

CONSERVATION COMMISSION MINUTES

Date: May 12, 2022
Time: 6:00-8:15 pm
Place: Hybrid Meeting COB 2nd Floor
<https://sturbridge.vod.castus.tv/vod>



DECISIONS

I. PUBLIC HEARINGS

1. 19 Mashapaug Road-NOI-Replacement of failed culverts-DEP File# 300-XXXX

- Owner/Applicant: Thousand Trails Representative: S. Morrison, EcoTec
- Request: Issue an Order of Conditions
- Documents Presented: colored site plans
- Jurisdiction: Bank and Buffer Zone
- Project Summary:
 - Project includes an after-the-fact Notice of Intent for an Emergency Certification issued March 17, 2022 to allow failed culverts to be replaced. This application also includes removal of an existing wood footbridge upstream of the culvert.
- Presentation and Discussion:
 - Proof of abutter notifications received. Proof of legal ad received.
 - DEP File # and comments have not been received.
 - Project site is located within Priority & estimated Habitat. Emergency approvals received separately from NHESP.
 - Site visit previously performed. Post-installation report received.
 - Project also includes the removal of a wooden footbridge in the vicinity of the culvert replacements, the applicant is looking for approval to remove with a small forklift or will need to be disassembled by hand.
 - Staff have no significant concerns. Removal of the bridge will be an improvement. Seeding should be native. It would be an improvement to stop mowing up to the stream and leave an unaltered vegetated buffer around the stream even if it was 5-10 feet where possible.
- Vote: On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to continue the Hearing for 19 Mashapaug Road to June 2, 2022. AIF 5-0

2. Town of Sturbridge Main Street- RDA- Herbicide Treatment on the Town's right of way

- Applicant: Town of Sturbridge DPW Representative: none
- Request: Issue a Determination
- Documents Presented: maps, YOP
- Jurisdiction: Buffer Zone
- Project Summary: Project includes herbicide treatment of sidewalks on Rt 20 and 131.
- Presentation and Discussion:
 - Proof of legal ad received.
 - Mark Augello from Sturbridge DPW has filed a Yearly Operation and Management Plan (YOP) for the management of vegetation along sidewalks on Rt. 20 and Rt. 131. The project includes the use of herbicides. Therefore, the YOP has been filed with the Dept. of Agricultural Resources. The purpose of the chemical treatment is noted from safety concerns raised by residents.
 - MDAR identifies sensitive areas which must be excluded from chemical management. Sensitive Areas, as identified by MDAR and as noted in the YOP, will be excluded from the herbicide and mechanically managed.
 - The DPW will be required by MDAR to mark out all areas to be excluded all sensitive areas.
 - Under the WPA,
 - “(6) Presumption Concerning Application of Herbicides.
 - (a) Any application of herbicides within any Area Subject to Protection under M.G.L. c. 131, § 40 or the Buffer Zone associated with a structure or facility which is:

**Conservation
Agent**

Rebecca Gendreau

**Administrative
Assistant**

Erin Carson

**Conservation
Commission
Members**

Ed Goodwin

Steven Chidester

David Barnicle

Erik Gaspar

Roy Bishop

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1. existing and lawfully located;
2. used in the service of the public; and
3. used to provide electric, gas, water, sewer, telephone, telegraph and other telecommunication services

shall be presumed to constitute work performed in the course of maintaining such structure or facility, and shall be accorded the exemption of such work under M.G.L. c. 131, § 40, only if the application of herbicides to that structure or facility is performed in accordance with such plans as are required by the Department of Food and Agriculture pursuant to 333 CMR 11.00: *Rights of Way Management*, effective July 10, 1987.

(b) Any application of herbicides within the Buffer Zone, other than as provided in 310 CMR 10.03(6)(a), shall be presumed not to alter an Area Subject to Protection under M.G.L. c. 131, § 40, only if the work is performed in accordance with such plans as are required by the Department of Food and Agriculture pursuant to 333 CMR 11.00: *Rights of Way Management*, effective July 10, 1987. This presumption shall apply only if the person proposing such activity has requested and obtained a determination of the boundaries of the Buffer Zone and Areas Subject to Protection under M.G.L. c. 131, § 40 in accordance with 310 CMR 10.05(3)(a)1. and 2.; and has submitted that determination as part of the Vegetation Management Plan.

