



TOWN OF BRIMFIELD	Salisbury Annex Bld.
CONSERVATION COMMISSION	23 Main Street
COMMONWEALTH OF MASSACHUSETTS	Brimfield, MA 01010

**BRIMFIELD CONSERVATION COMMISSION  
MEETING WEDNESDAY 12/12/2012 @ 7:00 PM**

**Members Present:** Ian Lynch, Matt Toth, Roger deBruyn, Joe Collins

**Members Absent:** Steve Phiffer, Joey Resseguie

**Meeting Opens:** 7:50 PM – Ian Lynch

**7:50 PM NOI DEP # 117-0325 & Previous Violation: Dave Mayo – 10 Shaw Road**

An Enforcement Order was issued to Mr. Mayo on June 12, 2012. The EO was to immediately cease and desist from any further activity, and appear before the Conservation Commission on Tuesday June 26, 2012. At this time Mr. Mayo informed the BCC that he had stabilized the site and removed the rocks and stream crossings. He also stated he would be completing a Notice of Intent (NOI) in compliance with the WPA and its regulations. This NOI will evaluate the options Mr. Mayo has for constructing a path for river access and a potential dock on the lake. Failure to submit a completed NOI would require full restoration of the site.

A site visit was conducted on Saturday July 7, 2012 at 9:00 AM at 10 Shaw Road to determine the extent of site restoration. It was determined fill was still present in the wetlands and Mr. Mayo appeared to have just covered it with brush and planted grass over the gravel he previously laid at the site. It also appeared Mr. Mayo was just attempting to hide the path, not restore the area as required.

The area appeared to have over 1,500-2,000 square feet of wetlands alterations. BCC requested a NOI addressing the alterations and proposes wetland replication on a 1:1 scale. The fill still in place needed to be fully removed, not just hid from plain site. Additionally, any provision for “foot traffic only” could be incorporated into the NOI, but not to exceed a width of 2.5-feet. BCC required evidence of soil samples showing the fill had been removed and a restoration plan in writing. Any work completed without an approved restoration plan would constitute a separate violation..

On November 15, 2012 Mr. Mayo submitted an NOI for the construction of a path to Little Alum Pond. The proposed path is approximately 6-feet wide and approximately 680-feet long, with 440-feet in a resource area. The total amount of wetlands to be filled is 2,650 square feet; with 2868 square feet of proposed replication. Soils will be replaced with a high organic matter mixture (50% soil/50% leaf mulch compost). Plant species identified for the replication area include: Red Maple, High Brush Blueberry, Sweet Pepper Brush, and Northern Arrow-wood. A 6-foot wide foot bridge is proposed for an intermittent stream crossing. The bridge will be constructed of pressure treated wood and sit on 12”X12” concrete blocks to allow for the uninterrupted flow of the stream.

Mr. Farrell delineated the wetlands, identified the areas still containing fill, determined the area of alteration, and determined the areas for replication. No appendix G data sheet was included to show how exactly Mr. Farrell delineated the wetlands. Farrell stated he delineated the wetlands by looking at the vegetation and soils and the land is mostly red maple swamps with no standing water. Matt Toth informed Farrell that there is indeed standing water, especially at the bottom of the proposed path where a crossing is proposed. Additionally, Farrell did not supply evidence of soil samples from the areas fill was supposedly removed.

**This project has several issues that must be addressed before a decision can be made. Issues Include:**

- 1) No NHESP determination: The area is priority habitat for several species

- 2) The NOI is for split properties and requires the signature of the abutting property owner Peter Manzi. The work was initially completed with neither Mr. Manzi's knowledge nor consent. Mark Farrell will re-establish the property boundaries and change the proposed plan accordingly. Additionally, Mr. Mayo must address any issues that occurred to neighboring properties due to his negligence.
- 3) NOI was also supposed to be for the restoration of the property and removal of fill, with a 2.5-foot path max, if any. Currently, the project is aiming to increase the wetlands alterations by 3-fold (6-foot path proposed).
- 4) A 404 water quality certification may be needed, Farrell needs to speak with DEP about this
- 5) An alternatives analysis must be completed addressing, and submitted to BCC, DEP and NHESP:
  - Proposed Project (6-foot path)
  - Decrease width of path to 2.5-feet as previously discussed in Meetings
  - Change location of path to avoid wetlands
  - Bog Bridges or raised structure paths in wetlands (height depends on vegetation mix; 1-2 feet)
  - A no action alternative (do nothing and restore site to natural conditions; remove all fill).

