

Sturbridge Conservation Commission

Meeting Agenda

Tuesday, October 6, 2020

****Virtual Meeting****

6:00 PM Chairman E. Goodwin read the virtual meeting statement as follows:

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting law, G.L. c. 30A Section 18, and the Governor's March 15, 2020 Order imposing strict limitations on the number people that may gather in one place, this meeting of the Sturbridge Conservation Commission will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation can be found on the Town's website at <https://www.sturbridge.gov/town-administrator/pages/how-access-virtual-meeting>. For this meeting, members of the public who wish to listen and or watch the meeting may do so either online via the Town's on demand video broadcast, on cable television on channel 191, or dial into the meeting at 774-304-1455, enter 1428# for the meeting number and 12345 for the access code. (This phone number is only active for the public during public meetings). No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post of the Town's website an audio or video recording, transcript, or other comprehensive record of the proceedings as soon as possible after the meeting.

Chairman E. Goodwin read the Public Hearing statement.

Chairman Goodwin performed a quorum check to confirm a quorum. D. Barnicle will join the meeting late. Four commissioners are in attendance, quorum attained.

Committee Updates:

- **CPA** – No meeting since last SCC meeting. No report.
- **Trail Committee** – No report.
- **Open Space Committee** – No report.
- **Lakes Advisory Committee** – No Report.

On motion of S. Halterman, seconded by E. Gaspar, the Commission approved the minutes of the September 1, 2020 Conservation Commission Meeting. Vote: 4-yes, 0-no, 0-abstain, 1-absent (Barnicle).

On motion of S. Halterman, seconded by E. Gaspar, the Commission approved the minutes of the September 15, 2020 Conservation Commission Meeting. Vote: 4-yes, 0-no, 0-abstain, 1-absent (Barnicle).

Walk-ins – No walk-ins at tonight's meeting.

D. Barnicle joined the meeting.

Public Hearings

6:15 12 Tantasqua Shore Drive – Notice of Intent; DEP File #300-1076; Landscape Evolution, Representative; S. Santangelo, Owner/Applicant; Replacement of Shoreline Wall.

Documents: Site Plan

Owner, S. Santangelo and M. Thibeault, Landscape Evolution, appeared before the Commission seeking approval for a retaining wall replacement project at 12 Tantasqua Shore Drive. M. Thibeault advised the Commission that the existing timber wall is failing and they propose to replace it with manufactured stone wall. They added that they cannot move the wall back any further without compromising the large maple tree on the lot and they do not want to remove that tree. M. Thibeault advised the Commission that he erroneously left the stairs off the plan. There are currently stairs which the owner wishes to replace in the same location of the wall. The only revision to the steps is that they will be recessed back into the land and will not be placed in the water. He added that they will be in the area shown as plants on the plan and the plants will be moved back beyond the stairs.

Agent: R. Gendreau advised the Commission that she recommends approval of this project with conditions that the work will occur during low flow conditions, and that the Owner verify the need or not for Chapter 91 approval. She added that there may be an existing approval from the state for previous owner that may carry over.

Commission: Agreed with the agent and stated that the stairs can be shown on an as-built. Inquired if the wall was to be the same height as the existing wall. Owner stated that it may be slightly lower than the existing wall. D. Barnicle asked what was being done with old wall; spoils? M. Thibeault advised the Commission that the old wall and all spoils will be removed from the site.

Public: No public comments.

Action: On motion of S. Halterman, seconded by E. Gaspar, the Commission closed the public hearing. **Vote: 5-yes, 0-no, 0-abstain, 0-absent.** On motion of S. Halterman, seconded by E. Gaspar, the Commission approved the permit for DEP File #300-1076 for a retaining wall replacement with conditions noted by the Agent, and the submission of an as-built plan to include the stairs. **Vote: 5-yes, 0-no, 0-abstain, 0-absent.**

6:30 9 Holland Road – Abbreviated Notice of Resource Area Delineation; DEP File #300-1068; continued from September 15, 2020; R. DiBonaventura, Owner/Applicant; G. Krevosky, EBT Environmental Consulting Inc., Representative; Approval of Wetland Resource Areas.

