

**Stow Conservation Commission
Minutes
August 21, 2018**

A meeting of the Stow Conservation Commission was held at the Stow Town Building, 380 Great Road, Stow, Massachusetts, on August 21, 2018 at 7:00 in the evening.

There were present: Jeff Saunders, Chair
 Cortni Frecha, Vice-Chair
 Andy Snow
 Nicki McGachey

Absent: Serena Furman
 Ingeborg Hegemann Clark
 Sandra Grund

comprising a quorum of the Commission

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

Minutes: *Cortni Frecha made a motion to approve the minutes of August 7, 2018 as amended. Andy Snow seconded the motion and it was passed unanimously.*

Appointment – Steve O’Connell – Collings Gravel Pit Enforcement Order Extension - Bob Collings and Steve O’Connell, Andrews Survey & Engineering, were present to request an extension of the Collings Enforcement Order (EO) deadline. O’Connell stated that he was informed about the EO for the earth moving activity on the property and has been retained by Collings to address the EO. O’Connell also stated that due to the short time frame and current work load he would not be able to meet the deadline set in the EO for August 22nd to file a Notice of Intent (NOI). O’Connell added that there are no erosion concerns because the gravel excavation is bowl shaped and the material is not susceptible to erosion. O’Connell stated that he does not believe the stream that runs east to west is perennial after contacting David Crossman of B&C Associates who completed the delineation for the museum project and reviewing the previous delineation by Scott Goddard of Goddard Consulting. O’Connell added that he ran the StreamStats program for the stream and it is calculated as intermittent. O’Connell noted that he is comfortable that the earth removal was not in Riverfront Area (RFA) which will be confirmed by locating bank to the Assabet River and that there is a good chance that the work may not have occurred in the RFA. The area of excavation and bank will be surveyed as part of the filing. The Commission discussed an extension to the EO deadline. O’Connell felt he could meet the September 19th deadline for the October 2nd Commission meeting and if he could not he would meet with the Commission to review what has been completed at that point. *Cortni Frecha made a motion to extend the deadline for the Collings Foundation Enforcement Order Notice of Intent to September 19, 2018. Nicki McGachey seconded and it was passed unanimously.*

Appointment – Dan Beauvais – Department of Conservation and Recreation (DCR) – Finn Road Culvert – Dan Beauvais of DCR and Jim Jackson of CDR Maguire were present to discuss the Finn Road Culvert plan modifications. Sferra informed the Commission that the Finn Road culvert project started construction two weeks ago and work has been performed beyond the limit of the work on the approved plan for the purpose of accessing the construction area. Sferra contacted DCR and the site contractor and met Beauvais onsite to review the work that had been done and requested they meet with the Commission. Sferra recommended an EO be issued to compel restoration of land under water and wetlands. Jackson informed the Commission that the site contractor placed fill outside of the limit of work to access the culvert with equipment. Jackson reviewed a revised plan to restore the natural grade and plant the area with New England wetland seed mix. Jackson stated that there is another one to two weeks of work to set the culverts and confirmed approximately 1,500 square feet of disturbance occurred. Sferra reviewed the approved plan which included a limit of work tight to the staging area and described

the location of the road and dewatering pumps. Jackson clarified that the approved plan was to cut the road back farther around the culvert and the contractor decided to build a road down to the water rather than cut back the road as designed. Sferra also noted that the contractor is using sand bags rather than a sheet pile cofferdam.

The Commission discussed the 1,500 square foot of alteration and the proposed restoration. Beauvais confirmed that the area where the road was constructed to the pond would be brought back to grade and planted with a wetland seed mix and that the contractor would be required to complete the restoration. Beauvais also recommended that the area be monitored to be sure the planting is successful and DCR will work with a wetland consultant. The Commission noted that any further changes to the plan require their approval. Sferra added that she discussed the need for advance approval for plan changes with the contractor onsite. Jackson noted that the Order of Conditions was included with the bid documents with the contractor. Beauvais confirmed that the contractor is now aware that any other plan changes require approval from the Commission and the culvert will be set by the end of the week then backfilled. Beauvais added that an additional two to three weeks will be needed to pave, replace the guardrails and remove equipment from the site. Sferra recommended that the seeding be done by September 30th and Beauvais confirmed that date could be met. The Commission also requested that they be notified when the contractor is leaving the site when the work is complete and recommended that the subcontractors are made aware of the Commission's requirements. Sferra added that she has been doing frequent site visits and will keep the Commission updated. *Andy Snow made a motion to issue an Enforcement Order for Finn Road requiring restoration of 1,500 square feet per the plan provided by CDR McGuire and monitoring over two growing seasons to assure adequate wetland cover. Cortni Frecha seconded and it was passed unanimously.*

Appointment – Alex Townsend – Violation of Conservation Land Regulations - Townsend was not present. Sferra informed the Commission that she recently learned that someone had been excavating at Captain Sargent Conservation Area and received contact information for Townsend who was seen digging at the property by one of the community gardeners. Sferra contacted Townsend and informed him that excavating and collecting on Town land was not allowed and sent a letter requesting that he fill in the holes and clean up the area. A significant amount of broken glass, china and metal were left behind and posed a safety hazard to people, dogs and wildlife. Sferra confirmed that Townsend has filled in the holes but did not clean up the debris on the surface. The Highway Department has offered to cover the area with loam. The Commission agreed that the area should be cleaned up as best as possible. Sferra added that the letter requested that Townsend return the bottles to the Historical Commission and she has since heard from Serena Furman who recommended the bottles be returned to the area they were excavated from. Townsend has stated that he returned the bottles to the ground at the site.

