

**TOWN OF STURBRIDGE, MA -- CONSERVATION COMMISSION**  
**Thursday, September 1, 2016**  
*approved 10/6/16*  
**Sturbridge Center Office Building, 2nd Floor**

**Meeting Called to Order:** 6:00 David Barnicle (DB), Vice Chair  
Present: David Barnicle, Steve Chidester, Steven Halterman  
Absent: Ed Goodwin

**Quorum Check:** Confirmed

**Others Present:** Glenn Colburn (GC), Conservation Agent  
Anne Renaud-Jones, Conservation Clerk  
Applicants and/or Audience Members: Rick Mammay, Greg Morse, Charles Quinby, Nick Salvadore, Peter Gariepy, Ernest Colognesi, Matt Kibbee, Jim Rowe, Jackie Rowe, Leonard Jalbert, Doreen Burbine, Nicole Cunningham, Lucien Fontaine, Dolbert Cunningham, Larry Tuttle, Joshua Roy, Rona Roy, Suzette Rodrigues, Bruce & Debbie Gran, Mark Farrell, Doreen Grout

**Committee Updates:**

**CPA:** no report submitted

**Trails Committee:** August 20, the GeoFest brought +/- 30 volunteers to work with Trails on Leadmine Mountain for trail work; built a short trail – about 3ft wide, single track trail- all done in about 5 hours, with all hand tools. Trail had been laid out by Dave Peterkin & Tom Chamberland.

**Lakes Advisory Committee -** Their last minutes were from June meeting; they reported a lower than expected attendance at their annual boat safety course.

**Walk-in** **Caron Road resurfacing project:** Greg Morse/Sturbridge DPW: Residents of Caron Road (Cedar Lake) have requested the paving of Caron Road due to its deteriorating condition. Contractor bid opening was August 29th; Project has \$200,000 budget; The town oversees the project, residents reimburse the town through a betterment fee. Project has been designed in a simple fashion.. to regrade the most problematic areas at a higher elevation to avoid current flooding issues and allow surface draining and sheetflow. It is similar to project done on Mountain Brook Rd, which was successful. There are no large stormwater structures. Average width of the road is 14.5 feet, still just one lane; if we attempt to widen, there are issues with steep embankments; will continue to use gravel “pull-outs” for people to pull past each other...Majority of the project is outside the 100ft buffer. Agent: there are no known overly sensitive areas here..... It will require filing a Notice of Intent and an Order of Conditions. DPW will alert ConsCom when schedule is established.

**Public Hearings**

**6:15 Request for Determination of Applicability, 78 Bullough Road, Dean Higgins.** Construction of 2nd floor deck in the buffer zone. Documents submitted: newspaper tear sheet and certified mailing receipts: Dean Higgins: project consists of adding 2nd floor deck over existing deck: no new piers, posts or digging required; GC: close to the lake, so must contain your construction material; DH: agreed. **Motion (SH) 2nd (SC): to close the public hearing, and approve the project as presented, with the following determination:** Determination: positive determination #5 confirming that the project is subject to the Sturbridge Wetland Bylaws, and a negative determination #3, confirming that this project is within the buffer zone, but will not alter the area subject to protection. No Notice of Intent is required. **Vote: AIF (3:0)**

**6:30 Request for Determination of Applicability, 106 Westwood Drive, Nicholas Salvadore.** Demolition of existing deck and building of new deck. Represented by Peter Gariepy, G&O Construction Contractors. Documents submitted: newspaper tear sheet and certified mailing receipts: PG: project is 53 ft from the lake, new deck wraps around to lakeside of house for view; piers are “Techno Metal Posts”, which require no digging and leaves little to no disturbance to the soil when installing... washed 1-inch-minus stone under deck Agent: concern about hitting ledge? PG: not expecting any, but posts can be tied to ledge if necessary, if major, we would stop to re-plan and revisit ConsCom and Building again... **Motion (SH) 2nd (SC): to close the public hearing, and approve**

**the project as presented, with the following determination:** Determination: positive determination #5 confirming that the project is subject to the Sturbridge Town Bylaws, and a negative determination #3, confirming that this project is within the buffer zone, but will not alter the area subject to protection. No Notice of Intent is required. **Vote: AIF (3:0)**