Agent: R. Gendreau advised the Commission that the Peer Review has been conducted for 9 Holland Road. Site visit was performed on October 1st and the report from the peer reviewer was received last night. The Peer Reviewer could not attend tonight's meeting due to a scheduling conflict. R. Gendreau read the report to the Commission. The peer review report did confirm that the portion of the property depicted on the submitted plan does qualify for Historical Mill status and as such should not have the riverfront restrictions on that piece of the property. R. Gendreau will provide a copy of the peer review report to the Commissioners and G. Krevosky. At this time, R. Gendreau recommends the applicant seek a continuance to allow the agent and Commission time to review recently submitted plan, and for the applicant to revise the plan further to incorporate the comments from the peer review report.

Applicant/Representative: G. Krevosky requested continuance.

Public: No public comment.

Action: By consensus vote the Commission continued the public hearing for 9 Holland Road ANRAD until October 20, 2020 at 7:15pm. **Vote: 5-yes, 0-no, 0-abstain, 0-absent.**

6:45 9 Holland Road – Request to Amend DEP File #300-0959; continued from September 15, 2020; R. DiBonaventura, Owner/Applicant; G. Krevosky, EBT Environmental Consulting Inc., Representative; amend Orders of Conditions for DEP File #300-0959 to remove Special Condition #38 and amend Special Condition #77 to remove # 38.

Agent: R. Gendreau advised the Commission that she does not feel this expired permit is eligible for extension even by the Covid tolling regulations as a violation exists on the site/permit.. She advised the Commission that since the last time this item was discussed she has reached out the Town Counsel to obtain his feedback pertaining to the tolling of permits under the Covid. Town Counsel

advised R. Gendreau that the Covid Tolling regulations have been repealed, an extension cannot be granted, therefore the OOC cannot be amended, and he recommends the Commission deny the request. She added that the applicants concern for the amendment is the removal of items on the OOC would not be relevant given the apparent Historic Mill status. She suggested the applicant move forward with work to clear the Enforcement Order so a Certificate of Compliance can be issued. Then language can be added to the certificate referencing the Historic Mill status that would also address the concerns of this amendment request.

Applicant/Representative: G. Krevosky disagrees with the Town Counsel's comments and advised the Commission that he would like to continue the hearing to allow his attorney provide feedback.

Agent: R. Gendreau advised the Commission that if they are going to continue the hearing they should also perform a site visit.

Commission: Discussed the alternatives. Deny the request per Town Counsel recommendation or continue the hearing and perform a site visit. The Commission was split.

Action: On motion of S. Halterman, seconded by E. Gaspar, the Commission closed the public hearing. 5-yes, 0-no, 0-abstain, 0-absent. D. Barnicle made a motion to deny the request to amend DEP file #300-0959, S. Halterman seconded the motion. Vote: 3-yes, 2-no (Gaspar, Goodwin), 0-abstain, 0-absent. The amendment was denied.

7:00 27 Ladd Road; Notice of Intent; DEP File #300-1056; Continued from September 1, 2020; R. Jennings, 508 International, Applicant; A. Sellew, Owner; O'Neil, Representative; Replacement of decking on existing telephone pole bridge.

S. Chidester recused himself from the Public Hearing for 27 Ladd Road.

Agent: R. Gendreau advised the Commission that the applicant had 5 weeks to submit the required materials/documents for the meeting tonight. She added that this filing arose from an enforcement order issued in 2019. Unfortunately, the materials were not received until late yesterday afternoon and this afternoon which does not allow enough time for their review by the agent or commission. She added that she still does not believe the filing is complete as the flagging is not complete and the description of the work and trail detail on the plans is inadequate, and the property owner has not signed the documents.

Applicant/Representative: G. Krevosky, D. O'Neil, and A. Baum appeared on behalf of the applicant. G. Krevosky stated that the materials were submitted and the filing is 95% complete at this time.

Commission: The Commission advised the Applicant that they had a long time to complete the filing and submit the materials required in a timely manner not the night before the meeting. D. Barnicle added that the filing was submitted in February so they had much longer than 5 weeks to get the filing completed accurately.

Applicant/Representative: D. O'Neil stated that he does not think the Covid shut down months of Mar-May should count and that 5 weeks is not a long time to complete the flagging that is required under the filing. Requests the Commission continue the public hearing to allow time for the review of the submitted documents and the completion of the flagging at the site by the applicant.

Commission: The Commission was split on the decision to continue the public hearing or not. Some felt the applicant will promise to have the items complete and submitted in a timely manner then just submit late and ask for another continuance. Others felt they had put forth effort this time to complete the filing but did not get it submitted in a timely manner.

