



# TOWN OF BRIMFIELD

## CONSERVATION COMMISSION

Salisbury Annex Building, 2<sup>nd</sup> Floor  
23 Main Street  
Brimfield, Massachusetts 01010

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

Agent: Angela Panaccione

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### MEETING MINUTES WEDNESDAY JULY 23, 2014 @ 7:00 PM

**Members Present:** Roger deBruyn (Co-Chair)  
Michele Restino (Co-Chair)  
Ian Lynch  
Matt Toth  
Joe Collins  
Angela Panaccione (Agent)

**Members Absent:** Steve Phifer

**Also Present:** Dave Niemiec, Springfield Motorcycle Club  
Kevin Comstock, Springfield Motorcycle Club  
Jim Mitchell, Springfield Motorcycle Club  
Brian Waz, Minute Man Engineering  
Joe Ciesla, Apple Estates, Inc.  
Brian Waterman, Waterman Engineering  
Lori Morrill, 45 Seventh Street  
Patricia Gelinis, 71 Seventh Street

**Meeting Opens:** 7:25 PM – Roger deBruyn (Co-Chair)

#### **7:25 PM Cont. NOI DEP # 117-0325: 10 Shaw Road (Map 5 A-B Lot 15.1) – Dave Mayo**

Roger deBruyn re-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. Mark Farrell, Greenhill Engineering is the hired professional.

A letter was received today, July 23, 2014 from Mark Farrell, Greenhill Engineering requesting the Notice of Intent DEP # 117-0325 be withdrawn without prejudice. At a future date Mr. Mayo may consider refiling a new Notice of Intent to do the proposed work.

#### **7:28 PM Notice of Intent (NOI) DEP #117-0341: Apple Road (Map 4E Lot 2) – Joe Ciesla**

Roger deBruyn 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 Ciesla and his representative Brian Waterman were present.

A site visit was scheduled for Saturday June 21, 2014 and only Steve Phifer attended. He was not present at tonight's meeting to discuss his findings, though he did supply the Commission with a site visit report at the July 9, 2014 meeting. Phifer did previously state he felt the crossing location was appropriately chosen and clearly defined on the ground.

Prior to construction the applicant is required by Mass DEP to file a deed restriction on the entire Subdivision shown on a plan entitled, "Definitive Lotting Plan and Index, Apple Estates, Brimfield, MA (Hampden County), dated April 5, 2006, prepared by Waterman Design Associates, Inc., and recorded with Hampden County District Registry of Deeds in Plan Book 350 Plan 69; limiting the amount of dredged and fill material that may be cumulatively discharged on the Subdivision to less than 900 square feet; at the Hampden County Registry of Deeds and shall submit proof of recording to the Commission. The Agent has reviewed the deed restriction and has worked with Town counsel over the past few weeks to revise it accordingly. The Commission has reviewed the final version of the deed restriction and has agreed to hold the restriction on the property.

DEP has also stated in email correspondence they will accept the deed restriction once an outstanding Administrative Consent Order has been resolved. This ACO was from 2007 and was a result of the applicant breaching a beaver dam. The agent recommended including a condition that the ACO must be resolved prior to any work. Upon resolution, the applicant will submit all relevant information to the commission. The condition shall be: "Prior to commencing any activity on the site, the applicant shall resolve the Administrative Consent Order ACOP-WE-07-6W008 issued by Massachusetts Department of Environmental Protection on August 2, 2007. The applicant shall submit to the Commission proof the ACOP has been resolved."

The Agent also specified the Order of Conditions only confirms the wetland delineations represented by Wetland Flag Numbers 60-73, 86-99, and 233-257. All other wetland flags present on Notice of Intent Plans - Existing Conditions Exhibit Plan: Apple Road, Brimfield MA. WDA Job No. 525.00 - Drawing No. 0525001E1a (Sheets 1 of 5); prepared by Waterman Design Associates, Inc, dated 4/22/2014; as part of the larger subdivision layout have not been confirmed. This shall be included in the Order as a Finding of Fact.

Additionally, if the Commission accepts the project as a limited project under 10.53(3)(e), a condition will be included to stipulate this is the only crossing permitted under 10.53(3)(e) for the entire subdivision.

Motion made by Michele Restino to accept the project as a limited project under 10.53(3)(e): The construction and maintenance of a new roadway or driveway of minimum legal and practical width acceptable to the planning board, where reasonable alternative means of access from a public way to an upland area of the same owner is unavailable.  
Motion Seconded by Matt Toth  
No further discussion – 5-0-0 – Motion Carries

Motion made by Michele Restino to close the hearing and issue the Order of Conditions, with the special conditions discussed previously.  
Motion Seconded by Matt Toth  
No further discussion – 5-0-0 – Motion Carries

**7:45 PM Amended Notice of Intent (NOI) DEP #117-0344: 82 First Street (Map 5C A 54) – Sharon Carty**

A request to amend the Notice of Intent (NOI) DEP # 117-0344, 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 amendment includes the addition of a 10' X 6' bathroom to the rear of the cottage. The proposed work lies within the buffer zone of Little Alum Lake, a resource areas regulated under M.G.L. Chapter 131, §40. Roger deBruyn opened the public hearing and no representatives or members of the public were present.

