

**TOWN OF STURBRIDGE, MA
CONSERVATION COMMISSION**

Thursday, March 10, 2016

approved March 24, 2016

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)
Steve Chidester (SC)
Steven Halterman (SH)

Others Present: Glenn Colburn (CG), Conservation Agent
Anne Renaud-Jones, Conservation Clerk
Applicants and/or Audience Members: Keith Terry, Jeff Lloyd, Larry Tuttle, Len Jalbert, Patty Kritzman,
John Stevens, Michelle Audino, Craig Moran, Josh Linten

Committee Updates:

- **CPA:** recently scheduled meeting was cancelled due to lack of a quorum. There was no report.
- **Trails Committee:** There is a planning session scheduled for March 21st.
- **Lakes Advisory:** we currently have no liaison to this committee

Walk In **Len Jalbert, Jalbert Engineering;** requesting re-signing of an original Extended Order of Conditions for work at the Thai Place Restaurant, 371 Main Street. The Extended OOC had been signed on January 21, 2016, but was damaged in the recent flooding of the Jalbert Engineering office. The Order was re-signed.

Letter Permits: **Tree removal: 78 Fairview Park Ave,** LLOYD, Jeff; request for removal of wind-damaged tree and 2 other trees already completely dead; Applicant was told he could chip and blow into surrounding wooded area; Applicant may not grind stumps; no replanting is being required.
Motion to approve this permit for all 3 trees (DB); 2nd (SH) : Vote AIF.

Tree removal: **33 Mountain Brook Road,** Robert & Michelle Audino: Large oak leaning towards the house; this tree has been treated for 8 years, trying to keep it alive: Agent has visited site; tree has degraded, is leaning, is bug-infested. **Motion to approve this permit (DB); 2nd (SH) : Vote AIF.**

Agent Report: We have installed the new sign on the Plimpton Community Forest property: this sign was a requirement to acknowledge two of the grants, LAND grant and Community Forest Grant; and was paid for by The Trust for Public Land. We thank the Sturbridge Highway department for taking care of this installation.

Also, the new signs have been installed at Heins Farm, but we realize there is a legibility issue from any distance - So we are exploring ways to remedy this problem- perhaps scorching the routed lettering ; Again, our thanks to the Sturbridge Highway department

Hamant Brook Dam Removal project - Permits have been filed for Chapter 91 Water Quality Permit and Dam Safety Permit.

Opacum Woods visit w Ed Hood to review bog bridge repair work; to determine need for filing w SCC

66 Mt Dan Road- there has been a failure of erosion controls at this site; Agent has been in touch with property owner to correct the problem.

10 Willard Road - Erosion controls needed repair, and their sign was down.

Commissioners asked status of Conservation Restrictions: 4 CRs are still pending completion of State review; Ed Hood (OLT) has been in touch with EEA, and we have been assured of completion in time to meet our deadline of June 30th.

Review of February Meeting Minutes:

February 18 Minutes - Motion (DB): To accept the minutes of February 18; 2nd: SC Vote: AIF

February 4 Minutes – were not approved pending review of portions relevant to Advantage Tree

Public Hearings

7:15 **Notice of Intent DEP #300-947, 195 Charlton Road, Lot A, Charter Foods North, (Taco Bell)** for redeveloping an existing property and constructing a single-story fast food establishment with drive through service, within the buffer zone. Represented by Keith Terry (KT) of Sherman & Frydryk, Palmer, MA
Agent Comments : DEP commented there should be no discharge of stormwater within 50' of jurisdictional wetlands. However, it was determined from observations at the site that the two wetlands shown on the plan are not hydraulically connected to make them Bordering Vegetated Wetlands; therefore these isolated wetlands are not jurisdictional under the WPA. They are jurisdictional for the local regulations. The engineered drawings for this site were presented and explained by Keith Terry of Sherman & Frydryk; much discussion was had concerning the hydrology of the site, water infiltration rates, and the planned infiltration system. Commission realizes there is very little wetland to protect here, but they are concerned about runoff. There were no comments from the audience. Sherman & Frydryk requested continuation to April 21 because this project is still undergoing several permitting steps. **Motion (DB) to approve continuation to April 21st Meeting. Vote: AIF**

7:30 **Notice of Intent DEP#300-948, 17 Bennetts Road, Patricia Kritzman,** Raze existing house and rebuild single-family home within the riverfront area. Len Jalbert, Jalbert Engineering represented PKritzman; Larry Tuttle, Architect also present; Engineered drawings were shown and explained by Len Jalbert. This project is under multiple jurisdictional zones, and is within the riparian zone of the brook as well as the 100-foot buffer zone of the lake. New build has 4-foot crawl space only; Board of Health has required new 1500gal septic tank; House is being rebuilt on approximately same footprint ; site is pulled back from the lake approx. 6 feet; Rebuild is for purpose of aging in place; existing gazebo is being removed as well as the existing firepit, and those areas will be re-planted. Roof drainage will be handled by a single pipe that leads runoff to outlet away from lakeside of house; House abuts National Grid Power lines easement, so the house is limited in how far it can be moved back.:
Agent comments: DEP made comments suggesting revegetation of gazebo and firepit area;
Commission requests 1) enlarged protection radius of large oak tree, 2) a confirmation from National Grid that the measurements of the restriction are accurate (would prefer moving back if possible), and 3) confirmation of comparative house square footage, old vs new. This is a non-conforming lot and still needs to go to Planning Dept for a determination. Applicant is requesting a continuation to the next Conservation Meeting : **Motion (DB) to approve continuation to March 24th Meeting. AIF**