- 6:45 Notice of Intent, DEP #300-957, 6 Birch Street, James & Jackie Rowe;** replacement of lakefront retaining wall: Jim & Jackie Rowe: Existing wall is old railroad ties; they are rotting away; We were incorrect at last meeting: this proposed stone (block) wall is not straight vertical - it's designed as stepped - with a 3/4in setback every 6 inch rise; Wall height at 3.5 ft; Agent: this site has great habitat; work will be during drawdown, erosion controls will be specified in Order of Conditions... **Motion (SH) 2nd (SC): to close the public hearing, approve the project as presented, and issue an Order of Conditions. Vote: AIF (3:0)**
- 7:00 Request for Determination of Applicability, 8 Tannery Road, Paul McDermott;** replacement and expansion of deck. Commission had visited this site; site is right on the 100' buffer line; slopes is uphill to isolated wetland; no erosion threat; Motion (SH) 2nd (SC): to close the public hearing, and approve the project as presented, with the following determination: Positive determination #5 confirming that the project is subject to the Sturbridge Town Bylaws, and a negative determination #4, confirming that the work described is not within an area subject to protection under the Act. No Notice of Intent is required. **Motion (SH) to approve; 2nd (SC) Vote AIF 3:0 APPROVED: Vote: AIF (3:0)**
- 7:15 Notice of Intent, DEP #300-966 7 Long Avenue, Robert & Patricia Sullivan;** construction of new paved driveway, location of drilled well, and related landscaping. Represented by Jalbert Engineering: Len Jalbert: Documents submitted: Certificates of mailing and Legal Ad tear sheets: Project is installation of a new driveway; current access is through a right-of-way off Adams Road; enters at back side of property, can be hidden from view and is often visited by trespassers; the house has been broken into before; New driveway is from Long Ave, and is on the Sullivan's own property; Agent: This entails significant work within the buffer zone; and current takes 14 good trees; area is heavily wooded, so new plantings probably would not flourish... Concern about increased runoff from that 8% slope: Is there an alternative placement for the driveway? LJ: we can try to reconfigure the driveway to impact fewer trees... Commissioners: project is do-able but would have to be carefully conditioned... With good erosion controls... -- Several neighbors spoke on behalf of the Sullivans: confirmed many instances of trespassers, worried about continuing break-ins; some have personally encountered going thru the gate... People driving around looking for lake access think it will lead to the water ; **Request for a continuation to Sept 15th; Commission CONSENSUS AIF (3:0): Continued to September 15.**
- 7:30 Request for Amended Order of Conditions; DEP #300-922, 136 Lake Road; Bruce Gran & Beverly Litchfield;** change to the footprint of approved house plans; within the buffer zone. Jalbert Engineering representing: LJ: we are presenting revised plans with a more clearly marked (red) indication of the proposed changes from our previously approved plans. Two changes are being proposed:  
 -- Lakeside deck: was originally approved as a 6x4ft entranceway, in the 25ft bz, but in already disturbed area: proposed change increases size to 7x10ft deck; location is still 2 ft further from the water than the existing deck.  
 -- Garage with upstairs living space: originally approved plan had a small landing and stairs from the 2nd floor level as the 2nd egress (to meet bldg. code; already approved by ZBA); proposed change increases size to 10x20ft deck; location is in 50ft bz, but at 2nd story level; DBarnicle suggested peastone underneath...Jalbert agreed... DB objected to enlarged lakeside deck in 25ft bz; Bruce Gran: summarized how much work has been done/planned to encourage proper drainage everywhere, his intent is to keep site pervious; his involvement in SLAC and Big Alum monitoring and weed control; and his concern for the health of the lake: and his eagerness to be full time resident of Sturbridge; **LJ Request for a Continuation to Sept 15th; Commission CONSENSUS AIF: Continued to September 15.**
- 7:45 Notice of Intent DEP#300-964, 226 Roy Road, Joshua Roy. Continued from August 11;** Raze and re-build a single family home in the buffer zone to Big Alum Lake. Mark Farrell (Green Hill Engineering) presenting: At August meeting, the Commission questioned the wetland delineation. Since then, we have taken soil borings, and found no hydric soils: Agent: we agree; there is a high water table, but we accept the wetland delineation as stated. Our orders will include cleanup of the yard waste dumped there... That is technically "filling" of the wetland. **Motion (SH) 2nd (SC): to close the public hearing, approve the project as presented, and issue an Order of Conditions. Vote: AIF (3:0)**
- 8:00 Notice of Intent, DEP#300-961, 67 Bennetts Road, Charles Quinby,** landscaping and patio installation; represented by Green Boys Landscaping (AJ Comerford) ; Continued from August 11th; AJ Comerford presenting: At August meeting, Commission asked that these plans have more specifics regarding distances and dimensions incorporated into these drawings... Summary: There was no new information presented tonight; AJ reviewed the plan again, discussion was had regarding erosion controls (wattles and silt fence), Gazebo is 12x 14;

it's new location will be at a point where driveway ends; it will be set on raised sona tubes, and underneath will be 3 inches of 3/4in stone; stone will also exist 12 inches beyond the perimeter of the gazebo dimensions; this will aid in stopping runoff from the driveway, which does have a slope ....Overall, this project reduces the square footage of impervious surface by 131 sq ft... Commissioners advise Green Boys to keep an active eye on erosion controls and monitor them while work is active (watching weather, checking after rainstorms, because of steep grade;

