



# 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)  
Joseph Collins  
Joseph Coan  
Joseph Gallo  
Carol Platenik  
Steve Phifer

Agent: Angela Panaccione

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### MEETING MINUTES WEDNESDAY SEPTEMBER 23, 2015 @ 7:00 PM

**Members Present:** Roger DeBruyn (Co Chair)  
Joseph Gallo  
Joe Coan  
Steve Phifer  
Joe Collins  
Angela Panaccione (Agent)

**Members Absent:** Michele Restino (Co Chair)  
Carol Platenik

**Also Present:** Mark Stinson, MassDEP  
Mark Farrell, Greenhill Engineering

**Meeting Opens:** 7:00 PM – Roger deBruyn (Co Chair)

#### **7:00 PM Notice of Intent DEP #117-0356: 41 Brookfield Road (Map 6 A Lot 17.3) – Gerard Morin**

The Commission reviewed a Notice of Intent (NOI) submitted by Mark Farrell, Greenhill Engineering c/o Gerard Morin, of 41 Brookfield Road for the replacement of a septic system. Specifically, the work includes the removal of existing system and the installation of a new 1500 gallon holding tank and 1000 gallon pump chamber. The proposed work is in the buffer zone, 62 feet from the edge of a Bordering Vegetated Wetland; resource areas regulated under M.G.L. Chapter 131, §40.

Roger deBruyn opened the public hearing and Septic System designer Mark Farrell was present.

A site visit was conducted today, September 23, 2015 at 5:30pm by the Agent, Roger deBruyn, Joe Coan and property owner Gerard Morin.

All work will occur within a pre-existing lawn and the erosion and sediment controls will be install 62-feet from the edge of the BVW, at the edge of the lawn by the road; marking the approved limit of work as shown of the site plan entitled Notice of Intent Project #2015-024: 41 Brookfield Rd, Brimfield MA 01010; Stamped & Signed by Mark Farrell; dated 8/15/2015; Scale: 1"=20'.

The two (2) large trees by the road will not be removed.

The Agent & deBruyn inquired why the limit of the replicated BVW, located at 43 Brookfield Rd, was not depicted on the site plan. Farrell responded the wetland was not delineated a part of this project because it was over 100-feet from the proposed work and on a neighboring property.

The system has not received Title 5 approval from the Board of Health, but no variance was requested or required.

**Motion made by Joseph Gallo to close the hearing and issue the Order of Conditions with special conditions, for DEP #117-0356: 41 Brookfield Road**

**Further discussion:** Mark Stinson, DEP informed the Commission they only review the work. There is no need to wait for BOH approval

**Motion Seconded by Steve Phifer**

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

**7:15 PM Administrative Matters: Other Projects, Monitoring, Enforcements and Violations**

1. Hollow Rd Culvert Replacement: Mark Stinson, MA DEP attended tonight meeting to discuss the emergency culvert replacement on Hollow Rd. The Agent discussed how the emergency permits issued to the Town of Brimfield Highway Department required the replacement culvert to be embedded, as to not result in a perched system. The culvert installed had a significant perch at the outlet, resulting in a tail water scour pool. The Commission instructed Lemieux to add rocks to the perched outlet to prevent the perch and resulting scour pool.

Lemieux explained he could not embed the pipe due to the proximity of the pipeline and safety concerns.

Stinson said when he drove past it Monday it was clearly a violation of the Emergency Permit Issued. This would have been an ideal situation to improve the connectivity of the stream. Hollow Brook is a designated Cold Water Fisheries resource downstream of the Hollow Rd crossing, but due to the undersized and improperly placed culvert the stream loses its connectivity and CFR status there. Stinson also ran USGS Stream Stats on the stream, and it is intermittent based on its watershed size and 99% flow rate.

DeBruyn stated the replacement culvert was different from the existing culvert 3' CMP. The new pipe was a plastic 3' pipe, which due to the lip is actually much larger in diameter than the traditional CMP. DeBruyn also said he felt Lemieux did as the Commission instructed, to the maximum extent practicable. DeBruyn and Coan investigated Hollow Brook upstream of the replacement and stated neither of them observed a definable channel. DeBruyn also stated the Town needed a ranking system for culvert replacements. The Agent informed the Commission UMASS Amherst has been doing a study over the past several years on exactly that, and culverts in Brimfield were ranked using the CAPS system. The Agent will email the Commission the link to the CAPS and Critical linkages program out of UMASS.

The Commission, Lemieux and Mark Stinson will have a training at the beginning of November on how to assess culverts for Connectivity and how to identify critical culverts for replacement. Lemieux will develop a list of the culverts he believes need to be replace, and the training will survey them to see the best one to upgrade.

2. Possible Violation – Hollow Rd at Wales/Brimfield Town Line: Mark Stinson, MA DEP attended tonight meeting to discuss an unpermitted activity impacting Bordering Vegetated Wetlands and the Bank resource area, on Hollow Road. He supplied the Commission with aerial photos that show the violation occurs at the town line (Brimfield/Wales), as well as the DEP wetlands and stream overlay. He also supplied photos showing the impacts. Some of the BVW fill appears to have occurred in Wales, other BVW fill and the sediment in the stream channel are in Brimfield. Stinson previously discussed with Brimfield's Agent about issuing an enforcement order for resource area restoration in Brimfield.

Steve Phifer asked where the town boundary marker was located in relation to the violation. The Agent responded it was located before the stream channel and area of the violation. Stinson commented he has known several instances where the town boundary markers were off, and all GIS overlays have the stream

and the violation occurring in Brimfield. Roger deBruyn recommended the Town of Wales handle the violation, since it was Wales highway department that performed the work and the town boundary marker has the area all in Wales, with no impact to Brimfield.