Appointment – J. Melone & Sons – Land Gift - John and Peter Melone of J. Melone & Sons were present. Peter Melone stated that J. Melone & Sons is in the process of complying with the Clean Water Act for which they have been previously before the Commission to file a NOI to install settling tanks and manage stormwater. Peter Melone added that J. Melone & Sons would like to deed to the Town Conservation Commission one acre of undisturbed land to be added to Town Forest as part of a settlement agreement. Peter Melone stated that J. Melone & Sons will be responsible for the survey and drafting the deed. The Commission reviewed the sketch plan of the property and clarified the location of the one acre of land. Sferra recommended the acceptance be contingent on a survey, 21E walk over, and confirmation that the taxes are all up to date. Peter and John Melone invited the Commission to visit the property. *Cortni Frecha made a motion to accept the one acre gift of land from J. Melone & Sons contingent on a survey, 21E walk over, and confirmation that the taxes are up to date for the property. Andy Snow seconded and it was passed unanimously.*

Appointment – Ron Ham – 168 Barton – Ron Ham, owner and builder of 168 Barton Road, was present to discuss work completed on the property beyond the approved plans. Sferra visited the site and observed the slope to Lake Boon had been cleared of leaves and brush in preparation for the work on the bank and large concrete blocks had been placed in the lake along the bottom of the bank. Sferra showed pictures of the concrete blocks and piles of stones placed in the water which Ham stated would be used to face the concrete blocks. Sferra noted that the approved plan included replacement of rocks that had fallen from the bank by hand and no other retaining wall work. Sferra added that Ham is also proposing to change the configuration of the stairs down the bank. Ham stated that he found a significant amount of erosion on the bank and has observed wave action washing away the bank

over the years exposing the base of the existing stairs and roots. Ham added that he removed some of the rocks from the bank and pushed the concrete blocks as far as possible into the bank. Ham noted that he made the decision to build the foundation at the bottom of the slope and contracted professionals to complete the work.

Sferra noted that after she visited the site and observed the concrete block wall in the lake she emailed Ham and requested that no further work be done on the wall prior to the Commission meeting. Ham did not receive the email and backfilled the wall with ¾ inch stone. Ham stated that the stone and loam on the slope were installed by using an earth slinger at the top of the slope and no material spilled into the lake. Ham added that six inches of loam, seed, and erosion control blankets were placed on the slope as approved. Sferra provided photos of the area prior to construction and Ham showed the Commission photos of wave action on the bank. Ham stated that the concrete block wall he installed will gain back the land he has lost since 2001 due to erosion. The Commission noted that the Order also required that all work on the bank be done during lake drawdown. Ham stated that the project is behind schedule due to delays with the Zoning Board of Appeals and did not want to miss the selling window. Sferra noted that she informed Ham that he should have contacted the Commission prior to completing the unpermitted work and he stated that he did not want to further delay the project.

Sferra noted that the unpermitted work affected Bank, Land Under Water, and possibly Land Subject to Flooding and recommended that the Commission require Ham to either remove the concrete blocks and stone through an EO or file a new NOI with stamped plans for the retaining wall work. Sferra added that the Commission should determine if the wall would meet the performance standards. Sferra added that previous applicants have requested to construct new retaining walls in front of existing walls and the Commission has required modifications to those plans. She doesn't feel that it would be appropriate to amend the plan under DEP's Amendment Policy. Ham stated that he will be working with wetland scientist David Burke to review options for the wall and suggested he could create a rock garden on top the concrete blocks.

The Commission discussed the unpermitted work and the precedent the work could set for future work on Lake Boon. The Commission confirmed that the concrete blocks and stone filled an area approximately four feet by 32 feet. Sferra noted that it is unclear if the fill is within floodplain and a plan with elevations would be required to make that determination. The Commission confirmed with Ham that he was going to have a six foot by six foot landing on top of the new wall at the base of the stairs as approved by the Order and the remaining area would be finished with peastone and a platform. Sferra noted that if Ham came to the Commission with his erosion concerns they might have recommended a rock revetment to help dissipate the wave action as has been done on nearby lots. Ham stated he would not have been able to get rocks down to the bank from the top of the slope.

The Commission discussed alternatives including removing the concrete blocks and using a vacuum truck to remove the stone as well as pushing the concrete blocks further into the bank and out of the lake and agreed Ham must submit a plan for review. The Commission discussed concerns about the habitat value of the bank and the need for compensatory flood storage if the wall was built in the flood plain and the need to see alternatives. Ham expressed concerns about access to the backyard with equipment due to plan changes and the proposed garage construction. The Commission stated that the work was required to occur during drawdown and the area must remain accessible because Ham may be required to do further work on the bank. Ham stated that a crane would be required to remove the concrete blocks and they could not be pushed further into the bank. The Commission requested that a NOI be filed including plans and an alternatives analysis for the unpermitted retaining wall work. *Cortni Frecha made a motion to issue an Enforcement Order for 168 Barton requiring all work on the bank to stop and a Notice of Intent to be filed with the Commission including alternative analysis and engineered plans. Andy Snow seconded and it was passed unanimously.*

Appointment – Regency at Stow – The Commission adjourned to attend a discussion with the Planning Board regarding Regency at Stow. Cortni Frecha indicated that she needed to recuse herself.

Adjournment – *As the Commission would no longer have a quorum, Andy Snow made a motion to adjourn the meeting at 9:05 PM. Nicki McGachey seconded the motion and it was passed unanimously.*

Respectfully submitted,

Jacquie Goring
Conservation Assistant

Materials Used during August 21, 2018 Conservation Commission Meeting:

Finn Road Culvert site visit photos and revised plans
J. Melone & Sons proposed gift of land plan
168 Barton site visit photos and plans
8/21/18 Agenda
8/21/18 Meeting and Coordinator's Report
Draft 8/7/18 minutes