



TOWN OF BRIMFIELD

CONSERVATION COMMISSION

Salisbury Annex Building, 2nd Floor
23 Main Street
Brimfield, Massachusetts 01010

Ian Lynch, Chair
Roger deBruyn
Joe Collins
Matt Toth
Steve Phifer
Michele Restino

Agent: Angela Panaccione

Telephone: (413) 245-4100 x:8
FAX (413) 245-4111

MEETING MINUTES WEDNESDAY JUNE 25, 2014 @ 7:00 PM

Members Present: Joe Collins
Steve Phifer
Matt Toth
Michele Restino
Angela Panaccione (Agent)

Members Absent: Ian Lynch (Chair)
Roger deBruyn

Also Present: Zach Lemieux, Brimfield Highway Department Superintendent
Judy Sessler, John Haley Road
Rebecca Farrell, Representative Greenhill Engineering
Roland Blake, Maple Lane Development
Dave Niemiec, Springfield Motorcycle Club
Kevin Comstock, Springfield Motorcycle Club
Jim Mitchell, Springfield Motorcycle Club
Chris Batista, 150 Haynes Hill Road

Meeting Opens: 7:19 PM – Matt Toth (Acting Chair)

7:12 PM Request for Determination of Applicability (RDA): Allen Hill Road – Brimfield Highway

Request for Determination (RDA) submitted by Brimfield Highway Department, for work on Allen Hill Road, Brimfield MA 01010 (Road ROW), to determine if the work associated with the road reconstruction including, as necessary, adjusting and rebuilding drainage structures (catch basins, manholes, drop inlets, etc.); removal and disposal of drainage structure and pipe sediments; repairing shoulders; safety tree trimming, clearing & removal; installing erosion controls and other related work is subject to the Wetlands Protection Act, M.G.L. Chapter 131, §40. Matt Toth opened the public meeting and Brimfield Highway Superintendent Zach Lemieux was present.

The Agent conducted a site visit Monday June 23, 2014 and stated there were three areas subject to protection along the road, but the proposed maintenance would not alter the areas subject to protection. Those areas are a small wetland complex by house # 120, a dry stream bed with an associated BVW by Telephone pole 12, and another small wetland complex with a dry outlet on the Hull land, right before the Sturbridge town line. She recommended erosion controls be installed along the road at these areas and that the installation of such ESC be incorporated into the conditions of the determination.

Zach Lemieux stated the project was simple and straight forward and no work in resource areas is proposed. He intended to begin the work this month and will notify the Commission when the erosion and sediment controls are installed for inspection.

Motion made by Steve Phifer to issue a Negative Determination, Box 3 with the aforementioned conditions; finding the work is within the buffer zone but will not alter an area subject to protection

Motion seconded by Joe Collins
No further discussion – 4-0-0 – Motion Carries

7:24 PM Request for Certificate of Compliance DEP # 117-0328: 82 First Street – Sharon Carty

The Commission received a request for Certificate of Compliance for DEP # 117-0328; 82 First Street property owner Sharon Carty. The Agent conducted a site visit on June 9, 2014 and informed the Commission the site is stabilized with vegetation, and all work has been completed to the plans. This Order was for the addition of a deck to the front of the home, lakeside.

Motion made by Michele Restino to issue the Certificate of Compliance for a Complete Certification of the Order of Conditions, with the continuing conditions # 32 - #38.

Motion Seconded by Joe Collins
No further discussion – 4-0-0 – Motion Carries

7:26 PM Request for Certificate of Compliance DEP # 117-0336: 82 First Street – Sharon Carty

The Commission received a request for Certificate of Compliance for DEP # 117-0336; 82 First Street property owner Sharon Carty. The Agent conducted a site visit on June 9, 2014 and informed the Commission the site is stabilized with vegetation, and all work has been completed to the plans. This Order was in response to a filing received from a previous enforcement Order for a landing, steps to the bank of Little Alum and a dock in the water.

Motion made by Michele Restino to issue the Certificate of Compliance for a Complete Certification of the Order of Conditions, with the continuing conditions # 30 - #34.

Motion Seconded by Joe Collins
No further discussion – 4-0-0 – Motion Carries

7:47 PM Notice of Intent (NOI) DEP #117-0344: 82 First Street (Map 5C A 54) – Sharon Carty

Notice of Intent (NOI) submitted by Greenhill Engineering c/o Sharon Carty, for work at 82 First Street (Assessors Map 5C Lot A-54), pertaining to the construction of a septic system. Specifically, the work includes the installation of a new 2000 gal holding tank and a 4' X 4' X 4' pump chamber. The proposed work lies within the buffer zone of Little Alum Lake, a resource areas regulated under M.G.L. Chapter 131, §40. Matt Toth opened the public hearing and Elizabeth Farrell was present as a representative for Greenhill Engineering. No public was present.

The filing is for the construction of a proposed holding tank, approximately 60-feet from the Bank of Little Alum. The filings came in response to a notice by the Board of Health, requiring the property owners to remove the current outhouse located on the property and replace it with a Title 5 approved septic system. The Brimfield Board of Health approved the septic design on May 7, 2014. NHESP also issued a determination the work was exempt from MESA and would not constitute a “take” of an endangered species.

