

From: Kathy Sferra <Conservation@stow-ma.gov>

Date: October 30, 2019 at 4:41:54 PM EDT

To: "Dooley, Laura (DCR)" <laura.dooley@mass.gov>

Cc: 'Rebecca Longvall' <concom@townofbolton.com>, "Child, Denise (DEP)" <denise.child@mass.gov>, "Schmitz, Judith (DEP)" <judith.schmitz@mass.gov>

Subject: Forest Cutting Plan Comments - DiPietro Property - Stow and Bolton

Hi Laura

I am writing on behalf of the Stow Conservation Commission to comment on the proposed Forest Cutting Plan for the DiPietro Property in Stow and Bolton. We received a copy of the Forest Cutting Plan, and I have also spoken with forester John Robbins about this.

As you know, the towns of Stow and Bolton together filed suit against Mr. DiPietro for violations of the Wetlands Protection Act, Town of Stow Wetlands Bylaw and Town of Bolton Wetlands Bylaw that began in 2014 and are continuing through the present. Due to the seriousness of the violations the Towns expended significant financial and staff resources to bring this unprecedented cooperative legal action. The case was heard in Worcester Superior Court. These violations include clearing and construction of access roads and structures within Riverfront Area, Bordering Vegetated Wetland, Bordering Land Subject to Flooding, Bank, and their buffer zones without the necessary permits. Mr. DiPietro has also been advised on multiple occasions that, even though at least some of his activities may be agricultural in nature, they have placed new land into agricultural use and therefore require permits from both towns.

The Worcester Superior Court issued a Preliminary Injunction on May 27, 2017 enjoining DiPietro from any further work in wetlands. Later, in 2017, the Court entered judgment in favor of the Towns and ordered Mr. DiPietro to "restore the wetland Resource Area and Buffer Zone at the property in accordance with the requirements of the Wetlands Protection Act and regulations and the Bolton and Stow Wetlands Bylaws." DiPietro was further ordered by the Court to "submit a Notice of Intent to the Stow and Bolton Conservation Commissions for such work within 90 days of this Default Judgment and complete any and all required work within one year of this Default Judgment." The Court also awarded attorneys fees and fines to Bolton and Stow respectively. The Towns now have a recorded lien on the property to force these payments when the property is sold. To date, no filing has been received from Mr. DiPietro and no restoration has occurred. In addition to the wetland issues noted above, DiPietro is in arrears in his real estate taxes and the Town of Stow has begun tax title proceedings against the owner. Bolton may have as well, we do not have knowledge of this.

The Stow Conservation Commission requests the following:

- 1) That you deny the requested Forest Cutting Plan as allowing tree cutting and wetland/stream crossings as shown on the plan will violate the Preliminary Injunction issued by the Worcester Superior Court that requires that no further work be conducted in wetlands on the property. The court made no exceptions to its injunction.
- 2) That you deny the requested Forest Cutting Plan because it makes use of a driveway access road that has been constructed within wetland resources in the Town of Stow without a permit. This driveway access road is also located within floodplain and there has been serious off-site flooding of Maple Street in Stow originating from Mr. DiPietro's property during his term of ownership.

3) That you deny the requested Forest Cutting Plan because the applicant has serious, ongoing violations of the Wetlands Protection Act and Town Bylaws on the property in violation of the both the statutes and bylaws and the explicit Order of the Worcester Superior Court.

4) That, in the event that you disagree with items 1 through 3, the Conservation Commission requests, pursuant to Paragraph III(5) of the Forestry Memo of Understanding between DEP and DCR, that you review the wetland delineation for the property issued by the Town of Bolton (which shows wetlands in both towns) and ensure that the wetland maps for the property are consistent with this delineation. I have a scanned copy that I can provide if helpful. This delineation was completed in 2005, but is the only wetland delineation that is known to have been done for the property. It does not appear that the wetlands as shown on the plan are consistent with this delineation, with extensive wetland resource areas on the property missing from the map.

Thank you and please don't hesitate to reach out if you would like copies of court documents or other materials.

-Kathy

Kathy Sferra

Conservation Coordinator

Town of Stow

380 Great Road

Stow MA 01775

978-897-8615

email: conservation@stow-ma.gov

www.stow-ma.gov

www.facebook.com/stowconservation