



TOWN OF BRIMFIELD

CONSERVATION COMMISSION

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

Roger deBruyn (Co-Chair)
Michele Restino (Co-Chair)
Joe Collins
Matt Toth
Steve Phifer

Agent: Angela Panaccione

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

MEETING MINUTES WEDNESDAY AUGUST 27, 2014 @ 7:00 PM

Members Present: Roger deBruyn (Co-Chair)
Michele Restino (Co-Chair)
Joe Collins (arrive 7:30pm)
Matt Toth
Angela Panaccione (Agent)

Members Absent: Steve Phifer

Also Present: Mike Koprowski, 11 Warren Road
Betsy Shelton, 45 Apple Road
David & Vickie Cheney, 17 Apple Road
William & Sharon Smith, 46 Apple Road
Michael Loin, Bertin Engineering
Robert Christo, 25 Marsh Hill Road
Brian & Alice Willis, 285 Little Alum Road

Meeting Opens: 7:05 PM – Roger deBruyn (Co-Chair)

7:05 PM Request for Determination of Applicability (RDA): Warren Road – Mike Koprowski

Request for Determination (RDA) submitted by Michael Koprowski, for work at Warren Road (Map 2D Lot 4.8) to determine if the work associated with the construction of a driveway in the buffer zone to a Bordering Vegetated Wetland is subject to the Wetlands Protection Act. Roger deBruyn opened the public meeting and Mike Koprowski attended to represent himself

The applicant is requesting the Commission determine if the work associated with the construction of a 650-foot long, 12-foot wide driveway will alter an area subject to protection. Approximately 130-linear feet of the driveway cross through the outer 50-100 foot buffer zone of a bordering Vegetated Wetland (BVW). The estimated total disturbance to the buffer zone is 2560 square feet.

Koprowski supplies a site plan, from 2006 designed by Bertin Engineering. Koprowski state the location of the driveway was chose because it was the most suitable location, off warren road, outside of any resource areas. The location is as far from the wetlands as possible. DeBruyn stated even though the work is occurring in the outer buffer zone, the amount of disturbance is significant.

If was asked if the wetlands were still flagged and if the driveway location was staked out. Koprowski said there were no longer wetland flags on site. The area has not been flagged since it was originally flagged back in 2006. Koprowski did inform the Commission the area is current also being logged under a valid Forest Cutting Plan.

The Commission scheduled a site visit on Saturday September 6, 2014 at 9am to review the wetland delineations and to view the area of the proposed driveway. The Commission requested Koprowski re-flag the wetlands and stake the driveway prior to the scheduled site visit.

Motion made by Matt Toth to continue the Public Meeting, until 8:00 PM on September 10, 2014

Motion Seconded by Roger deBruyn

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

7:20 PM Violation: 219 Warren Road, Springfield Motorcycle Club – Illegal Replacement Stream Crossing

Violation at Violation at 219 Warren Road (Map 2 Lot E-10), resulting in disturbances to an un-named intermittent stream, its associated Bank and Bordering Vegetated Wetland (BVW) from improper culvert installation; resulting in soil disturbance, stream instability, and changes to the natural hydrologic regime throughout the property. The 24” plastic culvert does not meet the current stream crossing standards. The outlet is perched, resulting in a tail water scour pool and downstream sedimentation. A request was made by Representative Brian Waz, of Minute Men Engineering to continue the violation discussion until Wednesday September 10, 2014.

Motion made by Roger deBruyn to continue the discussion on the Enforcement Order, until 7:15 PM on September 10, 2014

Motion Seconded by Matt Toth

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

7:25 PM Administrative Matters: Sign Payable – Angela Panaccione; Mileage \$98.24

Motion made by Roger deBruyn to sign the payable voucher for Angela Panaccione in the total amount of \$98.24, for the payment of mileage for site visits; from July 1, 2014 - August 27, 2014.

Motion Seconded by Matt Toth

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

7:30 PM Administrative Matters: Minute Approval – August 13, 2014

Motion by Matt Toth to approve the minutes from Wednesday August 13, 2014

Motion Seconded by Roger deBruyn

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

7:30 PM Notice of Intent: 14/18 Marsh Hill Road (Map 5 A-B Lot 15.1) – Anthony Belcher

Notice of Intent (NOI) submitted by Sherman & Frydryk c/o Anthony Belcher & Steven Orloff, for work at 18 Marsh Hill Road (Assessors Map 3B Lot 2.4C), pertaining to the construction of a single family home. Specifically the work will include the construction of a single family house with associated private well and sanitary sewage disposal system. The work will include approximately 15,670 square feet of disturbance to the buffer zone of a Bordering Vegetated Wetland.

