

**Stow Conservation Commission
Minutes
March 4, 2020**

A meeting of the Stow Conservation Commission was held at the Stow Town Building, 380 Great Road, Stow, Massachusetts, on March 4, 2020 at 7:30 in the evening.

There were present: Jeff Saunders, Chair
 Serena Furman, Vice-Chair
 Andy Bass
 Andy Snow
 Matt Styckiewicz

Absent: Ingeborg Hegemann Clark

 comprising a quorum of the Commission

Also present: Kathy Sferra, Conservation Coordinator
 Jacquie Goring, Conservation Assistant
 Dan James, Associate Member

Minutes: *Andy Snow made a motion to approve the minutes of February 18, 2020 as amended. Serena Furman seconded the motion and it was passed unanimously.*

Reissue Permit Extension – Kotosky – 101 Kingland – DEP #299-615 – The Commission signed a revised form for the Extension for 101 Kingland with the corrected extension date.

Appointment – Jason Biddle – Kirkland Drive – Jason Biddle, 38 Kirkland Drive, and Jaime Monat, 8 Conant Drive, were present to request an extension for Order of Conditions #299-517 for pond weed treatment and to request approval for annual treatment. Biddle stated that the annual report was submitted to the Commission. Monat noted that the shared pond located on Kirkland Drive became infested with watermeal about 10 years ago and was treated with an aquatic herbicide called Sonar under the Order. Monat added that Sonar is very selective and does not hurt other plants and animals in the pond and is applied by a licensed applicator. The pond is treated on an as-needed basis typically every three years and was last treated in 2016. The Order expires on May 7, 2020 and the pond will likely need treatment this year. Monat added that mechanical removal and algaecide is used to treat filamentous algae in the pond which also does not adversely impact plants and animals in the pond. The herbicide and algaecide are applied by either sprinkling the material in the water or diluting a liquid and the pond is posted with warnings before treatment. The Commission confirmed they received the 2016 report. Biddle noted that the Commission waived the requirement for water sampling when the permit was last extended and they would like to continue not to do water sampling. *Serena Furman made a motion to extend the Order of Conditions for the Kirkland Drive Pond treatment for three years. Andy Bass seconded the motion and it was passed unanimously.*

Request for Determination of Applicability – Pat Sorn – 174 Barton Road – Jack Maloney, Ducharme & Dillis, was present and provided revised plans noting a slight change to the septic and sewer line location. Maloney showed the existing septic system and cesspool which will be redirected to the proposed septic tank and leaching field. Maloney showed the 100' buffer and 35' no disturb buffer and noted that the septic upgrade is mostly out of the 100' buffer except for the cesspool. The proposed work includes pumping, crushing and filling the existing cesspool. Serena Furman visited the site and clarified that the existing open Order for retaining wall repairs does not include work on the patio between the house and lake. Maloney stated that work on that patio is not proposed as part of this application and would be filed under a separate permit. The Commission reviewed photos from the site visit and confirmed that only minor grading is proposed. Maloney confirmed straw wattle is proposed for erosion controls and soils will be live loaded and not stockpiled onsite. Maloney added that the proposed plan does not require waivers from the Board of Health. Ron Ham, 168 Barton Road, confirmed with Maloney that the system is

designed for 3 bedrooms and is a 32,000 square foot lot. Mary Berg, 176 Barton Road, confirmed with Maloney that the proposed septic design meets the applicable Board of Health drinking water well setbacks. *Andy Snow made a motion to close the public hearing. Matt Styckiewicz seconded the motion and it was passed unanimously.*

The Commission discussed including a condition that any stockpiling occur outside the 100' buffer and erosion controls be installed as shown on the plan. The Commission also requested a condition noting that any further patio work will require an additional permit. *Andy Snow made a motion to issue a Negative 3 Determination. Matt Styckiewicz seconded the motion and it was approved unanimously.*

Continued Notice of Intent – 107 Boxboro Road – Ken Straney – Property owner Ken Straney was present and confirmed that DEP had issued a file number. Sferra noted that DEP requested clarification on the amount of impacts to bank and Riverfront Area (RFA). Straney stated that he provided the information to DEP and would resubmit it in a table. Sferra confirmed that there will be approximately four linear feet of impacts to bank and 48 square feet of impacts to RFA. Sferra noted that Straney is allowed no more than 10% of impacts to the RFA on the lot and there is a significant amount of RFA on the property. *Serena Furman made a motion to close the public hearing. Andy Snow seconded the motion and it was passed unanimously.*

