



TOWN OF BRIMFIELD

Salisbury Annex Building, 2nd Floor
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Ian Lynch, Chair
Roger deBruyn
Joe Collins
Matt Toth
Steve Phifer
Michele Restino

Agent: Angela Panaccione

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CONSERVATION COMMISSION

MEETING MINUTES

WEDNESDAY FEBRUARY 12, 2014 @ 7:00 PM

Members Present: Ian Lynch (Chair)
Roger deBruyn
Matt Toth
Michele Restino
Joe Collins (*arrived @ 7:45pm*)
Angela Panaccione (Agent)

Members Absent: Steve Phifer

Also Present: Chris Fox, BSC Group – Representing National Grid
Carol Platnik, 45 St Clair Road (Brimfield OSRP Member)
John Rahkonen, 46 St Clair Road
Robert Bertin, Professor at Holy Cross
Judith Sessler, 66 John Haley Road
Shirley A LaPierre, 189 Old Sturbridge Road
Kimberly Ladue, Trustee to 173 Old Sturbridge Road
Donald Johnson, 175 Old Sturbridge Road
Kirt Mayland, SH SolarNE 2/Soltas
Alana Chain, SH SolarNE 2/Soltas
Wesley Flis, Whitman & Bingham
Joe LaFreniere, SH SolarNE 2/Soltas (Project Manager)
Scott Beaulieu, SH SolarNE 2/Soltas

Meeting Opens: 7:10 PM – Ian Lynch (Chair)

7:10 PM Cont. NOI DEP # 117-0325: 10 Shaw Road (Map 5 A-B Lot 15.1) – Dave Mayo

Ian Lynch opened the public hearing. No representatives or members of the public were present. The DEP is still reviewing the case and requested we stay the hearing until further notified. An Administrative Consent Order has been issued against Mr. Mayo and the DEP has supplied a restoration plan to follow. Mr. Mayo is required to hire a professional environmental consultant to complete the DEP issued Restoration of the area. A Fine has also been issued from the DEP.

Motion made by Matt Toth to continue the hearing until 7:00PM on Wednesday March 12, 2014.
Motion Seconded by Michele Restino
No further discussion – 4-0-0 – Motion Carries

7:13 PM Cont. NOI DEP #117-0334: 229 Palmer Rd (Map 10E Lot 11) – ExxonMobil

Ian Lynch opened the public hearing on the Notice of Intent (NOI) submitted by Roux Associates, Inc., c/o EXXONMOBIL Pipeline Company for the work at 229 Palmer Rd (Assessors Map 10E Lot 11), pertaining to the preventative maintenance activities for the ExxonMobil pipeline. Specifically, the work includes raising the stream bed by approximately 3-feet to reestablish cover over the currently exposed pipeline. No representatives or members of the public were present.

DEP has issues with the project as proposed and are requiring an alternative analysis exploring the option of installing a culvert under the pipeline to maintain current stream flow.

Motion made by Matt Toth to continue the hearing until 7:00PM on Wednesday March 12, 2014.

Motion Seconded by Michele Restino

No further discussion – 4-0-0 – Motion Carries

7:15 PM Request for Determination (RDA): 8 Third Street (Assessors Map 5C Lot A-16) – National Grid

Ian Lynch opened the public meeting at the request of National Grid/Mass Electric to determine if the work associated with the relocation of a single utility pole is subject to the Wetlands Protection Act, M.G.L. Chapter 131, §40.

Limited work associated with the pole relocation will occur within the buffer zone of Little Alum and its associated resource areas. Chris Fox, of the BSC Group attended the meeting as representative to National Grid. No other public was present.

The applicant is proposing to relocate a utility pole within a maintained lawn behind the Third Street residents. The pole will be placed approximately 16-feet from its existing location and will not be any closer to the lake than the current pole. The work will occur within the 100-foot buffer zone to the bank of Little Alum Lake. The project is not expected to significantly alter the buffer zone or cause adverse impacts to Little Alum. All excavation will occur within the maintained lawn and will not result in any changes in grade or increase in impervious surface areas. Appropriate construction BMP's and erosion and sediment controls will be used to protect adjacent wetland resource areas.

