

Sturbridge Conservation Commission

Meeting Minutes

Tuesday, February 4, 2020

Approved March 3, 2020

Present

Ed Goodwin, Chairman

Steven Chidester, Vice-Chair

Steve Halterman, Commissioner

David Barnicle, Commissioner

Erik Gaspar, Commissioner

Rebecca Gendreau, Conservation Agent

Also Present

See Attached Login Sheets

Chairman Goodwin called the meeting to order at 6:00 pm.

6:00 PM Open Meeting – Quorum check; all commissioners in attendance

Committee Updates:

- CPA – E. Goodwin reported that CPA meeting was held last night. The CPA approved funding requests for projects including the Conservation Department's building removal projects at the Heins and Leadmine Conservation properties and survey/boundary delineation for Long Pond.
- Trail Committee – D. Barnicle advised the Commission that the next meeting is next Thursday.
- Open Space Committee – No Report
- Lakes Advisory Committee – No Report

Approval of minutes:

- January 21, 2020 – On motion of D. Barnicle, seconded by S. Chidester, the minutes of the January 21, 2020 meeting were approved. Vote: 5-yes, 0-no, 0-abstain, 0-absent.

Walk-ins

Leigh Darrin, Cedar Lake Association, she advised the Commission that in light of all of the issues and problems associated with the MA DOT / Cedar Lake Enforcement Order, Cedar Lake Association feels it would be in the best interest of the lake, if an independent wetland consulting firm was hired to determine if any further issues exist that need addressing. She added that the CLA believes this would also be a benefit to the Town and is seeking funding support from the Conservation Commission. CLA has received a proposal from Oxbow Associates for \$4200 to perform the work.

Agent: R. Gendreau advised the Commission that she walked the site with the Oxbow consultant, who is a professional wetland scientist. She added that she feels it would be a good idea to have the consultant review the MA DOT approved work upon completion to ensure the work was completed.

Commission: E. Gaspar inquired about the need for quotes. He was advised that the Town would abide by MA purchasing regulations.

Action: On motion of D. Barnicle, seconded by S. Halterman, the Commission approved supporting the funding of the independent wetland consultant to review the Cedar Lake area related to the MA DOT Enforcement Order. Vote: 5-yes, 0-no, 0-abstain, 0-absent.

Public Hearings

6:15 130 & 140 Fiske Hill Road; Request for Determination of Applicability; *Continued from September 17, 2019*; Goulas, G., Allsworth LLC; Represented by G. Krevosky of EBT Environmental Consultants, Inc.

G. Krevosky, EBT Environmental Consultants, Inc. appeared before the Commission to provide an update on the status of request relative to the classification of vernal pools and third potential vernal pool on the site.

Agent: R. Gendreau provided a summary of the project to date for new Commissioner and the public. An RDA was filed in May 2019 for determining if identified potential vernal pools on the property are in fact able to support vernal pool breeding habitat. An ORAD was issued in 2017 for the property, but the applicant elected to only have an outer perimeter of the BVW approved at that time as it was anticipated that applicant would only develop on the outer perimeter. The RDA submitted included vague information pertaining to the survey Mr. Krevosky completed. He was informed that he needs to submit a survey protocol in advance of any surveys which need to start in the spring; or if they choose to keep a setback from the potential vernal pool a survey may not be required. At a September 2019 public hearing they requested a continuance until February 2020. To date no survey protocol or additional information has been received, and a survey would need to be ready to start by March 1, 2020. R. Gendreau stated that she reminded G. Krevosky about this last week when he called to discuss a different project. She advised him that after the February 4 meeting the Commission does not meet again until March 3 which would be too late to approve for a March 1 survey start. G. Krevosky inquired about the possibility that the Commission will allow review by NHESP vernal pool biologist for approval. R. Gendreau advised him that she could not answer that question and that he should not assume NHSEP would perform that task. She reminded him that if the project could be accomplished away from the potential vernal pool with a buffer zone of up to 200 feet or more.

Applicant: G. Krevosky advised the Commission that he is working on a survey of the land to determine if the portions of the site are far enough away for the vernal/potential vernal pools so as not to require an RDA. He asked for a continuance to the next Conservation Meeting.