As originally discussed and document, any path shall not exceed 2.5-feet. Mr. Farrell proposed a 6-foot path. Additionally, Mr. Mayo and Mr. Farrell were instructed several times to develop a plan that would avoid, minimize and mitigate against any alterations to the wetlands; which this current plans fails to do. Mr. Mayo claims the fill and path have always been there and the path is a "game trail" to the water. He feels installing "bog bridges" will impact the migration of the animals. Additionally, Farrell looked into the bog bridges and determined they were too expensive for the project. Currently, BCC will stay the matter until an alternative analysis is completed.

Motion made by Roger deBruyn at 8:05 PM to continue the hearing until 7:30PM on Wednesday January 9, 2013.  
 Motion Seconded by Joe Collins  
 No further discussion – vote taken – 4 yes 0 no 0 abstain – Motion Carries

**8:05 PM Violation: John Serrheno – 56 Dean Pond Road**

Mark Farrell attended tonight meeting to discuss the violation occurring at 56 Dean Pond Road. Mark admitted that he is unfamiliar with FCP and regulations, but will address the restoration to the best of his abilities. BCC reviewed the EO with Mark and discussed what we would like to see accomplished through the site restoration. Mark informed the commission that brush has been removed and work is occurring to stabilize the Riverfront zone that was degraded by the logging operation.

A motion was made by Joe Collins at 8:05 PM to accept Mark Farrell as Representative for the Violation.  
 Motion Seconded by Matt Toth  
 No further discussion – vote taken – 4 yes 0 no 0 abstain – Motion Carries

**8:47 PM RDA: Soltas Energy Corporation – Solar Array Proposal for Springfield Boy's Club**

Mark Farrell attended tonight's meeting to discuss a Request for Determination of Applicability (RDA) for work proposed at 145 Sturbridge Road; the Springfield Boy's Club Property. The RDA is for the installation of a solar array at 145 Sturbridge Road, the Springfield Boy's Club parcel. The RDA calls for the installation of a new 4000-foot drive (with frontage off Old Sturbridge Road), the clearing of approximately 44 acres (28 for upper array and 16 for lower array), and the installation of 23.2 acres of solar paneling (16.4 in upper array and 6.8 in lower array).

The location of the road and the panels were chose specifically to mitigate against any impacts to resource areas of buffer zones. The road location will not cross any wetlands or resource areas as currently proposed; it will be situated in the uplands. There is an isolated wetland to the north of the upper array, but a 30-foot no disturb boundary will be enforced to protect the resource area. A deciduous swamp wetland is located approximately 100-feet to the south of the lower array. This wetland will be outside of the 100-foot buffer. If work needs to occur close to this Wetland, Mark will notify the commission and re-file. Additionally, there is a brook and various other wetlands to the west of the property, but they are over 200-feet away and the work poses no impact upon them.

Solar panels themselves are pretty benign, but issues arise in regard to their placement and the increase in impervious surfaces they produce. Panaccione asked Farrell about the positioning and angling of the panels and he did not have that information presently. Considering most panels are installed at a slant, periods of heavy rain could produce run-off from the panels. This could potentially increase erosion at the base and could produce new point-source pollution to nearby wetlands and streams. A condition for added vegetation (grass) and maintenance (yearly mowing) should be incorporated into the RDA to offset these issues. Additionally, the land should be monitored for invasive as well, especially when clearing and installing a road.

A site visit is scheduled for 9:00 AM on December 15, 2012 to view the site and determine jurisdictional areas.

Motion made by Matt Toth at 9:23 PM to continue the hearing until 7:50PM on Wednesday January 9, 2013.

Motion Seconded by Roger deBruyn

No further discussion – vote taken – 4 yes 0 no 0 abstain – Motion Carries

#### **9:30 PM Sign Payroll**

Motion made by Matt Toth to sign payable voucher for Angela Panaccione in the amount of \$ 472.50 from account #01-0171-5583, for 30 hours, for the pay period of 12/2/2012 to 12/15/2012.

Motion seconded by Joe Collins

No further discussion – vote taken – 4yes 0 no 0 abstain – Motion Carries

#### **9:32 PM Certificate of Compliance DEP # 117-0321: 44 Brookfield Road – Jack Keough, New septic system**

Mark Farrell submitted a requested a COC, on Behalf of Jack Keough, for DEP # 117-0321 on November 27, 2012. A site visit was conducted on Saturday December 8, 2012 at 9:00 AM. Administrator Angela Panaccione was present along with BCC members Ian Lynch, Roger deBruyn and Steve Phiffer. The work completed was the installation of a new septic system. The project was found to be incomplete. The siltation fence is down in the northeast corner of the lot and the ground is exposed over the new septic tank and pump chamber. Straw needs to be laid upon the exposed soils and the area need to be further stabilized. Angela will send a letter to Mr. Keough discussing the work that must be completed before a COC can be issued and request that Mr. Keough wait until the completion of a full growing season to reapply to ensure site and soil stabilization. Additionally, when the COC is issued an ongoing condition of monitoring will be placed in the COC to ensure the grass re-grows over the next two growing seasons.