Roger deBruyn and Conservation Agent Angela Panaccione conducted a site visit on Saturday February 1, 2014.

Motion by Michele Restino to make a negative determination that the work described in the Request is within the Buffer Zone, as defined by the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent subject the following conditions: 1) Install erosion and sediment controls during work, 2) Do not mound excess dirt around the base of poles, remove excess soils from site 3) Re-grade disturbed soils to original topography and stabilize any exposed soils immediately.

Motion Seconded by Matt Toth

No further discussion – 4-0-0 – Motion Carries

7:18 PM Administrative Matters: Minute Approval

Motion by Michele Restino to approve the minutes from Wednesday January 22, 2014 as corrected

Motion Seconded by Matt Toth

No further discussion – 4-0-1 – Motion Carries

7:20 PM Request for Determination (RDA): 46 St Clair Road (Map 11A Lot 2) – John Rahkonen

Ian Lynch opened the public meeting at the request of John Rahkonen to determine whether the area depicted on the proposed plans is an area subject to jurisdiction of the Wetlands Protection Act and if the work associated with the installation of a new driveway is subject to the Wetlands Protection Act, M.G.L. Chapter 131, §40. John Rahkonen attended the meeting with his representative, Robert Bertin to discuss the request. No other public was present.

The filing came in response to a notice of a possible wetlands violation, issued to John Rahkonen, as a result of a January 8, 2014 site visit conducted by the Conservation Agent, at the request of the Town of Brimfield's Building Inspector, Nelson Burlingame.

An additional site visit occurred on Saturday January 25, 2014 at 9:30am. Commissioners Roger deBruyn, Matt Toth and Michele Restino were present; as well as Conservation Agent Angela Panaccione, property owner John Rahkonen and his representative Robert Bertin. At this point the location of the wetlands was observed by the Commission.

The Commission discussed the site visit, the determination request and the wetlands line location. Mr. Bertin stated he felt he delineated the wetlands liberally. A narrative of the methods for delineation was presented in the request.

The Agent stated her concerns with the location and size of the currently existing culvert. Michele Restino agreed with the concerns. Due to the skewed alignment of the culvert and its potential under sizing the Agent was concerned with the possible scouring of the side wall at the inlet, and also the potential under cutting of the culvert during periods of heavy flow. John Rahkonen stated he will increase the size of the area before the inlet, in attempts to mitigate against scouring and undercutting.

The Commission then discussed the lack of water management at the end of the driveway. Currently excess water from the site runs off onto St. Clair Road. John Rahkonen stated he will speak with Zach Lemieux, from the highway department about the run-off at the end of the driveway. Judith Sessler stated he should look into it, as it is a safety hazard and owed to the residents of the road.

The Agent recommended the commission issue a positive determination and require a Notice of Intent for the work. She felt the trenching from the culvert to the wetlands and stream does have an impact on an area subject to protection. Michele Restino concurred, stating that as the water dissipates from the culvert it will spread sediment to the nearby bordering vegetated wetlands (BVW) and intermittent stream. John Rahkonen stated he has currently install two check dams of washed stone in the drainage ditch at the culvert outlet to mitigate against any sediment traveling to the down gradient BVW.

Roger deBruyn stated his concern was with site access. With a determination there is no right to enter the property to inspect. John Rahkonen stated he would allow the Commission and its Agent access to the site, and would be amenable to it being included as a condition for work.

John Rahkonen also agreed to scheduled work, when feasible, during times when the ground water table and/or surface water level may be low (i.e., seasonal fluctuations and/or when an adequate amount of time has passed following significant precipitation). He will hand remove of any woody debris larger than 2" in diameter from the wet area on the downhill side of the driveway (in the vicinity of wetland flags W-5 and W-6 as shown on the approved plans) and also remove several logs that have rolled into this wet area from the driveway embankment by hand or using equipment operated from the driveway. He has currently install two check dams of washed stone in the drainage ditch uphill of the drive way and will increase the sediment basin at the inlet of the culvert and install rip rap no smaller than 8"-12". He will also install a sediment barrier at the toe of the slope of the driveway adjacent to the wetland marked by flags W5-W6 and perform no further work in the buffer zone or BVW except: install a single utility pole as close to the edge of the driveway as practical, surfacing of driveway with millings, and installation of erosion controls.

