

TOWN OF STURBRIDGE, MA -- CONSERVATION COMMISSION

Thursday, November 17, 2016

approved December 1, 2016

Sturbridge Center Office Building, 2nd Floor

Meeting Called to Order: 6:00

The Commissioners' working session for a continuation of review of the Bylaws. Reviewed Chapter 4, and continued to next meeting.

Present: Ed Goodwin, David Barnicle, Steve Chidester, Steve Halterman, Paul Zapun; GColburn (staff), ARenaud-Jones (staff)

Finish Bylaw work: 6:55

Regular Business Called to Order; 7:00 pm

Members Present: Ed Goodwin (EG), Chairman
David Barnicle (DB), Vice Chair
Steve Chidester (SC)
Steve Halterman (SH)
Paul Zapun (PZ)

Others Present:

Glenn Colburn (GC), Conservation Agent
Anne Renaud-Jones, Conservation Clerk
Applicants and/or Audience Members: Chabilal and Jane Neergheen , Len Jalbert, John Stevens, Dan Minchoff, , Gayle Smith, Ana Dobson, Ralph Nichols, Donna Curboy, Howard Fife, Robert Briggs, Clarence Snyder, Thomas Peck, Mike Thibault, Peter Engle, Tom Chamberland, Brandon Goodwin

Quorum Check: Confirmed

Committee Updates:

CPC: Historical Commission spoke to the Committee regarding the Publick House Barn; Historical Comm is continuing their study of historical homes. They are in the process of writing a proposal seeking \$10,000 matching funds for this study.

Trails Committee: Saturday, November 19th is last outdoor work day for the season: Groups have built 2 bog bridges, Saturday's work will be installation of these bridge; Meeting at Shattuck Road kiosk 8:00 am; don at 12:00 noon.

Lakes Advisory Committee - No report was given.

Walk-ins

John Stevens of 460 Leadmine Road; came before the Commission to continue his request for a reconsideration of the fines being levied against him for violations in the wetlands on his property. Fines were instituted in July, 2016 for failure to meet deadlines imposed for ordered restoration work. Fines accrued totaling \$7,575. Mr. Stevens submitted a letter to the Commission expressing his regret at not understanding the full scope of this undertaking, and the consequential delay in obtaining appropriate professionals to address the needs. He has also submitted a detailed history/timeline of several circumstances which added to the delays of this work, which included health issues, hospitalizations, and difficulties with 2 contracted vendors

who failed to perform..... Mr. Stevens shared that he has already spent more than \$20,000 on this project.

-- Commissioners all agreed that the end result of this restoration work was superb; work more than met all expectations. That being said, Commissioners also agreed that this type of violation was egregious; that the Commission has a responsibility to make it known that the Wetlands Protection Laws need to be taken seriously, and that fines were appropriate, both as penalty and as a deterrent to future violations of this nature.

-- Chair EdG clearly stated that the Commission wished to treat Mr. Stevens fairly, recognizing his personal circumstances, while still upholding and communicating the importance of these issues. He stated the Commission had never dealt with a violation of this magnitude before, and that while the Commission reconsiders their policy on violations and fines, it is not fair at this time to fine Mr. Stevens.

-- SHalterman strongly wishes to see the fines applied specifically to the individual violations which occurred. 1) work in a wetland without a permit 2) filling in a wetland 3) altering a wetland, 4) altering a stream ; In addition, SH suggested applying a fine per square foot of affected wetland. Part of SH's intent is the education of the public as to what is involved in these regulations. SH also shared that in his professional experience at DEP, fines would sometimes be imposed, and then "suspended" through careful consideration of many circumstances.

Conclusion: Mr. Stevens will be issued a ticket and fined for violations at 460 Leadmine Road as follows:

- For work in a wetland without a permit \$100
- For filling in a wetland \$100
- For altering a wetland, \$100
- For altering a stream..... \$100
- Damage to approx. 300 square foot wetland..... \$3,000
- **Total Fine** **\$3,400**

In addition, the SCC voted to suspend 100% of this fine, due to all mitigating circumstances discussed for this project. Commission vote: 4:1 (PZ dissenting).