A revised site plan and site photos were presented to the Commission. The work will not require the removal of any trees, and will sole occur within a pre-existing lawn area. The Agent conducted a site visit on June 23, 2014 and informed the Commission the location for the proposed holding tank is the best available on site.

Motion made by Michele Restino to close the Public Hearing and issue the Order of Conditions, with approved conditions

Motion Seconded by Joe Collins
No further discussion – 4-0-0 – Motion Carries

7:45 PM Administrative Matters: Sign Payable – Staples \$35.99

Motion made by Joe Collins to sign the payable voucher to Staples in the total amount of \$35.99, for the payment of maps for the Open Space Committee. Michele Restino recused herself from the voting as a member of the Open Space Committee.

Motion Seconded by Roger deBruyn
No further discussion – 3-0-0 – Motion Carries

7:47 PM Administrative Matters: Minute Approval

The Commission is tabling the minutes from June 11, 2014 until the next meeting as only two commissioners are present tonight, that were at the June 11th meeting.

8:00 PM Notice of Intent (NOI) DEP #117-0341: Apple Road (Map 4E Lot 2) – Joe Ciesla

Matt Toth re-opened the public hearing on the Notice of Intent (NOI) submitted by Waterman Design Associates, Inc c/o Joe Ciesla for the work off Apple Road (Assessors Map 4E Lot 2), pertaining to the crossing of a perennial stream for access to the rear of Lot 3 for future house construction. Specifically, the work includes the construction of a 12-foot drive and the installation of a 12' wide X 2.5' high X 28' long open-bottom box culvert. The proposed work will alter 875 square feet of Bordering Vegetated Wetland and 19,850 square feet of the Riverfront of a perennial stream. The Applicant requested a continuance to finish the deed restriction required by Mass DEP for the Subdivision. No public or representative was present.

Motion made by Matt Toth to continue the hearing until 7:00 PM on Wednesday July 23, 2014

Motion Seconded by Michele Restino

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

8:00 PM Administrative Matters: Chair/Vice Chair

The Commission discussed who would be Chair now that Ian Lynch is resigning from the Commission. The new Chair will take effect at the beginning of the new fiscal year (July 1, 2014). Roger deBruyn, who was not present at tonight's meeting, previously stated he would be willing to be Co-Chair with someone, but did not feel he himself had the time to be Chair independently.

Motion made by Joe Collins to nominate Roger deBruyn and Michele Restino, as Co-Chairs for the Commission for Fiscal Year 2015

Motion Seconded by Steve Phifer

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

8:10 PM Violation: 119 Little Alum Road – Roland Blake

A complaint was filed with the Commission over the addition of a beach and the paving of the driveway at 119 Little Alum Road. The Agent conducted a site visit on Monday June 9, 2014 and observed a significant amount of beach sand was added to the property without the proper permit. Roland Blake attended the meeting to discuss the violation with the Commission.

Mr. Blake stated he did not believe he was in violation of the act and asked the Commission to state where in the regulations it says one cannot add a beach. The Agent directed Mr. Blake to 310 CMR 10.02(2)(b)(1) Activities Within the Buffer Zone: Any activity other than minor activities identified proposed or undertaken within 100 feet of an area specified in 310 CMR 10.02(1)(a) (hereinafter called the Buffer Zone) which, in the judgment of the issuing authority, will alter an Area Subject to Protection Under M.G.L. c. 131, § 40 is subject to regulation under M.G.L. c. 131, § 40 and requires the filing of a Notice of Intent. The agent further stated that because the buffer zone in question contain slopes greater than 15% and also contain estimated wildlife habitat which is identified on the most recent Estimated Habitat Map of State-listed Rare Wetlands Wildlife of the Natural Heritage and Endangered Species Program, there is no way and NOI would not be required for the addition of the beach. Even though the beach does not cross the water line, it is still in a protectable area.

Mr. Blake then cited 310 CMR 10.53(3)(h) Limited Projects: The maintenance of beaches and boat launching ramps which existed on the effective date of 310 CMR 10.51 through 10.60 (April 1, 1983); claiming the regulations state he did not need to file since the beach was pre-existing and he was maintain it. The Agent informed Mr. Blake that he was citing a limited project provision, which did indeed require a filing. If Mr. Blake read the prior sections he would see this portion of the regulations deals with projects that may exceed current performance standards and allows the permitting of such projects if the applicant can demonstrate need. It certainly does not exempt Mr. Blake from filing as he so thought.

To settle the debate the Commission instructed Mr. Blake he needed to either remove the beach and restore the area to its natural condition or file an NOI for the beach before August 13, 2014. The Agent will send a letter to Mr. Blake following up on the discussion, as well as inform both DEP and NHESP of the violation. If an NOI is not submitted by the required deadline, the Commission will issue an Enforcement Order and require full site restoration.

In regards to the paving of the driveway, the driveway was paved due to a town of Brimfield Bylaw requiring the first 20-feet to be paved.

