

**Stow Conservation Commission
Minutes
May 22, 2018**

A meeting of the Stow Conservation Commission was held at the Stow Town Building, 380 Great Road, Stow, Massachusetts, on May 22, 2018 at 7:30 in the evening.

There were present: Serena Furman, Vice-Chair
 Jeff Saunders
 Nicki McGachey
 Cortni Frecha
 Ingeborg Hegemann Clark
 Sandra Grund

Absent: Andy Snow, Chair

 comprising a quorum of the Commission

Also present: Kathy Sferra, Conservation Coordinator
 Jacquie Goring, Conservation Assistant

The Conservation Commission meeting was called to order at 7:30 PM.

Minutes: *Cortni Frecha made a motion to approve the minutes of May 1, 2018 as amended. Jeff Saunders seconded the motion and it was passed unanimously.*

Extension of Order of Conditions – Lot 2 North Shore Drive – #299-590 – Scott Prince was present and reviewed the summary and photos submitted to the Commission on the progress of the building project. Prince stated that the hay bales are beginning to deteriorate however an earthen berm created during the grading work has provided additional erosion control. Prince confirmed that he would replace hay bales where necessary and noted that the area where the hay bales are deteriorating the most is on the west side of the property where the lot is higher and less likely to erode. Prince added that the site will hopefully be at finish grade within the next few months. Staff will do a site visit and confirm the continued adequacy of erosion controls. *Cortni Frecha made a motion to approve a one year extension of Order of Conditions #299-590 for Lot 2 North Shore Drive. Sandra Grund seconded and it was passed unanimously.*

Extension of Order of Conditions – Collings Foundation, Barton Road – #299-588 – Sferra informed the Commission that she notified Bob Collings that the Order was going to expire in June. Sferra added that the project has been delayed by litigation which legally extends the Order, however she recommended that the Commission vote to extend the Order to a specific date. Collings requested a three year extension. Sferra added that Collings is working with his engineer to find roof drainage alternatives. *Cortni Frecha made a motion to approve a three year extension of Order of Conditions #299-588. Sandra Grund seconded and it was passed unanimously.*

Vote – Arbor Glen Permit Conditions relating to Road Salt – The Commission discussed the request to allow Arbor Glen to use road salt and agreed that a letter could be included in the file allowing for the use of road salt. *Cortni Frecha made a motion to include a note in the file not to enforce the road salt condition required by the Certificate of Compliance for Arbor Glen and to revisit the condition every three to five years as new products become available. Sandra Grund seconded and it was passed unanimously.*

Request for Determination of Applicability – Michael Schwager – 165 South Acton Road – Homeowner Michael Schwager was present and displayed plans and photos of the property. Schwager would like to remove overgrown invasive Chinese wisteria, remove two sheds, and install fencing within the 100' buffer to a wetland. Schwager noted that a previous landowner was required to remove the sheds but did not do so. The proposed dog

fencing will be made of plastic mesh and will be located outside the 50 foot buffer with the exception of one corner. Schwager would also like to remove a 22 inch pine tree which is leaning over the house, plant native plants in the area of the wisteria, and cover the well with a decorative cover. Sferra noted wisteria is similar to bittersweet, sending out runners and strangling trees. Schwager noted that he would like to continue to remove the wisteria by digging and cutting it out of the ground and treating with herbicide. Schwager stated he will not use foliar spraying to apply herbicide but will inject the stem or paint cut stems and the cut plants will be burned. Cortni Frecha and Sandra Grund did a site visit and confirmed the wisteria infestation and described the location. The Commission discussed the proposed herbicide use and the location of the wetland and encouraged Schwager to continue the limited use of herbicide including painting the cut stumps and injecting just below the bark. *Cortni Frecha made a motion to close the public hearing for 165 South Acton Road. Sandra Grund seconded and it was passed unanimously.*

Ingeborg Hegemann Clark arrived

Appointment – Dick Bolton – Discussion of Request for Conservation Restriction Amendment – Dick Bolton was present to discuss his request for an amendment to the existing Conservation Restriction (CR) held by the Town off Apple Blossom Way. Sferra noted that the CR was never signed by the Secretary of Environmental Affairs. Depending on opinion, some people believe that without the signature the CR does not have the same permanence and will expire after 30 years in 2022. Sferra added that she is under the belief that the section of the statute which the CR is under allows the CR holder to unilaterally rerecord the CR prior to the 30 year deadline and maintain its effectiveness. This needs to be done at regular intervals. Sferra added that the situation complicated by the fact that there are now five different fee owners. Town Counsel was requested to provide an opinion and the Commission has a copy. Bolton stated that he wants to put some of his land into a new CR in perpetuity in exchange for release of the lot with a barn to permit conversion of the barn to a dwelling. Bolton reviewed the history of the land which was proposed for an eighteen lot subdivision in 1991. It was later developed with eight lots for the Bolton Family in 1992 and the remainder was conserved. Bolton stated that including the lot with the barn in the CR was a major mistake at that time and he would like the lot released because he is concerned the barn will fall into disrepair. Bolton submitted a letter from the Executive Office of Environmental Affairs stating that the CR has a 30 year term. Bolton reviewed the Assessor's map with the Commission and noted the land he still owns including parcels 48A and 48B which he would like to permanently conserve with a new CR.