Public Hearings

7:15: **Request for Determination of Applicability; 67 Beach Ave;** Chabilal and Jane Neergheen; installation of a gazebo in the buffer zone. Chabilal and Jane Neergheen presented a drawing of their site; their proposed gazebo is pre-constructed, 12x16ft, and will be placed on a bed of gravel and pea stone placed just for leveling of the structure; no excavation is required; no trees will be removed; Site is 36 ft form the lake edge. Commissioners all had concerns about the site being within the 50ft buffer; the Neergheens agreed to move the structure back to the 50ft line. Motion (DB) 2nd (SH) to approve project as amended. **APPROVED Vote AIF; 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.

7:30: **Notice of Intent: DEP#300-tbd; 2 Cedar Lake Dr; Cliff & Donna Curboy:** addition to an existing single family house, in the buffer zone. Representative Jalbert Engineering. Donna Curboy present; Len Jalbert presenting: submitted documentation for abutter notifications and legal ad tearsheet; LJ: This project is an addition to an existing SFH; closest corner of new section to the lake is 37ft; cannot move back because of driveway location; We are relocation the E1 pump, which allows us to save the large oak tree; Location of sewer lines on this plan will be adjusted to keep them away from the trees; Agent comments: concerned about condition of the property along the intermittent brook; the wood piles need to be removed: (DCurboy agrees to do this) . Commissioner comments: Concern expressed about "new build" in the 50ft zone 194sqft crosses into 50'bz; SH stated that current bylaw seems to allow for addition to existing bldg, as long as it is

“no closer than the original structure”; EG: wants the 25ft buffer restored, planted and stable, and the dock should be removed. After discussion, all commissioners agreed they would approve this project. -- Cannot close the Public Hearing tonight because we have no DEP number. Jalbert requested a continued to December 1, 2016; **Commission consensus AIF**. Commission agreed that, barring any comments from DEP, applicant and representative would not have to attend the next hearing. *Continued to December 1st Meeting.*

7:45: **Notice of Intent: DEP#300-969: 55-56 Bennetts Road;** Gayle A. Smith: Raze and Rebuild SFH in the buffer zone. Representative Jalbert Engineering; Gayle Smith present, Ljalbert presenting: Len is requesting reconsideration of allowing the garage to remain as proposed, i.e. attached to the house; He reiterated concerns of safety and security, and restated that both BOH and Planning regulations make any discussion of location the garage in the back area very problematic. There are drip edges along both the house and the garage to handle stormwater, the area is very flat. Agent comments: Need to see details for dewatering for the well; twin 7inch trees need to be protected; and really try to save those larger trees: the 20inch, 12in, 14in; Agent views the garage as a necessity, and considers it allowed under the bylaw because of the allowance of an addition if it is no closer to the lake than the orig structure. PZ agrees; SH reviewed the plan again, and agrees it conforms to the bylaw; SC: agrees but would request a permeable driveway; DB opposes based on 8% slope bylaw; EG opposes saying the building is too large for the lot.

Motion DB; 2nd SC: To close the Public Hearing; Vote: AIF

Motion SC; 2nd DB: to approve this plan as amended in this discussion re dewatering, stockpiles, permeable driveway, and drip strips; and to issue an Order of Conditions.

Vote: APPROVED 3:2 (EG, DB opposing)

8:00: **Notice of Intent, DEP#300-970 : 22 Cedar Lake Drive;** Ana & Alfred Dobson; Raze & Rebuild Single Family Home in the buffer zone: represented by Bertin Engineering; Peter Engle of Bertin presented; PE: revisions have been made to the plan based on concerns expressed by the commission at the last meeting; Patio size has been decreased by 50%, we have saved the 30in oak tree; we have added a drywell, and planned for planting 2 chestnut trees and a maple tree to replace the one oak tree we will lose. Commissioners all agreed that their concerns were well addressed.