Action: On motion of E. Gaspar, seconded by S. Halterman, the Commission closed the public hearing. Vote: 3-yes, 1-no (Goodwin), 1-abstain (Chidester), 0-absent. E. Gaspar made a motion to continue the public hearing to October 20, 2020 at 7:45 pm. Vote: 3-yes, 1-no (Barnicle), 1-abstain (Chidester), 0-absent.

Commission: Commented that even though the hearing is continued, there can be no discussion of anyone but the Commission as the hearing had been closed. On motion of E. Goodwin, the Commission reconsidered closing the public hearing in order to have the hearing open when

continued on October 20th. Vote: 3-yes, 1-no (Barnicle), 1-abstain (Chidester), 0-absent. The public hearing was reopened for the continuation on October 20 at 7:45pm.

7:15 82 Paradise Lane – Notice of Intent, DEP File #300-1075; G. Ellis, Owner/Applicant; Repair of retaining wall.

Agent: R. Gendreau advised the Commission that the applicant had not submitted his legal ad for publication in time for tonight's meeting. This public hearing will be continued to October 20, 2020 at 6:45 pm.

7:30 7 Cove Drive – Notice of Intent, DEP File #300-1074; K. Tasse, Owner/Applicant; L. Jalbert, Jalbert Engineering, Representative; Construction of a Single Family Home with associated site work.

Agent: R. Gendreau advised the Commission that the Applicant has requested a continuance. By consensus vote, the public hearing for 7 Cove Drive, DEP File #300-1074 will be continued to October 20, 2020 at 7:00 pm. Vote: 5-yes, 0-no, 0-abstian, 0-absent.

7:45 (A) 118 Leadmine Lane (Lot 1, 89 Leadmine Lane) – Notice of Intent; DEP File #300-1073; A. Kellaher, Owner/Applicant; N. Hill, Land Planning Inc., Representative; Construction of Single Family Home, Well and Septic System

Documents: Site Plan

Applicant A. Kellaher, and representative B. Hill, Land Planning, Inc., appeared before the Commission seeking approval for the construction of a single family home with well and septic to be located on a portion of 118 Leadmine Lane to be known as 89 Leadmine Lane.

Agent: R. Gendreau advised the Commission that she had received a revised plan today for this project. The changes from the original plan appear to be the addition of a planting plan with detail. The Agent added that she believes there is riverfront area that may extend onto the new lot (89 Leadmine). R. Gendreau stated that the most current topo graphical maps have the stream on the lot marked as perennial and deemed riverfront. She added that after the Commissions site visit, she performed a second site visit to review the wetland delineation. She stated that she felt the new plan was an improvement but advised the applicant that they should look to include more delineation as she feels there are more wetland areas on the lot. R. Gendreau noted that the plan shows the driveway has been relocated out of the resource area, however, the driveway is steep and the applicant should consider run off water. In addition, the vista pruning on the steep slope may add to increased run off in the resource area. Lastly, the Agent reminded the Commission that there is still an outstanding enforcement order on 118 Leadmine relating to the raze and rebuild of that home which requires a wetland restoration plan to be submitted and approved by the Commission. To date this has not been received.

Commission: The Commission expressed their desire to close out the existing enforcement order on 118 Leadmine Lane prior to approving this project.

Applicant/Representative: G. Kellaher advised the Commission that he is willing to perform the work needed but can't do the work with a cease and desist on the site.

Agent: R. Gendreau advised the applicant that he will need to present the wetland restoration plan to the Commission for approval before the cease and desist will be lifted and the work can be performed. To date he has not submitted that plan. She advised the Commission that they may want require a 3rd Party Review of the site to specify what restoration work is required in order to return the wetlands back to their pre-existing condition.

Public: Written comment from an abutter was read. Abutter stated that he is not opposed to the development of a new home on the site. However, he asked the Commission to consider the location of the driveway be granted in the location currently used as access to the lot (Gladding & Leadmine).

Applicant/Representative: B. Hill stated that the proposed location of the driveway is an allowable location. It will require some tree removal however, the applicant is willing to plant new trees. He asked for a continuation to get all required documentation, plans, etc. to the Commission for approval in order to satisfy the enforcement order / open permit so that the new permit can be considered.

Agent: The agent advised the Applicant that the original plan / OOC / Dipinto has an approved mitigation planting plan, but there is a wetland restoration plan that needs to be submitted, approved, and implemented in order to close out the enforcement order.

