

Stow Conservation Commission
Minutes
June 16, 2020

A meeting of the Stow Conservation Commission was held on June 16, 2020 at 7:30 in the evening by remote Meeting VIA Zoom Videoconferencing in accordance with the Governors' Executive Order on Remote Meeting participation.

There were present: Jeff Saunders, Chair
Serena Furman, Vice-Chair
Andy Snow
Ingeborg Hegemann Clark
Andy Bass
Matt Styckiewicz
comprising a quorum of the Commission

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

Minutes: *Andy Bass made a motion to approve the minutes of June 2, 2020 as amended. Andy Snow seconded the motion and it passed 5-0 on a roll call vote: Andy Snow, aye, Matt Styckiewicz, aye, Andy Bass, aye, Serena Furman, aye, Jeff Saunders, aye, with Ingeborg Hegemann Clark abstaining.*

Appointment – Eagle Scout – Dylan Gross – Dylan Gross was present and noted that he funded and constructed a deer exclosure at Marble Hill. Gross posted a sign explaining what the exclosure is and showed photos of the construction. Goring noted that Gross had to hike in all the materials to an area that was not easily accessible. The Commission noted that Gross did a great job on the project. Gross stated that the biggest challenge of leading the team for the project was communication. Gross added that he used the leadership skills he learned in the Scouts and the project went really well and he had great help. The Commission confirmed that a baseline inventory of the plants in the exclosure still needs to be done. Gross thanked the Commission for allowing him to do the project.

Appointment – Vicki Roussel – Vicki Roussel was present to request a minor project modification for 114 Barton Road. Roussel stated that she would like to install a hot tub, replace existing stairs to the lake, and do landscaping on the slope down to the lake. Roussel noted that she adjusted the location of the hot tub and it is located outside the 35' no disturb buffer. Roussel added that she would like to replace the existing timber stairs in-kind, noting they are rotting and dangerous. Roussel also noted that she would like to do a landscaping project on the bank and would like to keep it as natural as possible but remove invasive species and replace with native plants. Roussel stated she would also like to trim the existing vegetation and take out the oaks and maples starting to grow. Roussel would also like to remove a damaged oak tree. Sferra showed photos of the bank and noted that procedurally she thinks the hot tub could be approved as a red line change to the plan as it is within the limit of work of the original project. Sferra added that when the original Notice of Intent (NOI) was filed, Roussel included replacement of the stairs and work on the bank which were withdrawn. Sferra noted that it is unclear if those two projects could be included as minor project modifications after being withdrawn. Sferra added that she visited the property and spoke with Roussel about the bank noting that what it looks like now is what the Commission would prefer the 35' no disturb buffer to look like. Sferra noted that she saw a small amount of invasives including bittersweet and buckthorn but also saw oak and maple saplings. Sferra noted that the existing vegetation is holding the bank but could be trimmed.

Roussel asked if she could submit a more detailed landscape plan. The Commission noted that they would need a plan for the landscaping in order to confirm the work was completed according to plan. The Commission also noted they would want to know how the work would be done and if heavy equipment or erosion controls would be needed. Roussel confirmed that the steps end almost in the water and there is a large step to the dock and that she thinks the stairs have shifted down the hill. Roussel added that the stairs are dangerous and confirmed that her contractor could draw up plans for the stair replacement. The Commission discussed the request for a minor project modification and agreed that the hot tub could be included as a redline change to the plan as well as the stair replacement in kind if a plan was submitted. The Commission noted that the bank work will require a separate filing. Sferra recommended that once she has a plan, staff could review it and determine if the work could be done with a Request for Determination of Applicability (RDA) or a new NOI. *Ingeborg Hegemann Clark made a motion to approve the redline change to the plan to include only the proposed hot tub and in-kind stair replacement. Andy Bass seconded the motion and it passed 6-0 on a roll call vote: Andy Snow, aye, Matt Styckiewicz, aye, Andy Bass, aye, Serena Furman, aye, Ingeborg Hegemann Clark, aye, Jeff Saunders, aye.*