**Motion (SH) 2nd (SC): to close the public hearing, approve the project as presented, and issue an Order of Conditions. Vote: AIF (3:0)**

- 8:15 Notice of Intent, DEP#300-959, 9 Holland Road, Continued from July 21;** Culvert repair in the riverfront area. Richard DiBonaventura, represented by Paquette Builders. *Continued to September 15;*  
 -- Agent: Enforcement Order for repair of the culvert is ready for signatures; (copies of accompanying letter have been distributed); We have contacted Natural Heritage; they have not rec'd anything yet, so Enforcement Order also includes requirement to send Notice of Intent to NH; Deadline for both requirements set for Sept 15; "Failure to respond can result in additional enforcement actions which may include fines." .....this enforcement order only addresses the immediate repair of the broken culvert and notification of Natural Heritage as required; there are many more things that need to be done: - The Notice of Intent submitted is inadequate and needs to be corrected: there are serious concerns going forward with this property, ie, drain in front of garage door is big problem - it is running right into the river; there is heavy erosion on site; Paquette wants to reestablish access road in the back; this all needs to be done under a good solid Notice of Intent and Order of Conditions.

### Letter Permits

**170 Lake Road,** Frederick & Susan Shea. Pad for propane generator outside the 100' buffer zone. Site has been visited; foresee no problems. Motion (SC) to approve; 2nd (SH) Vote AIF 3:0 APPROVED

**9 Cedar Pond Road,** Doreen Grout; Request to install vinyl fence. Agent has visited site; Tree is valuable; we will request keeping tree; ask for 6 inch space under fence. Motion (SC) to approve; 2nd (SH) Vote AIF 3:0 APPROVED

**1 Adams Rd,** David McGuill, Removal of fallen tree and repair lawn. Tree has fallen into the water; half on beach; Commission requesting a replanting; Agent will make plant recommendations. Motion (SC) to approve removal of fallen tree; 2nd (SH) Vote AIF 3:0 APPROVED

**326 The Trail,** Ernest Colognesi. Removal of 1 fallen tree and two damaged trees; property owner Ernest Colognesi: Fallen tree in the water, encroaching on neighbors beach; would like to remove it: a second tree on other side of beach is decaying and threatening his boats; Agent: Trees in the water do make great habitat for the lake: would you consider leaving it? EC - would not like the idea; considers it unsafe for neighbors, boats and skiers; close to the floating dock: neighbor Matt Kibbe asked to speak: had pictures of the trees from the lake looking towards the shoreline (a perspective unseen by commissioners at site visit) Commissioners all agreed that the pictures proved the safety issue was significant; Commissioners agreed to removal of 3 trees: 1) fallen tree in water 2) pine on shore whose roots are entangled with fallen tree 3) decaying maple on other side of beach area; Commission request replanting 2 new trees. All agreed. Motion (SC) to approve; 2nd (SH) Vote AIF 3:0 APPROVED

**35 Draper Woods Road, Grafilo & Suzete Rodrigues.** Inground pool in the buffer zone. Motion (SH) to approve; 2nd (SC) Vote AIF 3:0 APPROVED

### Signatures

SIGNED: Order of Conditions; DEP#300-962; Dale Morse (6 Cedar Street)  
 SIGNED: Order of Conditions; DEP#300-949; Brian Juliano, 43 Abrams  
 SIGNED: Order of Conditions; DEP#300-954; Solect Energy, OSV solar field, 1 OSV Road

### New business

Bear Levangie of BioForest: unable to attend this evenings meeting, Spoke with Agent to propose a study of the effectiveness of injectable insecticide to combat gypsy moth defoliation. Study area would be Leadmine Mountain. Agent: Insecticide is an injectable that has been used successful for the emerald ash borer: they would like to test this for gypsy moths.... Commission was concerned with details of the chemical: asked if BioForest would come in to talk to the Commission for the September 15th meeting.