Notice of Intent – Eversource and Department of Conservation and Recreation – Underground Transmission Line/Mass Central Rail Trail – Marc Bergeron, Epsilon Associates; Katie Kinsella and Gene Crouch, Vanasse Hangen Brustlin, Inc.; Paul Jahnige, Department of Conservation and Recreation (DCR); Barry Fogel, Keegan Werlin LLP; and Denise Bartone and Michael Hager, Eversource, were present for the applicant. Bergeron provided the Commission a memo and revised plan sheets for sheets 24 and 27 addressing comments from the Department of Environmental Protection (DEP) regarding impacts to RFA and erosion controls. Bartone introduced herself as the permitting lead for Eversource and noted that a team of specialists were present to explain the project. Bartone described the work as joint project between DCR and Eversource to install an underground electric transmission line from a substation in Sudbury to Wilkins Street in Hudson along an existing Massachusetts Bay Transportation Authority (MBTA) right of way (ROW). Bartone reviewed site plans for the project and the 350 feet of MBTA ROW in Stow. Jahnige reviewed DCR's phase two portion of the project for a rail trail and noted the other DCR managed rail trails across the State. Jahnige described that final condition of the rail trail as a ten foot wide multiuse pathway and noted the recreational and environmental benefit of rail trails. The rail trail will be co-located above the buried transmission line and he stated that there will be no overhead lines. Fogel noted that he is legal counsel for Eversource and reviewed plans of the project area including the Stow and Hudson boundaries, bordering vegetated wetland, and 100' buffer to wetlands and Bordering Land Subject to Flooding (BLSF) and 200' RFA buffer. Fogel stated that the ROW currently has railroad ties and ballasts that will be removed, and a 22 foot wide work platform will be constructed to allow construction vehicle access. The platform will remain in place once the transmission line is completed and DCR will come later to pave, loam and seed. Fogel clarified that DCR will be responsible for maintenance of the completed rail trail.

The Commission confirmed that all of the work in Stow will be limited to 350 linear feet of the existing rail bed. Andy Snow noted that she did a site inspection with Sferra and Kinsella and walked the length of the area of work in Stow. The Commission confirmed that no work is proposed within the 35' no disturb buffer and all work is within areas that have been previously disturbed. The Commission asked how the hand off between Eversource and DCR would occur and how any resource area impacts would be addressed during the transition period. Bartone stated that after Eversource has completed their work the area will be stable and will be maintained until DCR begins the rail trail work and Eversource will remain the responsible party for the Stormwater Pollution Prevention Plan. The Commission noted that the permit application stated that all vegetation removal will be done mechanically wherever possible and if chemical usage is done it will be completed by a licensed applicator. Bartone clarified that Eversource will only use mechanical removal for vegetation and herbicides may be used by DCR for maintenance if necessary. The Commission requested clarification on the DEP comments regarding the proposed drainage structure. Fogel stated that the drainage structure is proposed in an area of an existing rut and will be finished with a culvert. Jahnige stated that DCR will complete annual inspections and maintenance as needed. Fogel stated that DCR will try not to use herbicide but may use it for knotweed, bittersweet and poison ivy as a last resort if necessary. Biweekly mowing will occur through the season. Kinsella noted that the erosion control plan has been

updated and makes use of silt fence and compost filter tube. Snow noted there was evidence of motorized vehicles like ATVs or motocross bikes and Jahnige confirmed off-highway vehicles would not be permitted on the rail trail and from previous experience motorized vehicle use will not be an issue once the trail was constructed.

The Commission noted that the wetland delineation does not extend onto the Stow portion of the ROW and the application noted the wetland is located off the property. Kinsella noted that wetlands were delineated throughout the ROW however they cannot go on private property to delineate wetlands, so where that was the case they used MassGIS datalayers and aerial photographs to show the wetland line on the plan. The Commission noted that there was a degree of estimation of the amount of disturbance for the project. Fogel stated that the RFA and Flood Plain are well defined and Kinsella noted the wetland in Hudson was delineated and the wetland off the property including the stream and bordering wetland and BLSF were estimated. Sferra noted that at the closest point to the work area the wetland is roughly 70 feet away.

The Commission asked how contaminated soil will be managed if encountered and if the footprint of the work could be expanded. Bartone stated that Eversource is familiar with doing underground work in streets and encountering contamination is common. Bartone added that there is a DEP guidance for soil management on rail corridors to reduce risk and potential exposure for anyone using rail trails and noted that Eversource will be removing the rail road ties which are the only known source of contamination at this point. Bartone also noted that there is no DEP listed waste site on the ROW and due diligence was done on the background history and use of the ROW and surrounding areas. Bartone stated that soil sampling was also completed and no samples were above thresholds. Bartone confirmed that they propose to do soil balance for the work but if there is excess material it will be disposed of properly offsite. Bergeron noted that temporary stockpiles will be managed and located outside the 100' buffer, spill prevention and contamination will be managed by Eversource. Jahnige added that the final condition of the rail trail is the capping of the former rail line under the DEP guidance. Bartone clarified the sampling that was completed were geotechnical borings and in certain locations sampling was done for environmental parameters.