Minor Amendments to Orders of Conditions

DEP #300-928, 21 Bennetts Road, David Zonia. Reconfigure deck. Mr Zonia has moved his deck plan from the side facing the lake to around the corner, away from the water, **Motion to approve (DB) 2nd (SH), Vote: AIF**

Enforcement

- **460 Leadmine Road, property owner John Stevens and his son Peter** in attendance (this item came to the Agent's attention after this meeting's agenda had been posted); Agent: The dept rec'd a call that a sizable amount of fill had been dumped into the wetland at this address; 3 Commissioners visited the site; Approximately 4000 sf of bordering vegetated wetlands had been filled; Mr Stevens stated that there had been a large pile of topsoil, concrete blocks, and bags of concrete in his driveway, and that his son had pushed them into the wetlands in an attempt to "help" clean up the driveway. Mr. Stevens expressed his unfamiliarity with details of the wetlands regulations, but expressed willingness to do whatever was necessary to remediate the current situation: Commissioners are requiring Mr. Stevens to bring in a wetland specialist to clarify the wetland delineation and present a plan for restoration. Commission requested an Enforcement Order be issued, with a "cease&desist" within 200-feet; a restoration plan to be presented at the April 7 Meeting. **COMMISSION CONSENSUS to require Wetland Specialist and restoration plan.**

- **8 Birch Street, Richard DiBonaventura. Work in the buffer zone without permits.**
Plan has been received, erosion controls in next week; deck will be removed the week of 3/21.
- **9 Holland Road. Work in the Riverfront Resource Area without permits.**
Property has been locked; Agent will have access next week to review erosion controls.
- **45 Seneca Lane, Craig Moran. Restoration/replanting plan.** Craig Moran was present with Josh Linten of Elliott Tree Service - Planting plan has been received and presented; Some discussion was held regarding specific types of trees being planted: **CONSENSUS by Commission to accept/approve this plan as presented.**
- **3 Ladd Road. Tree removal in the buffer zone and resource area without permit.** This issue will be re-addressed mid-April when Agent will contact property owners and re-visit site for discussion of wetland delineation determination and planting requirements.

Old business

- **Use of Plimpton Community Forest for Rhinehart 5100 3D Archery Shoot.** Hamilton Rod & Gun Club: Conservation Agent received a Memorandum of Agreement from Ed Hood, Exec Dir Opacum Land Trust, regarding the continuing use of this property for this event; Opacum's primary concern is the use of motorized vehicles, and limits this use to the sole purpose of placing and removing the large targets, not for transportation of people. A minor wording correction was suggested and agreed upon by this Commission and Ed Hood of OLT
- **Five Leaves at Sturbridge (40B).** The commission reviewed recently submitted project plans which indicated the addition of a fire lane at the back of building 3, a change based on the comments from the Sturbridge Fire Chief. Commissioners stated that the new fire lane appeared to be in the Bordering Vegetated Wetlands. Some discussion continued about lack of snow storage areas and probable need to have snow removed from the site for disposal.
- **Discussion with Trail Committee on Leadmine Mountain Conservation Area trail specifications.** Review proposed work on conservation lands for 2016.
- Trails Committee was unable to come tonight; we are looking for a new date to reschedule.

New Business

The Commission has received the following 2 items relative to Advantage Enterprises of Charlton.

1. **The Sturbridge Conservation Commission has received Notification** from Dudley District Court that Advantage Enterprises is appealing the fine issued by the SCC on Feb 18, 2016. This will require our appearance at Dudley District Court on April 4th; The Court have requested additional information, which we are gathering together. Agent has discussed with Town Administrator; EG: would like to state for the record that the Commission requests that both Glenn and Town Council together attend the Court session: **Commissioners: AIF** Commission agrees to enter an Executive Session at our March 24 Meeting to discuss this in further detail.
2. **An Open Meeting Law Complaint has been filed against the Sturbridge Conservation Commission by Advantage Enterprises LLC:** Agent has drawn up a draft response and has shared with Commissioners: the letter addresses items within the complaint that were not pertinent under the Open Meeting Law; Agent will complete the letter, which will then be sent to the Attorney General's office and to Advantage Enterprises. This response will also include the suggestion that this Commission will review the Open Meeting Law. Agent has deadline of 14 business days to submit official comments to State Atty General.

Joe Kowalski: Joe is in attendance this week at the Annual Meeting of the New England Society of American Foresters, being held here in Sturbridge. He is asking if can submit his registration fee of \$155 for reimbursement. EG recommends approval; Professional Development funds are available through the Departmental budget) SH requested a summary of the conference back to the Commission; **AIF**

Commission discussion re Bylaw Violation Fine Structure: Commissioner discussion: Recent events regarding substantial violations to the WPA and Stur Wetland Bylaw reinforce the need to carefully and thoroughly review the ability of this Commission to impose fines and consequences to damaging acts under our jurisdiction. Discussion was had regarding the need to address two objectives 1) punishment for actions taken and 2) increased public awareness, and therefore deterrence of future illegal activity. It is important to know the legal extent of our right to impose punishment and fines. The commission will pursue this conversation further under their current work of reviewing and revising the Sturbridge Wetlands Protection Bylaws.

MOTION to ADJOURN: 10:30 (DB) 2nd (SC) AIF