Action: On motion of S. Halterman, seconded by E. Gaspar, the Commission continued the hearing to March 3, 2020 at 6:30 pm.

6:30 27 Ladd Road; Notice of Intent; DEP File #300-TBA; R. Jennings of 508 International, Applicant; A. Sellew, Owner; O'Neil, Representative; Replacement of decking on existing telephone pole bridge

S. Chidester, recused himself from the Commission for this matter.

Documents: Site Plan; 508 International Website Trail Maps, Photos, Event Listings

R. Jennings, 508 International LLC, G. Krevosky, Wetland Consultant, and D. O'Neil, Representative Attorney, appeared before the Commission seeking approval for the replacement of decking on an existing telephone pole bridge.

D. O'Neil asked if D. Barnicle was going to recuse himself from the hearing as well, and D. Barnicle stated that he was not recusing himself. D. O'Neil stated for the record that he preferred D. Barnicle did recuse himself.

Agent: R. Gendreau provided a summary of 27 Ladd Road history to date. A complaint to the Conservation Department on May 7, 2019 prompted a site visit that revealed unpermitted work including bridge and trail work within a wetland/resource area. R. Jennings of 508 International was advised that they need to file for the work. R. Jennings stated that the work was not in Sturbridge but rather in Charlton and that he would provide proof of such. Said proof was submitted to the Conservation Department. As such, an enforcement order was issued. At that time 508 International asked to submit an RDA. The filing stated that the bridge was in existence and they were requesting to repair the bridge. At the time of the public hearing the appeal time for the enforcement order had elapsed, and the RDA was declined. The matter was referred to town counsel and a complaint was filed with the court. At the hearing 508 International advised the judge that they would be filing a Notice of Intent and the judge continued the hearing to allow the NOI process to run its course. The NOI was received by the Conservation Commission for the same work indicated in the earlier RDA filing which was denied.

Agent: R. Gendreau displayed photos taken May 9th at the telephone bridge structure referenced in the NOI (previously in the RDA). The photos depict an unweathered structure resting on top of the land, fresh tire marks, and freshly cut landscape areas cleared to position the bridge were also noted. R. Gendreau advised the Commission that during court 508 International stated that they have 12 miles of trails total, with 4-5 miles in Sturbridge and the rest in Charlton. She visited 27 Ladd to map the trail and it was only 1 mile long. She asked if there are other trails and was advised that there are other properties in Sturbridge with trails. A second site visit was performed at 205B / 205C properties. At 205C it was apparent that there had been recent activity and trails remained marked for 508 International events. R. Gendreau noted old skid trails had been used and there were also new trails on the site. The owner of 18 Ladd also provided the Conservation Department with photos of his land depicting trees that had been pushed over by 508. She added that the trails on 18 Ladd are near a stream. R. Gendreau showed photos of activities occurring in jurisdictional areas. Work has definitely occurred within a buffer zone if not in a resource area. R. Gendreau advised the Commission that the NOI submitted does not describe how they will protect the resource areas, nor does it include how they will address the items requested in the enforcement order. She added that the plan submitted references standing water in the area yet the water is flowing. Further, she stated that the bridge was not in existence prior to 508 International's use of the land. She advised the Commission that the applicant should revise their application to address those concerns. She also stated that no DEP file number has been received for this filing to date.

