

**Stow Conservation Commission
Minutes
February 5, 2019**

A meeting of the Stow Conservation Commission was held at the Stow Town Building, 380 Great Road, Stow, Massachusetts, on February 5, 2019 at 7:30 in the evening.

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

comprising a quorum of the Commission

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

Minutes: *Serena Furman made a motion to approve the minutes of January 29, 2019 as amended. Sandra Grund seconded the motion and it was passed unanimously.*

Review/Approve Warrant Articles: The Commission reviewed the three warrant articles for Annual Town Meeting. Sferra noted that she expected all three articles to be on the consent calendar. Sferra clarified the amounts to be appropriated and transferred for the Conservation and Wetland funds and noted the increase in the Conservation fund amount due to the donation from the George Morey Foundation and funds for the trail at Regency. Sferra also noted that the \$2,500 request for the Conservation fund is lower than in years past as discussed during the FY 20 budget process. Sferra added that representatives of OARS met with the Town Administrator and he is supportive of an article for funding for water chestnut removal sponsored by the Commission. OARS will attend a future Commission meeting for further discussion on a Town Meeting article. *Serena Furman made a motion to approve the draft warrant articles as written. Sandra Grund seconded the motion and it was passed unanimously.*

Cortni Frecha arrived at 7:36 PM.

Review/Approve Annual Report: The Commission reviewed the draft Conservation Commission Annual Report. Sferra noted that the Annual Report cover photo and inside cover text will feature Town Forest. The Commission discussed the milestone year in land protection, invasive species work, and the increase in wetland filings and enforcement. *Serena Furman made a motion to approve the draft annual report pending subsequent editing by Sandra Grund. Sandra Grund seconded the motion and it was passed unanimously.*

Coordinator's Report

- **New Project:** Sferra confirmed Andy Snow will do a site visit for the Hudson Road Auto project

Notice of Intent Continuation – Hallocks Point Road – Sarah Bailin – Jeff Brem, Meisner Brem Corporation, and Paul Alphen, Attorney for Robert Dawes LLC, were present. Alphen stated that he drafted a restrictive covenant including conditions regarding the 35' no disturb buffer, limiting the number of docks to four for the seven lots, limited disturbance for walking paths to the lake, and noting the requirement to file with the Commission for work within their jurisdiction. Sferra clarified that the draft covenant states that you need a permit for work within the 35' no disturb buffer but should be made more restrictive clarifying that the 35' no disturb buffer is intended to be a no disturbance zone with the exception of limited activities including removal of hazard trees. Alphen requested that the Commission provide some suggested text for the covenant to clarify the issue. Sferra recommended that the plans include hatch marks across the 35' no disturb buffer similar to those shown on the plan for the no cut area on

Sudbury Road. Alphen confirmed that the lots will be sold off together to one entity who would build the road and develop the lots however there would be nothing preventing the next owner from selling off the lots individually. The Commission recommended that the 35' no disturb buffer could be demarcated on each lot using rocks, fencing, bird boxes or something similar. Sferra offered to work on the language for the covenant with Alphen for the Commission to review with a draft decision.

Ingeborg Hegemann Clark arrived at 7:54 PM.

The Commission confirmed that snow storage was added to the plan. Alphen confirmed that the Planning Board has not closed their hearing. Brem stated that the only significant outstanding issue with the Planning Board is regarding the waiver request for underground utilities for the road which is located outside the Commission's jurisdiction. The Commission discussed closing or continuing the hearing and Alphen asked the Commission to keep the hearing open in the event discussions with the Planning Board require changes to the plan. Brem described the changes to the placement of the sediment basins to protect the infiltration basins from siltation during construction. Brem also confirmed that the wetland flag revisions from the site visit were incorporated into the revised plans. Alphen confirmed that he has written a letter requiring the existing dock on lot 5 to be removed by the abutting property owner. Sferra noted that the dock work may require a permit from the Commission. Sferra added that she will draft a decision for the next hearing. *Cortni Frecha moved to continue the hearing to 3/5/19 at or after 7:30 pm. Serena Furman seconded and the motion was approved unanimously.*

Decision – 168 Barton – Ron Ham Sr., Mary Ann Ham, Dave Burke, wetland specialist, Mimi DiMauro, real estate agent for the Hams, and Bob Dionisi, Attorney, were present. Sferra reminded the Commission that Sandra Grund and Andy Snow cannot vote on the decision and recommended that the Commission review the decision and make any changes. Sferra also noted that earlier in the day the applicant submitted a public records request for minutes and audio recordings from all of the past meetings on this project and she would expect a request for the minutes and recording from tonight's meeting. Sferra provided the Commission and Ham, Burke, and Dionisi copies of the draft decision. The Commission provided editorial corrections to the draft decision. Saunders noted that the draft decision included a statement that there was little to no evidence of erosion during the site visit to the property for the original Notice of Intent (NOI) and recommended that the statement be clarified. Saunders and Grund completed the site visit for the original NOI and agreed that there were some signs of erosion behind the stairs at the toe of the slope. The Commission agreed to revise the wording in the decision.

