



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 MAY 28, 2014 @ 7:00 PM

Members Present: Ian Lynch (Chair)
Roger deBruyn
Joe Collins
Matt Toth
Michele Restino
Steve Phifer
Angela Panaccione (Agent)

Also Present: Jessica Petrie, 9 Champeaux Road
Judy Sessler, John Haley Road
Joe LaFreniere, Soltas
Todd King, CESSWI
Chuck Caron, Caron Environmental
John Rahkonen, 46St Clair Road
Arthur Allen, EcoTech
Joe & Stan Ciesla, Lourland Rd, Webster, MA
Brian Waterman, Waterman Engineering

Meeting Opens: 7:12 PM – Ian Lynch (Chair)

7:12 PM Request for Determination of Applicability (RDA): 38 Champeaux Road – Jessica Petrie

Request for Determination (RDA) submitted by Jessica Petrie, for work at 38 Champeaux Road, Brimfield MA 01010 (Assessors Map 15 Lot B-4.2), to determine if the work associated with the construction of a single family home, with associated well, septic and driveway is subject to the Wetlands Protection Act, M.G.L. Chapter 131, §40. Roger Ian Lynch opened the public meeting and property owner Jessica Petrie was present.

The construction of a single family home including: the installation of a 1,500-gallon septic system (105-feet from BVW), the construction of a three bedroom (26' X 60') home (65-feet from BVW), installation of a drive way (20-feet to BVW) and the installation of a new well (50-feet from BVW). The site is currently undisturbed. Site grading, tree removal and dewatering are necessary. Only the driveway is proposed within the 50-foot buffer zone to the BVW.

The lot is a raised lot that has been previously cleared and the well has already been installed. Additionally, the applicant has received BOH approval of the well and septic system. The only portion of development within 50-feet of the BVW is the driveway; which the applicant has agreed to move outside the 50-foot zone. If an issue arises where the applicant cannot safely relocate the current driveway access point, she will come back to the Commission with revised plans. Ms. Petrie has also granted the Commission and its Agent the right to enter and inspect the property with proper notice. The total project will disturb 25,000-square feet of the Buffer zone.

Roger deBruyn expressed concerns about the project and felt the project required a Notice of Intent. He stated the conditions issued with the determination should demonstrate consistency with the conditions that would be issued with an Order of Conditions. If that cannot be met, the applicant should file a NOI.

The Agent conducted a site visit May 19, 2014 and stated she did not see the need to file a NOI since all work was in the 50-100 foot buffer zone and she did not see the project having any impact on nearby resource areas.

Motion made by Michele Restino 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 – 5-0-1 (Roger deBruyn Abstains) – Motion Carries

7:35 PM Public Inquiry/Request: Judy Sessler – Open Space and Recreation Plan Visioning Session

Judy Sessler attended the meeting to inform the Conservation Commission of the Open Space and Recreation Plan Community Visioning Session, scheduled for May 29, 2014 from 7pm-9pm at the Town Hall Great Room. She encouraged all members to attend this important meeting.

7:42 PM Enforcement Order/Violation DEP # 117-0338: 194 Old Sturbridge Road - Soltas

The Commission discussed the Enforcement Order for 194 Old Sturbridge Road (previously filed under 145 Sturbridge Road), for the violation of 17 conditions of the Order of Conditions, including conditions 13, 19, 24, 28, 29, 31-34, 37, 45, 54. Specifically, the Commission cited the work occurring at the Solar site has created excessive sedimentation that is now eroding into resource areas protected under the Wetlands Protection Act (WPA).

The Commission reviewed the current site stabilization reports, biweekly Erosion and Sedimentation reports, and rainfall reports submitted by Todd King, CESSWF.

Charles Caron, of Caron Environmental presented a draft stream restoration plan and narrative for the Commission to review. The stream has been impacted by past logging to remove tornado debris and more recently by sedimentation from the construction at the solar site.

The intermittent stream is located west of the solar access road and runs parallel to it. The intermittent stream appears to originate as the outflow from a small vegetated wetland. The stream channel is small, in places less than a foot wide and is only a few inches deep. The stream appears to run primarily following heavy rainfall events and during snowmelt.

