

**TOWN OF STURBRIDGE, MA  
CONSERVATION COMMISSION**

**Thursday, February 18, 2016**  
*Approved at March 10 meeting*  
**Sturbridge Center Office Building, 2nd Floor**

**Meeting Called to Order:** 7:00 pm. Chairman Ed Goodwin

**Quorum Check:** Confirmed

**Members Present:** Ed Goodwin (EG), Chairman  
David Barnicle (DB), Vice Chair  
Joseph Kowalski (JK)  
Steven Halterman (SH)

**Absent:** Steven Chidester (SC)

**Others Present:** Glenn Colburn (CG), Conservation Agent  
Anne Renaud-Jones, Conservation Clerk  
Applicants and/or Audience Members: Bob Garon, Adam Gaudette, Ron Chernisky, Matt Gagner,  
Joe Veneziano, Don Lamascolo

**Committee Updates:**

- **CPA** did not meet
- **Trails Committee:** has been working on their Annual Report; also their planning for 2016 projects: these include the Plimpton Walk in May (TLGV) ; a June Trails Day at Leadmine Mountain. Working on the parking lot : Agent GColburn pointed out that this location will be used as a staging area for the Hamant Brook Dam Removal project, expected to begin this spring, so any work on a nice parking lot in that location may be ruined: DB agreed to take this info back to Trails: GC agreed to reach out again to F&W about the dam removal schedule.
- **Lakes Advisory:** we currently have no liaison to this committee

**New Business**

Chairman Ed Goodwin proposed that this commission plan their election of officers during one of the March Meetings. We will insure all commissioners will be available. The March Meeting schedule has changed from our usual schedule.  
**Meetings will be held March 10, and March 24th**

**Public Hearings**

- 7:15 Request for Determination of Applicability: Sturbridge Little League, Adam Gaudette. Installation of 4 batting cages at Town Barn Baseball Fields at 69 Route 84: Work to consist of stripping grass areas, installing base pad, poles & netting. All work to take place in previously disturbed areas beyond 25ft of BVW. Adam Gaudette was present to discuss these plans: plan has been presented to Recreation; aerial photography was shown of the site: the affected areas have already been cleared, no new areas are being disturbed, no trees or brush being cut; Additional batting cages will improve the leagues capacity for training, and will enhance their hosting of an annual tournament. AGENT: has visited the site, sees no impacts, no loss of flood storage; Commissioners asked about the cage nettings: AG clarified that nettings sat on the ground with approx. a foot of netting to prevent balls from escaping; Access to the cages in the back land will be through gate under the scoreboard  
**Motion: To close the public hearing, to approve the project, and to issue a positive determination #5 confirming that the project is subject to the Sturbridge Town Bylaws, and a negative determination #2, confirming that this project is in a resource area, but does not impact the resource area. No Notice of Intent is required. DB; 2nd SH; Vote AIF 4:0**
- 7:30 Request for Determination of Applicability: 238 Roy Road, Donald Lomascolo. Expansion of existing home; retaining existing footprint, foundation and first floor. Work within the bufferzone. Property owner Don Lomascolo was present: presented plan; this rebuild is on exact same footprint as existing house; Mr. Lomascolo is a contractor by trade, so he is aware of necessary precautions regarding his demolition debris etc.  
**Motion: To close the public hearing, to approve the project, and to issue a positive determination #5 confirming that the project is subject to the Sturbridge Town Bylaws, and a negative determination #3, confirming that this project is in the buffer zone but does not impact the resource area. No Notice of Intent is required. DB; 2nd SH; Vote AIF 4:0**

7:45 Notice of Intent DEP #300-946, 127 New Boston Road, Mr. Angelo C. Berti for replacement of a failed septic system in the buffer zone; *Continued from February 4. (This hearing had been continued waiting for a DEP number; no further discussion was had.)* **Motion: To close the public hearing, to accept the revised plan as presented, and to issue an Order of Conditions. DB; 2nd SH; V ote AIF 4:0**