The Commission discussed concerns about invasive species and the possibility of seeds being brought in through the introduction of soil. Crouch stated that typically they require certified weed free soil but they cannot be guaranteed completely that the soil will be completely weed free however DCR is proposing to reseed and mow and maintain the rail trail and the side slopes will be allowed to grow naturally but will be monitored for invasives. Jahnige stated that they spec weed free clean soils and has had good success with this. Kinsella confirmed that the Stow portion of the ROW does not have knotweed but has multiflora rose. The Commission noted the DEP comment regarding monitoring for invasives while vegetation is establishing and noted that a gap between the two phases may allow invasives to come in. Jahnige confirmed that knotweed is one of the few plants DCR may consider using herbicide on. Bartone confirmed that the entire project will be handed over to DCR to begin Phase 2 once Phase 1 is completed by Eversource. Jahnige confirmed that safety split rail fencing would be installed if there is a drop off near the trail and will be installed three feet off the trail edge to allow for mowing. Bergeron stated that it is not anticipated that dewatering would be necessary based on the geotechnical borings but if it was needed they would contact the Commission and reviewed the method for dewatering. Bergeron also confirmed that copies of the SWPPP inspection reports and corrective action plans would be sent to the Commission and a full time environmental inspector would be onsite during construction. Hager confirmed that the duct bank will be constructed using concrete that will be cast in place and a concrete washout area will be designated. Bergeron added that the SWPPP includes a spill prevention plan and no washout will occur within the 100' buffer.

Bhaird Campbell, 18 High Street, was present and expressed concern about DCR reserving the right to use herbicide including on poison ivy which Campbell stated is abundant on the Stow portion of the ROW. Jahnige confirmed that DCR may use herbicide on poison ivy if it is a potential hazard to rail trail users and workers and would only be used within the shoulder to the rail trail. Campbell requested that it be on record that chemicals will be used if it is necessary. The Commission clarified that herbicides would be required to be applied by a licensed applicator.

Michelle Soucy, 18 High Street, asked why the Commission is reviewing the permit application when the project is being appealed. Fogel stated that no work can commence until all permits are approved. Hager clarified that they can move forward with local permitting as the appeal process continues.

Dan Barstow, 99 Pine Point Road, asked about potential impacts to Lake Boon. Bartone displayed site plans showing the site location in relation to Lake Boon. Hager stated that the project will not have any effect on Lake Boon and complies with all stormwater management standards and will not impact hydrology or run off from the site which is localized to the ROW. Jahnige added that no salt or chemical fertilizers will be used on the rail trail.

Margaret Costello, 537 Gleasondale Road, read a statement expressing concerns including erosion, tree removal, herbicide use, property values, drinking water, and contamination in relation to the proposed project.

Soucy expressed her concern about viewing the project only as 350 feet in Stow and not the impacts to the entire right of way, that the project will be within 75 feet of wetlands, and the discussion about following DEP best practices reducing but not eliminating risk. The Commission clarified that they only have jurisdiction on the portion of the project located in Stow. In response to a question, Bartone confirmed that the soil testing did not include testing for per- and polyfluoroalkyl substances. Fogel stated there are no known source releases in the area. Soucy expressed concern about the proximity to wetlands and asked why the project is not going in the road. Fogel stated that the project qualifies as a limited project under Wetland Project Act (WPA) regulations that the Commission does not have the ability to look at alternative routes based on the regulations. The Commission clarified that they are reviewing the permit application as it has been presented and will review it to be sure the project meets performance standards within the WPA and Stow Wetlands Bylaw. The Commission requested that the applicant submit the soils data for Stow which the applicant said they would do.

