



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

**BRIMFIELD CONSERVATION COMMISSION
MEETING MINUTES
WEDNESDAY January 9, 2013 @ 7:00 PM**

Members Present: Ian Lynch (Chair), Matt Toth, Roger deBruyn, Joe Collins, Steve Phiffer, Angela Panaccione (Administrator)

Members Absent: Joey Resseguie

Meeting Opens: 7:07 PM – Ian Lynch

7:07 PM Sign Payroll

Motion made by Steve Phiffer to sign payroll voucher for Angela Panaccione in the amount of \$ 378.00 from account #01-0171-5583, for 24 hours, for the pay period of 12/16/2012 to 12/29/2012.

Motion seconded by Matt Toth

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

7:08 PM Sign Payroll

Motion made by Matt Toth to sign payroll voucher for Angela Panaccione in the amount of \$ 551.25, for a total of 35 hours, for the pay period of 12/30/2012 to 1/12/2012.

Motion seconded by Steve Phiffer

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

7:10 PM Sign Payable Voucher: MACC \$115.00

Motion made by Matt Toth to sign the payable voucher to MACC in the amount of \$115.00 for payment for Angela Panaccione to attend the MACC Annual Spring Conference on 3/2/13 at Holy Cross College, in Worcester, MA.

Motion seconded by Roger deBruyn

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

7:13 PM Sign Payable Voucher: Stonebridge Press \$44.10

Motion made by Matt Toth to sign the payable voucher to Stonebridge Press in the amount of \$44.10 for payment of a legal add posted on January 4, 2013 for the Amended NOI for DCR.

Motion seconded by Steve Phiffer

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

7:15 PM Possible Violation: Mark Caron – Route 20/Palmer Road

The DEP notified BCC of a possible violation occurring at the Caron property on the North side of Route 20 heading west from the center of town. The complaint was that work could be occurring in the wetlands, the 200-foot Riverfront zone and other possible resource areas; and that digging was occurring fairly close to the road, though the complainant could not see down to the stream. Angela could not find a file on the parcel.

Roger deBruyn checked out the site and did see work was being done, though in his opinion there was no obvious violation. Again, it is hard to tell what is occurring from the road. They may be digging for gravel in the Riverfront zone though it cannot be confirmed without a site visit. deBruyn also believed there was a file somewhere on the property, with delineated wetlands, and maybe the BOS has it. There is also a possibility the

file is located under the name Batista. Angela will research the situation further, see if any fillings are present, and contact Mark Stinson, DEP, to see if he has any information of the property and for a site visit to the property.

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

On November 15, 2012 Mr. Mayo submitted an NOI, in response to an Enforcement Order issued to Mr. Mayo on June 12, 2012, 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. This plan is unpermissible, you do not fill in wetlands for trails.

Upon further review the DEP has taken over the case and requested BCC stay the hearing until they can complete their review. Civil penalties may be enacted against Mr. Mayo as well. Additionally, a complaint was received for Peter Manzi, 11 Shaw Road, for the damages occurred on his property as well. DEP will be requiring full site restoration, including the damages occurred on Mr. Manzi property. Mr. Mayo has accepted responsibility for trespassing and will restore the damaged areas on Mr. Manzi as well.

Motion made by Matt Toth to continue the hearing until 7:30PM on Wednesday January 23, 2013.

Motion Seconded by Joe Collins

No further discussion – vote taken – 5 yes 0 no 0 abstain – Motion Carries

7:44 PM Violation: John Serrheno – 56 Dean Pond Road

Per the ratified Enforcement Order(EO) issued to Mr. Serrheno on November 29, 2012 the deadline for a draft (RARP) was this evening. Mr. Serrheno attended tonight meeting, with representative Mark Farrell and Tom for Rocky Mountain. Before the commission reviewed the plan Panaccione informed them of what has occurred since the previous meeting. Site visit reports and photographs were given to the commissioners to view. Several commissioners were aware because they were either present at one of the site visit or conducted a drive by themselves to view the damages.