Continuation – Notice of Intent – Aleta and Anthony Labiento – 74 Pine Point Road – *Andy Snow made a motion to continue the public hearing until July 7, 2020 at or after 7:30PM. Serena Furman seconded the motion and it passed 6-0 on a roll call vote: Andy Snow, aye, Matt Styckiewicz, aye, Andy Bass, aye, Serena Furman, aye, Ingeborg Hegemann Clark, aye, Jeff Saunders, aye.*

Discussion – Arbor Glen Site Visit Follow Up – Sferra noted that members of the Arbor Glen homeowners association were present to discuss two issues following a site visit of the Commission. These are a proposed invasive species project and unpermitted vegetation clearing on Conservation Land done by a resident. Sferra noted that she was contacted by a group of residents from Arbor Glen working on controlling bittersweet on an upland portion of the common land on the property. Sferra noted that they have done amazing work removing bittersweet from trees and off the roadside and would like to file an RDA to expand their work within the Commission's jurisdiction on Arbor Glen property. Sferra noted that they have agreed to phase the expansion of their work rather than request to also remove bittersweet on Conservation Land because the Commission would have to approve work to be done on Town property and assess the project in terms of the Commission's land management goals. It was agreed to have the residents file a Request for Determination of Applicability for the work.

Sferra noted that a resident of Arbor Glen had done some clearing of the condo association common land and Town land. Sferra showed the area of clearing on a site plan as well as photos from the site visit. Sferra noted that the clearing was done to open the view of the pond from the resident's unit. Sferra sent a letter to the property owner noting that the work was a violation of the Wetlands Protection Act and Conservation Land regulations. The work includes tree and bittersweet cutting. Gordon Schaubhut was present and confirmed he did some clearing on Town and condo association land including removal of an eight foot tall stump from a fallen tree, removal of a dead tree covered in bittersweet, and cutting of bittersweet vines. Schaubhut stated that he used a hand saw to cut the trees and bittersweet. Commission members who visited the site confirmed that it seemed like more tree or foliage clearing may have been done but the area is difficult to access. Sferra noted that when the construction of Arbor Glen was permitted, the developer could not meet the 35' no disturb buffer and the Commission agreed to a 25' buffer requirement. Bird boxes and signs stating the area was a protected wetland area were posted along the 25' buffer. Sferra noted that conditions in the permit stipulate that there should not be alteration of vegetation behind the bird box line. Sferra added that there has been a small amount of mowing behind the bird boxes by the condo association's landscaper and some of the signs have faded. Martin

stated that the area is mowed by the landscaper in order to maintain drainage in some areas and also to maintain the bird boxes and keep shrubs off the lawn.

The Commission reviewed the site visit photos and discussed the unpermitted clearing noting that the vegetation appears to be early successional vegetation including invasives. The Commission noted that the work should be done through appropriate permitting but some maintenance may be needed in the 25' buffer to protect the health of the pond. The Commission discussed possible enforcement action including replanting of shrubs or trees and concerns about plantings not being able to survive unless the invasives are managed. The Commission also discussed a possible fine with funds going to ongoing invasives management. The Commission noted the positive work of removing the bittersweet but would have been discussed and possibly managed differently through the permitting process. Schaubhut confirmed that he did the work separate from the condo association's bittersweet management and without their knowledge. Sferra noted that Schaubhut has been asked to stop work and recommended the Commission discuss a potential fine. Sferra suggested a donation could be made in lieu of a fine and used toward the proposed invasives work or towards replacing the faded wetland area signs. Martin confirmed that the condo association plans to file for the invasives work but has a limited budget to complete the work. The Commission also noted that the felled trees could be used to create habitat for pollinators. Schaubhut apologized for the work he had done and confirmed he would be willing to pay a fine or make a donation. The Commission discussed a donation for the replacement signs and Schaubhut agreed he would be open to that. Staff will follow up and get an estimate.

