

**Stow Conservation Commission  
Minutes  
November 20, 2018**

A meeting of the Stow Conservation Commission was held at the Stow Town Building, 380 Great Road, Stow, Massachusetts, on November 20, 2018 at 7:30 in the evening.

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

comprising a quorum of the Commission

Absent:                     Andy Snow, Chair  
                                 Sandra Grund

Also present: Jacquie Goring, Conservation Assistant

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

**Certificate of Compliance – 220 Barton Road**

Jacquie reported on her Certificate of Compliance (COC) site visit. She said that everything was done per the plan. The conditions required infiltration of roof runoff which was done and planting of blueberry bushes. They also planted dogwoods. She recommended issuance. *Ingeborg Hegemann Clark moved to issue the Certificate of Compliance, Cortni Frecha seconded and the COC was approved unanimously.*

**Bolton Conservation Restriction – Apple Blossom Way**

Jacquie noted that Dick Bolton received approval from the Planning Board for use of the barn as a residence. The conditions require updating of the CR. The Commission members thought the CR looked good. It has been approved for signing by EOEA and will be signed by Dick Bolton, the Commission, the Board of Selectmen and then by the Secretary. Goring noted that the old CR will need to be re-recorded as it applies to the remaining lots. Dick Bolton was present and said that he thought the revision would be good for everyone and the prospective buyers would be good stewards. They have read the CR and are agreeable to the terms. He will take care of recording the CR. The Town Clerk was present to notarize Dick Bolton's signature and the Commission's signatures. *Cortni Frecha moved to accept and sign the Conservation Restriction from Dick Bolton, Serena Furman seconded, and the motion was approved unanimously.*

**Request for Determination - Public Hearing – Paul Torilli - 30 Partridge Lane**

Paul and Kathy Torilli presented their proposal to remove about 15 trees from their property in the buffer zone to a wetland and within the 200' Riverfront Area. He noted the safety concern with the trees and had some come down earlier this year. They said they wanted to replace the trees with smaller trees. Nicki McGachey conducted a site visit and reported that there are 3 white pines within the 35' buffer one of which has a damaged leader. There are also some oaks in the 100' buffer. There are invasive plants on the property including bittersweet and multiflora rose. She showed pictures that she took on the site visit. She reported that the lot is mostly wooded and the trees are very close to the house. Torilli said he is planning to replant some of the trees, but does not have a planting plan. It was required that trees native to the Northeast be planted. The trees will be cut in January with the planting in the spring. Hegemann Clark said the Commission generally likes to see a plan. It was noted that there is a link on the website with good ideas. The lawn area will not be expanded. It was noted that the Commission generally requires 1:1 replacement of trees in the 35' buffer but they do not need to be the same kind of trees. Trees would generally need to be 1½" caliper trees. Cortni proposed six replacement trees in the 100' buffer and three additional trees within the 35' buffer. Kathy Torilli asked about the timeframe. It was agreed that they should be planted next year during planting season. A proposal will be submitted. *Cortni Frecha moved to close the public hearing. Nicki McGachey seconded and the motion was approved unanimously.*

**Notice of Intent – Public Hearing – Mark Harnett – 141 Whitman Street**

Present were the applicants, Mark and Beth Harnett. The Notice has been filed after the fact for work ongoing in wetlands and the buffer zone on Mistletoe Farm. Goring explained the history of the filing and noted that a complaint had been

received about the work and staff followed up with the property owner and did a site visit. She noted that the owner stopped work immediately and promptly filed a Notice of Intent for tonight's meeting. Hegemann Clark and Frecha conducted a site visit for the Commission. Hegemann Clark noted that all the trees were cleared and some were stumped. Many shrubs were also removed. Based on the remaining vegetation and stumps, topography and aerial photography, she has drawn an approximate wetland line based on her expertise as a wetland scientist. She displayed a map depicting an area in red which shows the limit of activity in resource areas. In addition, the berm around the pond was cleared and there were stumps lined up at the berm. The green on the map is the flow path of the streams. There is also a pipe that discharges on the property and contains intermittent flow but was flowing at the site visit. She noted the wettest area that supports skunk cabbage, and a transitional area that looked like a red maple and white pine community. She said there was a significant amount of bittersweet, barberry and honeysuckle along the pond berm.

Hegemann Clark contacted DEP and talked with them about the agricultural regulations and how they apply to the property. The blue line on the plan is 100' from the field edge. There is a provision in the regulations that says you can manage existing field and you can cut trees within 100' of a field. But that doesn't allow the conversion from wetland to cropland. She thinks that the area altered is about 30-35K square feet. The skunk cabbage will likely return in the spring and stumps are likely to sprout. She feels that the Commission should wait until to spring and see what vegetation returns and what the plant community in the wetland is like. She could not do a soils evaluation given how wet it was in the field. She said that DEP agreed with the idea of stabilizing the site and evaluating it in more detail later. The Commission will likely want replanting but need to see what regrows. She noted the 35' no disturb buffer requirement. She said that her recommendation would be to stabilize with winter rye, evaluate in May, and work together on a restoration plan and look at what field expansion would be permitted in accordance with the regulations. She said that the Commission may want to talk about invasive species management. Harnett said that he is concerned about using herbicide near the pond.