Roger deBruyn opened the public hearing and no members of the public or representatives were present. The applicant’s representative has requested a continuance until the next scheduled meeting to address the Commissions issues with the plans. The Commission has yet to receive a DEP file number or an approved septic plan from the BOH. The site also has an outstanding violation on it from June 2013. The outstanding violation will need to be addressed before an Order of Conditions is issued.

Michele Restino conducted a site visit with the engineer and their wetlands consultant and requested 3 flags (Flag 4, 5 and 10) be moved. This will require site plan revisions as well as the location of the proposed work. The Commission discussed Restino’s visit and agreed the site is a challenging site to develop. Sherman & Frydryk are revising the site plan to accommodate the changes to the wetland line and will also include the requirements to address the EO in the new site plan.

The Commission also received a letter, dated August 13, 2014 from abutter Robert Christo (25 Marsh Hill Road) stating his concerns with the development. The Agent presented the letter to the Commission. Mr. Christo stated he feels the location is unbuildable due to the amount of wetlands and runoff that are present on the property. The site is heavily flooded after each rain event, as all the stormwater from Marsh Hill drains onto the property. Mr. Christo also stated the property provides habitat for a number of species, including Salamanders which he has observed on site on numerous occasions.

***Note:** Mr. Christo did show up for the meeting around 8pm, but since the hearing was already continued it was request he return September 10, 2014 if he so desired. He was informed his letter was received and previously discussed.

Motion made by Matt Toth to continue the hearing until 7:30 PM on Wednesday September 10, 2014

Motion Seconded by Roger deBruyn

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

7:40 PM Phone Messages: Oil in Wetlands Haynes Hill Road

The Commission received a phone message from a woman named Ruth about a possible oil spill off Route 19, past the elementary school by Haynes Hill Road. Michele Restino will investigate.

7:45 PM Notice of Intent DEP # 117-0345: 44 First Street (Map 5C Lot A 42) – James Lacey

Notice of Intent (NOI) submitted by Matthew Lacroix c/o James Lacey, for work at 44 First Street (Map 5C Lot A42), pertaining to the construction of a new retaining wall in the buffer zone to Little Alum Lake. Roger deBruyn re-opened the public hearing and no public or representatives were present.

The project is to re-construct retaining wall 5-feet from the bank of Little Alum, across the property boundary for a length of 36-feet. Rip-rap will be added on the lawn, above the wall to serve as a filtering system. The wall will also have weep holes for drainage. Currently the wall is only loose rock. The applicant will re-use the existing stones, and add mortar for stabilization. All work will be completed by hand.

The Commission has received a DEP file number of 117-0345 and there were no comments or concerns associated with the NOI from DEP.

The project did not receive NHESP approval due to missing information. In a letter dated August 27, 2014 the NHESP informed the Commission their review is still ongoing and they are requiring additional information be submitted in order for to complete their review under the WPA and pursuant to the MESA (321 CMR 10.20). The applicant must provide NHESP with:

- Project plans for the entire project site, showing the existing and proposed conditions, including a clearly defined Limit of Work (silt fence or barrier may constitute the Limit of Work).
- Revised project narrative to include more detailed description of the methods for work, anticipated time of year for work, and indicate what, if any, changes to the dimensions of the retaining wall.
- The project occurs within designated Priority Habitat of Rare Species and is not exempt from review; please submit the appropriate MESA filing fee (fee schedule available at www.mass.gov/nhosp, Regulatory Review tab)

Once the NHESP has determined all of the required materials have been received (321 CMR 10.20), they will determine whether or not the proposed project will result in an adverse effect to the Resource Area habitat of state-listed wildlife and determine whether or not the project will result in a “take” of state-listed rare species (321 CMR 10.18(1)).

The letter also explicitly stated the issuance of an Order of Conditions approving the project is inconsistent with the interests of the WPA and no work or other activities related to the subject filing should be conducted anywhere on this project site until the NHESP has completed its review.

Motion made by Joe Collins to continue the hearing until 7:00 PM on Wednesday October 15, 2014

Motion Seconded by Matt Toth

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

7:52 PM Violation: 119 Little Alum Road, Roland Blake – Unpermitted Beach

Violation at Violation at 219 Warren Road (Map 5B Lot B14), resulting in the construction of an unpermitted beach in the buffer zone and Bank of Little Alum Lake. The violator has added beach sand to approximately 500 SF of the buffer zone, to the MAHWL of Little Alum without receiving the proper permits. It appears approximately 12-feet of bank were disturbed in the process. The area is also listed as priority habitat under NHESP.