For the purpose of this analysis the stream has been divided into four sections. The Upper Reach is the area that has been the most heavily impacted by the past logging and recent sedimentation. The Middle Reach is an area within which none of the tornado debris was removed and is a tangle of downed trees with steep slopes on each side of the stream. The Lower Reach is a section along which tornado debris was removed, some logging disturbance occurred and grading has occurred in close proximity to (but not in). The “Pond” is a small excavation, likely only 200-300 square feet in size, which an abutter created in the past. Due to its size and lack of wetland vegetation the “Pond” is technically still defined as the Bank of the intermittent stream. Below the “Pond” there is a short section of stream before the flow enters a culvert under Old Sturbridge Road and Route 20.

The Upper Reach of the stream (*Flags A4 to A9*) is the area that will require the most extensive stream restoration work. As a result of the skidding of trees through this area there is a complete lack of vegetation (even of herbaceous vegetation), extreme soil compaction, exposed top and sub-soils, and large amounts of woody debris was driven into the soil. This skidding took place under the previous ownership, and it is our understanding that there was an approved Forest Cutting Plan in place for this activity.

The upper reach was the area most impacted by logging and the recent sedimentation event. The sediments along the Upper Reach vary in depth. The greatest depths are within skidder ruts and behind the erosion control check dams. In most locations the sediments are intermingled with the woody debris and disturbed topsoil that resulted from the logging and skidding in this area. The restoration of this section requires the removal of not only the sediments, but also the underlying soils that have been heavily compacted and/or contain large amounts of woody debris. Removal in the upper reach will be done using an excavator. Once these soils have been removed a small

channel will be created (with slight meanders) using crushed stone, and the surrounding areas will be loamed and stabilized with seed, plantings and erosion control matting. Access to this section, for the excavator, is the biggest issue and Chuck Caron will address access in the final draft.

The middle reach of the stream (*Flags A9 to A10*) is covered with a tangled mess of downed trees from the tornado that were not removed. This area will not be touched.

The lower reach of the stream (*Flags A10 to "Pond"*) has only a small amount of sediment and the plan calls for removing the sediments by hand, the seeding of any significant unstable areas and the planting of a vegetative buffer along the eastern edge of the stream.

The pone is a small-manmade excavation located on Shirley Lapierre's property and has likely acted as a final sediment trap by slowing the stream down. The finest sediments were entrapped in this area and the entire "Pond" bottom appears to be covered with an inch or two of fine sediments. Accordingly, the stream restoration plan calls for the removal of these sediments. The removal will need to occur when the pond is either dry or has been pumped dry. No additional restoration will likely be needed other than the sediment removal. This work will be performed by hand as well.

The Commission will take home the draft plan and review and comment upon it for the next meeting. Chuck Caron will have a final draft for the Commission by June 11, 2014; which will include estimates of man power needed for the restorations as well as a narrative for access to the upper reach.

Motions made by Steve Phifer to accept the draft stream restoration plan developed by Charles Caron and have the final plan by June 11, 2014

Motion Seconded by Joe Collins

No further discussion – 6-0-0 – Motion Carries

8:04 PM Enforcement Order (EO): 46 St Clair Road (Map 11A Lot 2) – John Rahkonen

In response to the Enforcement Order issued April 23, 2014 John Rahkonen attended tonight's meeting with environmental consultant Arthur Allen, from EcoTech. Arthur Allen supplied a restoration plan to the Commission for acceptance as the final plan.

Allen explained to the Commission that runoff from the site has affected a finger BVW along the stream with 2+'' of sediment. There is also noticeable sediment on the bank and in the stream bed as well. The sediment present on the downstream side of the culvert is not associated with the work at 46 St. Clair Road. Allen has flagged the area of concern, as well as the affected BVW (flags S1- S20). A sketched plan was submitted with the restoration narrative.

The restoration will be conducted in two phases. Phase 1 will commence with the installation of a drainage swale, above the BVW and progress to the BVW stopping at the stream bank, to collect stormwater. No equipment will enter the BVW, bank or LUW except to reach in with bucket to collect hand-removed sediment. As soon as sediment is removed, the area will be re-graded and seeded. Phase 2 will commence after July 1, 2014 and will entail the removal of sediment by hand from the stream bank and channel.

Allen will monitor the work and reports to the Commission after the two phases are completed, and after any rainfall event totaling over .5'' or more in 24-hours.

John Rahkonen also submitted a letter from abutter, George Demos, allowing site access to the Commission and its Agent; as well as the Rahkonen's to complete the required restoration.

Motion made by Matt Toth to accept the Stream/BVW restoration plan as the final plan and permit restoration work to proceed under the requirements of said plan and corresponding Enforcement Order

Motion Seconded by Michele Restino

No further discussion – 6-0-0 – Motion Carries

John Rahkonen will report to the Conservation Commission after each phase has been completed.

