



# TOWN OF BRIMFIELD

SALISBURY ANNEX, 2<sup>nd</sup> Floor  
23 Main Street  
Brimfield, Massachusetts 01010

## CONSERVATION COMMISSION

### MEETING MINUTES

Wednesday, February 12<sup>th</sup>, 2020 at 6:30 PM

Roger deBruyn, Co-Chair  
Michele Restino, Co-Chair  
Carol Platenik  
Stephen Phifer  
Joseph Venezia  
Gary Watts

Conservation Clerk:  
Sarah Fortune

Phone:  
(413) 245-4100 x: 1101

Email:  
[conservation@brimfieldma.org](mailto:conservation@brimfieldma.org)

**Members Present:** Roger deBruyn (Co-Chair)  
Michele Restino (Co-Chair)  
Stephen Phifer  
Joseph Venezia (6:37 PM)  
Carol Platenik  
Gary Watts

**Members Absent:** None

**Also Present:** Leonard S. Jalbert, Jalbert Engineering; 54 Main Street, Sturbridge, MA 01566  
Bette LeBlanc; 248 Brookfield Road, Brimfield, MA 01010  
James Hopkins; 15 Sturbridge Road, Brimfield, MA 01010  
Wayne Phaneuf; 8 North Main Street, Brimfield, MA 01010  
Lori & Jared Fenneuff; 242 Brookfield Road, Brimfield, MA 01010

**Meeting Opens:** 6:31 PM – Michele Restino (Co-Chair)

#### **6:30 PM      Administrative Matters**

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- Approval of Meeting Minutes: 11/13/2019, 12/11/2019, 12/18/2019, 1/8/2020, 1/22/2020

**Motion made by Carol Platenik to table the approval of meeting minutes from 11/13/2019, 12/11/2019, 12/18/2019, 1/8/2020 and 1/22/2020 until 2/12/2020 at 6:30 PM**

**Motion seconded by Gary Watts**

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

- Review Mail & Phone Messages

1. DEP # 117-0385: Cumberland Farms – Notification of Responsibility, Lead Release at 7 Main Street

The BCC received correspondence from the Board of Health Agent pertaining to a Notification of Responsibility (NOR) letter from MassDEP dated 1/29/2020 for the release of lead at 7 Main Street. The NOR identifies Cumberland Farms, Inc. as the liable party to mediate the lead release at 7 Main Street and requires that they produce and submit a report summarizing environmental assessment activities pertaining to the release of lead within 30-days from the date of the NOR. According to the Board of Health Agent, the lead levels release at the site are relatively low although it was detected in excess of reportable quantities and/or concentrations. Stephen Phifer commented on the NOR, stating that the lead release isn't of BCC concern as long as the wetlands on site aren't impacted by the contaminants.

## 2. Lake Sherman 2019 End-Year Report & 2020 Treatment Contract

The BCC received the 2019 End-Year Report and 2020 treatment contract for the Lake Sherman aquatic invasives management project on 2/3/2020. The treatment contract will be approved and signed by the Board of Selectmen because they are the applicant of record for the project.

### ➤ Approval of Documents

#### 1. Request for Certificate of Compliance: DEP # 117-0294 – 294 Warren Road (Map 2-C-1.3)

The BCC received a Request for a Certificate of Compliance and an As-Built site plan prepared by Leonard Jalbert of Jalbert Engineering for DEP # 117-0294 for the construction of a driveway and addition to a single family home at 294 Warren Road. The Order of Conditions was issued in 2008 and must be closed out in order for work to be done to repair the on-site septic system. Roger deBruyn performed the final inspection on 2/12/2020 and observed that the site was fully stabilized and the wetlands on site appeared to be undisturbed and in their natural condition; he recommended that the BCC issue a full Certificate of Compliance.

**Motion made by Roger deBruyn to issue a full Certificate of Compliance for DEP # 117-0294 for the construction of a driveway and addition to a single family home at 294 Warren Road**

**Motion seconded by Joseph Venezia**

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

#### **7:00 PM Request for Determination (RDA) : 294 Warren Road (Map 2-C-1.3) – septic system replacement**

The Commission reviewed a Request for Determination of Applicability (RDA) permit application submitted by Jalbert Engineering, Inc. c/o Cynthia and Wayne Hodges to determine if the replacement of a failed septic system at 294 Warren Road in Brimfield (Assessor's Map 2-C-1.3) in Brimfield is subject to the MA Wetlands Protection Act (as amended). All disturbance with the project as proposed is located in the Buffer Zone to Bordering Vegetated Wetlands associated with Taylor Brook, a coldwater fisheries resource.

