1 (CM against; JK abstain)**

82 S. Shore Dr, Application to remove 4 trees; James & Doris Smith

GC: there is no arborist report for this project; 4 trees flagged; 2 blue spruce, 2 standard evergreens; planted by previous owner ; Commissioners all visited the site and agree the trees are quite deteriorated; Trees have Needle Cast fungus; DB: when you replant, you'll want to be cautious and get shade-tolerant species

Consensus: All approve

45 Seneca Ln, Craig Moran. Restoration/replanting plan.

GC: At the site visit, more trees were cut than the commission had allowed; you and I had flagged 13 trees; after commissioners had visited, we took some flags off of the trees on your neighbor's property; but when I did a site visit and saw that all trees on your property had been cut down, including ones that weren't flagged; could you explain what happened? CMoran: I thought I was here to talk about a replanting plan, but I'm happy to explain this... GC: yes, we will be talking about replanting along the shore; there will be appropriate species that won't affect your shading of the house, maybe some bushes, we can talk about specific species at that time CMoran: It was an unfortunate series of errors; We had had a meeting here (ConCom) on Thursday night (June 18), and was told that this would move quickly; GColburn came to visit on Friday morning to flag trees- we flagged 13 trees; I didn't know that more people (commissioners) were also coming to visit. I called the tree company; got a price on their work, but they said they couldn't schedule the work for a couple weeks; and (Commissioners) JoeK and DonnaG showed up and looked around, then I got a letter (from ConCom) for 9 trees; Then the Tree Company came on Monday without notifying me because they had had a cancellation: I wasn't home; they came in and cut all the trees down. GC We had specifically talked about that large pine right on the water- it was never marked.... They even took that tree - You may be able to get them to pay for the replanting- CMoran: I will deal with the tree company but I'd like to deal with my work here with this commission and move on.... Glenn: this is not a good time to plant trees, but we'll need to see a re-planting plan at our August 13th meeting. CMoran: I'm not sure I can do that quickly; I am still living at a hotel and working day and night to get my house ready and move back into my home; after that I will deal with these trees. EG: with all that you have going on, the planting can wait til September/October, but we'd like to see the plan at our August meeting. CMoran: I'll do my best to make the Aug 13 meeting. **Continued to August 13 meeting.**

Minor Amendments to Orders of Conditions

14 Birch St, grading and paving of driveway under Order of Conditions #300-811. Chris Parent representing property owners Bob & Evelyn Sullivan Agent comments: this E1 pump is continually flooding, owners need to pay for further replacements, so they are trying to regrade to change this flow; suggestions are good, but I don't like idea of pushing the water further down the road to other property owners: I suggest you try to handle the water through your property; CParent The plan being presented is putting a concrete riser around the existing pump, there have plantings and gravel where the water comes off the road; the pavement is only in one area; there is no berm in this plan; plan puts 18 inches of gravel all along the timber; cuts the velocity of the water; upper side is all crushed stone, it's all vegetated to absorb as much as it can. Commission is concerned about the plan forcing water to run further down the road, and want the focus put on redirecting water right where the pump is; suggests trench further down to absorb as much velocity
Motion: CM: to accept the plan minus the Cape Cod berm, extend the trench of gravel to just past the large pine in the middle of the house, where the slope increases. 2nd: DB Vote: AIF

Walk In Peter Mimeault: 76 South Shore Drive

My property has been negatively impacted during the period about 10 years the specific area affected is within lake bed of South Pond. The state owns and has jurisdiction starting at the highwater mark (my boundary mark) into the resource including any land that surface during low water periods. The state has granted the towns authority to manage riparian rights to landowners fronting on a great pond. I have a recorded plan depicting my riparian zone along 55 ft of frontage at my residence - this zone identifies the boundaries of my usage into the lake itself. This commission exercised an order on adjacent property, on the right side facing the lake to unclog an upland culvert of a perennial stream; the result of that action has caused my riparian zone and the bed of the lake to be filled with gravel/silt at a depth ranging from a few inches to a few feet. I can walk into the lake on the left side approx 50-65 ft from my shore to a water depth of 4 ft; but on the right side, the water is only 2-3 feet deep. This gravelly material has been shifting due to both wave and ice action. I request your support in restoring the lake bed back to a condition that matches the left side of my riparian zone. I understand that this commission has the authority to grant permission for a restoration project which includes 10-20 yards of mitigation work and does not alter a state resource area. I request your support in coming before this commission for a RDA to do work within a resource that is neither a riverfront area nor a wetland buffer. Restoration project will be to remove siltation from the bed of the lake. Area is a 10 foot wide swath of my riparian zone, going out into the lake 50-60 feet. My proposal will include fixing the culvert where the cone is now where erosion is taking place at the road.

Mr. Mimeault will file and Request for Determination

29 Main Street, Brian Eisold. EBT Environmental to present restoration plan. Jalbert Engineering is preparing the plan. **Granted continuance to August 13 meeting.**

Agent:

Request for signatures for Certificate of Compliance for 222 New Boston Road; #300-590, Alfred Boutiette. Agent did site visit; there was intrusion into buffer zone

Notification from Tenn Gas Pipeline regarding vegetation management activities 200-1 200-2 lines; work expected to occur this fall; 33919

DB: is there a gas leak at Mobil Station at corner? (Rt 20 & Rt 131) GC: No, the whole station is coming down: They were in my office asking if they need to file; DB: Remember history of the pollution of town well #1: which is significant distance from their property line; so testing will have to extend; GC: Yes, they are testing all soils; contaminated soils will be removed (similar to Cumberland Farms project) DB Existence of well creates a Zone 1 Containment Area: Well #1 is 200-300 feet beyond gas station property; Glenn is going to site next week and

Tenn Gas Pipeline is starting to do work along their lines to repair anomalies; started week of June 29; that is ongoing around town

EG: has asked GC to check on Fiske Hill logging project; people are complaining about it; it's a very aggressive plan- Glenn has spoken with the forester; she is going to talk directly to the person who had the concerns

EG Nat'l Grid called, line is down from Wallace to Shepard Rd; line is off of four poles; they wanted to go in for emergency repairs; they called later to say they couldn't go in as an emergency - the line is laying across the swamp; it has been down and live for a long time; they'll be replacing all the poles etc

Approval of Meeting Minutes

- **Motion (DB) to approve minutes of June 4; 2nd EG; AIF**
- **Motion (DB) to approve minutes of June 18; 2nd DG; AIF**
- **Motion (DB) to approve minutes of June 29 (special Plimpton Meeting); 2nd EG; AIF**

Two Enforcement Order needing signatures

Laurel Woods ; erosion controls were in poor condition; silt got into the wetlands; GKrevosky (EBT) is investigating how to improve the controls; They are still investigation how much damage was done - we do not think it was substantial

One is going to Andy Cormier (Escape Estates) ; another going to Randy Bercume the owner of subdivision property

Agent Glen Colburn requested that the meeting go into executive session

Motion (DB) to grant agent's request to go into executive session; DG: 2nd; AIF

10:00 pm Motion to Adjourn Regular Meeting; 2nd: DG, AIF

NEXT MEETING: Thursday, August 13, 2015

A copy of tonight's meeting can be found on our Town's website or is available upon request via the Audio Department: 508.347.7267