#### Enforcement

- **479 Main Street.** Tree removal in the buffer zone and resource area without permit. Ron Chernisky of Robinson Tree spoke explaining his error in understanding his proximity to a wetland. He was aware of the river, but was sure he was beyond the river's buffer zone. He was unaware of the wetland immediately behind the property. The Commission clarified that his company should be paying much closer attention, should be asking questions when appropriate, and that future violations will result in SCC action.
- **3 Ladd Road.** Tree removal in the buffer zone and resource area without permit. Matt Gagner, owner of Advantage Tree was present; In Summary -- Mr. Gagner had previously received a \$0.00 violation ticket, based on discussion at the January 21st meeting. At the February 4th meeting, commissioners over-ruled the issued \$0 violation ticket, and voted to fine Advantage Tree a sum of \$3675 for the illegal and unpermitted removal of 39 trees from this property. Agent GColburn delayed in sending this new violation notice, instead inviting MGagner to come before the Commission to discuss the incident. -- Matt Gagner was upset that the Commission voted to fine his company, since he had already received a \$0 violation. He had not spoken to these homeowners himself, and had not been to the site; he explained that he generally does not work on residential projects. Commissioners asked him about several incidents in town involving Advantage Tree: an incident on South Pond without permits, an incident on Willard Road, and an incident on Seneca Lane cutting more trees than were allowed on the permit. He explained his company policies: his contracts state that permits are the responsibility of the homeowner; his crew supervisors are required to ask homeowners if they have permits, and accept a verbal answer; Mr. Gagner was adamant that his company has no further responsibility. Commissioners had a lengthy discussion about this issue: the conflict of a homeowner giving permission to a contractor without a permit, often times based on ignorance of the laws, noting that tree removal contractors who work in Sturbridge know full-well the stance of the Conservation Commission – or at the very least the state regulations regarding wetlands protection – often times more than the homeowner. The commission concludes that contractors carry shared liability in being aware of the proximity to wetlands and resource areas. Commissioners are concerned about the frequency with which this scenario is occurring, and how to enforce the law in a way that people take this issue more seriously in town. Commissioners suggested a reduced fine may be OK, but that Advantage Tree employees undertake some training in these wetland laws to prevent future similar incidents. Mr Gagner refused to consider any offer of training. **Motion (DB): To rescind the SCC February 4th vote to fine Advantage Tree at the amount at \$3,675; and to, instead, set the fine at the amount of \$390. 2nd (SH); VOTE: AIF 4:0 Agent is to send a letter of violation, including this fine, to Advantage Tree.**
- **8 Birch Street,** Richard DiBonaventura. Work in the buffer zone without permits. Agent has spoken with property owner; and is waiting for new contractor to contact Cons Dept regarding new plan for deck demolition.
- **9 Holland Road.** Work in the Riverfront Resource Area without permits. Erosion controls on this property remain stable.
- **45 Seneca Lane, Craig Moran:** Restoration/replanting plan. (continued for a revised plan; planting will be in the spring) Mr. Moran submitted an incomplete plan in early December, and a letter was sent to Mr. Moran's Attorney advising Mr. Moran that the plan was considered incomplete, that we needed a detailed replanting plan, and that we required this to be submitted before the commission's January 7 Meeting. We have received no response to this request. **Motion: to contact Mr. Moran through his attorney, both by phone and followup letter, advising Mr. Moran that we expect a completed replanting plan in the Conservation office on or before March 1st, AND should this plan fail to be submitted, the commission will begin issuing fines on a daily basis until this request is fulfilled. (DB); 2nd SH; Vote AIF 4:0**

**Signature:** Order of Conditions signed for **DEP#300-946, 127 New Boston Road**, Berti, replacement of a failed septic system

**Adjourn: 8:50 MOTION to Adjourn (DB) 2nd (SH) ; AIF**

**Next Meeting: Thursday, March 10,  
6:00 pm start of Commission working session;  
7:00 pm start of Public Hearings**