8:25PM Violation: 219 Warren Road, Springfield Motorcycle Club – Illegal Replacement Stream Crossing

A request from the Massachusetts Department of Environmental Protection (DEP) was given to the Commission in early May to investigate a possible wetlands violation at 219 Warren Road (Assessors Map 2 E-10), Springfield Motorcycle Club. On May 5, 2014 the Conservation Commission Agent conducted a site investigation at 219 Warren Road which revealed the following: An un-named intermittent stream and its associated Bank (10.54) Bordering Vegetated Wetland (10.55) (BVW) has been disturbed from improper culvert installation; resulting in soil disturbance, stream instability, and changes to the natural hydrologic regime throughout the property. The 24" plastic culvert was installed after the June 2011 Tornado without the proper permitting. The culvert does not meet the current stream crossing standards. The outlet is perched, resulting in a tail water scour pool. Tail water scouring is occurring downstream stream of the replacement culvert; resulting in downstream sedimentation. The improperly installed culvert also serves as a physical barrier to possible wildlife passage. Based on a visual assessment from the site visit, BVW may possibly have been altered by the presence of rip rap and fill.

The Commission instructed the Agent to send a notice of a possible violation and request the violator attend tonight's meeting to explain the work that has been conducted so far, and their future plans for the property so that the Commission can prescribe the appropriate corrective actions.

Dave Niemiec, Kevin Comstock, and Jim Mitchell attended the meeting as representatives for the Springfield Motorcycle Club. Jim Mitchell began by giving the history of the site. The club has owned the property since 1961. The culvert was first replaced in the 1980's, then again recently in 2011 after the tornado. It was an in-kind 1:1 replacement, though this new culvert is plastic (not a CMP) and may be a bit longer than the previous culvert. The old culvert was rotted away and a new one was needed for the driveway. The club was not aware a permit was required to replace the culvert.

The club representatives questioned if the area was even a resource area, and argued it was just a roadside drainage ditch. The Agent explained under the WPA, the burden of proof is on the violator to show it is not a protectable resource area; meaning it is up to the club to prove the area is not a stream or wetland, and is just a roadside ditch. The Agent instructed the representatives to hire an engineer or an environmental consultant to assist with compliance with the stream crossing standards.

The Commission instructed the Agent to issue an Enforcement Order, which would be ratified at the July 23, 2014 meeting. The EO would include the following:

1. Violator shall attend the next Conservation Commission meeting scheduled for Wednesday July 23, 2014 at 7:30pm at 23 Main Street, Brimfield Ma.
2. Violator shall hire a qualified consultant or engineer (having at least 5 years experience in wetlands delineation and restoration) no later than July 23, 2014. Such consultant shall assist and conform with all assessment, removal, replication and restoration procedures as required to bring the current project into complete compliance with the stream crossing standards to the maximum extent practicable.
3. A draft wetland Resource Area Restoration Plan (RARP) shall be prepared and submitted by the violator and his consultant (approved in #1) to the Commission no later than August 27, 2014
4. The consultant or engineer shall be on site for all removal and restoration procedures and shall produce written and/or photographic reports to the Commission of each portion of the plan.

5. Upon acceptance or modification of the RARP, all work conducted under the plan including the possible new culvert installation and wetlands replication, shall be completed no later than October 29, 2014.

9:00 PM Enforcement Order: 150 Haynes Hill Road, Chris Batista – Equipment Removal

Christopher Batista attended tonight's meeting to discuss the violation. He stated he did intend to remove the last piece, but the weather has not been cooperating. He stated he is waiting for the area to dry up so he can go in and push it out with another piece of equipment.

The Agent stated the piece of equipment was in a wetland, which may never dry up (hence the violation). The Commission was also under the impression Mr. Batista was going to cut up the last piece and remove it with a crane from the landing upslope. The Agent did not recommend pushing it out as that would cause greater damaged to the resource area present.

The Agent also informed Mr. Batista that he has had the deadline extended numerous times already and as of April 23rd the Commission had heard nothing so they turned the violation over to the state. At this point it would be in Mr. Batista's best interest to do nothing since the Commission has requested enforcement assistance from Mass DEP, and the agency stated they would intervene and would be conducting a site visit sometime in July.

9:15 PM Administrative Matters: Comp Time & Payroll

The Commission discussed the new Comp Time procedures developed by the BOS on June 3, 2014. The Agent has a total of 103 comp hours from this fiscal year and will use them during FY 15. The Commission will make a formal acceptance of this at the next meeting. The Commission also discussed increasing the hourly rate of the Agent to \$18.75 for the next fiscal year.

9:25PM Site Visit & COC Request DEP # 117-0256: 56 Dean Pond Road – John Serrenho

The Commission agreed all members should be present for this site visit. Given everyone's limited schedules for the month of July, the scheduling of the site visit will be made at the next meeting on July 23, 2014. The Agent will inform Mr. Serrenho his request was received and the Commission will likely schedule a visit in the beginning of August.

Meeting adjourned 9:30 PM –

Motion made by Joe Collins to adjourn 9:30 PM

Motion was seconded by Michele Restino

No further discussion – 3-0-0 – Motion Carries

Sincerely Submitted

Angela Panaccione, Conservation Agent