

**Stow Conservation Commission
Minutes
July 7, 2020**

A meeting of the Stow Conservation Commission was held on July 7, 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 30, 2020 as amended. 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.*

Certificate of Compliance – 148 Hudson Road – Andy Snow visited the property and reviewed photos from the site visit. Snow confirmed the fence is not within the 35' no disturb buffer, a gap at the bottom of the fence was left for wildlife, and all required plantings have been planted as well as additional planting not required by the Order. Snow also noted that the 35' no disturb buffer is delineated by large boulders and with pieces of rebar. Snow recommended issuance of the Certificate of Compliance (COC). *Andy Snow made a motion to issue the Certificate of Compliance. 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.*

Certificate of Compliance – 5 Shore Avenue – Sferra informed the Commission that the owners of 5 Shore Avenue have decided not to move forward with the permitted work and have requested a COC noting the work was never commenced. Sferra visited the property and confirmed the work was not done. Sferra noted that the Order included perpetual conditions and the Commission agreed the work was never started and the COC should not include them. *Andy Snow made a motion to issue the Certificate of Compliance. 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.*

Review/Approve Facility Maintenance Plan – Department of Fire Services – The Commission reviewed the Facility Maintenance Plan for the Department of Fire Services which was required to be submitted to the Commission for review as a condition of the Order for the remediation work. Sferra noted that the condition was included in the Order so the facility would not continue to push snow, sediment, and leaves into the wetland. *Ingeborg Hegemann Clark made a motion to approve the Facility Maintenance Plan for the Department of Fire Services. 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.

Continuation – Notice of Intent – Aleta and Anthony Labiento – 74 Pine Point Road – Ingeborg Hegemann Clark made a motion to continue the public hearing until July 21, 2020 at or after 7:30PM. *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.*

Appointment – Renee Murphy and Chris Gahagan – 66 Pine Point – Complaint Regarding Work at 68 Pine Point – Sferra noted that she provided the Commission correspondence from Renee Murphy and Chris Gahagan's attorney and the attorney for the owners of 68 Pine Point Road. Murphy stated that she and Gahagan are the owners of 66 Pine Point Road and have requested to meet with the Commission because they believe that the applicant for 68 Pine Point DEP File number 299-652 should have to apply for a new or Amended Notice of Intent (NOI) for the work that was done not in compliance with the Order.. Murphy said that they believe the Commission ignored the DEP Amended Orders Policy when issuing an Enforcement Order (EO) for the unauthorized fill in floodplain. Murphy added that the violation was intentional and included work that the applicant initially proposed in the NOI but was rejected by the Commission. Murphy also added that the violation was significant enough to warrant a filing of a new NOI, stating that the increase of the width and height of the retaining wall, concrete pad for the gazebo, and filled area to access the dock triggered a requirement for compensatory flood storage. Murphy also noted that a COC could not be issued because the work was not pursuant to the Order issued by the Commission. Murphy added that they understand that the Commission does not have jurisdiction over their boundary issues with 68 Pine Point but clarified that they did not give the owners of 68 Pine Point permission to do work on their property. Murphy also noted that they repaired their shoreline retaining wall in 2009 and had to adhere to all regulations and policies.

Ingeborg Hegemann Clark noted that the Commission has discretion on the implementation of their enforcement authority, as the letter from Murphy and Gahagan's attorney pointed out. Hegemann Clark added that DEP policies are policies and not regulation or law, and in this situation the Commission made a decision to issue an EO and are not inclined to change their decision. Hegemann Clark added that Land Subject Flooding was altered and has since been compensated for which will be confirmed with an as-built plan and any COC issued will reference both the Order and EO. The Commission noted the impacts to resource areas have been corrected and asked what Murphy and Gahagan's goal was for a new NOI to be filed. Murphy stated that abutters would have the opportunity to comment and it would be an open and fair process. Murphy noted another Lake Boon project that she understood to have been declined for similar work done at 68 Pine Point. Sferra noted that the 68 Pine Point project was not the first project to be built in a way that was not permitted by the Order and the Commission has to deal with each of these appropriately. Sferra added that the Commission's perspective on shoreline retaining walls has changed over the years and in the past applicants would be allowed to occupy a small amount of the lake to repair their shoreline retaining walls. Sferra noted that Murphy and Gahagan's wall appears to have been built lakeward of the original wall. Sferra added that at the time of the 68 Pine Point filing the Commission was dealing with an enforcement issue regarding a shoreline retaining wall that was built out into the lake and the Commission determined they would no longer allow shoreline retaining walls to be built even minimally out into the lake. Sferra also added that the record does not support the accusation that the violation was done intentionally. Sferra also confirmed that she has spoken with Town Counsel and they agreed the Commission's decision to issue an EO to 68 Pine Point was an appropriate approach, rather than requiring a new or amended filing. Murphy said that she thinks that residents on the lake think they can do what they want and the Commission won't require them to fix it. The Commission noted the enforcement issue which Sferra