Public: S. Chidester, 154 Podunk Road, appeared before the Commission. He stated that the use is not that of a nature trail on private property but rather a commercial use on private property. He submitted a citizen's petition for regulatory action for 508 International. The petition request the applicant: 1) provide surveyed plans for the trails and spaces used for commercial activities within the Town of Sturbridge, 2) pay for an independent professional 3rd party review of wetland delineation associated with any areas used for commercial activities within Sturbridge, 3) pay for independent professional 3rd party review of potential impacts to the Bio2 Core Habitat associated with McKinstry Brook and a determination of the proximity of the Cold Water Fishery to the subject property, 4) provide proof of notification of change of plans to Mass DEP and MEPA of their Mega Sports Complex which now involves activities and land alteration in Sturbridge, 5) coordinate with the Town Planning and Zoning department to determine if the activities/land use are in violation of Town zoning regulations and bylaws. The petitioners feel the above is necessary because 1) the footbridge referenced in the NOI is part of the overall 508 International Mega Sports Complex which is a large-scale commercial operation, 2) the 508 International project underwent a Superseding Order of Conditions review and appeal in which there were no trails presented or approved, and no development or land usage presented or approved in Sturbridge, 3) maps published online for the 2018 and 2019 Tough Mudder Events show trails and event areas inside the Town of Sturbridge. These event maps show that 508 is using trails which cross wetlands, 4) 508 has a long history of environmental and operational violations, 5) MEPA issued an advisory opinion warning the applicant that MEPA regulations include an anti-segmentation provision, and that any land alteration including expansion would require the applicant to consult MEPA, 6) during the appeal of the Superseding OOC's, the applicant's environmental consultant re-classified a significant number of wetlands as non-jurisdictional without a 3rd party review. He also testified that the Bio2Core Habitat was not a Cold Water Fishery with no 3rd party review.

Applicant: R. Jennings stated for the record that he believed all of Mr. Chidester's comments are untrue and referenced approval by Charlton.

Commission: D. Barnicle advised Mr. Jennings that the Commission is only here to discuss any work in Sturbridge that does not have an approved plan. He stated that that is what the Commission is asking him for, a plan to address the unpermitted work.

Applicant: D. O'Neil stated that he thought only the bridge needed to be addressed in the NOI. R. Gendreau reminded him that the enforcement order also said to identify all the trails and work within Sturbridge resource/jurisdictional areas but the NOI is only for repairs to a bridge, not the construction of a bridge.

Commissioner: E. Gaspar informed the applicant that he does not believe the bridge was in existence prior to 508 working in the area. There is no wear on the bridge, and it could not have been there that long without showing signs of wear. He stated that they need to file for the construction of the bridge.

Public: R. Gendreau read a statement for A. Jablonski, 18 Ladd Road, who was unable to attend due to a previous commitment. The letter detailed that while 508 International's races start and end in Charlton, the trails trespass on her property in Sturbridge. She further detailed damage on her property including the destruction of a stone wall, spray painting of stones and trees, and litter / pollution from left-behind plastic marker ribbons and race bibs. She expressed her concern for the environment which may result from 508's expansion into Sturbridge if allowed.

Commission: E. Goodwin stated that there is no DEP File number issued for this project to date.

Action: On motion of E. Gaspar, seconded by S. Halterman, the Commission continued this matter to the March 3, 2020 meeting at 6:45pm. Vote: 4,yes, 0-no, 1-abstain (Chidester), 0-no.

6:45 96 Westwood; Request for Determination of Applicability; N. Scioletti, Applicant; Raze and rebuild of existing deck, and raze of porch and rebuild of mudroom

Documents: Site-Plan

N. Scioletti, Owner appeared before the Commission seeking approval to remove 2 existing decks and a front porch and construct a 3-season room in place of the decks and a mudroom in place of the porch.

Agent: R. Gendreau advised the Commission that the 3-season room foot print will be smaller than the foot print of the deck, and it will be on pilings. The mudroom will be in the same location as the original porch. She recommends approval and stated that the Owner is aware the project also receives the required planning/zoning board approval.

Public: Abutter stated that he approves of the project.

Action: On motion of S. Halterman, seconded by E. Gaspar, the Commission closed the public hearing. Vote: 5-yes, 0-no, 0-abstain, 0-no. On motion of D. Barnicle, seconded by E. Gaspar, the Commission approved request for permit for the project as presented tonight and detailed on the plans filed with the RDA with findings of +2B and -3. Vote: 5-yes, 0-no, 0-abstain, 0-no.

7:00 158 Lake Road; Notice of Intent; DEP File #300-TBA; T. Chamberland, Applicant; Estate of V. Hill, Owner; Unpermitted tree removal and landscape restoration

Documents: Plan/Drawing, Photos

T. Chamberland, Arborist, appeared before the Commission on behalf of the applicant. He presented his arborist report of the unpermitted work, and his recommended landscape restoration plan.