Michele Restino opened the public hearing and Leonard Jalbert of Jalbert Engineering was in attendance to present the proposed project, stating that the work pertains to the repair of the onsite septic system at 294 Warren Road which has recently failed Title V inspection. The proposed septic system repairs will occur outside of the 200-foot Riverfront Area to Taylor Brook, a coldwater fisheries resources, and no work is proposed within 50-feet of the Bordering Vegetated Wetlands on the site. Erosion-sediment controls will consist of straw wattles and will be installed between the BVW and the work area to prevent alteration to the wetland as a result of construction. No work is proposed down slope of the erosion sediment control line, which will serve as the limit of work for the project. The Board of Health has approved the project contingent upon approval by the BCC.

**Motion made by Roger deBruyn to close the public meeting for the Request for Determination of Applicability submitted for work to repair the onsite septic system at 294 Warren Road**

**Motion seconded by Carol Platenik**

**No further discussion 5-0-1 – Motion Carries (Stephen Phifer abstained)**

**Motion made by Roger deBruyn to make a Negative Determination, Box 2 stating that the work described within the Request is within an area subject to protection under the Act, but will not remove, fill, dredge or alter that area. Therefore, said work does not require the filing of a Notice of Intent**

**Motion seconded by Carol Platenik**

**No further discussion 5-0-1 – Motion Carries (Stephen Phifer abstained)**

**Motion made by Roger deBruyn to make a Negative Determination, Box 3 stating that the work described within the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the standard Special Conditions**

**Motion seconded by Carol Platenik**

**No further discussion 5-0-1 – Motion Carries (Stephen Phifer abstained)**

**7:13 PM      Notice of Intent (NOI): DEP # 117-0394 – L10.1 Brookfield Road (Map 3-C-10.1) – single family home construction**

The Commission reviewed a Notice of Intent (NOI) permit application submitted by EBT Environmental Consultants, Inc. c/o Lori & Jarred Fenneuff to determine if the construction of a single family home with attached garage, private water supply, septic system, and driveway at L10.1 Brookfield Road in Brimfield (Assessor's Map 3-C-10.1) is subject to the MA Wetlands Protection Act (as amended). All disturbance associated with the project as proposed is located within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Michele Restino opened the public hearing and property owners Lori and Jarred Fenneuff were in attendance to discuss the proposed project with the BCC. Lori Fenneuff reported that the proposed septic system has been conditionally approved by the Board of Health contingent upon approval by the BCC. The project proposes 9-inch straw wattles to serve as erosion-sediment control measures to protect the BVW from temporary and permanent construction impacts; no work is proposed to occur on the wetland site of the straw wattles, which will serve as the limit of work for the project. Proposed perimeter drains will daylight on the project site and will not be installed in a manner in which to discharge stormwater onto adjacent properties. A temporary sludge pit has been proposed to manage the slurry produced from drilling the private water supply well. No direct wetland impacts are proposed and all disturbed areas will be stabilized with vegetation upon the completion of construction activities.

Roger deBruyn reported that he conducted a preliminary site inspection on 2/12/2020 and observed that Bordering Vegetated Wetlands (BVW) on the site had been delineated and marked in the field with flagging. Roger proceeded to express his concern about saturated soils on the site and maintaining the integrity of the Buffer Zone due to the proximity of the work area to the BVW and the amount of work necessary to prepare the site, which is currently undeveloped and forested. Stephen Phifer pointed out that the existing topography of the site will be maintained within the outer 50 feet of the Buffer Zone and that the depth to groundwater observed on the site is greater than 50 inches, so the wetlands should remain unaltered as long as the straw wattles are maintained in good working order throughout the duration of the project.

Michele Restino opened the hearing to additional questions and comments by the BCC and members of the general public; no one wished to comment further on the project as proposed.

**Motion made by Stephen Phifer to close the public hearing for DEP # 117-0394 for the construction of a single family home, septic system and private water supply well at L10.1 Brookfield Road (Map 3-C-10.1)**

**Motion seconded by Carol Platenik**

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

**Motion made by Stephen Phifer to issue an Order of Conditions with Findings of Fact, Special Conditions and Approved Documents and Plans for DEP # 117-0394 for the construction of a single family home, septic system and private water supply well at L10.1 Brookfield Road (Map 3-C-10.1)**

**Motion seconded by Carol Platenik**

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

**7:33 PM      Cont. NOI: DEP # 117-0386; 160 Palmer Road (Map 11-A-9, 9.5, 10) – construction of 3.38 MW solar array & gravel access road**

The Commission will review a Notice of Intent (NOI) application submitted by Sherman & Frydryk, LLC c/o Brian Caron of 296 Clark Road in Fiskdale, MA 01518 to determine if the proposed construction of a 3.38 megawatt direct current ground mounted solar photovoltaic array and 16-foot gravel access road for site construction and maintenance is subject to the Massachusetts Wetlands Protection Act (as amended).

