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## Conservation Commission Minutes 08/16/16

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Stow Conservation Commission  
Minutes  
August 16, 2016

A meeting of the Stow Conservation Commission was held at the Stow Town Building, 380 Great Road, Stow, Massachusetts, on August 16, 2016 at 7:30 in the evening.

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

Absent: Sandra Grund  
Doug Morse

comprising a quorum of the Commission

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

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

### Notice of Intent – 136 Hudson Road (R-11 #2)

The Commission opened the public hearing. Scott Hayes, Foresite Engineering, and homeowner David Rosen were present. Hayes noted that Rosen is in the process of selling the house and the septic system failed Title 5 Inspection. Hayes displayed a site plan and described the lot and the location of the wetlands. Hayes noted that the septic location was selected to meet the offset to the private well on the property and is 69 feet from the wetland at its closest point. The proposed location for the septic system is in an area of lawn and no trees will be required to be removed. Hayes described the lawn area as sloping to an embankment to the wetland. Straw wattle is proposed for erosion controls. The work area will be accessed using the existing driveway. The Board of Health has approved a variance to the 100' set back to the wetland to meet the 100' offset to the private well.

Serena Furman conducted a site visit and displayed photos. Furman confirmed that work will occur within the existing lawn area and trees will not be removed. Hayes described the area where the lot becomes wooded and Furman confirmed that it was correct. Hayes confirmed that the straw wattle would be staked close to the 35' no disturb buffer, four to five feet back from the toe of the slope. The Commission discussed the slope and grading and noted that straw wattle may not be sufficient. Sferra also noted her concerns about the straw wattle not having enough freeboard. Hayes agreed with the Commission's request to have additional straw wattle onsite and kept in plastic and to using additional straw to stabilize the slope. Hayes noted the work would be completed within three to four days. Furman confirmed with Hayes that the structures are made of precast concrete.

*Cortni Frecha made a motion to close the public hearing for the Notice of Intent filed by David Rosen. Serena Furman seconded the motion and it was passed unanimously.*

### Request for Determination of Applicability – 10 Dawes Road (U-6 #6)

The Commission opened the public hearing. Homeowners Nicola Basti and Jeff Merryman were present and described the proposed work which includes removal of up to 22 trees. Basti noted that they had recently purchased the property on Lake Boon and noted that there are many mature trees on the property, many of which are only a few feet away from the house. One tree within the 35' buffer to Lake Boon is proposed to be cut and one tree within 35' to the wetland will be topped. Basti added that she is willing to replant trees. Andy Snow noted that she and Kathy Sferra visited the site and observed many older trees which are top heavy. Snow confirmed that two trees are located within the 35' no disturb buffer and most of the lot has been previously disturbed. Sferra provided photos from the site visit and a site map depicting the locations of the trees. Basti noted that the tree within the 35' no disturb buffer to the lake has a scar around the trunk and she has concerns it may fall onto the house. Sferra added that the applicants originally proposed to remove 32 trees but reduced the number to 22. The majority of the trees proposed for removal are white pine with the exception of two oaks.

Snow noted that they discussed leaving exposed trees and the potential for wind damage during the site visit which Basti confirmed was considered when selecting trees for removal. The yard will not be seeded because it is likely too shady to grow grass. The Commission discussed the proposed tree cutting and mitigation planting of shrubs and trees. Snow and Sferra confirmed the lot is densely wooded and many trees would remain after the proposed removal of 22 trees. An area was identified during the site visit that would be ideal to plant a grove of birches to provide mitigation for the removal of the tree within the 35' no disturb buffer and screen the house from the lake. Don Hawkes, resident of 9 Dawes Road, was present and noted that he had no objections to the tree removal or proposed mitigation. The Commission informed Basti and Merryman that future work on the property may also require a filing with the Commission and that the 35' no disturb buffer is meant to be a natural habitat.

*Serena Furman made a motion to close the public hearing for the Notice of Intent filed by Nicola Basti. Cortni Frecha seconded the motion and it was passed unanimously.*

Cortni Frecha recused herself at 8:07 PM.