8:20 PM Notice of Intent (NOI): Apple Road (Map 4E Lot 2) – Joe Ciesla

Ian Lynch 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. Joe and Stan Ciesla were present, as well as their representative Brian Waterman.

Brian Waterman presented the revised NOI to the Commission. This filing is a re-filing from 2006 since the original permit DEP # 117-0276 has expired. The location of the crossing has been changes to an area resulting in less wetlands impacts and less of a slope. Brian has re-flagged and survey located the stream. He also supplied a build-out of the entire subdivision as part of the application, required by comments from both the Agent and DEP. Riverfront is present in lots 1,2,3,4 &5. Total Riverfront alterations for this project are 19,850 square feet. Overall the subdivision will have 15 lots, and protect 17acres of open space.

DEP is requiring a deed restriction for the crossing, and the entire property to limit the total wetlands alterations to fewer than 5,000 square feet in order to protect the land in perpetuity once the individual lots are sold off in the future. Roger deBruyn questions why the restriction would be set at 5,000 square feet when the only proposed alteration is currently 853 square feet. DeBruyn recommended the restriction be set at the amount of alteration proposed, so no future wetlands could be impacted. Waterman said he would look into this further and discuss with DEP if that is a possible option.

DeBruyn further questioned the use of the road and crossing. He expressed his concern the crossing is for a commercial gravel operation, but is posed as a crossing for a single family home. Currently Genevieve Lane does not exist, and either does the subdivision. What the applicant is essentially proposing is a road/access to a commercial operation and should be treated as such. DeBruyn stated these were all issued the Commission dealt with back in 2006 with the original filing and should have already been readdressed before this filing was submitted.

The Commission reviewed the fees associated with gravel mining and commercial crossing and concluded an additional fee is required before the Commission will continue its review. The Commission concluded a fee for a Category 3C and 4D, totaling \$2500; plus the 1.5 riverfront multiplier, equaling \$3750 is required (minus the \$750 already submitted).

The Agent questioned the proposed easement and why its square footage was not included in the resource area impacts, considering the easement goes directly through the BVW and RFA. Waterman said the easement will not be used for travel, and its purpose is to provide access to manage the stormwater infrastructures in the future pending a sale of lot 4 to a different party.

Matt Toth stated the project is complex and should have a third party review. The Agent agreed that when the subdivision filing is presented a third party review should be required but felt this NOI for strictly dealing with a crossing could be handled by the Commission.

Roger deBruyn stated he did not feel the Commission should accept the project as a limited project due to the nature of the crossing being for a commercial gravel operation.

The Agent will conduct an initial inspection on Friday June 6, 2014 at 9am with Brian Waterman to confirm the delineations present on site.

Motion made by Matt Toth to continue the hearing until 7:20PM on Wednesday June 11, 2014 as long as the revised fees are paid in full.

Motion Seconded by Steve Phifer

No further discussion – 6-0-0 – Motion Carries

9:12 PM Administrative Matters: Sign Payable – Quill \$86.78

Motion made by Matt Toth to sign the payable voucher to Quill in the total amount of \$86.78, for the payment of office supplies.

Motion Seconded by Joe Collins

No further discussion – 6-0-0 – Motion Carries

9:22 PM Administrative Matters: Discuss & Sign Payroll – Angela Panaccione \$472.50

The Commission discussed the payroll voucher for the Agent, since the wetlands account is low and the Agent went over hours this pay period and incorporated the additional hours into Comp time. Ian Lynch will speak with the personnel officer about Comp time procedures.

Motion made by Michele Restino to sign the payroll sheet for Angela Panaccione in the total amount of \$472.50, for the pay period of 5/18/2014 - 5/31/2014; including the unpaid comp time of 14 hours

Motion Seconded by Matt Toth

No further discussion – 6-0-0 – Motion Carries

9:24 PM Administrative Matters: Minute Approval

Motion by Michele Restino to approve the minutes from Wednesday May 14, 2014

Motion Seconded by Matt Toth

No further discussion – 4-0-2 (Steve Phifer and Ian Lynch Abstain) – Motion Carries

9:24 PM Administrative Matters: Chair/Vice-Chair Discussion

The Commission discussed who would be Chair and Vice-Chair for the next fiscal year. Ian Lynch will no longer be able to serve as Chair of the Committee. The Commission decided to table the discussion until the meeting scheduled for July 9, 2014.