The submission of a Notice of Intent was required by tonight, August 27, 2014 or the Commission would issue an Enforcement Order for the violation. The Agent spoke with Mark Farrell, from Green Hill Engineering whom has been hired by Mr. Blake to submit the NOI and site plans. Mr. Farrell informed the Agent he would have the NOI submitted by Noon on Friday, August 29, 2014. The Commission agreed to extend the deadline until noon on Friday; at which point if the NOI is not received the Agent will issue an Enforcement Order.

7:55 PM Administrative Matters: Revise Meeting Schedule/Set New Meeting Dates through December

Motion made by Matt Toth to change the meeting dates to once a month for September to December, with meeting dates as follows:

- September 10, 2014
- October 15, 2014
- November 12, 2014
- December 10, 2014

Motion Seconded by Joe Collins

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

7:57 PM Site Visit Reports DEP #117-0334: 229 Palmer Road – ExxonMobil Pipeline Stream Crossing

The activity has begun to install the stream crossing to protect the pipeline at 229 Palmer Road. Over the past several weeks the Agent has met with contractors and the engineer on site for the pre-activity meeting and to address requests to modify plans.

8:05 PM Notice of Intent (NOI): 53 Apple Road (Map 4D Lot 3) – Solar MA Series XX/Seaboard Solar

Notice of Intent (NOI) submitted by Bertin Engineering c/o Solar MA Project Management LLC, Series XX, for work at 53 Apple Road (Assessors Map 4D Lot 3), pertaining to the construction of 0.66 MW ground mounted Solar Array. Specifically the work will include roadway construction and the clearing of approximately 5 acres of land. Portions of the proposed work lie within resource areas and/or buffer zones regulated under M.G.L. Chapter 131, §40. Roger deBruyn opened the public hearing and Michael Loin, of Bertin Engineering was present as a representative for the property owner's Paul and Carol Porra.

Members of the public/abutters present included: Betsy Shelton (45 Apple Road), David & Vickie Cheney (17 Apple Road), and William & Sharon Smith (46 Apple Road).

No DEP number has been issued.

The site is surrounded by BVW and swamp. There is a current cart path on site, which crossed a BVW. The main access road will be slightly to the east of the cart path to avoid BVW impacts, but will follow the cart path for the first 100-feet or so. The Agent noted there is an infestation of Japanese Knotweed at the beginning of the cart path that will need to be addressed in the site plan and Order of Conditions.

The 0.66 MW ground mounted solar array will be approximately 500-feet off apple road and will not be visible from the road. Grading and clearing of the site will be approximately 5 acres to "shape-off" the knoll the array will be placed upon. Site grading and clearing (clear-cut) will occur to the limit of work, represented by the erosion control barriers and a 25-foot no disturb zone to the surrounding BVW present on site. Basins are included to mitigate against runoff and stormwater. A 6-foot tall fence will surround the property, raised 6-inches off the ground to allow the passage/migration of small wildlife through the property. Work will take place over 3-4 months and is anticipated to occur late fall/early winter of this year. The area under the paneling will be re-vegetated with a specific solar mix designed to be shade resistant and grow low.

The wetlands were delineated by Bertin Engineering this past May and the area is flagged for review. Hydrologic calculations and a stormwater report were also submitted for the Commission review.

Abutter Betsy Shelton (45 Apple Road) supplied the Commission with a written list of her concerns to be incorporated into the file and meeting minutes. Specifically, Shelton is concerned with the protection of habitat and the affects of the clear cut to site drainage and the wetlands on site.

Sharon Smith (46 Apple Road) also expressed concerns about habitat loss. She stated the area is home to many large animals such as bear and deer, as well as smaller amphibians such as salamanders and the painted turtle. Mike Loin stated the fence is raised to allow the continual passage of the small wildlife (turtles, salamanders) but will specifically restrict large mammals due to safety concerns.

Vicki Cheney (17 Apple Road) inquired if any spraying or pesticides would be used on site. The Commission informed her no, there would not be and a condition would also be included in the Order of Conditions restricting pesticide and herbicide use.