**Appointment – Ridgewood/Regency at Stow – Boxboro Road** – Greg Roy, Ducharme & Dillis, was present to discuss a minor modification request for Ridgewood, now known as Regency of Stow. Roy noted that last year Toll Brothers came before the Commission to request a minor modification and extension to the existing Order of Conditions (OOC). At that time the Commission requested that the wetland delineation be confirmed. Following the review of the wetland delineation, Roy attended a Commission meeting and reviewed proposed changes to the drainage, construction of trails, the proposed directional drilling and changes to the alignment of the proposed units. Roy noted that since the last meeting with the Commission it was determined that Toll Brothers would no longer use the Minute Man Air Field well and so directional drilling would no longer occur. Two wells were installed and have been flow tested. Water system design submittals have been sent to MassDEP for approval. Additional changes include relocation of the booster station for the well and further adjustment to the location of the units allowing for less earthwork and tree removal. Roy displayed revised plans and clarified that no work is proposed within the Riverfront Area (RFA) and 35' no disturb buffer and no additional work is proposed within the 100' buffer. Roy also noted that Toll Brothers had surveyors refine the survey of the topography of the site.



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at 01:56 PM



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Roy stated that additional soil testing has confirmed that the revised drainage meets the 2008 Stormwater Standards. Ingeborg Hegemann Clark noted that the basins must now be located 50 feet from water bodies, meet the 80% Total Suspended Solids (TSS) criteria and must have sufficient separation from groundwater. A Long-Term Pollution Prevention Plan and Operation and Maintenance (O&M) plan will be submitted. Roy added that they have met with Sue Carter and are waiting for additional comments and will have all plan changes incorporated into a final plan. Roy also noted that the boulevard entrance is no longer needed for the site which has eliminated some of the pavement in the buffer zone to the isolated wetland. Roy clarified that the only significant changes within the Commission's jurisdiction are the boulevard entrance and directional drilling which will not occur.

Roy noted that Toll Brothers has decided to keep the trails as originally approved. Roy also noted that Toll Brothers will not construct the trail in the Open Space; the owner of the Open Space will be responsible for constructing them. Roy added that a small amount of grading was changed in one of the proposed drainage basins and the landscaping plan has also been adjusted. Roy requested that the Commission provide comments on the proposed changes. The Commission noted that the new infiltration basins are not in the floodplain. Sferra confirmed with Roy that the existing trail in the Open Space is not in wetlands but is within the 35' buffer in some areas. Roy added that Don McPherson is still working with Stow Conservation Trust (SCT) on the Open Space. Sferra added that while the holder of the Open Space is still uncertain, she and Jesse Steadman, Town Planner, are working on a memo to the Planning Board requesting that the requirement for a 3<sup>rd</sup> party Conservation Restriction (CR) be removed due to the additional stewardship burden. Roy noted that Toll Brothers would likely be in favor of that change.

The Commission noted that the proposed plan changes have reduced impact to the resource areas and discussed the procedure for a minor modification or amended OOCs. Roy stated that an amended OOCs was not necessary in his opinion because no additional conditions will be needed. Roy also requested that the Commission not issue anything for the project until the process with the Planning Board is complete. Toll Brothers has identified a site supervisor for the project and is currently seeking vendors. Don MacFarlane, resident of 113 Boxboro Road, was present and expressed concerns about the irrigation well which Roy noted was not located within the Commission's jurisdiction but described the well as a deep bedrock well. MacFarlane also inquired about the footpath on Boxboro Road and Roy confirmed there are no changes proposed. Attil Thorarensen, resident of 249 Boxboro Road, asked if the Boxboro Road footpath would cross the brook. Roy stated that the footpath will be on the road side of the barricade and a new crossing would not be needed. Cortni Frecha, resident of 203 Boxboro Road, inquired if there was space between the guardrail for the path which Thorarensen stated there is a four foot wide area. Bruce Trefry, resident of 306 Boxboro Road, stated that there is an area that is completely wet and impassible unless the footpath would include a crossing. Roy displayed plans of that area for the Commission and abutters for review. Roy stated that the footpath may not be crossable during all seasons and that Toll Brothers felt the path is an amenity volunteered by a former applicant but was kept because it is considered an important connection by the Planning Board. Sferra noted that the Commission visited the path location and determined it was feasible.

Abutters continued to express concerns about the dangerous curve and the need for the path to be on the other side of the guard rail. The Commission noted that if changes will be proposed to the foot path Toll Brothers would need an amended OOC. Roy requested that once the plans are finalized they would formally request a modification. Sferra noted she will work on modifying the OOCs. Roy added that the plans will be reviewed by Sue Carter for the Planning Board meeting on September 13, 2016 and requested to be on the September 20, 2016 Conservation Commission meeting agenda.