Action: On motion of D. Barnicle, seconded by S. Halterman, the Commission voted to partially lift the Cease & Desist to allow G. Kellaher to perform the mitigation planting detailed in the Orders of Condition issued to the previous owner (Dipinto); and also to continue the public hearing for 118 Leadmine Lane (Lot 1, 89 Laedmine Lane) DEP File #300-1073 to October 20, 2020 at 8:00pm. Vote: 5-yes, 0-no, 0-abstain, 0-absent.

7:45 (B) 76 South Shore Drive – Notice of Intent; DEP File Number #300-TBA; P. Mimeault, Applicant/Owner; P. Engle, McClure Engineering, Representative; Bank Stabilization Project

Documents: Site Plan

P. Engle appeared on behalf of the Applicant seeking approval for a bank stabilization project. He advised the Commission that the applicant has a drinking well located in the bounds of the shoreline. That travels from the lake to a ground dug well located on the bank, and then to the house. Applicant is seeking approval to perform bank stabilization to prevent the bank housing the dug well from eroding. Applicant is also seeking approval of the stairs on the site with this filing. He added that the Applicant will file with DEP as the work is within the menial high water mark, and also with the Army Corp of Engineers.

Agent: R. Gendreau advised the Commission that the hearing must be continued as no DEP file number has been assigned to date. She informed them that the applicant will need approval from Natural Heritage due to rare plant on the site. R. Gendreau reported that she received the alternative analysis today and will get that to the Commissioners as well and recommends continuing the hearing to allow time for review of the alternative analysis and receipt of the DEP file number. Lastly, she stated that flood storage will need to be made up somewhere else on the lot.

Public: Written public comment from an abutter was read. Abutter asks Commission not to approve the request as written. Abutter stated that he did not believe that the Applicant's last permit/Orders of Conditions had been completed as approved and was causing a hardship to others properties.

Action: By consensus vote the public hearing for 76 South Shore Drive was continued to October 20, 2020 at 8:15 pm. Vote: 5-yes, 0-no, 0-abstain, 0-absent.

8:00 246 Holland Road – Notice of Intent; DEP File #300-1072; *continued from September 15, 2020;* J. Harrity, Owner/Applicant; M. Farrell, Green Hill Engineering, Representative; Construction of a Single Family Home and associated site work.

Documents: Site Plan

Agent: R. Gendreau reported that this hearing was continued from the Sept. 15th meeting. Since that meeting the Commission has performed a site visit and she has gone out for a 2nd site visit to relook at the delineation, as she had some concerns with accuracy. She was able to rule out the back portion of the lot as jurisdictional. Water from a nearby pipe may have made the area appear as a wetland but it is not. She asked the applicant to revise plan to include her comments. R. Gendreau recommends approval of the project with conditions.

Commission: Agrees with Agents recommendation and comments.

Public: No public comments.

Action: On motion of E. Gaspar, seconded by S. Halterman, the Commission closed the public hearing. 5-yes, 0-no, 0-abstain, 0-absent. On motion of D. Barnicle, seconded by S. Halterman, the Commission approved the permit for DEP File #300-1072 with erosion controls noted by the Agent. Vote: 5-yes, 0-no, 0-abstain, 0-absent.

Permit Extension Requests

- 300-998 365 New Boston Road (f.k.a Lot R1 367 New Boston Road): R. Gendreau reminded the Commission that they recently approved an amendment for this permit. Now the Applicant is requesting a 3-year extension to perform the work. She added that she has performed a pre-construction meeting and the applicant is installing plants which will require monitoring per the OOC. Action: By consensus vote the Commission approved the 3-year extension for DEP File #300-998. Vote: 5-yes, 0-no, 0-abstain, 0-absent.