Barbara Carboni, Town Counsel, arrived at 8:20 PM.

The Commission clarified with Sferra that there was testimony during one of the public hearings from a resident with concerns about the retaining wall posing a safety hazard in the narrows of Lake Boon. The Commission discussed the concern and determined not to include findings with regard to impact on recreation interests under the bylaw. The Commission confirmed that the unpermitted vegetation clearing of the 35' no disturb buffer was included in the decision. The Commission also clarified that the decision included reference to the photo presented by the applicant from a 4th of July boat parade a number of years ago showing undercutting and tree loss occurred on the lower portion of the slope. Saunders asked for a motion on the decision. Attorney Dionisi requested to be heard. Carboni noted that the public hearing was closed and recommended that the Chair not allow further public comment. Dionisi stated that he would like to make a statement and stated that he was told by the Town Administrator he would be able to speak. Sferra informed the Commission that her understanding from the Town Administrator was that he had told Mr. Ham that he [Ham] could request to speak, but that it was up to the Chair whether or not to permit this. Sferra added that she had spoken to Town Counsel Jon Witten earlier that day and he recommended that the Chair not allow further comments as the public hearing was closed. Saunders stated that he respectfully would follow the advice of Town Counsel and understood and appreciated that Dionisi would like to speak and that a significant amount of effort has been put into the decision. Dionisi continued to speak, stating the Commission was about the most disingenuous board he has come across in many years. Carboni reminded him that he was not given the floor and offered to talk with him separately.

DiMauro clarified that the public records request made today included a request for audio tapes and minutes of the meetings. Sferra noted that staff is already working on the request and all available recordings had been provided to the applicant. Dionisi asked if the tape for the January 15, 2019 meeting was available. Sferra said that it was not and that the Commission's long-standing policy is that audio recordings are destroyed following the approval of minutes as allowed by the public records law. Dionisi said that Sferra stated that the tape would be available. Sferra clarified that Dionesi had asked about videotaping that meeting and she had said this would be permitted. At that time, she had told Dionesi that the Commission's meetings were audiotaped, but the Commission never received a request for the tape of 1/15/19 prior to its destruction and she wasn't aware that they wanted it. Carboni reiterated that Dionesi had not been given the floor and asked him to stop speaking.

Ingeborg Hegemann Clark moved to issue the denial Order of Conditions for 168 Barton Road. Cortni Frecha seconded and the motion was approved unanimously with Sandra Grund and Andy Snow abstaining.

Sferra provided the Commission a draft Enforcement Order (EO) for 168 Barton. The Commission reviewed the EO. *Serena Furman moved to issue the Enforcement Order for 168 Barton Road. Cortni Frecha seconded and the motion was approved unanimously.*

Sferra confirmed she would finalize the decision and EO and mail them to the applicant the following day. The Commission thanked Sferra for her work on both.

Calendar 2019 Project Planning – The Commission reviewed the draft calendar 2019 work plan and noted that they would like to prioritize reconfiguration of the Captain Sargent parking lot, Town Forest trail plan implementation, development of a large event policy, development of a property stewards program, and working with the Planning Department on master planning regarding Stow Acres as optional projects for 2019. Sferra will provide a final copy of the workplan to the Commission.

Adjournment – *Cortni Frecha made a motion to adjourn the meeting at 9:20 PM. Sandra Grund seconded the motion and it was passed unanimously.*

Respectfully submitted,

Jacquie Goring
Conservation Assistant

Materials Used during February 5, 2019 Conservation Commission Meeting:

Draft Warrant Articles

Draft 2018 Annual Report

Hallocks Point – site visit photos and application/supporting materials

168 Barton Road – site visit photos and application/supporting materials, draft decision and enforcement order

Draft Calendar 2019 Work Plan

Draft 1/29/19 Minutes