Sferra clarified that the existing CR encumbers a series of parcels totaling 26.4 acres. Bolton's proposal would result in a net loss of conserved land as he no longer owns all of the parcels. Sferra has encouraged to Bolton to talk to his neighbors and see if they would be willing to include the remainder of the acreage in the proposal. Sferra noted that she and Town Counsel are of the opinion that the existing CR could be rerecorded every 20 years to maintain its effectiveness. Bolton disagreed and stated he has a lawyer but doesn't want to get into that if he doesn't have to. Sferra clarified that Bolton is not proposing to remove the CR just on the barn parcel but to remove the entire CR. An alternative might be hybrid approach that would combine Bolton's proposal with the rerecording of the CR on the remaining parcels. George Jagodzinski, 56 Apple Blossom Way, and Ryan Stanton, 25 Apple Blossom Way, were present. Station stated that he would like to cooperate but would need more time to look at the issue more closely. Sferra added that there is a large vernal pool on parcel 27F. Some of the parcels might be able to be developed without the CR in place. The Commission requested that staff create a spreadsheet of each parcel, the size, owner and CR status for both the existing and proposed restrictions. Bolton confirmed that he did not sell the barn parcel with the adjacent lot because it would have required separate sales. Sferra will include a continued discussion on the next agenda.

Notice of Intent – Basty/Merryman – 10 Dawes Road – Molly Obendorf, Stamski & McNary, and homeowners Nicola Basty and Jeff Merryman were present. Obendorf reviewed the existing conditions of the property including a small cottage adjacent to Lake Boon and bordering vegetated wetland associated with Lake Boon and an intermittent stream. The proposed work includes a deck, patio, and addition, driveway paving and replacement of the septic tank. The proposed addition will be within 59 feet of the resource areas and will only expand the size of the structure and not increase the existing number of bedrooms which will not require a upgrade of the leaching field. Ingeborg Hegemann Clark and Nicki McGachey conducted a site visit. Hegemann Clark and McGachey

reviewed the delineation in the field and stated that there is an emergent marsh at the edge of Lake Boon which could be vegetated and reviewed photos from the site visit. Hegemann Clark added that the lot is small and wooded despite the previously approved tree removal. Hegemann Clark noted that the homeowners have made a significant effort to remove bittersweet on their property and replant and would like to remove an additional five trees including two outside the Commission's jurisdiction and two within the 35' no disturb buffer. The proposed deck is within the 35' no disturb buffer which is currently a white pine needle base with very little lawn. Hegemann Clark added that in the area of the emergent marsh there are a number of gray birch and alder saplings and some shrubs which could be supplemented. Sferra noted that she raised two concerns with Obendorf including the deck structure within the 35' no disturb buffer and runoff from the proposed paved driveway. Sferra added that the runoff could be mitigated by installing a crushed stone apron and suggested they look at alternatives to alteration of the 35' no disturb buffer.

The Commission discussed the proposed deck and if the existing portion of the second story without a foundation may have at one point been a deck. Basty confirmed that they purchased the house with two second story sliding glass doors. Sferra noted that DEP has not issued a file number and the hearing will need to be continued so the file in the building department could be reviewed. The Commission discussed alternatives to the deck including a Juliet balcony which Frecha stated are structurally difficult to do and expressed concerns about the lack of public benefit included in the 35' no disturb buffer waiver proposal. Basty stated the public benefit was discussed during the site visit and they are willing to use permeable materials and plantings and requested recommendations from the Commission on how to improve the existing shoreline. Obendorf confirmed that 315 square feet of impact from the deck is proposed in the 35' no disturb buffer. Obendorf also confirmed that a proposal to move the leach field farther from the lake and intermittent stream was submitted to Nashoba Associated Boards of Health and Director Jim Garreffo stated he would not recommend to the Board that a waiver be granted for the foundation setback. The homeowners then redesigned the proposed addition to keep the dwelling two bedrooms with the addition. Obendorf added that the homeowners would be willing to plant native shade tolerant plants under the proposed deck. Hegemann Clark noted that the homeowners would also like to grind the stumps and that the existing emergent marsh could be enhanced with more shrubs. Hegemann Clark also noted the work they have done to remove bittersweet from the buffer and that it is not guaranteed that anything would grow under the proposed deck. McGachey added that the 35' buffer is almost entirely unvegetated.