## Enforcement

- **460 Leadmine Road, John Stevens. Progress report due.** Completion of restoration work by August 11th. Site visit was held with Agent and DEP with Judy Schmidt; She looked at it from point of view “improper disposal of construction debris...” DEP didn’t feel the damage warranted DEP’s involvement; Glenn Krevosky was there; explained his process of looking at hydric soils, explained that Stevens had removed material, GK went to check; said Stevens needed to remove more material; Excavation work resumed, and the excavator got stuck in the wetlands. They were preparing to remove the excavator as we were leaving; GC and Judy explained to Stevens that the machine was leaking hydraulic fluid; this same machine could not be used again to resume work; Stevens said it would be taken off site..... Judy asked agent to send photos and regular progress reports, but DEP is leaving this project in our hands....

SH asked if Denise Childs (Wetlands Section Chief at Mass DEP) would be more appropriate person to ask for guidance; Beyond actual material in this case, commission is very concerned about deterrent value of significant fine; construction debris is costly to dispose of, and we need to send strong message to public that this is serious business.... There are multiple violations here- we know this site will be cleaned up and restored appropriately; but we must send message that this is not tolerated in Sturbridge; We have option of issuing tickets and fines, we also have option of treating as a criminal offense; we have not dealt with violations of this magnitude before; Steve Halterman will contact Denise Childs to seek guidance.

- **8 Birch Street, Richard DiBonaventura.** Work in the buffer zone without permits. Cannot reach property owner; MOTION to start fining, using daily fines as specified in our bylaws. Daily; \$25, \$50, then \$100 subsequent days..... Agent will follow through with notification.
- **9 Holland Road. Richard DiBonaventura /Paquette Builders:** Work in the Riverfront Resource Area without permits. Enforcement Order is going out with September 15 deadline for emergency culvert repairs and NH notification.
- **3 Ladd Road, Robert Briggs.** Work in the buffer zone without permit. Agent: we rec’d incomplete NOI, Impression is that they don’t know how to approach this; Babe is clear that he needs to maintain erosion controls in good condition until we can act; and check them after storms, etc; Have not asked Stevens to remove any material yet; Would like to keep as is until we address the NOI and determine what we will allow DB Briggs should NOT use that new “driveway”; Agent needs to inform Briggs not to use driveway; Summary: Commission agrees that we don’t want to issue an immediate order to remove everything from the BZ as some of this work in BZ may be permitted; we’re on hold, waiting to discuss NOI; Agent will advise Briggs NOT to park in new “driveway”

## Agent Report

The Project Agreement for the Land Grant used to purchase the Plimpton property) was recorded this past week at the Worcester County Registry of Deeds.

Conservation Restrictions: Last CR recorded this week for the Shepard parcel; All four of the Sturbridge CRs have now been completed and recorded at the Worcester County Registry of Deeds. The last one was recorded this past week. The recording of these CRs allows the Town to now receive the \$400,000 reimbursement funds to go back to the CPA fund.

**Peter Mimeault: 76 South Shore .....** August 11th meeting, this Commission signed a 3-year extension permit; an abutter complained to DEP, DEP called me advising us that we should not have approved an extension because OOC was expired; Upon review of full project history; found the following timeline:

- Mimeault received first OOC, issued Jan 10, 2008; orig expiration Jan 10, 2011
- Amended in 2010; (an amended order does not extend the expiration date)
- Dec 2012, Peter asked Agent about OOC expiration date; Agent mistakenly used Amended date (2010) as a baseline to tell PM that his expiration was 2013; when GC discovered this error, he returned to orig expiration date (2011); added 4 years for Extension Act, resulting in Jan 2015 as (thought to be accurate) expiration date.
- August 2016: Commission approved 3 year extension to (Jan 2015); which extended OOC to Jan 10, 2018.

- When DEP protested, prompting further research; we found minutes dated Dec 2, 2010 of ConsComm approval for 3-year extension (40 days before his orig expiration) ; This extension was never recorded by Cons Agent: but vote was taken and approved AIF) ; this put actual expiration at Jan 2014 , then extension act + 4 years, good until Jan 10, 2018 This EP was never completed by former agent and signatures were not collected despite AIF vote on December 2, 2010 vote. Expiration date extended to January 2014. Permit Extension Act extends to 2018.

**Approval of Minutes**

Motion (SH); 2nd (SC) to approve minutes of July 21; (2nd); Vote: AIF 3:0

**Motion to Adjourn**

9:25 pm -- Motion (SH) to adjourn the meeting (2nd SC); Vote: AIF 3:0

**Next Meetings:** Thursday, September 15th, 2016, starting at 6:00 pm

***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***