Stinson will contact the Wales Conservation Commission to coordinate the enforcement and restoration.

3. Possible Violation – 12 Hollow Rd; Sign Placement: On September 14, 2015 Conservation Agent Angela Panaccione conducted a site visit at 12 Hollow Road, Brimfield, MA (Map 11 B 3); property owner Killian Realty Trust, to investigate allegations of WPA violations from the placement of a sign for Phifer Contractors, Inc. A sign, with two (2) 3.5” X 3.5” posts was constructed within the riverfront area of a stream and the buffer zone of its associated Bordering Vegetated Wetlands (BVW). The placement of this sign is exempt from the WPA, under the minor activities in the buffer zone exemptions found at 310 CMR 10.02(2)(b)2(o): Installation, repair, replacement or removal of signs, signals, sign and signal posts and associated supports, braces, anchors, and foundations along existing paved roadways and their shoulders, provided that work is conducted as far from resource areas as practicable, and is located a minimum of ten feet from a resource area, any excess soil is removed from the project location, and any disturbed soils are stabilized as appropriate;

The activity of installing the sign, with its two (2) posts was temporary in nature, and has no negligible impacts on nearby resource areas, and does not constitute a barrier to wildlife movement; therefore it is allowable in both the buffer zone to the nearby BVW, as well as within the 200 foot Riverfront Area.

4. Discuss establishing fees under MGL C40 S22F: The Agent drafted a policy for establishing administrative fees under C40 S 22F. The Commission reviewed and discussed the policy. The Agent will add sections on: **Exemptions** – Municipal projects where the Town of Brimfield or any other government agency is the Applicant are exempt from the fees; and **Deposits** – All fee’s received shall be deposited into the Town of Brimfield General Fund

The Agent will add the item to the Agenda for 10/14/15 to be discussed further. The Agent will schedule a public hearing on the policy for Wednesday October 24, 2015 at 7pm. The agent will also send the policy to the Finance Committee and the Board of Selectmen, and invite them to the public hearing as well.

5. Discuss Solar Site Visit: A site visit occurred to the Solar Array located at 145 Old Sturbridge Rd (DEP File #117-0338) on Saturday 9/12/2015 at 9 am, by Michele Restino & the Agent

**Motion made by Joseph Gallo to table the site visit discussion until the meeting scheduled for Wednesday October 14, 2015 so Michele Restino can be present to discuss her findings**

**Motion Seconded by Joe Collins**

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

6. Possible Violation – Woods at Long Pond; Trail Construction: No Violation
7. EO 562: On March 31, 2015 the Baker Administration announced Executive Order 562 (EO) (To Reduce Unnecessary Regulatory Burden). This EO requires all government agencies to review all regulations (CMRs) and demonstrate that each regulation 1) Has a clearly identified need best addressed by the agency; 2) Cost of the regulation don’t exceed the benefits; 3) Regulation doesn’t exceed federal requirements or duplicate efforts; 4) There are no less restrictive alternatives; 5) The regs don’t adversely affect MA competitiveness; 6) The agency has an established process and schedule for measuring the regulation’s effectiveness; and 7) The regulation is time-limited or had a regular review. Each agency has to prepare a business/competitiveness impact statement for each regulation. Any regulation not meeting those standards will sunset on March 31, 2016. The EO also requires that the Secretary of Administration and Finance (SAF) will establish a process for accepting public comment. SAF has just announced the

creation of the on-line portal to accept and solicit public comment regarding all MA laws. The portal can be found at <http://www.mass.gov/anf/a-clearer-code-regulatory-reform.html>

The Mass Society of Municipal Conservation Professionals (MSMCP) has developed sample comments for Commissioners to use as a draft template. Comments should be kept short, concise and positive; and tie into economic issues and emphasize the collaborative efforts of the Department of Environmental Protection (DEP) with stakeholder groups for any regulatory revisions. MSMCP will send different sample comments out monthly and has requested Commissions keep EO562 as a rolling agenda item month to month.

The Agent will add EO 562 to the Agenda monthly and the Commission will again discuss it at the next meeting scheduled for October 14, 2015.

**8:46 PM Administrative Matters: Minute Approval – September 9, 2015**

The Commission will table the approval of the minutes from Wednesday September 9, 2015 until the next meeting scheduled for Wednesday October 14, 2015 at 7:00pm

**8:47 PM Request for Certificate of Compliance DEP # 117-0134: 70-74 First Street – Russell Omer**

Attorney Sabino Bilotti submitted a request for a Certificate of Compliance for the work regulated by a final Order of Conditions issued to Russell & Jean Omer, dated August 23, 1994, for property located at 70-74 First Street (Assessors Map 5C A 51 & 52), Brimfield, MA. The project was for the construction of a single family home with associated septic, well, drive. A site visit was conducted today September 23, 2015. The as built structures are in compliance with the approved plans and document, though the addition of a deck and gazebo are a deviation from the approved plan and located beyond the approved limit of work.

**Motion made by Joseph Collins to issue the Certificate of Compliance for a Complete Certification of the Order of Conditions DEP # 117-0134**

**Motion Seconded by Joe Coan**

**No further discussion – 3-0-2 (Joseph Gallo & Steven Phifer abstain) – Motion Carries**

**Next Meeting Date:** Wednesday October 14, 2015 at 7:00pm

**Meeting adjourned 8:57 PM –**

Motion made by Steve Phifer to adjourn 8:57 PM

Motion was seconded by Joe Coan

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

Sincerely Submitted

Angela Panaccione, Conservation Agent