Basty stated they would be willing to plant in the 35' no disturb buffer and only leave a small path to the dock. Sferra recommended a planting plan be submitted to the Commission and will provide Hegemann Clark's recommendations. Hegemann Clark added that there is tree growing over the leach field that may need to be removed. Obendorf confirmed a gravel apron along the low end of the proposed paved driveway will be added to the plan. The Commission also requested that a detail for the proposed retaining wall and any other hardscaping be included on the plan. Don Hawkes, 8 Dawes Road, was present and confirmed that a second floor will be added and asked if the project will need Zoning Board of Appeals (ZBA) review. The homeowners stated it did not and that they tried to design the addition with their neighbors in mind. Sferra will confirm the proposed work does not require ZBA approval. Hawkes stated that he does not object to the deck. Basty confirmed that the Commission would like alternatives to the deck, a planting plan, gravel apron for the driveway, a retaining wall detail, any other hardscaping and a clear public benefit for the deck for the next hearing. *Cortni Frecha moved to continue the public hearing for 10 Dawes to June 5, 2018 on or after 7:30PM. Sandra Grund seconded and the motion passed unanimously.*

Discussion/Enforcement Order – Jillian's Lane Site Stabilization and Restoration – Sferra informed the Commission that she visited the site during a heavy rainstorm on May 17th and observed silt leaving the site onto a Walcott Street and running east into a culvert, there was also sediment at the base of Pennie Lane, down Walcott Street into the wet meadow, and into a field toward a pond. No one was onsite during the time of the site visit despite the forecast. Sferra noted that the site contractor stated that the owner of 113 Walcott Street drove a bobcat over the hay bales causing the erosion issues. Sue Carter recommended the site contractor be allowed to complete the septic system installation and hydroseed the entire site with the good weather this week. The site contractor requested the Commission lift the Enforcement Order however the Commission will need to visit the site to review the new erosion and sedimentation issues. Sferra will request the stormwater pollution prevention plan reports.

Kunelius Land Project – Serena Furman recused herself. Prior to the Commission meeting, Sferra met with the Board of Selectmen who voted to accept the deeds for the two Kunelius parcels. The closing is scheduled for the end of May. *Cortni Frecha made a motion to accept the deed for the Kunelius property into the care and custody of the Conservation Commission under Chapter 40, Section 8C. Nicki McGachey seconded the motion and it was passed unanimously. Cortni Frecha made a motion to execute the Memorandum of Understanding with the Stow Municipal Affordable Housing Trust. Sandra Grund seconded the motion and it was passed unanimously. Sandra Grund made a motion to delegate Kathy Sferra to sign documents on behalf of the Conservation Commission for the Kunelius closing. Nicki McGachey seconded the motion and it was passed unanimously.*

Approve Invoice – Town Counsel – *Cortni Frecha made a motion to pay the invoice to Huggins & Witten for review of the Bolton Conservation Restriction. Ingeborg Hegemann Clark seconded the motion and it was passed unanimously.*

Coordinator's Report

- **Eagle Scout Projects:** Sferra will meet with two Boy Scouts who would like to do Eagle Scout projects on conservation land.
- **Japanese Knotweed Permit:** The first two applications for removal of knotweed under the generic Order of Conditions were submitted including Serena Furman's project on Red Acre Road and a second project submitted by a resident on Taylor Road. Staff will review in accordance with the permit.
- **Maple Street Violation:** An attachment has been filed on one of the DiPietro parcels that is for sale on the Stow/Bolton line to seek to recover the fines issued to the landowner.
- **Athens Lane:** Frecha noted that F.E. French only intends to use six of the 60 acres of the Quirk Property on Athens Lane for their proposed contractors' yard. Sferra stated that representatives of F.E. French will be invited to the next Open Space Committee meeting to discuss the potential for a trail easement.
- **Carver Hill/small Farm CRs:** Sferra noted that the Commission will need to sign the Carver Hill and small farm CRs at the June 5th meeting. Jeff Saunders and Andy Snow will not be present.

Ingeborg Hegemann Clark left the meeting at 9:50PM.

Determination – 165 South Acton Road – The Commission discussed conditions including a yearly update on the invasive species removal to consist of a brief report and photos. *Cortni Frecha made a motion to issue a Negative 3 Determination for 165 South Acton Road. Nicki McGachey seconded the motion and it was passed unanimously.*

Adjournment – *Cortni Frecha made a motion to adjourn the meeting at 9:57 PM. Sandra Grund seconded and the motion and it was passed unanimously.*

Respectfully submitted,

Jacquie Goring
Conservation Assistant

Materials Used during May 22, 2018 Conservation Commission Meeting:

165 South Acton Road site photos and plans
Bolton Conservation Restriction maps and supporting documents
10 Dawes site visit photos and plans
5/22/18 Agenda
5/22/18 Meeting and Coordinator's Report
Draft 5/1/18 minutes