

# CONSERVATION COMMISSION MINUTES

Date: March 2, 2021  
Time: 6:00 -9:49 pm  
Place: Virtual Meeting  
<https://sturbridge.vod.castus.tv/vod>

With a quorum present, the meeting opened at 6:00 pm, Ed Goodwin presiding as Chair.  
All members present.

## DECISIONS

### I. PUBLIC HEARINGS

#### 1. 231 Podunk Road –SBW Local NOI – Construction of a new SFH and associated site work

- Owner/Applicant: AH & DB Custom Homes      Representatives: M. Dipinto, Three Oaks Environmental
- Request: Issue Order of Conditions.
- Documents Presented: colored site plans
- Jurisdiction: Buffer Zone
- Project Summary
  - The project includes construction of a single family home and associated appurtenances.
- Presentation and Discussion:
  - The Agent presented the project to the Commission while the representative had technical issues joining the meeting.
  - All work is proposed within an existing agricultural field.
  - The only work within the 200-foot local buffer zone will be the construction of the septic system, no work is proposed within the 100-foot state buffer zone. The limit of grading shall serve as the limit of work.
- Public Comment:
  - None
- Vote: On a motion of E. Gaspar, 2<sup>nd</sup> by D. Barnicle the Commission close the hearing, AIF 5-0.
  - On a motion of D. Barnicle, 2<sup>nd</sup> by S. Halterman, The Commission vote to approve the Local Notice of Intent for 231 Podunk Road and issue the SWB Orders of Conditions with the SCC standard special conditions.

#### 2. 233 Podunk Road –SWB Local NOI – Construction of a new SFH and associated site work

- Owner/Applicant: AH & DB Custom Homes      Representatives: M. Dipinto, Three Oaks Environmental
- Request: Issue Order of Conditions.
- Documents Presented: colored plans
- Jurisdiction: Buffer Zone
- Project Summary
  - The project includes construction of a single family home and associated appurtenances.
- Presentation and Discussion:
  - M. Dipinto presented the project to the Commission.
  - All work is proposed within an existing agricultural field.
  - The only work within the 200-foot local buffer zone is the construction of the septic system, no work is proposed in the 100-foot state buffer zone. The limit of grading shall serve as the limit of work.
- Public Comments:
  - None
- Vote: On a motion of E. Gaspar, 2<sup>nd</sup> by D. Barnicle the Commission vote to close the hearing. AIF 5-0



**Conservation Agent**

Rebecca Gendreau

**Administrative Assistant**

Erin Carson

**Conservation Commission Members**

Ed Goodwin

Steven Chidester

David Barnicle

Steve Halterman

Erik Gaspar

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- On a motion of D. Barnicle, 2<sup>nd</sup> by E. Gaspar, the Commission vote to approve the Local Notice of Intent for 233 Podunk Road and issue the SWB Orders of Conditions with the SCC standard special conditions.

**3. 423 Main Street-continued NOI-Parking Lot Improvement- DEP #300-1091**

- Owner: STL 423 Applicant: NBM Realty Representatives: D. Sheehan, Graves Engineering
- Request: Issue Order of Conditions
- Documents Presented: Colored Site Plans
- Jurisdiction: Riverfront Area & Buffer Zone
- Project Summary
  - The project includes the redevelopment of a previously developed RA. The project includes a reduction in developed areas, restoration, paving of an existing gravel parking lot and storm-water management system to include a rain garden.
- Presentation and Discussion:
  - This project was continued from our February 2, 2021 meeting.
  - DEP has provided a file # and comments.
  - The applicant has revised the plan to show a split rail fence to prevent snow plowing into the restored RA, removed Globe Thistle from the plants list and to reflect DEP comments.
  - Project to include perpetual conditions as noted.
  - The Commission has no concerns with this project.
  - A Certificate of Compliance shall not be issued until two growing seasons are complete.
- Public Comment:
  - none
- Vote: On a motion of E. Gaspar, 2<sup>nd</sup> by D. Barnicle the Commission close the hearing. AIF 5-0
  - On a motion of D. Barnicle, 2<sup>nd</sup> by E. Gaspar the Commission vote to approve the Notice of Intent for 423 Main Street, DEP file #300-1091 and issue SCC's standard special conditions and conditions noted by the Agent.

**4. 122 Main Street – NOI-Redevelopment of a Gas Station/Convenience Store- DEP File #300-XXXX**

- Owner/Applicant: Swaminarayan Realty Representative: S. Gioiosa, SITEC
- Request: Issue an Order of Conditions
- Documents Presented: colored plans
- Jurisdiction: Buffer Zone
- Project Summary:
  - The project includes the redevelopment of an existing gas station with convenience store to include installation of fuel tanks, new canopies and additions to the commercial building.
- Presentation and Discussion:
  - The applicant's representative provided a brief overview of the site, which has been utilized as a gas station/convenience store since the 1950's.
  - The Owner would like to move the fuel island and add a small additions to the building where there is currently paving.
  - The Agent plans to verify wetlands lines and the contractor needs to place erosion controls ASAP. The fuel tanks have already been replaced before this NOI was filed.
  - Staff noted that the site is Land Use with a High Pollutant Load, which are subject to the MA Storm-water management standards and the current plan does not address.
  - Applicant will need to go before the Zoning Board of Appeals and the Town Planner is working with them on an updated plan.
  - Commission agreed with the agent's comments on storm-water management and additional information requests.
- Public Comments
  - None
- Vote: The Commission voted to continue the hearing to April 6, 2021. AIF 5-0

**5. 650 & 680 Route 15 – NOI – proposed development of a Nursery and Tree Farm to include a perennial stream crossing -- DEP File #300-XXXX**

- Owner/Applicant: Mark Kubricky, Landing Rock, LLC Representative: P. Engle, McClure Engineering
- Request: Issue an Order of Conditions.