Agent: R. Gendreau stated that the landscape restoration plan is a response to unpermitted tree removal on the site. A total of 22 trees were removed and the Commission is seeking 44 trees be replanted. A site visit with the arborist was held to review the plan and discuss where and how the restoration planting can occur.

Commission: The Commission would like to see some larger trees included in the replanting plan.

Arborist: T. Chamberland advised the Commission that larger trees may not grow as they are anticipating.

Commission: E. Goodwin stated that no DEP File number has been issued for this matter.

Action: On motion of S. Halterman, seconded by E. Gaspar, the Commission continued this matter to March 3, 2020 at 7:00 pm. Vote: 5-yes, 0-no, 0-abstain, 0-no.

7:15 10 Fairgrounds Road; Notice of Intent; DEP File #300-1052; H. Simonelli, Applicant/Owner; Replacement of a failing retaining wall, replacement of dock, shore up of shed foundation, lifting of house, removal of enclosed porch and replacement of home addition, removal of trees, deck and associated site work

Documents: Site-Plan

H. Simonelli, Owner, and L. Jalbert, Engineer, appeared before the Commission seeking approval of the project detailed above.

Commission: S. Halterman inquired about the proposed concrete slab to replace the foundation of the shed. He advised the applicant that he did not believe that would stop the erosion of the soil underneath the shed. D. Barnicle stated that the lake draw down is over and the water would be back up shortly. He asked when the retaining wall work would be accomplished. He further advised the applicant that the piping for the electric and water to the shed would need to be on the plan in order to be considered. S. Chidester advised the applicant that the wall needs to be replaced as soon as possible, before the water comes back up. E. Goodwin stated that he would like the deck to be reduced to a size that moves it out of the 50 foot buffer zone.

Agent: R. Gendreau stated that she has advised both the applicant and his contractor directly that the wall materials on the bank need to be cleaned up / moved to the uplands. She wants to see a silt fence and straw wattles put in place immediately as well.

Commission: The Commission advised the applicant to come back to the Commission with a plan which includes a reduced deck, dock details, water and electrical conduit detailed on the plan, trees remaining and to be removed shown accurately on the plan, and a shed with no slab foundation. The Commission further advised that in the meantime he may proceed with the retaining wall work provided he: installs a DEP File # sign, puts erosion controls in place, cleans up all foreign matter on the lake bank/water (very large stones may remain), and that the wall only may be worked on. Further he is to call R. Gendreau to perform a site visit after the sign is erected and the soil erosion controls are in place prior to any further wall work occurring.

Action: On motion of S. Halterman, seconded by S. Chidester, the Commission continued this matter to March 3, 2020 at 7:15 pm. Vote: 5-yes, 0-no, 0-abstain, 0-no.

7:30 1 Old Sturbridge Village Road; Request for Determination of Applicability; B. King of Old Sturbridge Village, Applicant; C. Bertin of Bertin Engineering, Inc., Representative; Construction of cabinet shop and shed, and installation of 2 bleacher units

Documents: Site Plans, Photos

C. Bertin, Bertin Engineering, appeared before the Commission on behalf of applicant, Old Sturbridge Village, seeking approval of a permit for the construction of a Cabinet Shop and the installation of bleachers at Old Sturbridge Village. C. Bertin advised the Commission that the cabinet shop building will have a foundation with a crawl space. There will be underground electrical wiring to the building but no water.

Agent: R. Gendreau advised the Commission that the project is outside the 50 foot buffer zone on already disturbed land, as such she feels it is permissible under the RDA.

Commission: S. Chidester commented on the already witnessed water washing down the road in the area and stated that he would like to see some sort of water control added to the plan, perhaps a gravel/stone swail.

Action: On motion of D. Barnicle, seconded by S. Halterman, the Commission closed the public hearing. **Vote:** 5-yes, 0-no, 0-abstain, 0-no. On motion of D. Barnicle, seconded by E. Gaspar, the Commission approved the permit for RDA for Old Sturbridge Village Cabinet Shop and Bleachers, with the addition of stone swails to control stormwater. **Vote:** 5-yes, 0-no, 0-abstain, 0-no.