Hegemann Clark noted that Harnett had asked about fencing the berm with split rail fence. It was noted that the fence will have chicken wire at the bottom to keep the dogs and kids out, but the Commission would like something wildlife friendly. The fence could be raised to allow small wildlife to pass below it. Mark said that dogs have fallen through the ice in the past and they would like to avoid that. Frecha suggested sheep fence which is 6" square and will allow most wildlife to pass. Tom Talpey, 170 Whitman Street, said such a fence would not be large enough for large snapping turtles. Mark and Beth said that most of the traffic on the site is in the winter, but they can leave gates open in the summer out of season. Mark said they wanted to put the fence about 14-15' from the edge of the pond and plant clover and wildflowers between the pond and the fence. He wants people to be able to walk around the berm. He wanted to take care of the stumps around the berm before they put the fence in. He said there are six large stumps and 7-8 large rocks that need to be repositioned. Frecha noted that there is a significant grade change and that she is ok with them working on the bank. It is important not to move the berm outward.

Mark Harnett explained the genesis of the project. He noted the history of the land and the past farming use as Fruit Acres. He said that this is the last 11 acres left as a farm. They bought the farm and fixed up the farmhouse and planted 3000-4000 trees. He said that the intent of the project is to expand the tree planting area by about  $\frac{3}{4}$  of an acre and to plant winterberry as a crop, and to make an aesthetically pleasing walking path. He was unaware that the rules regarding wetlands applied to them, and thought that they were exempt in Chapter 61. He would like to maximize the area that can be planted and be consistent with the spirit of the rules. He noted that other areas around him have been converted from wetlands to fields. He wondered if they can plant in the lower areas and said that they typically plant in April. Hegemann Clark said that the regulations allow alteration of 5000 square feet and showed what that would mean on the plan. When the Commission evaluates this in the spring they can help identify an area that might be suitable. She said that in the buffer zone there is some flexibility for squaring off fields. The bad news is that they might not get as much new planting area as they would like. Harnett said they would like to maximize to the extent that they can. He noted that there was an old farm dump in the wetlands and this has been cleaned up.

Hegemann Clark noted that the applicant had suggested planting willow. She thinks that is a good choice. She suggested a planting plan with dogwood, willow, winterberry and other species. Harnett said he originally wanted a winterberry field, but understands that they will need to scatter them. It would be a noncommercial area for cuttings. It was questioned whether winterberry would be suitable on a berm and not impact the berm. No one was sure.

Goring asked about the conversation with DEP and their advice that the filing could be kept open. Procedurally, how does the Commission approve the project in part and hold open the rest? Harnett noted that they are coming into their busy season but would like the fencing done before the pond freezes. There is no file number yet so the hearing needs to be continued anyway. It was noted that the 12/4 agenda is full, but the hearing could be continued to 12/18. Hegemann

Clark suggested withdrawing all the activities except the fencing work along the berm. The Commission could issue an Order for those limited activities and then the applicants could file a new Notice of Intent in the spring. Hegemann Clark suggested stakes and construction fencing to keep people away from the pond in the short term. It was also suggested that one way to keep people out of the pond might be dense vegetation. It was noted that it will be difficult to manage invasives around the berm without herbicides. Harnett said they could mow the top of the berm to keep the vegetation down. Painting cut stumps was noted as a method of invasives control.

Goring followed up about planting of winter rye and erosion controls. Harnett said he has purchase the winter rye and can scatter it by hand. The Commission encouraged him to do that. The Commission asked Harnett what he would propose for erosion controls. He said that he could not get to it for a couple of weeks. It was noted that the berm is a steep grade but is stable. The Commission asked him to install coir logs or biodegradable compost socks (or similar) along the stream channel about 2-3' from the stream in the areas that were cleared, as well as a row along each side of the stream to the pond.

The Commission asked for comments from abutters. Roger Burkley, 53 Boon Road, said that he is concerned about how wet the area is near the pond. He said he was surprised the work was done without a permit. He thinks the pond has been altered – the berm is at a higher elevation. He is concerned about stabilization and runoff. He praised the operation and said he appreciates the farms. The Commission clarified that they want the cleared areas to stay wetland. He is concerned that trees are gone that were helping to soak up the water. He said he is supportive of the project, but thinks trees should be planted as part of the restoration. He said he'd be happy to help cover some of the cost. Goring said his letter was provided to the Commission.