The filing is for the construction of a proposed bathroom addition, approximately 54-feet from the Bank of Little Alum. The request to amend the Order of Conditions came in response to the applicant not having plumbing or a bathroom in the cottage to hook the septic system up too. 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 from the approved Order was presented to the Commission. The work will not require the removal of any trees, and will sole occur within a pre-existing lawn area, and attach to the rear of the existing cottage. The Agent recommended filing the bathroom addition as an amendment to the previously issued Order of Conditions, since there would be not increase in resource area alterations (the project is buffer zone only).

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

Motion Seconded by Joe Collins

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

**7:53 PM 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 has occurred 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.

Dave Niemiec, Kevin Comstock, and Jim Mitchell of the Springfield Motorcycle Club attended the meeting with their representative Brian Waz, of Minute Man Engineering. Brian Waz began by giving the history of the site. The club has owned the property since 1961. The culvert was first replaced in the 1980p’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.

Waz argued the area is not a resource area, just a roadside drainage ditch. He also stated the stream crossing standards applied only to perennial streams and would not apply to this crossing. The agent countered the standards do indeed apply to intermittent streams as well, especially if they allow fish and wildlife passage. Waz said the stream was not fish bearing, which the agent agreed to; though she did believe the wetland complex provided wildlife habitat to some degree.

Waz presented a case narrative, justifying the culvert is appropriately sized and any required removal or modifications would cause more damage to the resource areas than if it was left alone. Joe Collins and Roger deBruyn agreed the crossing is functioning, as well as the bordering wetlands, and that if the culverts perched end was trimmed back it would satisfy a wildlife passage requirement. Waz agreed the culvert should be cut back and all work would be completed by hand.

The Agent requested Waz draft a narrative, per the conditions of the EO, as to why the current culvert meets the stream crossing standards to the best extent practicable. Waz again stated he did not feel this was necessary as the crossing is not required to meet the standards because it is a drainage ditch. The Agent explained this violation was given to the Commission from Mass DEP, who seemed to believe it was jurisdictional crossing which needed to meet the standards. The Commission has been more than willing to work with the Motorcycle club and would just like written documentation about how the current crossing is better left in place than replaced.

Waz requested the EO be amended to no longer require a site plan. The Commission was agreeable and amended the EO to require a narrative showing how current project is in compliance with the standards to the maximum extent practicable. The narrative shall include the history of the site, description of the site including a vegetation survey, a soils report and a explanation of why the culvert is not required to meet the stream crossing standards.

Motion made by Joe Collins to ratified the Enforcement Order, issued June 27, 2014

Motion Seconded by Math Toth

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

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**8:25 PM Public Inquiry: Lori Morrill & Patricia Gelinias – Seventh Street Drainage Issues**

Lori Morrill and Patricia Gelinias attended tonight’s meeting on behalf of the Seventh Street Association to discuss what filing would be needed to conduct drainage work on Seventh Street. Seventh Street is a private road, and is therefore not maintained by the town. Highway superintendant Zach Lemieux did recommend the drainage issue should be addressed. The association wished to hire Bill Cantel to complete all drainage work, including culvert replacement within the road ROW.

Upon viewing the GIS overlays, the Agent did not believe any of the work would occur in an area subject to protection under the WPA and instructed Lori Morrill to complete a Request for Determination for the work. Ms. Morrill will meet with the Agent during her office hours Monday to go over the permitting requirements. The culverts targeted for replacement are purely drainage and non are within or close to resource areas. All work will occur within the Seventh Street roadway, the immediate road shoulders, and/or previously altered areas; for a total length of .5 +/- miles between house # 28-34. This section of Seventh Street consists of mixed (low density residential & forested) land uses.

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**8:36 PM Administrative Matters: Minute Approval – June 11, 2014**

Motion by Michele Restino to approve the minutes from Wednesday June 11, 2014

Motion Seconded by Matt Toth

No further discussion – 4-0-1 (Joe Collins Abstains) – Motion Carries

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**8:37 PM Administrative Matters: Minute Approval – June 25, 2014**

Motion by Michele Restino to approve the minutes from Wednesday June 25, 2014

Motion Seconded by Matt Toth

No further discussion – 3-0-2 (Ian Lynch & Roger deBruyn abstain) – Motion Carries

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**8:38 PM Administrative Matters: Sign Payable – MACC \$239.00**

Motion made by Michele Restino to sign the payable voucher to the Massachusetts Association of Conservation Commissions (MACC) in the total amount of \$239.00, for the payment of FY 2015 Membership dues

Motion Seconded by Matt Toth

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

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**8:40 PM Administrative Matters: Sign Payable – NHESP \$24.00**

Motion made by Michele Restino to sign the payable voucher to the National Heritage & Endangered Species Program (NHESP) in the total amount of \$24.00, for the payment of two (2) copies of *A Field Guide to the Animals of Vernal Pools*.