(c) Any application of herbicides for management of rights of way within a riverfront area not subject to 310 CMR 10.03(6)(a) or (b), provided the area is outside any other resource area and qualifies under the provisions of 310 CMR 10.58(6)(a), shall be accorded an exemption of such work under M.G.L. c. 131, § 40, provided that the application of herbicides is performed in accordance with such plans as are required by the Department of Food and Agriculture pursuant to 333 CMR 11.00: *Rights of Way Management*."

- Under the SWB, 365-5.8
 - "The Commission prohibits the use of pesticides, fertilizers and herbicides within the 100-foot buffer and prohibits the use of salts, quick-release pesticides, quick-release fertilizers and quick-release herbicides within the 200-foot buffer.
 - The only exemptions to these regulations are the application of herbicides within the buffer zone to a resource area, and application of salt in areas for the express interest of public safety where no other measures are adequate or practicable. The herbicide exemption applies only if the work is performed in accordance with such plans as are required by the Department of Food and Agriculture pursuant to 333 CMR 11.00 and is applied by a Massachusetts state-licensed applicator. Rights-of-way management shall apply only if the person proposing such activity has requested and obtained a determination of the boundaries of the buffer zone and areas subject to protection and has submitted that determination as part of the vegetation management plan...Notification of aquatic or terrestrial herbicide treatment, to the Commission, the local Board of Selectmen and local Board of Health is required at least 30 days in advance of the treatment."
 - Vote: On a motion of E. Gaspar, 2nd by S. Chidester, the Commission vote to close the Public Hearing for The Town of Sturbridge Herbicide Treatment. AIF 5-0
 - On a motion of E. Gaspar, 2nd by S. Chidester, the Commission vote to issue a DOA: Negative #5 (work meets exemption WPA ROW) provided work is in compliance with an approved MDAR YOP and Negative #6 (SWB meets exemption ROW) provided that they follow the provisions of YOP and 365-5.8. Approved MDAR plan required prior to the start of work. AIF 5-0

3. **290 Clarke Road Ext.-continued NOI- Addition of accessory unit above the garage-DEP File# 300-1123**

- Applicant: Steven & Meagan Tardanico Representative: L. Jalbert, Jalbert Engineering
- Request: Issue an Order of Conditions
- Documents Presented: colored plan & maintenance plan
- Jurisdiction: Buffer Zone
- Project Summary: Project includes: construction of a second story addition to an existing garage w/ stairs, installation of sewer and water lines extensions to the garage, removal of a brick patio (covered by a roof) and replacing it with a raised decking surface and new supports for the roof. Project was continued from the last meeting to allow time for the engineer to address drainage on site.
- Presentation and Discussion:
 - The SCC was concerned with the runoff from this property directed onto the adjacent property.

- Revised plan received which includes removal of the paved driveway to be replaced with pervious pavers.
 - Engineer provided a maintenance plan for the new pervious driveway to insure long term functioning drainage.
 - The Commission discussed adding a catch basin to help stop silt from getting in the lake, LJ-Engineer feels the proposed plan is enough for the drainage on site.
 - Vote: On a motion of E. Gaspar, 2nd by S. Chidester, the Commission vote to close the Hearing for 290 Clarke Road Extension
 - On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to issue an OOC for #300-1123 with the following conditions:
 - Standard OOC conditions
 - Installation of the drip strips and pervious pavers shall be documented by a Professional Engineer and certification of such shall be submitted to the SCC with photographic evidence. The documentation shall include photographs which show the surrounding landscape for proof of install.
 - Remove swale (portion located on this property) directing stormwater onto adjacent property.
 - Perpetual conditions for the maintenance of the stormwater structures. AIF 3-2(Goodwin, Barnicle Apposed)
- 4. 86 & 88 South Shore Drive-*continued* NOI-Raze and rebuild of a single family home and associated site work-DEP File# 300-1127**
- Owner/Applicant: Steven & Marcy Reed Representative: L. Jalbert, Jalbert Engineering
 - Request: Issue an Order of Conditions
 - Documents Presented: n/a
 - Jurisdiction: Riverfront Area and Buffer Zone to BVW and Bank
 - Project Summary:
 - Project includes plans to demolish an existing cottage and construct a new single family home with associated site work including a new septic system within the existing developed lot. Hearing was continued to allow time to redesign plan with the Commission's feedback.
 - Presentation and Discussion:
 - No new information has been received.
 - Request to continue to the next meeting.
 - Vote: On a motion of D. Barnicle, 2nd by E. Gaspar the Commission vote to continue the Hearing for 86 & 88 South Shore Drive to June 2, 2022. AIF 5-0
- 5. 246 Big Alum Road – RDA (Request for Determination of Applicability)-Installation of a French drain on a lakefront lot**
- Owner/Applicant: Andrea Speed Representative: M. Thibeault, Landscape Evolution
 - Request: Issue a Determination
 - Documents Presented: photos
 - Project Summary: Proposed work to include the installation of a French drain on the road side of the lake-front home. The project is outside the 50' buffer.
 - Presentation and Discussion:
 - Proof of abutter notifications & legal ad received.
 - Project site is not located within Priority or Estimated Habitat.
 - Site visit performed.
 - Project is proposed within buffer zone to Bank.
 - Project is to assist intercepting groundwater and roof runoff from entering the basement and diverting it around the house. Options discussed including perimeter drain.
 - A splash pad will be added at the exit of the drain pipe to the east of the property.
 - Public Comment: Steve Miller, 68 Paradise Lane feels there are direct impacts to his property from the raze and rebuild on 70 Paradise and also the increased run off from vegetation cutting on the slope across the street.
 - Vote: On a motion of E. Gaspar, 2nd by S. Chidester the commission vote to close the Hearing for 246 Big Alum Rd. AIF 5-0
 - Vote: On a motion of E. Gaspar, 2nd by S. Chidester the commission vote to issue a Determination with the following:
 - Negative #3: The work described in the Request.....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 following conditions:
 - a. Sedimentation controls shall be installed and maintained during work.
 - b. Stockpiles of excavated material to be immediately removed from the site or protected with a tarp and ECs until removed or used and permanently stabilized.