Request for Certificate of Compliance

- **51 Seneca Lane; DEP File #300-619:** This project was a raze/rebuild. Letter of substantial compliance from engineer has been received. Project is complete but has ongoing conditions. The Certificate of Compliance for DEP File #300-619 was approved by the Commission by consensus vote. Vote: 5-yes, 0-no, 0-abstain, 0-absent.
- **51 Seneca Lane; DEP File #300-435:** This project was for the construction of an upland retaining wall. Letter of substantial compliance from engineer has been received. Project is complete but has ongoing conditions. The Certificate of Compliance for DEP File #300-435 was approved by the Commission by consensus vote. Vote: 5-yes, 0-no, 0-abstain, 0-absent.
- **253 Walker Road (issued to 245 Walker); DEP File #300-655:** R. Gendreau reported that the OOC is actually on an adjacent property that this site was split off of. This site, 253 Walker Road, actually did not require approval by the Conservation Commission. She recommends a partial certificate of compliance for 253 Walker Road. The partial Certificate of Compliance for DEP File #300-655 was approved by the Commission by consensus vote. Vote: 5-yes, 0-no, 0-abstain, 0-absent.
- **36 Tantasqua Shore Drive; DEP File #300-1039:** R. Gendreau advised the Commission that this project was a well install at an existing single family home within their existing lawned yard from last year. The engineer has submitted a letter of substantial compliance for the project. The Certificate of Compliance for DEP File #300-1039 was approved by the Commission by consensus vote. Vote: 5-yes, 0-no, 0-abstain, 0-absent.
- **27 Preserve Way; DEP File #300-471:** R. Gendreau reported that the OOC is for the Preserve subdivision. This site, 27 Preserve Way is complete and she recommends a partial certificate of compliance. The partial Certificate of Compliance for DEP File #300-471 was approved by the Commission by consensus vote. Vote: 5-yes, 0-no, 0-abstain, 0-absent.

New Business

- **53 Holland Road, Belanger Parcel:** Chairman Goodwin stated that he spoke with each Commissioner about the efforts being made by the Board of Selectmen to obtain this property through eminent domain process. He added that all Commissioners support the efforts of the Selectmen. On motion of S. Halterman, seconded by D. Barnicle, the Commission approved the support of the Board of Selectmen to pursue the attainment of 53 Holland Road through the eminent domain process.
- **Policy on Filing Requirements / Documents Deadline Policy:** R. Gendreau presented a policy for the submission of revised documents/plans that will specify the continuation of a public hearing if the revised documents are not submitted at least seven days prior to the meeting. D. Barnicle requested the policy be amended to say seven "calendar" days. On motion of S. Chidester, seconded by E. Gaspar, the Commission adopted the Filing

Requirements/Documents Deadline Policy as presented with the addition of the clarification as “calendar” days. Vote: 5-yes, 0-no, 0-abstain, 0-absent.

Old Business

- **#300-1054 and #300-711; 36 Goodrich Road; F. Gunn; Enforcement Order Update:** M. Farrell, Green Hill Engineering, appeared on behalf of the applicant. He advised the Commission that the applicant had removed all of the decking below the retaining wall holding back the septic system, including the decking he originally requested to keep. Once they started removing portions of the deck it became clear that it would not be structurally feasible to keep any of the decking. After removing all of the decking a retaining wall was discovered. Due to the length of time the wall sat under the decking it had fallen into a state of needed repairs for stabilization. That retaining wall was repaired and topped off with fill behind the wall where needed. The remainder of the uncovered area was covered in grass for the short term for stabilization and the required plantings have been completed. The applicant plans to add a wild flower seed mix to the upper lawned / slanted lawn area for added stabilization. Finally, they will add some stone where the waddle currently is once it is removed. **Agent:** R. Gendreau stated that she felt the Applicant had complied with their orders of conditions. She added that it may vary slightly from original plan but the small changes can be reflected on an as-built plan. Overall she felt the work was a vast improvement to the previous condition of the site. **Commission:** The Commission agreed with the agent’s comments. They asked the Applicant to submit an as-built to close out the project. M. Farrell advised that he will have the as-built to the Conservation Dept. by October 15, 2020. **Agent:** R. Gendreau reminded the Commission that fines had been issued to the Applicant which remain unresolved. The Applicant is seeking to have the fine rescinded. **Commission:** The Commission advised the Applicant that they will discuss the fine after receipt of the as-built plan and review at the October 20, 2020 meeting.
- **#300-1021; 30 River Road; Enforcement Order Update:** Applicant was not able to attend this evening and requested to continue this matter to the October 20, 2020 meeting. The Commission will also perform a site visit on October 15 at 9am.
- **Enforcement Order Updates:** Postponed until the October 20, 2020 Conservation Commission meeting.

Agent Report

Site visits will be scheduled for 27 Ladd Road and 9 Holland Road. R. Gendreau will advise of the dates and times once confirmed.

Adjourn

On motion of S. Chidester, seconded by E. Gaspar, the Commission adjourned at 9:40 pm.

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.