7:45 28 Long Ave; Notice of Intent; DEP File #300-1051; D. Antonopoulos & C. Tieri, Applicant; L. Jalbert, Engineer/Representative; Addition to a single family home and associated site work

Documents: Site-Plan

Owner, C. Tieri, and Representative, L. Jalbert appeared seeking permission for the addition of a room, 2 pergolas, and carport to a single family home. L. Jalbert advised the Commission the areas for projects are currently lawn areas and all outside of the 100 foot buffer zone.

Agent: R. Gendreau advised the Commission that the lot was divided prior to 1996.

Commission: The Commission inquired if the ground under the car port and pergolas was to be pervious and L. Jalbert replied affirmatively.

Action: On motion of D. Barnicle, seconded by S. Halterman, the Commission closed the public hearing. On motion of D. Barnicle, seconded by E. Gaspar, the Commission approved the permit for NOI for DEP File #300-1051 for 28 Long Avenue for the addition of a room, 2 pergolas, and a car port as presented this evening and as indicated on the site plan. **Vote:** 5-yes, 0-no, 0-abstain, 0-no.

Old Business

- **9 Holland Road Enforcement Order, DEP File # 300-959**

Agent: R. Gendreau advised the Commission that new materials pertaining to 9 Holland have been received and distributed to the commissioners via email prior to the meeting for their review. No narrative of the submitted site plan was provided. R. Gendreau asked the consultant to highlight and number the plan and provide a narrative. She added that she has not received the amendment request for the project which was due this evening. The Commission was advised that the property owner, et al, are still working with MA DOT to address water issues on the site. They are waiting for MA DOT to clean catch basins and that will assist with some of the stormwater issues. They are also working with the Town on another area of the site related to Town drainage issues.

Applicant: Representatives for the Owner, B. Cote, Contractor; and G. Krevosky, Consultant, appeared before the Commission. G. Krevosky reviewed the site plan detailing work to be accomplished at the site that will bring it towards compliance with the Enforcement Order. Fifteen individual specific areas were discussed encompassing work to be accomplished by the Owner, MA DOT and the Town. Mr. Krevosky stated that water appears to be flowing down Commonwealth Road to the site and indicated that should be looked at and addressed to assist with water issues at 9 Holland Rd. He advised the Commission that he spoke with the abutter whose property erroneously had trees cut down by a 9 Holland Road contractor without permission. They are working on a plan with him for remediation at his site as well.

Agent: R. Gendreau reminded the Commission that this site is mapped for National Heritage as well. They sent a letter to the Owner advising him that National Heritage must approve any work at the site. As such, the Sturbridge Conservation Commission cannot take action without National Heritage approval.

Commission: The Commission felt a site visit would be needed to review the proposed plan at the site. A site visit was scheduled for February 11, 2020 time to be determined.

Action: Motion to continue this matter to March 3, 2020 was approved by consensus vote and Applicant is to file the amendment by March 3 as well. Vote: 5-yes, 0-no, 0-abstain, 0-no.

- **2 Cedar Lake Drive; DEP File #300-971**

Agent: R. Gendreau stated that there is an open permit for 2 Cedar Lake Drive. During a site visit to a neighboring site the Commission witnessed debris in a resource area which was to be addressed by the Owner according to prior correspondence. A letter was issued advising the Owner to clean up the debris and attend tonight's meeting to discuss the status of the project. The registered letter was accepted by the Owner's son. He came to the office and stated that his father was ill but the project was complete. He submitted a request for certificate of compliance. Subsequently he was advised by the Agent that the debris on the property would need to be cleaned up and attendance at the Conservation Commission was still requested. He stated that he was not the Owner and we would need to address that with his father. A second certified letter was sent to the registered owners of the property, no reply has been received and they are not in attendance this evening.