The BCC received a request from the applicant on 2/10/2020 to continue the public hearing until 2/26/2020 at 6:30 PM.

**Motion made by Stephen Phifer to continue the public hearing for DEP # 117-0386 for the construction of a 3.38 MW solar array and gravel access road at 160 Palmer Road (Map 11-A-9, 9.5, 10) to 2/26/2020 at 6:30 PM**

**Motion seconded by Roger deBruyn**

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

**7:34 PM      Other Projects, Monitoring, Enforcement & Violations**

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- Discuss Enforcement Order: 65 Palmer Road (Map 13-A-7) – tree removal in Riverfront Area to Mountain Brook

James Hopkins of 65 Palmer Road was in attendance to discuss the Enforcement Order issued to him for unpermitted alteration of Riverfront Area to Mountain Brook, a coldwater fisheries resource. Michele Restino informed Mr. Hopkins that the violations were discussed with the Board of Selectmen at their meeting on 2/3/2020; the Board of Selectmen is inclined to deny the issuance of flea market permit to Mr. Hopkins unless he works with the BCC to bring his property back into compliance with the WPA regulations. Mr. Hopkins informed the BCC that he removed a tree next to Mountain Brook during the September 2019 Flea Market to allow for more space for a vendor, and didn't think that the activity was a violation because it was a 'small tree'. Mr. Hopkins also stated that he attempted to contact the BCC in fall of 2019 per Steve Phifer's instructions upon discovering the violation, but that he was unable to contact the BCC at that time. Mr. Hopkins proceeded to express his concern about the required actions and timeframes stipulated in the Enforcement Order attachment, stating that the required actions seem a bit extreme and that it might be difficult to obtain a wetland scientist to develop a restoration plan due to the small amount of work required to restore the area. Steve Phifer suggested that the BCC amend the Enforcement Order and remove some of the restoration requirements if Mr. Hopkins shows the BCC a good faith effort to bring the property back into compliance with the WPA; Riverfront area restoration is the BCC's overall goal, which can be obtained through site stabilization, erosion and sedimentation controls and native plantings, so formal restoration plans may not be necessary. Mr. Hopkins was amenable to conducting restoration activities per Steve's suggestions and gave the BCC permission to enter the property inspect the restoration work. Mr. Hopkins stated that he won't do any restoration work without prior approval from the BCC; per the BCC's instruction, he will stabilize the area immediately with straw wattles within a week in order to prevent further alteration of the resource areas on the site. Mr. Hopkins informed the BCC that he will have the straw wattles installed prior to removing the remaining root back from the tree that was uprooted in September 2019. Finally, Mr. Hopkins requested that the BCC give him until the end of March 2020 to conduct the restoration work so that he can have time to acquire materials and work around inclement weather; the BCC was amenable to this idea, and will revisit the restoration work prior to the end of March prior to providing the Board of Selectman with information relative to the issuance of a Flea Market permit to Mr. Hopkins. The BCC instructed the Clerk to inform the Board of Selectmen that the Enforcement Order is still valid.

**Motion made by Stephen Phifer to maintain the validity of the Enforcement Order issued to James Hopkins for unpermitted alteration of Riverfront Area to Mountain Brook at 65 Palmer Road**

**Motion seconded by Gary Watts**

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

**7:49 PM      Administrative Matters**

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- Approval of Documents
  - Request for Extension: DEP # 117-0305 – Quinebaug Cove Campground, aquatic vegetation management

The BCC received a request for an Extension Order of Conditions for DEP # 117-0305 for aquatic vegetation management at Quinebaug Cove Campground. The original Order of Conditions (OOC) was issued in 2010 and the applicant has not submitted monitoring reports since 2017 when the last Extension OOC was issued. The BCC instructed the Clerk to contact the representative and/or applicant to inquire as to the status of the aquatic management and if work has been conducted since the issuance of the 2017 Extension; currently, due to the lack of recent monitoring reports, the applicant is not in compliance with the original OOC.

**Motion made by Stephen Phifer to continue the issuance of an Extension Order of Conditions for DEP # 117-0305, Quinebaug Cove Campground aquatic vegetation management until 2/26/2020 at 6:30 PM**

**Motion seconded by Roger deBruyn**

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

- Payroll: \$ 449.97

**Motion made by Joseph Venezia to approve the payroll in the amount of \$ 449.97**

**Motion seconded by Roger deBruyn**

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

**8:00 PM      Other Projects, Monitoring, Enforcement & Violations**

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➤ Review Forest Cutting Plan (FCP): Warren Road

The BCC reviewed an FCP submitted for a property off Warren Road with harvesting activities proposed in Priority Habitats of Endangered Species, as regulated by the Natural Heritage and Endangered Species Program (NHESP), associated with West Brook. The Clerk will provide comments to the Department of Conservation and Recreation (DCR) on the FCP as necessary.