- Documents Presented: colored plans
- Resource Areas on Site: Riverfront, Bank, Land under Water, BLSF, BVW, Buffer-Zone
- Project Summary:
  - The work includes a proposed driveway to include two stream crossings for a proposed organic nursery and tree farm.
- Presentation and Discussion:
  - DEP file # or comments received for this project after posting of the agenda.
  - Applicant provided the Commission with of overview of the plan. The driveway would cause two wetland crossings to access the rear upland of the property for a building, parking and Certified Tree Farm.
  - Current asphalt paving in the front of the property will be removed within the 200-foot riverfront and mitigated.
  - The Staff recommendation is for a peer review for storm-water management, and a Wetland/Wildlife Consultant to review the NOI and look at alternative plans with less impact to the resource areas.
  - Commission discussed with the applicant if the building could be placed on the 680 Route 15 portion of the property and the large size of the bridges needed for the wetland crossing.
  - The applicant is looking for 10 acres of space to make a Certified Tree Farm, which would not qualify on that portion of the property.
  - Commission requested alternatives to the project.
- Public Comment:
  - none
- Vote: The Commission voted to continue the hearing to April 6, 2021. AIF 5-0
  - By consensus vote, the Commission authorize staff to pursue peer reviews for storm-water management and wetlands consultation. AIF 5-0

**6. 96 Shattuck Road – RDA –Confirmation that the proposed repair falls under the Agricultural exemption**

- Owner: William Sujdak Applicant: James Pioppi Representative: S. Morrison, EcoTec
- Request: Seeking Negative Determination for proposed work
- Documents Presented: detail of work/photo
- Jurisdiction: Bank, Land Under Water, Buffer Zone, BVW
- Project Summary
  - Project includes the replacement of a failed culvert crossing on a woods road.
- Presentation and Discussion
  - The applicant is not the owner of the property but the applicant has a right of way access to his land on this site. S. Morrison provided a brief overview of the culvert repair proposed to the Commission.
  - DEP and DCR both provided comments to staff indicating that this work will require a WPA filing and does meet the Agricultural exemption.
  - The Commission agrees with all staff and DEP comments.
- Public Comments:
  - None
- Vote: On a motion of E. Gaspar, 2<sup>nd</sup> by DB the commission vote to close the hearing. AIF 5-0
  - On a motion of D. Barnicle, 2<sup>nd</sup> by S. Halterman the commission vote to issue a DET of positive 3, positive 5 for 96 Shattuck Road. AIF 5-0

**7. 30 Main Street/20 Fiske Hill Road –continued NOI – Development of residential and commercial cul-de-sac subdivision – DEP File #300-1086**

- Owner/Applicant: Mathew Sosik Representative: P. Engle, McClure Engineering.
- Request: Issue Order of Conditions.
- Documents Presented: LEC Vernal Pool Assessment Protocol
- Jurisdiction: Buffer Zone to a BVW and IVW
- Project Status Summary:
  - This project was last discussed at the 2-2-2021 meeting. Project was continued to provide applicant opportunity to revise the plans, review EcoTec’s report and develop a vernal pool survey protocol for SCC review.
- Presentation and Discussion
  - Staff has contacted two out of three Property Owners for off-site VP survey. Currently they have declined access to the properties.

- The commission is waiting on updated plans from the applicant to review and setting up a site visit when there is no snow cover.
- Commission did not have concerns with the revised protocol.
- Public Comment:
  - None.
- Vote: Vote to continue the hearing to May 4, 2021. AIF 5-0

**8. 231, 233, & 235 Cedar Street – continued ANRAD – DEP File #300-1090**

- Owner/Applicant: Michael & Gail Young      Representative: L. Jalbert/Paul McManus, EctoTec
- Request: Issue ORAD
- Documents Presented: colored plans
- Jurisdiction: BVW and IVW
- Project Status Summary: ANRAD was discussed at the last meeting, the SCC has requested additional documentation be provided supporting approvals for past work on property to assist with ANRAD review and to support that work may have been completed in compliance with any historic DEP approvals for the property.
- Discussion:
  - Property Owner has contracted assistance from Paul McManus of EcoTec. Staff received an email requesting a continuation of this hearing until April 6, 2021.
  - The commission is looking for additional information submitted to staff for March 30, 2021.
- Vote: On a motion of D. Barnicle, 2<sup>nd</sup> by E. Gaspar the Commission continue this hearing to April 6, 2021. AIF 5-0