Commission: Motion to issue an Enforcement Order to 2 Cedar Lake Drive via constable to the property owner was approved by consensus vote. A reply to the Enforcement Order is due within one day of receipt. If a reply is not received as required fines will be implemented immediately thereafter. Vote: 4-yes, 0-no, 1-abstain (Goodwin), 0-absent.

New Business

- **65 Clarke Road; G. Diggle, Owner:** R. Gendreau advised the Commission that she received a call regarding potentially unpermitted work at the property. The site is adjacent to Conservation property. R. Gendreau surveyed the property via the conservation land and noted several structures that do not appear to be permitted. **Action: Site visit scheduled for February 11, 2020.**
- **28 Cedar Lake Drive; C. Partlow, Owner:** R. Gendreau stated that this is another site where apparent issues were observed during a adjacent property's site visit. Letter was sent to owner advising that it appeared the driveway has exceeded its original footprint, and that snow was being plowed to the end of the driveway resulting in debris falling into the lake. Requested the owner contact the Conservation Department to discuss and schedule a site visit. **Action: Site visit scheduled February 11, 2020.**
- **205B Podunk Pike and 205C Podunk Pike** in connection with 27 Ladd Road / 508 International Inc. Enforcement Order : Addressed under public hearing for 27 Ladd Road, no further report.
- **Gary and Margaret Allard Correspondence regarding 76 South Shore Drive (25 South Shore Drive) DEP File #300-751:** Agent reported that Mr. Allard had requested public documents pertaining to permit issued to an abutting property. R. Gendreau advised that property owner (Mimeault) that documents pertaining to his property had been requested. Mr. Mimeault contacted R. Genreau and stated that he could not attend tonight's meeting and if this matter was going to be discussed he requested that it be continued to a date when he could be in attendance. R. Gendreau advised the Commission that the permit for Mr. Mimeault's property had been closed out. **Action: The Commission felt that this matter should be handled by DEP and advised R. Gendreau to advise Mr. Allard as such.**

Request for Certificate of Compliance

- **DEP File #300-703;** 269 Cedar Street Lot 2 (aka 265 Cedar St.): Upon review of files it was determined that this permit is a superseding order form DEP and the property owner was advised that they would need to submit their request to DEP.

- **DEP File #300-703;** 269 Cedar St. Lot 3 (aka 267 Cedar St.): Upon review of files it was determined that this permit is a superseding order form DEP and the property owner was advised that they would need to submit their request to DEP.
- **DEP File #300-971;** 2 Cedar Lake Drive: Discussed during New Business; request denied at this time. Site visit will be held on February 11, 2020.
- **DEP File #300-750;** 13 Fairgrounds Road; The Sturbridge Host Hotel: The Agent advised the Host Hotel owners that they will need to submit a letter of substantial compliance form the engineer before the request will be considered.

Signatures

- Orders of Conditions, DEP File #300-1050; 198 Lake Road; B. Smith, Owner: The Commission executed the Orders of Conditions for DEP File #300-1050.

Agent Report

- **36 Goodrich; DEP File #300-0711; F. Gunn, Owner:** R. Gendreau advised the Commission that no new plans have been received to bring the property into compliance with the permit / and enforcement order. She advised the Commission that MR. Gunn is living in South Carolina at this time and is due back in Sturbridge in April. Commission: The Commission advised R. Gendreau to start fining tomorrow.
- **CPA Letter:** R. Gendreau advised the Commission that CPA issued a letter seeking ideas from entities.
- **D. Barnicle:** Reminded R. Gendreau that he would like to have a list of Enforcement Order put together.
- **MACC Conference:** R. Gendreau advised the Commissioner to submit their registration for the conference to the Conservation Department if they are interested in attending the February 29, 2020 annual conference.

Adjourn

Motion to close the meeting was approved by consensus vote at 10:15 pm. Vote: 5-yes, 0-no, 0-abstain, 0-absent.

The items listed, which may be discussed at the meeting, are those reasonably anticipated by the Chair.~ Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.~ For those items that will be discussed, the Conservation Commission will address its questions and concerns with a proponent before allowing the public to weigh in on the topic being discussed with the proponent.~ For public discussion of non-agenda items, such discussion will be handled during the Walk-in period or as allowed by the Chair.