Motion by Michele Restino to make a positive determination that the boundary delineations of the resource areas, depicted by wetlands flags W1-W10, described on the referenced plans "Property Survey 3/11/13; updated with wetland boundaries on 1/26/14" are confirmed as accurate. Therefore, the resource area boundaries confirmed in this

Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

Motion Seconded by Matt Toth

No further discussion – 4-0-0 – Motion Carries

Motion by Matt Toth to make a negative determination that the work described in the Request is within the Buffer Zone, as defined by the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent subject the following conditions: 1) Install erosion and sediment controls during work, 2) Do not mound excess dirt around the base of poles, remove excess soils from site 3) Re-grade disturbed soils to original topography and stabilize any exposed soils immediately.

Motion Seconded by Roger deBruyn

No further discussion – 4-1-0 – Motion Carries

8:10 PM Amendment to NOI DEP # 117-0338: 145 Sturbridge Road (Map 14A Lot 21.3) – SH Solar

Ian Lynch opened the public hearing on the request to Amend the current Order of Conditions issued to SH Solar NE2, for the proposed Solar Array located at 145 Sturbridge Road. Currently there are several areas of non-compliance at the site, including: the heavily sedimented unnamed intermittent stream on the property, damages to several areas of the silt fence and straw wattles (erosion and sediment controls) on site, and the presence of excessive amounts of blasting debris in the buffer zone. Heavily silted runoff is also exiting the property onto Old Sturbridge Road.

Wesley Flis, of Whitman & Bingham presented the plan changes since the October plan approval. The location of the panels has changes, as well as the location of the lower array. Additionally, the new plans present an as built of the road and the upper array. The road location has changes slightly as well, though it is no closer to resource areas than the formerly proposed road. There is also a proposed change to the sediment basin configuration, with the construction of a berm at the low point of the road. At the bottom of the road, the previously proposed two (2) basins have been changed to one (1). The single basin will be located in a similar footprint as the previously approved two basins, and is designed to handle the same volume of water as the previously proposed two basins. The plan also incorporates a paved swale, located on Old Sturbridge Road, that is required by Mass DOT to direct stormwater directly to the existing culvert.

Panaccione raised a concern that this culvert is currently blocked and probably cannot handle the excess flow. She asked if there has been any survey of the culver or its blockage, and if anything is being done to mitigate against it. Kirt Mayland said he would speak with DOT. Restino stated they need to inspect and clean the pipe before sending more water to it.

Michele Restino stated she did not agree with the stormwater infrastructure proposed. She is concerned with the additional volume of water the current infrastructure can handle and she is also concerned with the lack of the required pre-treatment of the stormwater before it is discharged into resource areas. Going from two basins to one removes the pre-treatment required by DEP stormwater regulations. Wesley Flis argued since there is no net increase in impervious surfaces the pre-treatment of stormwater is not required under state regulations. Panaccione raised the concern about the donation of Land to the Town and whether a paved access would be required. Mayland stated they are still in negotiations and the Town may choose a different access route all together.

Panaccione raised a major concern with the lack of proper wetlands delineations on site. During the initial hearings Panaccione requested the entire site be delineated, but the Commission agreed to allow the delineations to occur only where work was proposed. Given the lower array expansion and the location of a close BVW and stream, Panaccione recommended the area be delineated and presented to the Commission for review. She cited finding of fact #3:

Numerous resource areas subject to the jurisdiction of the Commission are present on the overall site (Assessors Map 14-A-21, 14-A-21.3 and 6-D-11 combined,) but were not documented or delineated; nor approved by the Commission in the “Proposed Overall Site & Index Plan (Sheet 1 of 10)” prepared by Whitman & Bingham, Inc; dated 9/25/13. No future work of any kind, including but not limited to solar array expansion, site grading, land clearing, or cutting of vegetation, is proposed beyond the limit of work line shown on the above referenced plan(s). Any proposed construction not shown on the plan within 100 feet of areas under Conservation Commission jurisdiction shall require additional review and approval by this Commission.