#### **9:38 PM COC DEP # 117-0312: 114 Five Bridge Road – Laurie Morrison, Garage Addition**

Dave Witaszek submitted a requested a COC, on behalf of Laurie Morrison, for DEP # 117-0312: 114 Five Bridge Road, on December 7, 2012. A site visit was conducted on Saturday December 8, 2012 at 10:30 AM. Administrator Angela Panaccione was present along with BCC members Ian Lynch, Roger deBruyn, Matt Toth and Steve Phiffer and representative Roger Woods. The site visit was for a request for a Certificate of Compliance (COC) for work completed in compliance with the previously issued OOC for the addition of a new garage. The work was in complete compliance and no issues were present. The area has regenerated nicely. The representative was instructed to remove the siltation fence at this time, seeing as it is no longer needed.

Motion made by Joe Collins at 9:38 PM to sign the COC for Complete Certification

Motion Seconded by Roger deBruyn

No further discussion – vote taken – 4 yes 0 no 0 abstain – Motion Carries

#### **9:43 PM COC DEP # 117-0323: 81 Five Bridge Road – River Rock Farm, Land Clearing Post-Tornado.**

Ed Paquette submitted a requested a COC, on behalf of Ron Konove/River Rock Farm, for DEP # 117-0323: 81 Five Bridge Road, on December 3, 2012. A site visit was conducted on Saturday December 8, 2012 at 10:00 AM. Administrator Angela Panaccione was present along with BCC members Ian Lynch, Roger deBruyn, Matt Toth and Steve Phiffer. The site visit was for a request for a Certificate of Compliance (COC) for work completed in compliance with the previously issued OOC. Since all work was previously completed before the issuance of the OOC, this site visit was purely procedural. The one condition that has yet to be met was the two-growing

seasons, but seeing as how no actual replication occurred this condition can be incorporated as on-going. BCC will approve plans and keep an ongoing condition of monitoring.

Motion made by Roger deBruyn at 9:43 PM to sign the COC for Complete Certification with ongoing condition  
9) Continue monitoring the restored areas and remove any invasive that may occur.

Motion Seconded by Joe Collins

No further discussion – vote taken – 4 yes 0 no 0 abstain – Motion Carries

**9:44 PM COC DEP #117-0286: 119 Little Alum Road – Roland Blake, House Construction and new septic**

Mark Farrell submitted a requested a COC, on behalf of Roland Blake, for DEP # 117-0286: 199 Little Alum Road, on November 27, 2012. A site visit was conducted on Saturday December 8, 2012 at 9:30 AM. Administrator Angela Panaccione was present along with BCC members Ian Lynch, Roger deBruyn, Matt Toth and Steve Phiffer; and representative Roland Blake. The site visit was for a request for a Certificate of Compliance (COC) for work completed in compliance with the previously issued OOC for the construction of a home and a new septic system. The area was stabilized and no erosion was occurring on site, with the exception of at the top of the drive. Since the drive was not part of the condition I am unsure how we would require stabilization of the slope at the end. Additionally, the hay-bales and stakes were rotted, constituting a violation of the conditions, but seeing as how work has been completed it is a moot point.

Motion made by Matt Toth at 9:44 PM to sign the COC for Complete Certification

Motion Seconded by Joe Collins

No further discussion – vote taken – 4 yes 0 no 0 abstain – Motion Carries

**9:40 PM Sign Payable Voucher: Mileage Reimbursement \$40.73**

Motion made by Matt Toth to sign the payable voucher for Mileage reimbursement for Angela Panaccione in the amount of \$40.73. The payment is for 74 miles at \$0.55/mile. The reimbursement is for traveling to and from the PVPC Regional Roundtable Discussion of the CPA, held Thursday December 13, 2012 from 5:30 PM – 7 PM, at the Clarion Inn 1 Atwood Drive, Northampton, MA.