- c. Standard conditions for erosion control measures, pre-construction and post-construction.
 - Positive #5 (subject to local bylaw) with the condition noted above. AIF 5-0

6. 108 Westwood Drive – NOI-Landscape Improvements for a lake-front home-DEP File# 300-1128

- Owner/Applicant: Kevin Jadin Representative: M. Thibeault, Landscape Evolution
- Request: Issue an Order of Conditions
- Documents Presented: colored site plans & photos
- Project Summary: Proposed work to include removal of cinder block stairs and replacing with stone stairs, pea stone patio along with creation of a terrace with plantings.
- Jurisdiction:
 - **Buffer Zone** 10.53(1): General Provisions
 - “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”
- Presentation & Discussion:
 - Proof of abutter notifications & legal ad received.
 - Project site is not located within Priority or Estimated Habitat.
 - Site visit performed.
 - Project is proposed within buffer zone to Bank.
 - Site is a developed lakefront lot. Work is proposed on a steep bank w/ maintained herbaceous vegetation. No tree or shrub removal proposed.
 - Banking at the lake will not be altered.
 - A 20 x 20 ft crushed stone parking area will be added off the road.
- Vote: On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to close the Hearing for 108 Westwood Drive. AIF 5-0
- On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to issue an OOC w/ the following conditions:
 - Standard OOC conditions.
 - Sedimentation controls shall be installed as shown on the plan and maintained during work.
 - Landscape plantings must be installed in compliance with the approved plans and must survive after at least 1 growing season. Deceased plantings are required to be replanted. The applicant is responsible for maintaining the plantings and ensuring the success of the plantings. AIF 5-0

7. 70 Paradise Lane – RDA (Request for Determination of Applicability)-Site compliance for a lakefront single family home

- Owner/Applicant: Tim Reardon Representative: S. Bressette, Tauper Land Survey/Summit Engineering
- Request: Issue a Determination
- Documents Presented: colored site plans & photos
- Project Summary: Proposed work to include completing site development per OOC #300-0929 and provide mitigation for the unpermitted paver patio as requested by the SCC.
- Presentation and Discussion:
 - Proof of abutter notifications & legal ad received.
 - Project site is not located within Priority or Estimated Habitat.
 - Site visit performed.
 - Donna Reardon attending the meeting on behalf of the applicant.
 - Original permit has expired. New permitting needed for work to be completed.
 - Drainage improvements proposed to mitigate for roof runoff which had not been implemented as part of the previous OOC and to mitigate for the patio.
 - 8 shrub plantings also proposed which had been part of the original permit.
 - The SCC had also requested that the mitigation include drainage improvements across the street.
 - Revised plan provided showing drainage improvements across the street, location of plantings and proposed species list.
 - The Commission discussed a timeline to complete this work, 1-2 months.