The applicant agreed to delineate the upper corner of the site with the BVW and stream location. They will contact the Commission upon completion for additional review.

Ian Lynch opened the hearing to Public Comment.

Judith Sessler stated the Commission needs to honor the tornado victims directly abutting the development and address their concerns. She also expressed concerns with the blocked culvert under Rt.20. She inquired if the pipe is cleaned will loads of sediment then go into the BVW directly across the street. And, if so has the property owners over there (Barbra Horn) been notified). Panaccione responded under the WPA, Barbra Horn is outside the required 100-foot abutter area and there for was not notified. Judy Sessler also expressed concerns about the nearby wells and the impacts blasting have upon them. Joe Collins informed Judy that wells are outside the Commission’s jurisdiction and would be a concern for the Board of Health.

Shirley LaPierre, of 189 Old Sturbridge Road stated she is concerned with sediment into her pond, the frogs dying, the vast amount of debris present by the stream that runs into her pond and flooding that has recently been occurring in her basement after the blasting. She is also concerned the access road is on her property and does not believe the plans are accurate in the property line configuration. She stated she has had the property surveyed recently and now the bounds are missing. Panaccione informed her that the pond is an area of jurisdictional anomaly; meaning it is a surface water source but is below the threshold required for protection under the law. The Commission also informed her they have no jurisdiction with property line disputes and that is something she must independently explore.

Kirt Mayland concluded that by the next meeting he would contact DOT about the blocked culvert under Rt.20, as well as the proposed paved swale location and impacts. Mayland also stated they would delineate the upper wetlands and clarify the wetlands lines. The blasting debris would also be removed from the buffer zone to the stream.

Motion made by Joe Collins to continue the hearing until 7:00PM on Wednesday February 26, 2014.

Motion Seconded by Matt Toth

No further discussion – 5-0-0 – Motion Carries

9:30 PM Administrative Matters: Letter from Doug Hutcheson regarding Boys Club Forest Cut

The Commission reviewed a letter from DCR Service forester Douglas Hutcheson regarding the finalization of the Forest Cutting Plan for the Springfield Boy’s club. In the letter, Hutcheson states:

“At some point after August 15th and before September 25th, this (forest cutting access) road was transformed into a haul road to deliver project-related materials to the solar field. When the use of the road changed from forestry use to non-forestry use, any impacts on hydrological resource areas became the purview of the Brimfield Conservation Commission”

Kirt Mayland stated the damages were not their fault and did not result from the change of use. He claims the area was already degraded from the previous logging operation.

Ian will contact Doug and Angela will contact the boy's Club about a site visit. Kim Ladue and Sid Johnson gave the Commission access on their property to view the area of concern.

9:45 PM Administrative Matters: Proposed Wetlands Bylaw

The Commission discussed the proposed wetlands protection bylaw and a plan for this year's town meeting. The bylaw has been edited since the last attempt to address some concerns raised at the 2013 Town Meeting and at the bylaw committee hearing.

Currently there is not a bylaw committee, but Angela Panaccione will get in touch with Nick Power, Chair of the bylaw committee to see the status of its formation.

A major point of concern brought up last year was the lack of information provided about the bylaw. Panaccione has it posted on the Commissions web page, as well as the Town's main page. She also has a handout available summarizing the bylaw. She will also send out press releases to local papers discussing the Commissions attempts to put the bylaw through.

Panaccione recommended the Commission hold a public informational session and open a comment period for the residents to review it, especially of the bylaw committee has yet to begin their review. Ultimately, the Commission is looking for a positive recommendation from the bylaw committee.

The Commission scheduled a public informational meeting on Monday March 3, 2014 at 7:00 PM on the proposed Brimfield Wetlands Protection Bylaw where residents can provide oral or written comments as well as learn about the proposed Wetlands Protection Bylaw. Panaccione will send press releases to various local papers.

Meeting adjourned 10:30 PM –

Motion made by Michele Restino to adjourn at 10:30 PM

Motion was seconded by Matt Toth

No further discussion – 5-0-0 – Motion Carries

Sincerely Submitted

Angela Panaccione, Conservation Agent