➤ Discuss FY 2021 Budget Review Meeting with BOS on 2/3/2020 at 6:30 PM

The BCC held a budget review meeting with the Board of Selectmen on 2/3/2020 to discuss the FY 2021 budget request to increase the administrative capacity of the BCC from 10 to 15 hours a week. The BOS requested more information on benchmark towns relative to their staff capacities, budgets, and permitting activities. The Clerk will work to update and compile the requested information to provide to the BOS and the Finance Committee in support of the BCC's FY 2021 budget request.

➤ Discuss SWCA Change Orders: DEP # 117-0386 & DEP # 117-0387

The BCC received change orders from SWCA for the peer review contracts for the aforementioned DEP file numbers associated with the Caron project at 160 Palmer Road and the Woloshchuck project off Old Palmer Road. The change order for the Woloshchuck project was sent well after the Order of Conditions was issued for the project, which is a violation of the peer review contract, which states that the BCC should have been notified about the change order in a timely fashion to allow for approval of it prior to conducting any additional work. The Caron project, on the other hand, is still in the peer review process, but the BCC won't reopen the public hearing until the current outstanding peer review bill has been paid by the applicant; the BCC will revisit this change order when the outstanding peer review balance has been paid. Michele Restino instructed the Clerk to inform the applicant and representative that the BCC will not reopen the public hearing for the project on 2/26/2020 because of the outstanding peer review bill.

**8:38 PM      Set Next Meeting Date: Wednesday, February 26, 2020 at 6:30 PM**

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**Motion made by Stephen Phifer to adjourn at 8:38 PM**

**Motion seconded by Gary Watts**

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

Sincerely Submitted,  
Sarah A. Fortune, Administrator  
Brimfield Conservation Commission



# TOWN OF BRIMFIELD

SALISBURY ANNEX, 2<sup>nd</sup> Floor  
23 Main Street  
Brimfield, Massachusetts 01010

## CONSERVATION COMMISSION

**MEETING DOCUMENTS**  
**WEDNESDAY, February 12<sup>th</sup>, 2020 at 6:30 PM**

**Roger deBruyn, Co-Chair**  
**Michele Restino, Co-Chair**  
**Carol Platenik**  
**Stephen Phifer**  
**Joseph Venezia**  
**Gary Watts**

**Conservation Clerk:**  
Sarah Fortune

**Phone:**  
(413) 245-4100 x: 1101

**Email:**  
[conservation@brimfieldma.org](mailto:conservation@brimfieldma.org)

The following is a list of documents used at the above meeting, in addition to those included in the agenda packet which is part of the official record of the meeting:

Number	Description	Agenda Item	Notes
1.	Approval of Minutes: 11/13/2019, 12/11/2019, 12/18, 2019, 1/8/2020, 1/22/2020	Administrative Matters: Approval of Meeting Minutes	Approval of minutes tabled until 2/26/2020 at 6:30 PM
2.	Notice of Intent (NOI), site plans & associated documents: 160 Palmer Road (Map 11-A-9, 9.5, 10); Construction of 3.38 MW solar array & gravel access road	Schedule of Public Meetings and Hearings	Retained in DEP # 117-0386 in office
3.	Notice of Intent (NOI), site plans & associated documents: L10.1 Brookfield Road (Map 3-C- 10.1); Single family home construction	Schedule of Public Meetings and Hearings	Retained in file for DEP # 117-0394
4.	Request for Determination of Applicability (RDA) & site plans: 294 Warren Road (Map 2-C-1.3); septic system repair	Schedule of Public Meetings and Hearings	Retained in RDA file for 294 Warren Road
5.	Determination of Applicability (DOA) & Special Conditions: 294 Warren Road (Map 2-C-1.3); septic system repair	Schedule of Public Meetings and Hearings	Retained in RDA file for 294 Warren Road
6.	Request for Certificate of Compliance (COC), As-Built Site Plans & Engineer's Affidavit: DEP # 117-0294; 294 Warren Road (Map 2- C-1.3)	Administrative Matters: Approval of Documents	Retained in file for DEP # 117-0294
7.	Certificate of Compliance (COC): DEP # 117-0294; 294 Warren Road (Map 2-C-1.3)	Administrative Matters: Approval of Documents	Retained in file for DEP # 117-0294

8.	Enforcement Order (EO), Attachment of Required Actions & Timeframes, & Site photos: 65 Palmer Road (Map 13-A-7); Unpermitted tree removal in Riverfront Area	Administrative Matters: Approval of Documents	Retained in EO file for 65 Palmer Road
9.	Review Forest Cutting Plan (FCP): Dunhamtown-Palmer Road	Other Projects, Monitoring, Enforcement & Violations	Retained in FCP files by street in office