Request for Certificate of Compliance – 136 Boxboro – DEP #299-667 – Jeff Saunders visited the site. Saunders confirmed the site is stable and the debris was removed as required by the Order and recommended issuance. *Matt Styckiewicz made a motion to issue the Certificate of Compliance. Andy Snow seconded the motion and it passed 6-0 on a roll call vote: Andy Snow, aye, Matt Styckiewicz, aye, Andy Bass, aye, Serena Furman, aye, Ingeborg Hegemann Clark, aye, Jeff Saunders, aye.*

Continuation – Notice of Intent – Angelo and Paula Paolini – 2 Chestnut Street – Dave Therrien, representative for Angelo and Paula Paolini, and property owner Paula Paolini were present. Therrien confirmed that he provided a revised plan showing the floodplain line, calculations for the proposed septic system grading in the floodplain, and compensatory flood storage. Therrien clarified that the surveyed elevations and FEMA floodplain map elevations did not match so he back calculated the floodplain elevations to include on the plan. Therrien stated that there is only a small amount of proposed fill in floodplain and he has provided 150% replacement. The compensatory flood storage area is proposed to be loamed and seeded. Boulders are proposed every 20 feet along the 35' no disturb buffer to demarcate the area. Therrien also noted the proposed planting plan was provided. Therrien confirmed that the old cesspool is actually an old well and will be filled with approximately six yards of clean sand or gravel using a small tractor. The old cesspool is located within the proposed septic system leach field and will be removed. Sferra noted that the planting plan includes a five inch American elm and five inch chestnut and expressed concerns about the cost and availability of trees that size and concerns about disease. Paolini stated that she will be working with Gillis Landscape & Garden Center and will get a landscape plan within a week. The Commission reminded Paolini the plant species should be native to the northeast. The Commission confirmed with Paolini that she would like boulders along the 35' no disturb buffer and not split rail fence, bird boxes, a row of trees, or another alternative and noted the area behind the line must be left undisturbed. Paolini stated she would prefer boulders.

The Commission questioned the flood calculations and the proposed compensatory flood storage within the floodplain noting that is not in compliance with the WPA. Therrien confirmed that the floodplain line

was fit into the contours on the plan based on two or three points, noting the site survey did not have the same datum as the FEMA maps. Therrien stated that anything below elevation 95.29 would fill in floodplain. The Commission noted that compensatory flood storage cannot be provided within the floodplain. Therrien disagreed, stating that compensatory flood storage has to be above normal high water line in the 100 year flood elevation but cannot be replaced if it is under water. The Commission noted that, according to the plan, from the stream to the 1% flood zone line during a 100 year flood event would have three to six inches of water and compensatory flood storage could not be designed there. Therrien stated there is a hump in the middle of the area that could be lowered to provide some compensatory storage. The Commission requested that revised plans be provided that show the required compensatory flood storage for the 750 square feet of fill in floodplain, adjacent to and at the same elevation as the fill, as required by the WPA. The Commission expressed their concerns about the proposed compensatory storage not meeting the necessary volume capacity and the known high groundwater on the property. Therrien confirmed his compensatory flood storage plans reflect the normal water level as the wetland line. The Commission stated that the 1% flood chance line should be used as the normal water level for a 100 year storm when providing compensatory flood storage in order to meet the performance standards.

Sferra asked if there are areas outside the flood zone that could be used to provide compensatory flood storage. Therrien stated that he is not sure if there is area outside the 35' no disturb buffer. The Commission noted that a waiver to the 35' for minor grading could be requested given the public benefit of upgrading the existing cesspool to a Title 5 compliant septic system. Therrien state he could review the plans again and request a waiver but expressed concern about needing another continuance. Sferra noted that a new landscaping plan will also be submitted by Paolini. Paolini stated that she would like to close the hearing. The Commission noted the current COVID-19 legislation which will delay the appeal period and recommended a continuance to get more information and allow the Commission to write a decision more efficiently. Paolini asked if the hearing could be closed and a new plan could be submitted the following day. The Commission clarified that once the hearing is closed they cannot accept new information and if the new plan isn't correct or does not meet the performance standards the Commission may deny the application. The Commission discussed adding the continuance to the June 30th meeting. Therrien confirmed that the next Commission meeting in Hudson is on June 18, 2020 and expected the hearing to be closed. Therrien confirmed he would have the final plans to Sferra by June 17th or 18th. *Andy Snow made a motion to continue the public hearing to June 30, 2020 at or after 7:30PM. Serena Furman seconded the motion and it passed 6-0 on a roll call vote: Andy Snow, aye, Matt Styckiewicz, aye, Andy Bass, aye, Serena Furman, aye, Ingeborg Hegemann Clark, aye, Jeff Saunders, aye.*