previously mentioned resulted in the Commission requiring a shoreline retaining wall to be removed. The Commission added that they had several public meetings on the 68 Pine Point project and the public had an opportunity to comment. The Commission also added that they don't typically reject plans but request plan changes that can permit the work within the regulations. Sferra confirmed the restoration work has been done and once the as-built has been received she will add a review of the plan to the agenda. The Commission thanked Murphy and Gahagan and noted that listening to residents is one of their priorities and want projects to be done properly and have a record of taking action when they are not.

Janet Stiles, 58 Pine Point Road, was present and stated that she was troubled by Sferra's statement that she did not think the violation was intentional. Stiles added that she was also troubled that the enforcement case that was mentioned was a distraction for the Commission during the hearing process for 68 Pine Point Road and believes a new NOI should be filed. The Commission reiterated that they have confirmed with both Town Counsel and DEP that they are comfortable with the issuance of the EO to complete the restoration work. The Commission also clarified that the enforcement case was given as an example of the Commission taking enforcement action and was not stated as if it was a distraction to the 68 Pine Point project or any other project. Sferra confirmed that the as-built review would likely be included on an agenda at the last meeting in July or a meeting in August and clarified that abutters notices will not be sent but people are welcome to attend the meeting. Sferra also noted that people can subscribe by email on the Town's website to receive agendas by email.

Conservation Land Issue – Stow Town Forest Camping – Sferra provided the Commission the State's COVID-19 campground reopening policies including social distancing, face coverings, limiting groups to 10 people, one person per tent, and access to running water. Sferra confirmed that reopening of campgrounds is currently allowed under the State's phased reopening plan. Stow Troop 1 Scoutmaster JP Benoit contacted Sferra regarding camping in Town Forest. Benoit stated that if Stow Troop 1 was allowed to camp in Town Forest they would follow the State policies as well as guidelines from the Department of Public Health and Scout guidelines. Benoit stated that Scout camps in Massachusetts have cancelled camps until Phase 4 of the State's reopening plan but some are allowing weekend camping for Scout groups. Benoit noted that Stow Troop 1 will monitor hygiene, provide hand sanitizer to each Scout, wear face coverings, have one Scout per tent unless they are in the same household, not use carpooling, have a maximum of ten people per group, conduct temperature checks, and require handwashing. Benoit stated that Town Forest is ideal for camping and the Hudson troop that has requested to camp at Town Forest plans to canoe in and out. Benoit added that Stow Troop 1 is not quite ready to camp and are still planning how to get to the property when carpooling cannot be done. Sferra noted that the Hudson troop has requested to camp in Town Forest next weekend. Sferra suggested in addition to following the State campground policies that signs be posted around the camp area at Town Forest to alert other trail users that the troop is camping. The Commission agreed the signs would be helpful and suggested it be clear that the camping has been permitted by the Commission.