On December 19, 2012 at approximately 10AM she drove by the site and noticed several new violations occurring, including:

1. Working under a cease and desist order (requirement of EO)
2. Landings present in BVW and within 25-feet of river (310 CMR 10.04 14(e) & 15(f))
3. Erosion into Fosket Mill (MGL 132 section 40)
4. Soils not stabilized (310 CMR 10.04 14(c))
5. A large cord of wood, slash and debris was stored within feet Fosket Mill (310 CMR 10.04 15(d))
6. Work occurred in very wet soils (310 CMR 10.04 15(b))
7. Wetlands were not accurately delineated or depicted on FCP
8. Heavy equipment stored in wetlands (OOC SC # 6)
 - Nine (9) pieces on 12/19/2012
 - One (1) piece on 1/2/2013

Angela photographed the site and work occurring and confronted the workers (Rocky Mountain). They did not have a copy of the EO and they believed they were in the right with the FCP. Under the 2006 open OOC no heavy equipment is supposed to work in the wetlands.

They were asked to stop all work again and move the equipment immediately. After non-compliance Angela place a call to Carmine Angeloni of DCR, Mark Stinson of DEP and the Brimfield Police Department (BPD). Carmine said he could arrive in the afternoon, Mark said to deal with Carmine first and the BPD responded immediately. At approximately 12PM BPD met with Angela, reviewed the EO and open OOC and accompanied Angela to the site. After debating with Rocky Mountain over landing areas, the EO, the open OOC and the

property lines the BPD stepped in and instructed Rocky Mountain to move all their equipment out of the resource area and buffer zones by 5pm or they would tow it. BPD also instructed Rocky Mountain that the open OOC and EO supercedes the FCP and they are not allowed to work in the parcel identified by the orders until BCC approves it.

At approximately 3 PM that day Carmine Angeloni, DCR and Roger deBruyn, BCC met Angela on site to view the damages done. Carmine informed Rocky Mountain they were in clear violation of the EO, open OOC and the FCP issued under the WPA. Carmine affirmed Angela's earlier findings of the additional violations under the WPA with regards to the FCP. Carmine ordered Rocky Mountain to move all their equipment to another landing (or to the uplands), stabilize the exposed soils with seed and hay and abandon this area/parcel of the operation until the EO was lifted and a FCP was submitted for this parcel with the wetlands properly delineated according to the 2006 OOC. Rocky Mountain did move the equipment, but failed to stabilize exposed the soils on site. This will be problematic come spring with the snow melt and rain. Mitigation measures must be in place, prior to spring, to prevent soils from eroding into Fosket Mill Brook.

On January 2, 2013 Angela drove by again and noticed a another piece of logging equipment feet from the bank of Fosket Mill and outside of the designated area for the landing. The piece of equipment was again on the parcel identified in the open OOC and the EO as having numerous violations and a cease and desisit. Angela called Rocky Mountain immediately and was informed the piece was there because it had become frozen in place. Angela told Rocky Mountain that the vehicle should not have been there to begin with (as per the EO, open OOC and the discussion that took place on 12/19/12) and if it was not parked illegally in a wetland, maybe it would not have froze in place. Angela gave Rocky Mountain two hours to remove the piece of equipment before BPD would tow it. Angela also contacted BPD again and sent Chief Kuss photos of the additional violation. Chief Kuss reported back latter that evening the logging equipment had been moved to a designated landing, far away for the area under the EO. He additionaly said he would have officers check the area daily and notify Angela via her cell if any work is occuring the the restricted area.

On January 4, 2013 BCC received an amendment to the FCP issued previously and an application for an additional FCP on the property under the EO. The plan was poorly written and did not accurately define the wetlands present. It was determined, on 12/19/2012, by BCC, DCR and Rocky Mountain that if the applicant wished to pursue logging on the parcel in question, a valid FCP must be submitted with the wetlands delineated properly in accordance with the 2006 delineations. Angela instructed Rocky Mountain to contact Green Hill for the plans and accurate wetlands delineations (2006); including the replication areas as well. DCR denied the FCP as well, stating it would not be issued until the wetlands are properly delineated, the area is restored and BCC has lifted the EO.