Motion DB; 2nd SC: to close the public hearing, approve the revised plan presented tonight, and issue an Order of Conditions. VOTE: APPROVED AIF

8:15 **Notice of Intent, DEP#300-tbd :** 3 Ladd Road: Robert Briggs: Landscaping in the buffer zone. Bob Briggs present: presented revised plan; revised the work limit area to come back 25ft from the wetland line (where current hay bales lie); and have totally removed the proposed parking area. Recycled asphalt fill will be totally removed. Some gravel fill may need to be used for grading to correct levels. Commissioners all agreed that their concerns were well addressed; Discussion about keeping stabilized over the winter; no digging now because it would destabilize the site. Agent comment: Prefer no work done until spring; Order of Conditions will include order to establish a permanent buffer zone with some form of marking (boulders, stonewall,) ; all can be discussed in the spring; Cannot close the Public Hearing tonight because we have no DEP number. Commission agreed that, barring any comments from DEP, they could approve this plan. **Continued to December 1, 2016**

NEW BUSINESS

Trail Committee to discuss plan for Plimpton Community Forest trail system.

Brandon Goodwin, Tom Chamberland, Howie Fife, representing Opacum Land Trust(OLT); Clarence Snyder (CS) representing Hamilton Rod&Gun Club (HR&G)

-- Trails is proposing a map of trails for the Plimpton Community Forest property; Existing cart paths have been GPSd and a map created for review and preliminary approval. The purpose of this map is to indicate current hiking options only; this map is to be included in a the soon-to-be-published Guide to Sturbridge Trails, expected to go to print in the near future. Both OLT and HR&G have reviewed and support this as submitted. Some discussion occurred about parking: it was decided that

the chain at New Boston Road would be moved down to the kiosk, which would allow for several cars to park along that lane, and still allow police to see parked cars from the road.GlennC offered to take care of this with DPW

-- Agent: only concern is where shown trails dead-end; think we should cut off on map so people don't wander onto other property; Highly recommending loop trails.

-- Clarence Snyder stated that the trail shown in red was actually a hunting/no hunting designation; TC stated Trails would take care of signage- similar to that at Leadmine.

-- CS gave Trails a map of the existing logging

-- CS has a comprehensive map of the Hamilton property and will send digital version to Glenn -- Colburn

-- CS will give Trails notes of internal discussions at HR&G regarding the Southern portion of the property

-- CS spoke of future possibility of connecting trails between the properties; specifically mentioning the GeoFest event held this past summer with >300 participants

-- Commission consensus (**AIF**) to approve this map as a proposed trail concept for the discussed current print publication. Additional discussion will be held with all parties before trails work is begun. The Commission would like a letter from Opacum Land Trust confirming their consent.

-- Barrets Farm -- Agent GC advised Trails of the situation with Barrets Farm property on Douty Road; Town has Right of 1st Refusal. It is currently unclear if we can acquire this property or rights to it, but it is a #1 priority in Open Space as it is 260 acres which links Riverlands property and Leadmine Mountain lands. Glad to have the support of Trails Committee as we navigate this process.

SIGNATURES:

SIGNED : Certificate of Compliance

DEP #300-967, 13 Long Avenue, Norman Stuart.

APPROVED: Minor Amendments to Orders of Conditions

DEP #300-950, 60 South Shore Drive, Thomas & Kelly Peck. Changes to retaining wall. Peter Engle of Bertin Engineering; propose to reconfigure retaining walls and patio to eliminate tall wall in favor of a stepped or tiered design. This design will also retain large tree; **APPROVED; AIF**

LETTER PERMITS

Tree Removal: 8 Birch Street; Ralph Nichols (Otis Land Mgmt) - 1 Tree; Mr Nichols present for discussion: Agent visited the site, 1 tree requested is dead: RN: Arborist visited site and identified several "hangers" from recent ice storms.. Can they be removed?

Commission agreed to removal of 1 requested tree; agreed to removing 'hangers, but no vista pruning, and leave small red maple;

ENFORCEMENT

- 8 Birch Street, Richard DiBonaventura. Work in the buffer zone without permits. Notice of Intent hearing is scheduled for December 1st meeting.
- 9 Holland Road. Work in the Riverfront Resource Area without permits. Natural Heritage has rec'd a NOI but it was incomplete; Accrued fine is now \$6175 per party.

APPROVAL OF MINUTES:

November 3, 2016 **Motion (DB) 2nd (SH) to approve as submitted: VOTE: AIF**

ADJOURN

9:30pm **Motion (SC) 2nd (SH) to adjourn: VOTE: AIF**

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