After discussion, the Commission agreed to issue an Enforcement Order and require the applicant to plant winter rye and manage the site with erosion controls. This work would be done immediately. The EO would also memorialize the stop-work requirement. The wetland would need to be delineated. The Order can also require restoration in the spring. The Order of Conditions would address the fence.

Talpey, who is downhill from the site expressed concern about the stream. He noted the origin of the stream at a fire pond, and said the stream is an important source of water for his land and runs past a pond on his land and under Sudbury Road. He wants to maintain the flow in the stream. He noted that it dries up on the summer. He is concerned that the clearing could result in debris in the stream. It is mapped as perennial but he thinks it is intermittent. He also expressed concern about agricultural runoff and pesticides. He clarified that the berm is sound and should be maintained. Harnett said that the pond is important to their farm and they use it for irrigation. Cortni Frecha asked that he let the Commission know if he sees silt in the stream.

*With the applicant's concurrence, the Commission decided to continue the Notice of Intent hearing to December 18, 2018 on a motion by Ingeborg Hegemann Clark, seconded by Serena Furman and approved unanimously.*

*Hegemann Clark moved to issue an EO to require stabilization in the form of placement of coir logs or compost socks, spreading of winter rye, and placement of the stumps into the berm without expanding the berm's footprint. It was understood that equipment would need to be on site to do that. A site visit will be conducted by the Commission in the spring, and restoration planting may be required immediately and a Notice of Intent may be requested for further restoration. Frecha seconded and the motion was approved unanimously. The Enforcement Order was signed.*

It was requested that the Commission be notified when the contractor is coming to do the work. Goring will give the applicant a copy of the Enforcement Order. They can do the winter rye and coir logs immediately.

### **Continued Public Hearing - Collings – Notice of Intent – Gravel Operation**

*Cortni Frecha moved to open and continue the public hearing to December 4, 2018. Furman seconded and the motion was approved unanimously. A quorum was not present of members who were at the last hearing, and Sue Carter has not yet reviewed and commented on the plan.*

### **Minutes**

The Commission reviewed the minutes of November 4, 2018. It was noted that they have been requested by applicant, Ron Ham, Jr. Commission members offered corrections. *On a motion by Cortni Frecha, seconded by Nicki McGachey, the minutes were approved as amended.*

Serena asked Goring to determine if she needed to listen to the tape for the 168 Barton application. Goring clarified that she had been present for all hearings.

### **30 Partridge Determination of Applicability**

Goring reviewed the conditions discussed at the hearing. These are to plant three trees in the 35' buffer, six trees in the 100' buffer, provide a deadline to plant at the end of the growing season in 2019 and have a planting plan reviewed by staff. *Frecha moved to issue a Negative Determination #3, Furman seconded, and the motion was approved unanimously.*

### **Jillian's Lane**

Sue Carter has submitted comments. There was a concern that even when the road is paved, the site may still not be stable. The emergency overflow weir has not been installed. Goring asked how the Commission wanted to handle this. We have not seen a response to Sue Carter's comments. Hegemann Clark asked how the site has performed in the last few storms. Goring said that nothing had been heard from neighbors recently. She doesn't know if any issues have been raised to the Planning Board. It was noted that the concerns are more construction related and less about stability. Hegemann Clark suggested a response stating that we remain concerned about the potential of erosion and sedimentation into resource areas and inquiring about how they would continue to manage the site to avoid further impacts. Furman noted that the catch basin hasn't been done yet and that this is something that Commission wanted to see. We should check with the Planning Board and see if there is a deadline for taking care of the catch basin.

**Mistletoe Farm** – Jacquie will work on the draft Enforcement Order and send to Ingeborg, Jeff and Cortni for review.

### **Conservation Coordinator's Report**

- **Next Agenda** – Jacquie noted that there is one new RDA application for Wheldon Lane for 12/4. Serena noted that snow may be an issue for the site visit. The Commission asked if this is a dam under the jurisdiction of the Office of Dam Safety. Cortni Frecha offered to take the application and do a site visit. The Commission discussed the project briefly. Also, the next agenda is very full with Hallocks Point, 168 Barton, and Collings.
- **68 Pine Point** – Jacquie reported that the work was done outside of the drawdown period and prior to erosion control inspection. She is waiting for more information from Steve Poole.

**Adjournment** - *Cortni Frecha made a motion to adjourn the meeting at 10:25 PM. Nicki McGachey seconded and the motion and it was passed unanimously.*

Respectfully submitted,

Kathy Sferra, Conservation Coordinator (prepared from tape)

### Materials Used during November 20, 2018 Conservation Commission Meeting:

Bolton Conservation Restriction

11/20/18 Agenda and Meeting and Coordinators Report

Draft 11/4/18 Minutes

Application, photos and supporting materials for 30 Partridge

Application, photos, maps and supporting materials for 141 Whitman