Motion seconded by Joe Collins

No further discussion – vote taken – 4 yes 0 no 0 abstain – Motion Carries

**9:42 PM Sign Payable Voucher: Mileage Reimbursement \$31.19**

Motion made by Roger deBruyn to sign the payable voucher for Mileage reimbursement for Joe Resseguie in the amount of \$31.19. The payment is for 56 miles at \$0.55/mile. The reimbursement is for traveling to and from the MACC Fall Conference, held Saturday November 2, 2012 from 9 AM – 3:30 PM, at Clark University in Worcester, MA.

Motion seconded by Joe Collins

No further discussion – vote taken – 4 yes 0 no 0 abstain – Motion Carries

**9:47 PM Administrative Matters: Bylaw Discussion**

On Monday November 5, 2012 at 4 PM, Ian Lynch, Angela Panaccione and Matt Toth held a second working group to review our draft bylaws and develop areas of discussion in relation to the WPA and its enforcement. Topics discussed included fees, enforcement/fines, exemptions, definitions.

1) Section 4.0: Application and Fees

- Same across the board
- \$50-\$100
- Fees for: RDA, NOI, OOC Amendments, OOC Extensions, COC
- They all require paperwork, a meeting/hearing, a site visit, certified mailings
- Generate income for town as well
- Potential fee for multiple site visits or site visits in general
- Fee's will be used to pay for staff time/potential Agent

2) Section 10.0: Enforcement: Angela will speak with MACC and Sturbridge about Fines

- Fines for non-compliance (permits/enforcement orders)
- Need a window for compliance before fines initiated
- Process must be fair
- Determine on a case by case basis
- Remove the per day stipulation of the fines
- Develop a ticketing system for violators
- Develop a process for appeals
- Include a clause to prohibit any other town board/agency to issue permits to applicants with open Enforcement orders

### 3) Section 3.0: Exemptions and Exceptions

- Keep for emergencies only
- Remove agricultural exemption: It would require reviewing FCP and we could require a fee to go with it. A FCP is technically an NOI. This would allow us time to review FCP and attend site visits with DCR to express our concerns. Brimfield has had an increase in FCP violations in town since the tornado; there is no oversight to the conditions in place. Additionally, our by law could allow applicants to use the FCP NOI as application to us as well (same form for us to review)
- Remove utility work exemptions: Require RDA

### 4) Section 8.0: Definitions

- Intermittent Streams - Protect as river front, resource area. Increase buffer to 200', same as river front
- Vernal Pools - Protect potential as well as certified. Many vernal pools are not certified because they occur on private property. Keep technical definition of vernal pool the same, just apply regulations to both.
- Ponds - Jurisdictional Size. Now 10,000 square feet, do we want to reduce it?
- Seasonal Wetlands – No current protection in WPA

### 5) 25-foot "No disturb zone"

- For new projects within jurisdiction, a minimum of a 25-foot "No Disturb Zone," to be naturally vegetated, shall be maintained or provided between resource areas and all altered areas. The Commission reserves the authority to create a wider "No Disturb Zone" within the 100-foot buffer zone if deemed necessary to protect the resource area. (This provision serves to ensure protection from negative impacts during construction activities and the long-term viability of a resource area)
- A request for determination of applicability shall be required prior to the alteration, cutting or removal of any vegetation within 25 feet of a wetland resource area for all purposes except for preexisting uses such as lawn and pastures already regularly mowed. Utility rights-of-way are exempt from this provision as outlined in the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, as are the activities currently exempted from the requirements for the riverfront area under 310 CMR 10:58(6). This provision is intended to provide clarification that the Commission does not consider existing areas of lawn or pasture to be jurisdictional. However, the enlargement or expansion of lawns or pastures within jurisdictional areas does require a permit from the Commission.

### 6) Conditions for Determinations

- Additional conditions issued under this bylaw will be attached to the determination of applicability and order of conditions. This provision is intended to allow us to condition RDA's as well. We could now issue a Neg Dec 2 with conditions as well for work in River Front.
- Require abutter notification for RDA's as well as NOI's

A special Administrative meeting of the BCC will be scheduled for Wednesday January 16, 2013 at 7 PM at the Salisbury Annex. This meeting will deal specifically with bylaws and drafting a proposal for an increase in hours.

Before this meeting Angela will:

1. Resend the draft bylaws to the commissioners with new changes by the beginning of the year.
2. Check with the Selectboard about the workings of the Bylaw committee and when the deadlines are.

3. Contact MACC about getting a rep to come to the special meeting to discuss the bylaws with us.

**Meeting adjourned 10:13 PM** –

Motion made by Matt Toth to adjourn at 10:13 PM

Motion was seconded by Joe Collins

No further discussion – vote taken – 4 yes 0 no 0 abstain – Motion Carries

Sincerely Submitted

Angela Panaccione, BCC Administrator