After discussing the new violation Mr. Farrell provided a plan identifying the damages on site, the resource areas and the past wetland replication areas. The plan was a replication plan and not a restoration plan. It did not address the damages to the riverfront or provide any solutions to address them. It also did not provide of schedule of work or address how the debris piles were going to be removed without further resource area degradation. A thorough plan is required addressing all the violation in every resource area. Panaccione recommended to Mr. Serrheno to hire an Environmental Consultant who specializes in restoration to complete the plan. Mr. Farrell is the person to re-delineate the area.

The commissioners agreed the damages to the resource areas were appalling. deBryun stated the entire area is covered in ruts, all in the riverfront zone. The ground is all turned up and inverted and the soils are noticeably hydric soils. The piles of slash, debris and logs need to be removed as soon as possible to allow restoration to begin. The process cannot be drawn out; the site must be stabilized as soon as possible and restored by the beginning of the summer. The restoration plan must have a schedule and a plan to stabilize the soils immediately. An erosion control blanket may be a good idea for site stabilization.

Rocky Mountain wishes to go in and remove the debris, slash and log piles with equipment. This could potentially be allowed when the ground is frozen, but the problem this winter is that the ground is not freezing. The commission does not want any work to occur in the area until a plan is accepted. Phiffer recommended using horses instead. The commission recommended removing the piles only by hand until the RARP is accepted.

A motion was made by Matt Toth to require a completed restoration plan, with a narrative and schedule of work, by January 23, 2013. The site will also be properly delineated and all resource areas will be flagged by this date as well.

Motion Seconded by Steve Phiffer

No further discussion – vote taken – 5 yes 0 no 0 abstain – Motion Carries

8:18 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 occurred at 10 am on Saturday December 15, 2012. Administrator Angela Panaccione was present along with Ian Lynch, Mark Farrell and a representative from Soltas. Only two wetlands occur within the entire proposed work area. One isolated wetland is approximately 30-feet from the work area, but given the topography of the land no resource area degradation will occur. The other wetland is at the edge of the 100-foot buffer zone, and again due to the lands steep topography no resource area degradation will occur.

The one concern still present is with the construction of the 4000-foot driveway and the effects of run-off and erosion on wetlands downhill from the property. Soltas should be advised to develop a run-off management plan to prevent any new point-source pollution to the wetlands downhill.

Motion made by Matt Toth to close the meeting and issue a Negative Determination, Box 3 with conditions: If any changes in the plan occur, submit for review.

Motion Seconded by Roger deBruyn

No further discussion – vote taken – 5 yes 0 no 0 abstain – Motion Carries

8:30 PM RDA: James Smith, 41 Seventh Street – Dock on Little Alum

On December 31, 2012 the BCC received an RDA from James Smith for a proposed dock into Little Alum, located at 41Seventh Street. The RDA is in response to a cease and desist order issued against the property owner on November 8, 2012 by BCC. The proposed dock is 12’X26’, and will be attached to a previously licensed dock (DEP W96-6624). There will be 4 2”x6” legs into the soil, with two set on 2’X2’ patio blocks. All work is to be completed on the dry lake bed, during lake drawdown. The proposed structure will have no contact with the shoreline, or shade areas of vegetation.

This RDA filling, again, is in a response to a cease and desist order issued. The issuance of the determination will lift the cease and desist order, allowing Mr. Smith to continue construction upon Ch. 91 approval. The dock dose impact a resource areas (land under water), but it is regulated under a different statute and permitting process (Ch.91)

Motion by Matt Toth to close the meeting and issue a Negative Determination Box 2

Motion Seconded by Steve Phiffer

No further discussion – vote taken – 5 yes 0 no 0 abstain – Motion Carries

Motion by Matt Toth to life the cease and desist/stop work order issues against Mr. Smith on November 8, 2012

Motion Seconded by Steve Phiffer

No further discussion – vote taken – 5 yes 0 no 0 abstain – Motion Carries

8:56 PM RDA: Christopher Ferris, 43 Brookfield Road – Installation of Utility Poles

On December 31, 2012 the BCC received an RDA from Chris Ferris for the installation of three utility poles on his property for new services. Two poles are in the buffer zone and one is in the resource area. There are no other alternatives for pole locations other than presented here. A utility truck with an auger will drill a hole from the driveway and place the pole directly in. The work will take part of a day and disturbance will be minimal, 2-foot squared maximum disturbance. No soils will be removed from the site they will be used to stabilize the pole.