- The plan was favorable to the commission for addressing stormwater on site and preservation of the lake from runoff across the road.
- Vote: On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to close the hearing for 70 Paradise Lane. AIF 5-0
- On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to issue a DOA:
- Negative #3: The work described in the Request.....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 following conditions:
 - a. Sedimentation controls shall be installed and maintained during work to be verified by Cons. Agent.
 - b. Stockpiles of excavated material to be immediately removed from the site or protected with a tarp and ECs until removed or used and permanently stabilized.
 - c. Standard conditions for erosion control measures, pre-construction and post-construction.
- Positive #5 (subject to local bylaw) with the condition noted above.

Applicant will complete the work within 2 months of the issuance of this Determination. AIF 5-0

8. Lot 3, 20 Fiske Hill Road & 30 Main Street (Future Road named Berry Farm) – *continued* NOI-Construction of a 71 lot manufactured housing community-DEP File# 300-XXXX

- Owner: M. Sosik Applicant: Justin Stelmok Representative: B. Madden, LEC Environmental
- Request: Issue an Order of Conditions
- Documents Presented: n/a
- Project Summary: Project includes construction of a private roadway network, 71 manufactured houses on lots sized 75 X 100 ft, a clubhouse, parking, and associated stormwater management measures. Project was continued to allow time for a quote for peer review.
- Presentation and Discussion:
 - Applicant will need to continue the Hearing until June 23 to allow time for a third party to complete a review of the site.
- Vote: On a motion of E. Gaspar, 2nd by S. Chidester the commission vote to award Oxbow Associates the review Lot 3 Fiske Hill/30 Main. AIF 5-0
- On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to continue the Hearing for Lot 3 20 Fiske Hill/30 Main St to June 23, 2022. AIF 5-0

9. 263 New Boston Road—*continued* RDA (Request for Determination of Applicability)

- Owner/Applicant: Ken Leblanc Representatives: G. Krevosky, EBT Environmental
- Request: Issue a Determination
- Documents Presented: n/a
- Project Status Summary: Project was continued to allow the applicant's representative to review the area identified as a potential vernal pool.
- Presentation and Discussion:
 - Agent recommends closing the Hearing.
 - Due to proximity of the wetlands and steepness of the site it would be challenging to meet all Sturbridge standards for that lot. . It should also be noted that it appears that the subject parcel was subdivided in 2007. It appears that the parcel did have additional upland road frontage at that time. A hardship could have been created if SWB and WPA permitting standards cannot be met.
 - Representative was not in attendance at the meeting.
- Vote: On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to close the Hearing for 263 New Boston Road. AIF 5-0
- On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to issue a DOA for 263 New Boston Road:
 - Positive #1 the area described is an area subject to the Act...requires filing a Notice of Intent.
 - Positive #5 the area and/or work described ...subject to review of the SWB. AIF 5-0

10. 150 Charlton Road- *continued* NOI- Development of a commercial building, truck parking, and supporting infrastructure for a tow truck facility- DEP File #300-1115

- Owner/Applicant: Cobra Realty Trust Representative: G Krevosky, EBT Environmental
- Request: Issue OOC
- Documents Presented: n/a
- Project Status Summary: Project was continued from the last hearing to allow for review of revised project plans.
- Presentation and Discussion:

- Additional funding was requested to continue the PE peer review as this is the 4th review. The original Applicant (Interstate Towing) submitted a letter notifying that he is withdrawing his applications. An email was later received saying that he would like to retract the withdrawal and that the property owners (Cobra Realty Trust) want to continue with the applications.
- The applicant or representative do not attend the meeting to clarify what project is moving forward.
- Staff will reach out to DEP and Town Counsel on the best way to proceed.
- Vote: On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to continue the Hearing for 150 Charlton Road to June 2, 2022. AIF 5-0

11. 174 Charlton Road—*continued* RDA (Request for Determination of Applicability)-Restoration of Riverfront

- Owner: G5 Enterprises Applicant: Jeremy Procon, Interstate Towing Representatives: G. Krevosky, EBT Environmental
- Request: Issue a Determination
- Documents Presented: n/a
- Project Summary: Restoration of RA as part of mitigation for project at 150 Charlton Rd.
- Presentation and Discussion:
 - The Request for Determination of Applicability was withdrawn.
- Vote: On a motion of E. Gaspar, 2nd by S. Chidester the Commission vote to close the Hearing for 174 Charlton Road. AIF 5-0