Benoit confirmed that there is enough space at the camping areas in Town Forest for ten tents noting that a typical scouting event at Town Forest uses about fifteen tents for 25 participants. Benoit added that at some campsites Scout groups are required to have required permits with them at all times or on the dashboard of their vehicle. Sferra agreed that could be done and laminated signs could be provided to the Scouts to be posted along the orange trail. The Commission noted concerns about campfires during drought. Sferra confirmed that when a conservation land permit is issued to the Scouts for camping they are required to seek approval for campfires from the Fire Department. Police and Fire are copied when conservation land permits are issued. Benoit confirmed that the Scout typically use head lamps and flashlights for lighting and camp stoves for cooking. The Commission asked if there would be an increase in liability to the Town to allow camping at this time. Sferra stated that Benoit has provided reasonable

assurance that State policies will be followed. Sferra noted that the running water requirement may be difficult. Benoit stated that they typically bring bottled water in for cooking and washing which would comply with State policies. Benoit added that he does not believe there is any increase liability to the town and that any liability would be on him as Scoutmaster for not following State, local, or Scout guidelines. Benoit stated that Stow Troop 1 would likely like to camp at Town Forest at the beginning of August. Sferra noted that conservation land permits are typically issued to scouting groups or group events and are approved at the staff level. Sferra added that she would give preference to Stow scouting groups in the event of a date conflict.

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. Sferra informed the Commission that Therrien provided revised plans as well as additional information after Ingeborg Hegemann Clark and Matt Styckiewicz reviewed the most recent submittal. Therrien noted that the plans submitted at the last hearing incorrectly showed the area of fill in floodplain on the opposite side of the septic area. Styckiewicz confirmed that the compensatory flood storage has been proposed between elevations 95 and 95.29 and meets the 110% replacement required by the bylaw. Hegemann Clark agreed. Sferra confirmed that the Commission received the proposal for marking the 35' no disturb buffer, planting plan, proposal for filling the old well, and erosion control plan as requested. *Matt Styckiewicz made a motion to close the hearing. 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.*

The Commission reviewed a draft decision for 2 Chestnut Street and requested that the Order include that 8.15 cubic feet of fill and 9.5 cubic feet of compensatory flood storage is proposed for the septic replacement. The Commission also requested that the order specify that two foot by two foot boulders be set fifteen feet on center to delineate the 35' no disturb buffer and an alternate means could be used if approved by the Commission. The Commission also requested that the Order require a plan be recorded at the Registry of Deeds showing the compensatory flood storage area. *Andy Snow made a motion to issue the Order as amended. 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.*

Reorganize/Appoint CPC Representative – Jeff Saunders and Serena Furman agreed to continue as Chair and Vice Chair, respectively. Hegemann Clark agreed to stay on as CPC representative and Styckiewicz will attend CPC meetings to learn more about the Committee. *Andy Snow made a motion to elect Jeff Saunders as Chair. 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. Andy Snow made a motion to elect Serena Furman as Vice Chair. 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. Andy Snow made a motion to elect Ingeborg Hegemann Clark as CPC representative. 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.*

Coordinator's Report

- **Drought Declaration –** Sferra informed the Commission that the Secretary of Environmental Affairs has declared a significant drought and noted that applicants cannot provide evidence that a mapped perennial stream is intermittent during a declared significant drought.

- **Microburst in Stow** – Sferra noted that there was a microburst in the area of Lantern Lane and the Sudbury Valley Trustees property had significant tree loss.
- **Town Meeting** – Sferra reminded the Commission that Town Meeting will be held on July 11, 2020.
- **Lake Boon Weed Control Permit** – Sferra informed the Commission that the Lake Boon Commission requested a three year extension for the Lake Boon weed control permit in Hudson and was only granted a one year extension. The Hudson Conservation Commission requested that the Lake Boon Commission come back in a year with study results regarding the use of herbicides and the increased algae problems on the lake.
- **Carver Hill Red Trail Work Day** – Sferra asked if Commission members would be interested in volunteering to help finish the red trail on Carver Hill. Sferra will identify what is needed to finish the trail and will contact the interested Commission members to schedule a work day.
- **Pine Bluff Dog Beach Report** – Hegemann Clark received a report of people digging chairs into the bank at the dog beach at Pine Bluff. Andy Bass will visit and take photos.

Adjournment – *Ingeborg Hegemann Clark made a motion to adjourn the meeting at 9:13 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 July 7, 2020 Conservation Commission Meeting:

Draft Minutes
Photos 148 Hudson Road
Department of Fire Services Facility Maintenance Plan
Correspondence relative to 68 Pine Point
Site Plans, photos, draft decision and supporting materials for 2 Chestnut Street