Motion Seconded by Matt Toth

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

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**8:41 PM Administrative Matters: Sign Payable – MSMCP \$20.00**

Motion made by Michele Restino to sign the payable voucher to Massachusetts Society of Municipal Conservation Professionals (MSMCP) in the total amount of \$20.00, for the payment of FY 2015 Membership dues

Motion Seconded by Matt Toth

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

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**8:42 PM Administrative Matters: Sign Payable – Angela Panaccione \$56.74**

Motion made by Michele Restino to sign the payable voucher to Angela Panaccione in the total amount of \$56.74, for the reimbursement for mileage to attend the MSMCP annual meeting held on Wednesday July 23, 2014 at Wachusett Mountain, in Princeton, MA

Motion Seconded by Matt Toth

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

**8:43 PM Administrative Matters: New Computer Request**

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The Commission discussed the request for a new lap top for the Conservation Commission Office either from the Community Innovation Challenge Grant, Thames River Fund or Norcross Fund. The last top was purchased in 2011 from the Conservation Expense fund. At that time our expense account was budget at \$3000. As of FY14 our account was cut in half, and is now only \$1500. The Commission cannot afford to purchase one from our current expense, as our current budget barely covers educational and administrative costs.

The current lap top is old, extremely slow and often shuts down on its own; causing valuable work and time to be lost. It also probably has some sort of virus. Additionally, the Conservation Intern and Open Space Committee members (who share the office) do not have a computer to work on. The Intern often has to bring her own lap top with her to do any work.

Motion made by Ian Lynch to send a letter to the Board of Selectmen, requesting a new Lap Top Computer from the Community Innovation Challenge Grant, Thames River Fund or Norcross Fund

Motion Seconded by Matt Toth

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

**8:48 PM Administrative Matters: Payroll Authorization**

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The Commission discussed and approved the Chair, Co-Chairs or Acting Chair to sign all payrolls and payroll related documents for the Conservation Agent, without a vote of the Board at a meeting. This is to ensure payroll deadline are met in a timely fashion. As of July 23, 2014 the new Co-Chairs of the Commission are Roger deBruyn and Michele Restino. The Commission grants them signatory ability in regards to payroll from here on out.

Motion made by Ian Lynch to grant the new Co-Chairs of the Commission, Roger deBruyn and Michele Restino, signatory ability in regards to payroll authorization, without a vote of the Commission.

Motion Seconded by Matt Toth

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

**8:47 PM Administrative Matters: Comp Time Approval**

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The Commission discussed the Agent's comp time, totaling of 103.5 hours from FY 2014 and approved the use them during FY 15. The dates and hours of time accumulated were tracked by the Agent over FY14 and reviewed by the Commission on numerous occasions. A lot of the Comp time came from work on the solar permitting and enforcement and various job trainings attended by the Agent. A letter will signed by all Commissioners present at tonight's meeting and will be sent to both the Board of Selectmen and the Town Accountant. The dates and hours of time accumulated will be supplied in an attachment to the letter.

Motion made by Ian Lynch to approve the Comp Time for Angela Panaccione, in the total amount 103.5 hours from FY 2014 to be used during FY 15

Motion Seconded by Matt Toth

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

**8:47 PM Possible Violation: 258 Little Alum Road – Pens, fencing and Pigs in the Wetlands**

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On July 21, 2014 the Conservation Commission Agent Angela Panaccione conducted a site investigation at 254 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.

Motion made by Michele Restino to issue an Enforcement Order to Brian and Alice Willis, of 258 Little Alum Road  
Motion Seconded by Matt Toth

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

**9:05 PM Schedule Site Visits**

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1. 56 Dean Pond Road – John Serrenho; Request for a COC: Saturday 8/2/2014 @ 9am
2. 145 Sturbridge Road – Solar; Stream Restoration: Saturday 8/2/2014 @ 10am
3. 150 Haynes Hill Road – Chris Batista; Equipment in Wetlands: Monday 8/5/2014 @ 9am with DEP
4. 18 Marsh Hill Road – Anthony Belcher; Previous Violation: Monday 8/5/2014 with DEP (after Haynes Hill)

**Meeting adjourned 9:08 PM** –

Motion made by Matt Toth to adjourn 9:08 PM

Motion was seconded by Joe Collins

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

Sincerely Submitted

Angela Panaccione, Conservation Agent