Request for Extension – Basye Hendrix – DEP #299-573 – Sferra informed the Commission that a Request for Extension was made for the Hale cove dredging. Each year a small amount of material in the cove is removed by hand in the spring to allow boats to enter and exit the cove. Before and after photos are provided. Sferra noted that the permit expired in March but because of the COVID-19 legislation the expiration period has been tolled and may be extended. *Andy Snow made a motion to issue a three year extension for DEP #299-573. Matt Styckiewicz seconded the motion and it passed 6-0 on a roll call vote: Andy Snow, aye, Matt Styckiewicz, aye, Andy Bass, aye, Serena Furman, aye, Ingeborg Hegemann Clark, aye, Jeff Saunders, aye.*

Conservation Land Issues

- **Heath Hen Meadow Brook Conservation Area, Knotweed Approval** – *Andy Snow made a motion to approve the Heath Hen Meadow Brook Conservation Area knotweed permit prepared by staff. Andy Bass*

seconded the motion and it passed 6-0 on a roll call vote: Andy Snow, aye, Matt Styckiewicz, aye, Andy Bass, aye, Serena Furman, aye, Ingeborg Hegemann Clark, aye, Jeff Saunders, aye.

• **Temporary Leash Advisory Update/Discussion** – Sferra noted that the Commission requested that the leash advisory be revisited once Phase II of the Governor’s reopening plan began. Sferra noted that she has not heard concerns from either side of the issue although she has had to replace signs that have been removed. Sferra added that other surrounding communities and Land Trusts have similar leash advisories and expressed concerns about lifting the advisory in Stow and attracting large numbers of trail users with unleashed dogs. The Commission agreed they do not want to be the first to lift the leash advisory but also do not want to be the last. Sferra will discuss with the surrounding communities their plans for lifting the advisory. The Commission requested this be added to the next agenda.

Coordinator’s Report

• **Reorganization/Membership** – Sferra noted that is time to discuss reorganization of the Commission and elect a Community Preservation Committee representative. The Commission discussed Doug Morse’s request to rejoin the Commission and agreed he would be a wonderful asset to have back on the Commission given his professional experience. *Andy Snow made a motion to recommend Doug Morse for appointment to the Commission by the Board of Selectmen. Ingeborg Hegemann Clark seconded the motion and it passed 6-0 on a roll call vote: Andy Snow, aye, Matt Styckiewicz, aye, Andy Bass, aye, Serena Furman, aye, Ingeborg Hegemann Clark, aye, Jeff Saunders, aye.*

• **Minor Project Approval for Trees** – Sferra informed the Commission that a strong storm came through Stow the previous week and she received many calls regarding damaged trees and requests for tree removal. Sferra noted that typically minor project approvals are used to administratively permit up to three trees to be removed. Sferra reached out to Saunders to discuss four instances where property owners had requested four trees to be removed after the storm. Saunders noted that he was pleased that residents were calling before cutting trees.

• **Town Meeting Update** – Town meeting will be rescheduled to a date in July. Sferra also noted that the Selectmen have also made an offer to a candidate for the Town Administrator position.

• **68 Pine Point Complaint** – Sferra noted that the property owners of 66 Pine Point have contacted her regarding survey results of their property. The owner’s survey shows a portion of the wall constructed at 68 Pine Point on their property and have requested to speak with the Commission. Sferra will speak to the owners of 66 Pine Point and include them on the next agenda.

Adjournment – *Matt Styckiewicz made a motion to adjourn the meeting at 9:57 PM. Andy Bass seconded the motion and it passed 6-0 on a roll call vote: Andy Snow, aye, Matt Styckiewicz, aye, Andy Bass, aye, Serena Furman, aye, Ingeborg Hegemann Clark, aye, Jeff Saunders, aye.*

Respectfully submitted,

Jacquie Goring
Conservation Assistant

Materials Used during the June 16, 2020 Conservation Commission Meeting:

Draft Minutes

Site Plans, photos, and supporting materials for 114 Barton Road
Arbor Glen site visit photos

Site Plans, photos, and supporting materials for 2 Chestnut Street
Heath Hen Meadow Brook Conservation Area knotweed permit