Cortni Frecha returned at 8:50 PM.

#### **Notice of Intent – 121 White Pond Road (R-29 #67) – Stowaway Golf Course**

The Commission opened the public hearing. Dave Burke, wetland resource specialist, and John Melone Jr. and Peter Melone, Stowaway Realty Trust, were present. Burke noted that John Melone's father relinquished control of the golf course four years ago and the course has not been properly maintained. John Melone, Sr. owned the course since the 1960s. Burke described the property which contains the nine hole golf course, hardwood forest, and a portion of Elizabeth Brook and the Assabet River. The property was previously used as a resort with remnants of the camps still visible in the wooded portion of the property. Burke noted that once the property was turned over to John and Peter Melone they took time to determine a plan to repair the course and both the Fire Department and Building Inspector have been to the site and the liquor license was recently renewed. The Melones worked on the property over the winter and had hoped to reopen the course this year. Burke added that Sferra was informed of machinery working on the site this past spring and issued a letter requesting that the Melones cease and desist work within the Commission's jurisdiction. Burke stated that Sferra and Jacquie Goring conducted a site visit and no substantial damage occurred within the resource areas and trees had been cut within the RFA and the 100' buffer.

Burke added that there has been no substantial wetland violation and the work conducted without a permit was within the parameters of maintenance and management of the golf course. Burke stated that the Melones did the work themselves and stopped immediately after receiving the letter. Burke displayed plans which included the topography for the site, mean annual water line for Elizabeth Brook and the Assabet River, wetland flags, property lines, stone walls, cart paths, roadways and tree line. Burke added that the majority of the work occurred near wetland flags 1, 2 and 3. Trees and stumps were removed from the fairway within the RFA. Additional tree removal and grading occurred on the site but outside of the Commission's jurisdiction. Burke stated that many of the trees removed were covered in bittersweet vines and if the site is left unmanaged it will likely be overrun by other invasives. Burke reviewed the objectives for golf course maintenance provided to the Commission in writing as part of the NOI filing. Burke also noted that they have been asked if the activities on the site are a predevelopment effort. Burke clarified that no test pits have been done, no development is planned, and there is a tax burden for the property and the Melones would like the course to provide a net gain again.

The Commission discussed the potential for beaver activity which Sferra and John Melone confirmed are present in Elizabeth Brook. Burke added that the beaver lodge is presently being used by river otter. Sferra recommended that the Commission conduct a site visit to confirm the wetland boundary and review the list of proposed projects in the field. The Commission requested that the golf course greens be sketched on the plan. Burke described the area of proposed work on the plan and clarified that all of the work will be limited to golf course portion of the site. Burke will also provide a second plan of only the proposed work area. The Commission noted they would like to continue the hearing until after the site visit has been conducted and appreciated the amount of effort that has been completed on the NOI so far. Sferra noted that the Commission's goal should be to provide a permit that includes course maintenance so that the Melones could work within the parameters of the permit and if additional work is needed they would need to come back to the Commission. John Melone stated they would like to replant and Peter Melone added that many of the pines removed were split and a hazard. Burke will also provide a plan with an aerial overlay. Peter Melone reiterated that their goal is to bring the course back to what it once was. The Commission will schedule a site visit prior to the continued hearing date.

*Serena Furman made a motion to continue the public hearing for the Notice of Intent filed by Stowaway Realty to September 20, 2016 at or after 7:30PM. Cortni Frecha seconded the motion and it was passed unanimously.*

**Minutes:** *Serena Furman made a motion to approve the minutes of July 19, 2016 as drafted and amended. Ingeborg Hegemann Clark seconded the motion and it was passed unanimously. Andy Snow made a motion to approve the minutes of August 3, 2016 as written. Jeff Saunders seconded the motion and it was passed unanimously.*

**Conflict of Interest Disclosure** – Cortni Frecha informed the Commission that she received a notice of no wrong doing from the Ethics Commission regarding the town's possible purchase of land at 241 Boxboro Road.