II. WETLANDS DECISIONS

12. 36 Mt. Dan Road – Tree removal Permit Application

- Applicant: Sue and John Stagais
- Request: Remove 3 trees on lakefront lot
- Presentation and Discussion:
 - Site visit performed.
 - Arborist evaluation received.
 - Property Owner and Applicant did not attend the meeting.
 - A tree removal permit was issued in 2016 for the removal of 13 trees. Replacement of 5+ trees were required. A plan was required to be submitted which has not been received and trees not planted.
 - Drainage swale from catch basin on Mt. Dan Rd is a concern. Swale was full of road material. Material is washing into the lake. The swale should be cleaned and modified to assist with trapping sediment. This could be accomplished by adding rock in the swale and adding a plunge pool near the end of the swale prior to the bank of the lake.
 - Commission would like staff to send a letter to the applicant giving the Property Owner 2 months to finish the old permit. After the replanting the applicant can refile under an RDA for this tree removal.
- Vote: On a motion of E. Gaspar, 2nd by D. Barnicle the Commission vote to deny the tree removal at 36 Mt. Dan Road. AIF 5-0

13. 365 New Boston Road-Request for Certificate of Compliance-DEP File #300-0998

- Requestor: JC Kady Builders
- Request: Issue complete CoC
- Presentation and Discussion:
 - Staff performed site visit on 5-10-22.
 - OOC had been amended. Conditions met: as-built plan and install restoration plantings. Growing season requirements have passed. Letter of substantial compliance received by PE.
- Vote: On a motion of E. Gaspar, 2nd by R. Bishop the Commission Provided all set, issue a complete CoC with the following perpetual conditions: SC #'s 48-52. Erosion controls and DEP sign can now be removed. Silt fence must be removed and disposed of.

III. ADMINISTRATIVE DECISIONS

14. Minutes of 4/21/22 to be approved

- Documents Presented: draft minutes
- Vote: On a motion of D. Barnicle, 2nd by S. Chidester the Commission vote to accept the 4/21/22 minutes as written. AIF 4-0-1(Abstain Gaspar)

UPDATES

IV. OLD BUSINESS

15. 508 International

Commissioner E. Gaspar suggests the Commission schedule an Executive Session to discuss legal strategies to gain site compliance. The Agent recommended sending a letter to 508 International first again requesting compliance with the Enforcement Order. Staff will send draft and send that letter and look for guidance on the next steps.

V. ADMINISTRATIVE UPDATES

16. Committee Updates

- CPA: None
- Trail Committee: none
- Open Space Committee: none
- Lakes Advisory Committee: no new information

VI. NEW BUSINESS

17. 5 Ladd Road – work within buffer zone

- Presentation and Discussion: Staff made aware of work which had been conducted within the buffer zone to a BVW w/out permits. Staff have been in contact with the property owner and have been on site. A driveway was extended, area filled and stone wall (portion of wall was not altered) was pushed back towards the BVW and built up. No trees were removed however appears shrubs and other vegetation removed. Some of the work appears within the 25' no disturb setback. Property owner was asked to come and discuss with the board but in not in attendance today. Agent will send a letter requiring attendance at the next meeting.

18. Forest Cutting Plan – 227 Brookfield Road access through Brimfield

- Presentation and Discussion: FCP received. Has already been approved by DCR prior to submission to Conservation. Plan also includes work in Brimfield. Access will be through Brimfield. Site contains wetlands and Priority Habitat. Work shown within Priority Habitat. Site contains 2 PVPs. Harvesting proposed within those wetlands. As they are no CVPs, DCR does not require setbacks. Filter strip shown on intermittent stream. Plan requires filing with the BOS under their Forest Harvesting Bylaw. Plan preparer has been notified of such. Con com property to north of this property (32 Warren Rd). Abutter notification provided with Property boundaries are to be marked and verified prior to cut. Agent will send a letter to the applicant explaining the process in Sturbridge and copy the Board of Selectmen.

19. Agent's Report

- Site inspection took place today at 30 River Road-Pine Lake RV
- The BOS approved the fee changes at the last meeting
- Staff will have a draft tree removal policy ready for the next meeting

20. Next Meeting-June 2, 2022 and Site Visit Schedule- May 24, 2022 9am-12 pm

ADJOURN at 8:15 PM Motion by S. Chidester, 2nd by E. Gaspar AIF 5-0