Motion made by Joe Collins to accept the proposal from New England Environmental for a 3rd party review on the 53 Apple Road Solar Notice of Intent

Motion Seconded by Matt Toth

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

Motion made by Joe Collins to continue the hearing until 7:15 PM on Wednesday October 15, 2014

Motion Seconded by Matt Toth

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

8:55 PM Violation: 258 Little Alum Road – Pens, fencing and Pigs in the Wetlands

On July 21, 2014 the Conservation Commission Agent Angela Panaccione conducted a site investigation at 258 Little Alum Road which revealed the following: An un-named intermittent stream and its associated Bordering Vegetated Wetland (10.55) (BVW) have been disturbed from the addition of buildings/pens, fencing and farm animals; resulting in soil disturbance, stream instability, possible decreases in water quality and changes to the natural hydrologic regime throughout the property. Based on a visual assessment from the site visit and desktop review of the site using Geographic Information Systems (GIS), the Bordering Vegetated Wetland (BVW) has been altered, but the exact extent of alteration could not be determined.

The Commission conducted a site visit at 9am on Saturday August 23, 2014. Michele Restino, Roger deBruyn, Matt Toth and Steve Phifer were present with property owners Brian & Alice Willis. deBruyn supplied site photos for those unable to attend the visit. The Commission discussed the findings of the site visit and supplied recommendations to the Willis' about correcting outstanding violations on site.

Currently in the area surrounding the brook there is very little vegetation left. The goats and pigs have been using the hill side and the brook area for roaming & grazing. There is also a shed and coop in resource areas that need to be moved.

The Commission determined the activities being conducted do not fit the Agricultural exemption of the WPA and nothing occurring on site is consistent with the WPA. The main issue that arises is this is based on a neighbor dispute and the activities occurring on site have been occurring for over 19 years. Restino stated the violations are hard to address since they are long standing and the Willis had permission from the Commission in the late 1990's to conduct certain activities that are not currently permissible. Restino recommended a compromise to address what we can do now to better protect the resource areas and restore high quality resource areas surrounding the brook. The remedies for this property are not precedent setting and the goal now is to move forward with that understanding. All recommendations for this site are on a limited, individual basis for this site only and are based on the history of agriculture present there.

Matt Toth argued the area is all resource area and the Willis should be required to hire an engineer to properly delineate the wetlands and supply expert advice for correcting the violations. The Agent Agreed and stated based on

site photos it appears there are significant areas of BVW that are currently filled with wood chips that should be restored.

The Willis stated they have permission to add the wood chips and refused to pay to hire a professional engineer or wetlands consultant. Toth argued there is no record of it, so how can the Commission permit it without one.

Restino suggested the Willis hand draw a site plan themselves in lieu of hiring an expert. The site plan from the 2006 septic filing should be used as a base for the hand drawn farm plan. The Farm plan should include the brook/stream, all fencing in its new location, the various sheds, chicken coops, chicken houses, and other structures on the property and the goat pen.

As discussed the Willis are request to:

1. Move the identified chicken coop and fence to the area discussed at the August 23, 2014 site visit held with the Commission, so it is no longer crossing the stream and is outside of areas of concern. The fence needs to be moved so it no longer crosses the stream and all animals are restricted from using or crossing the brook.
2. Restrict animal use of the area of your property across the brook from their current housing
3. Remove the hoop house from the jurisdictional areas
4. Provide a hand draw site plan to the Commission, by October 15, 2014 detailing the site and the changes proposed. The site plan should include: the brook/stream, all fencing in its new location, the various sheds, chicken coops, chicken houses, and other structures on the property and the goat pen

The Agent will send a letter to the Willis' restating the four required actions and the Willis' will return to discuss the violation further at the next Conservation Commission meeting, scheduled for 8:15pm on Wednesday September 10, 2014

9:45 PM Violation Discussion: Chamberlin Mountain Road – Jeff Paulin; Violation Investigation

The Agent conducted a site visit on Wednesday 7/30/2014 @ 3:00pm with Rick Hawk, 175 East Hill Road. Mr. Hawk is requesting Conservation Commission assistance with a violation on an abutting property. Mr. Paulin has brought fill in to fix Chamberlin Mountain Road, and over the past several rain events, the fill has all washed out into the wetlands. The Agent photographed the sedimentation into the BVW. At the previous Commission meeting the Commission instructed the Agent to give this violation over to MassDEP, as they have dealt with it in the past. Mass DEP replied the violation was no longer in their hands and the Commission must re-initiate enforcement action before the department will get involved again.

The Commission reviewed the site photos and instructed the Agent to draft and Enforcement Order for the Commission to sign at the September 10, 2014 meeting.

Meeting adjourned 10:05 PM –

Motion made by Matt Toth to adjourn 10:05 PM

Motion was seconded by Joe Collins

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

Sincerely Submitted

Angela Panaccione, Conservation Agent