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

- **Upcoming Meeting Schedule** – The August 30, 2016 Commission meeting will be primarily a work session.
- **MACC Fall Conference** – The conference will be held on 10/29/16. Contact Goring if interested.
- **Enforcement** – Sferra informed the Commission of clearing occurring within the Commission's jurisdiction on Marlborough Road associated with a horse pasture. Sferra sent a letter to the homeowner. The Commission also noted clearing occurring on Harvard Road and asked to send the homeowner a letter.
- **567 Sudbury Road** – Sferra informed the Commission that a pool was installed without a permit at 567 Sudbury Road. While researching the property it was determined that tree clearing also appeared to be done without a permit. The property is currently for sale and an RDA was requested to be filed for the pool and tree clearing.

**Certificate of Compliance – Minute Man Air Field Phase I and II** – Sferra informed the Commission that she conducted a site visit and noted that the wetland replication was successful and all other work was completed as approved. Sferra recommended the Commission issue a Certificate of Compliance (COC) for both projects.

*Cortni Frecha made a motion to issue Certificates of Compliance for Minute Man Air Field Phase I and Phase II. Serena Furman seconded the motion and it was passed unanimously.*

**Order of Conditions – 136 Hudson Road (R-11 #2)**

Sferra provided the Commission a draft OOCs for 136 Hudson Road and the Commission discussed and revised the draft. The Commission noted that the slope should be stabilized immediately after grading with straw or jute netting and extra erosion controls should be available onsite. The Commission also requested that the OOCs clarify that no tree cutting shall occur and include a perpetual condition that no yard waste be dumped within the 35' no disturb buffer. *Ingeborg Hegemann Clark made a motion to approve and issue the Order of Conditions as amended for 136 Hudson Road. Cortni Frecha seconded the motion and it was passed unanimously.*

**Determination of Applicability – 10 Dawes Road (U-6 #6)**

The Commission discussed the Determination of Applicability for removal of 22 trees at 10 Dawes Road. The Commission will request that one tree within the 35' no disturb buffer to the wetland be topped. The tree removed within the 35' no disturb buffer to Lake Boon should be replaced with one 1 ½ to 2 inch caliper native tree be planted within the 35' no disturb buffer and eight shrubs. The Commission also recommended that chicken wire be used to prevent beaver damage. *Cortni Frecha made a motion to approve and issue a Negative #3 Determination. Serena Furman seconded the motion and it was passed unanimously.*

**Order of Conditions – 180 Crescent Street (U-11 #34)**

Sferra provided a draft OOCs for 180 Crescent Street in the packet and the Commission discussed and revised the draft. The Commission noted that they would like to require photos and monitoring report for the restoration. Additionally, 75% of the plantings should be established within two years. *Cortni Frecha made a motion to approve and issue the Order of Conditions as amended for 180 Crescent Street. Ingeborg Hegemann Clark seconded the motion and it was passed unanimously.*

**Central Massachusetts Mosquito Control** – Sferra noted that the packet included a letter from Central Massachusetts Mosquito Control regarding a ditch maintenance project in the area of Flagg Hill Conservation Area. The existing ditches were constructed prior to the Town owning the property. Sferra noted that there is an exemption in the Wetlands Protection Act for ditch maintenance but recommended the Commission review their request. Bruce Trefry, land steward, reviewed the area and noted that the ditches are providing drainage for the ice pond and are only seasonally wet. The proposed work includes hand trenching and cutting and stacking brush. Sferra confirmed there are invasives in the area. The Commission discussed the proposed work and requested that Sferra visit the site.

**Lot 3 Adams Drive** – Sferra informed the Commission that John Anderson has requested a minor modification approval for Lot 3 Adams Drive. Beaver activity has raised the water level around the property as a result the Board of Health has requested that septic system be redesigned. Sferra provided a plan including the proposed revisions which the Commission reviewed. The dwelling will be raised approximately 2.5 feet and fill will be brought in for the septic system. The limit of work has not changed. *Ingeborg Hegemann Clark made a motion to approve the minor modification request for Lot 3 Adams Drive. Cortni Frecha seconded the motion and it was passed unanimously.*

**Executive Session – Litigation Strategy**

At 10:08 PM Cortni Frecha made a motion to go into Executive Session pursuant to MGL Chapter 30A, section 21 A(3), for the purpose of discussing litigation strategy, and to adjourn thereafter. Ingeborg Hegemann Clark seconded the motion and it passed 5-0 on a roll call vote: Andy Snow, aye, Cortni Frecha, aye, Serena Furman, aye, Ingeborg Hegemann Clark, aye, Jeff Saunders, aye.

Respectfully submitted,

Jacquelyn Goring  
Conservation Assistant

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