9:30 PM Request for Certificate of Compliance DEP # 117-0337: 45 Seventh Street - Lori Morrill

The Commission received a request for Certificate of Compliance for DEP # 117-0337; 45 Seventh Street property owner Patrick and Lori Morrill. The Agent conducted a site visit on May 5, 2014 and informed the Commission the site has yet to be stabilized with vegetation, per Conditions # 29 & 30. She requested the Commission stay the request until the area is re-seeded and revegetated and contact Mark Farrell of Green Hill and the Morrill's and inform them to resubmit the request when vegetation has grown in.

Roger deBruyn, Matt Toth and Angela Panaccione conducted an additional visit today, May 28, 2014 and noted the area is now revegetated and stabilized.

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

Motion Seconded by Roger deBruyn

No further discussion – 6-0-0 – Motion Carries

9:30 PM Old Business: RDA for Tower Hill Road from 1989 - Roger deBruyn

Roger deBruyn presented the Commission with a Determination of Applicability issued to him, in 1989 for work on a septic. The determination found the area was not wetlands, and the work would not have any impact to any resource areas. Roger will complete the work now, since determinations issued then did not have expiration dates.

9:55PM Administrative Matters: Violation Updates

1. Enforcement Order: 14 Marsh Hill Road – Land Clearing: The violator is currently in violation of the second EO issued against him. A NOI was required per the EO by April 23, 2014. Nothing has been received as of yet. The Commission instructed the Agent to send a notice to the violator reminding him the NOI is past due and stating he

is in violation of the EO presently. The Agent will inform the violator a NOI is needed ASAP to come into compliance with the violation. The Agent shall also inform DEP of the situation.

2. Enforcement Order: 150 Haynes Hill Road, Chris Batista – Equipment Removal: The Commission has had no response yet from Christopher Batista. Abutter Jimmy Stanton has submitted a public records request for all relevant documents pertaining to the violation which the Agent has provided. The Commission instructed the Agent to send a letter to the violator stating he is in violation of the EO and requesting a strict time line for equipment removal. The Agent shall also inform DEP of the situation and request assistance from them.
3. Possible 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. The Agent conducted a site visit May 5, 2014 and noted that a replacement culvert had been installed at the end of the access road, as well as crushed stone for stabilization. The replacement culvert was never permitted and has not been installed to meet current stream crossing standards. The culvert is perched at the outlet, and the outflow of the stream does not match the inflow of the stream; leading the DEP and the Agent to determine the culvert was not sized or installed appropriately. Furthermore, the crushed stone used to stabilize the side slopes constitutes a fill of Bordering Vegetated Wetland (BVW). The Commission instructed the Agent to send a notice of a possible violation and request the violator attend the next 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.
4. Chamberlin Mountain Road: Eric Hawk, of East Hill Road, filed a complaint with Conservation and the Building Inspector about Jeffery Paulin filing in the wetlands and the road way again. The Agent contacted DEP since they were in charge of a previous violation back in 2007. David Foulis, Mass DEP said the agency has concluded its investigation and any new violation were the responsibility of the Commission to investigate. Given the lack of information provided by Mr. Hawk, the Commission cannot seek enforcement at this time. The Agent will request more details about the violation, as well as permission from Mr. Hawk to view the area of concern from his property.

9:55PM Administrative Matters: Discuss Town Meeting

The Commission discussed the Town Meeting, held on Monday May 19, 2014. In particular the Commission did receive the requested increase in hours for the Agent position, but the proposed wetlands bylaw did not pass. The response from the Finance Committee at eh Town Meeting was very good, and Mike Maloney did a good job of explain why the Finance Committee recommended the raise appropriation. The Agent was contacted by the Journal with questions about the vote, and she directed them to Commission members and the Finance Committee. Steve Phifer made a point that Sturbridge’s agent is one of the only full time employees, and several other towns have full time agents as well.

In regards to the bylaw, the Commission will again work to revise it to meet Town Meeting concerns. Roger deBruyn stated he was glad the bylaw committee supported the bylaw. The major concern presented at the meeting by the public was that the bylaw is too long and complicated. Steve Phifer suggested putting a very simple bylaw through, 1-2pages max; or picking three areas needed and just putting in bylaws dealing with them. The Agent suggested enforcement, fees and set-backs.

The Agent will speak with MACC and Town Council about what the shortest simplest bylaw that can be legally proposed requires.

Meeting adjourned 10:08 PM –

Motion made by Matt Toth to adjourn 10:08 PM

Motion was seconded by Michele Restino

No further discussion – 6-0-0 – Motion Carries

Sincerely Submitted

Angela Panaccione, Conservation Agent