A site visit occurred at 12 PM on Friday January 4, 2012. Administrator Angela Panaccione was present along with Mr. Ferris. Mr. Ferris showed Angela where the pole would go and explained how they would be installed. Angela had him mark the pole locations so commissioners could view the location before the meeting. If the pole was being installed on an existing line it would be exempt under the WPA.

Motion by Steve Phiffer to close the meeting and issue a Negative Determination Box 2 & 3 w/ conditions:

- 1) Install erosion controls around base of poles during all work
- 2) Do not remove soils or mound excess dirt around the base of poles
- 3) Re-grade disturbed soils to original topography and stalbalize any exposed soils immediately

Motion Seconded by Matt Toth

No further discussion – vote taken – 5 yes 0 no 0 abstain – Motion Carries

9:00 PM RDA: Donald Campbell, 15 Wales Road – Tree work in Riverfront

On December 31, 2012 the BCC received an RDA from Donald Campbell for proposed tree work in a riverfront, located at 15 Wales Road. The area for proposed work includes the bank and BVW of East Brook. No work will occur in the river or directly on the banks. No stumps are to be removed and no soils are to be disturbed.

Work includes the removal small crab apple tree behind pool and arboruites, cutting and removal of all shrubs, vines and understory growth and remove all birtch trees along fence by bank of the brook (no stumps will be removed), reducing, shaping, trimming and removing all dead or broken branches from two crab apple trees behing house, and the cutting back 4-feet from sidewalk on Route 19/Wales Road to remove all trees, shrubs, vines and understory growth to form straight line.

All trees to be removed are less then 6” DBH. Crab apple and Birch removed only. All stumps will remain and no soils will be disturbed. Work will occur only when the ground is frozen or dry. No storage of slash, chips or debris will occur in the riverfront zone. Everything cut will automatically be hauled to the chipper, which will be parked on the road.

A site visit occurred at 10 am on Friday January 4, 2012. Administrator Angela Panaccione was present along with Brady Yacek, of Northern Tree. Mr. Yacek showed Angela the trees to be cut, the area to be cut back and explained how and when the work would be completed. Overall, the RDA is for general maintenance work .

Motion by Matt Toth to close the meeting and issue a Negative Determination Box 2 & 3 w/ conditions:

1. All work by hand (chainsaw ok)

2. All logging/chipping equipment is to remain on Route 19/Wales Road
3. No storing of slash, debris or logs in resource area or buffer zone
4. All chipping to occur from road
5. No disturbing of soils what so ever
6. No stumps to be removed, but cut as low as possible
7. All work to occur when ground is frozen or dry

Motion Seconded by Steve Phiffer

No further discussion – vote taken – 5 yes 0 no 0 abstain – Motion Carries

9:06 PM Possible Violation: Joe Bonneau – 231 Brookfield Road

BCC received a complaint about a possible violation of the WPA occurring at 231 Brookfield Road. The complainant wishes to remain anonymous. Angela conducted a few drive by's, but nothing was occurring and there was no evidence of work taking place.

9:25 PM Possible Violation: 82 First Street

BCC received a complaint from a Mr. Mark Morisi, 78 First Street, about a neighbor who was conducting work within feet of little alum. On December 23, 2012 Mr. Morisi went to his property and discovered heavy equipment had been driven over his property, causing damage to his septic and causing dozens of tire tracks and ruts all across his lawn and the neighbors. He requested any DEP or conservation permits for the work, but there are none on file. Angela conducted a site visit, but due to the heavy snow cover, she could not clearly see any ruts.

Meeting adjourned 9:43 PM –

Motion made by Matt Toth to adjourn at 9:43 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