Ray Phillips, a resident of Sudbury, noted the ongoing fight against the project by a group of Sudbury residents and expressed concern about non detect soil sample results on a 100 year old rail line. Phillips encouraged the Commission to work with neighboring communities of Hudson and Sudbury and have a peer review of the permit application. Campbell stated that Stow was the only Conservation Commission to not sign a petition against the project. Rebecca Cutting, Sudbury Resident, noted that as a limited project it is up to the discretion of the Commission to allow the project not to meet the performance standards for RFA and agreed with Phillips comment for the Commission to work with Hudson and Sudbury to see the other permit applications for the project. Cutting also noted the concerns of Sudbury Valley Trustees and Friends of the Assabet River National Wildlife Refuge. Cutting also noted the impacts to buffer zone and RFA, concerns that the DEP protocols being referenced are for bike trails and not rail roads, and noted concerns about PFAS contamination. Fogel clarified that in addition to the project meeting the limited project provision there is an additional provision in the WPA for previously developed RFA work in areas or previous development. Fogel added that the rail line ballasts and ties proposed for removal are eleven feet wide and the bike path is proposed to be ten feet wide resulting in a reduction of impacts to RFA. Fogel added that there are no impacts to BLSF or bordering vegetated wetland and all the work is within the 100' buffer zone and no performance standard with those jurisdictional areas are requesting to be waived. Sferra clarified that the project as submitted exceeds the 10% alteration performance standards for RFA but the memo submitted by the applicant at the meeting argues that the area has been previously disturbed and does not need to meet that performance standard. Sferra clarified that there are no performance standards for BLSF or buffer zone in the Stow bylaw.

Crouch reviewed the proposed swale on the edge of the rail bed to direct stormwater drainage off the slope. Sferra noted that during the site visit they observed channels where drainage was causing erosion and the proposed swale should improve the erosion.

Cortni Frecha, 203 Boxboro Road, stated that it would be prudent to consider peer review or to review peer review done by other towns to gain further information on the project. Brian Burke, 125 Birch Hill Road, inquired about the permitting timeline in Hudson. Sferra stated that she does not know the timeline but the Stow Commission is required to hold a hearing within 21 days of submittal. Jim Salvie, 74 West Acton, noted that from a scientific point of view reviewing permit applications from other towns may be helpful but the Commission must do what they think is in the best interest of the Town of Stow. Burke stated that the Commission could benefit from the analysis being done in other communities. Cutting stated that no application has been submitted yet in Sudbury and the Hudson hearing was continued to March 19, 2020.

The Commission noted the memo submitted at the meeting which they need to review and the request for the soil data to be submitted and requested the hearing be continued. The applicant was agreeable to this. The Commission thanked everyone for attending and noted that they heard the public comment and they are a group of volunteers who have a often work regionally on issues facing Commission and agreed it is prudent to continue to allow for more time to review the new submittals and after the Hudson hearing. *Serena Furman moved to continue the public hearing to April 7, 2020 at or after 7:30 PM. Andy Snow seconded the motion and it was passed unanimously.*

Decision – 107 Boxboro Road – Ken Straney – The Commission reviewed draft decision and requested that the draft include that four feet of bank will be altered by the pedestrians bridges. *Serena Furman moved to issue the Order as amended. Andy Snow seconded the motion and it was passed unanimously.*

Coordinator's Report

- **269 Boxboro** – Sferra reviewed revised plans submitted by Jeff Kimmelman including construction of a terrace and green house adjacent to the garage, reconstruct two existing failing retaining walls and adjusting the location of the proposed footbridge. The Commission agreed that Kimmelman could request a redline change to the plan but may have to file for a new permit if they make any further changes.
- **Lake Boon** – Sferra noted that the boards will be going back in at the dam now ice is out with the plan to meet the April 1st refilling deadline.
- **Conservation Land Encroachment Issues:** Sferra noted two conservation land encroachment issues including storage of landscaping equipment over the property line to Town Forest by a tenant of Rich Presti's. Sferra noted that the tenant has removed the equipment and Presti has arranged for a survey. Sferra also noted a possible encroachment of an access road to Flagg Hill onto an abutting property. Sferra reviewed a map of the area and noted that the access road is used as an unofficial trail and expressed concerns about potential vehicular use of the road and the potential for dumping.
- **Hudson Road Culvert:** Superintendent of Streets Steve Nadeau will be on the next agenda to discuss work proposed on the Hudson Road culvert at Randall Road.

Adjournment –*Andy Snow made a motion to adjourn the meeting at 9:50PM. Serena Furman seconded the motion and it was passed unanimously.*

Respectfully submitted,

Jacque Goring
Conservation Assistant

Materials Used during March 4, 2020 Conservation Commission Meeting:

Draft Minutes

Site Plans, photos, and supporting materials for Kirkland Drive

Site Plans, photos, and supporting materials for 174 Barton Road

Site Plans, photos, and supporting materials for 107 Boxboro Road

Site Plans, photos, and supporting materials for Eversource/DCR

Map and photos of work at 269 Boxboro Road

Map and photos of encroachment issues at Flagg Hill and Stow Town Forest