**9. 150 Charlton Road – continued ANRAD – DEP File #300-1888**

- Owner: Cobra Realty Trust      Applicant: Jeremy Procon, Interstate Towing      Representative: G. Krevosky, EBT Environmental Consultants
- Request: Issue ORAD
- Documents Presented: Revised Colored Plan
- Jurisdiction: Riverfront, Buffer Zone
- Project Status Summary: ANRAD was discussed at the previous meeting. Project plans required revision based on additional resource areas on site.
- Presentation and Discussion:
  - The Agent provided a recommendation to the commission that a peer reviewer be pursued.
  - The Applicant is seeking a continuation to the April 6, 2021 meeting.
- Vote: Vote to continue the hearing to April 6, 2021 and require peer review. AIF 5-0

**10. 118 Leadmine Lane – continued NOI – construction of SFH, and associated site work-DEP File #300-1073**

- Owner: G. Kellaher      Applicant: A. Kellaher      Representative: G. Krevosky, EBT Environmental Consultants
- Request: Issue Order of Conditions
- Documents Presented: N/A
- Project Status Summary: This project was continued from the 2-2-21 meeting to provide the applicant time to revise the project based on the SCC comments.
- Presentation and Discussion:
  - The applicant has retained G. Krevosky to assist the applicant in addressing the EO and violations.
  - No new documentation was submitted in the necessary timeframe before this meeting. The Representative provided a brief update on his plans moving forward.
- Vote: Vote to continue the hearing to April 6, 2021. AIF 5-0

**II. WETLANDS DECISIONS**

**11. 150 Charlton Road –Request for Certificate of Compliance-DEP file #300-665**

- Original Applicant/permit holder: William Babineau      Requester: Cobra Realty Trust
- Request: Issue COC
- Documents Presented: Request for COC, letter by Gary Magnuson, CMG Environmental (dated 1-21-21), & OOC DEP File#300-665 page 8
- Project Summary:

- OOC's were issued for the installation of injection wells as part of a Remedy Implementation Plan submitted to DEP for a release of petroleum at 149 Charlton Road, which resulted in groundwater contamination that migrated to 150 Charlton Road.
- Presentation and Discussion:
  - G. Krevosky provided the commission with an overview of the request. He believes restoration of the property could be completed under an Enforcement Order or a new NOI. There should not be a need for a 3<sup>rd</sup> party to review.
  - Agent commented that it appears that the cleanup work was completed, however, site restoration and stream sampling does not appear to have been conducted.
  - Agent recommended to not issue a COC based on the conditions which have not been met.
  - The representative requested to continue to April to allow for the time to work on this.
- Vote: Vote to continue the request to the April 6, 2021 meeting, AIF 5-0

**12. 180 New Boston Road-Request for Certificate of Compliance-DEP File#300-460**

- Original Applicant/Permit Holder: Robert Moss      Requester: Karen Davis
- Request: Issue Certificate of Compliance
- Documents Presented: Request for COC
- Project Summary:
  - Lot is part of a subdivision.
- Presentation and Discussion:
  - This Lot was part of an ANR subdivision that was never closed out. The missing COC was discovered as part of a real estate transaction where money was held at the time of sale and the new owner will complete the restoration when the weather improves.
  - Agent recommended to continue this request to May, to give the appropriate amount of time for restoration.
- Vote: Vote to continue the request to the May 4, 2021 meeting, AIF 5-0

**13. 116 Brookfield Road-Request for Certificate of Compliance-SCC File#07-16**

- Original Applicant/Permit Holder: EJF Realty Corporation      Requester: Peter Iott
- Request: Issue Certificate of Compliance
- Documents Presented: Request for COC
- Project Summary:
  - Lot was sold recently and a 2<sup>nd</sup> missing OOC was discovered at the closing.
- Presentation and Discussion:
  - The missing COC was part of a real estate transaction where a local OOC was discovered for work within the 200-foot buffer zone.
  - The Agent performed a site visit; with snow cover, it was difficult to review the storm-water system. Bertin Engineering reviewed the site and provided a letter of substantial compliance. Maintenance of the structure was completed by the property owner.
- Vote: Vote to issue the Certificate of Compliance for SCC#07-16, for 116 Brookfield Road. AIF 5-0

**14. 245 Walker Road-Request for Certificate of Compliance-DEP File# 300-655**

- Original Applicant/Permit Holder: Michael & Celeste Lemay      Requester: Andrew & Caroline Beaumont
- Request: Issue Certificate of Compliance
- Documents Presented: Request for COC
- Project Summary:
  - The open OOC was discovered as part of recent real estate transaction for the property.
- Presentation and Discussion:
  - This project was for the development of a SFH and site work within 85 feet of a BVW.
  - The Agent performed a site visit; site complies with the final OOC.
- Vote: Vote to issue the Certificate of Compliance for DEP file #300-655, for 245 Walker Road. AIF 5-0

**15. 49 Bushnell Road-Chapter 61A Right of First Refusal Request**

- Owner: Ethan Hillman      Requester: Amber Herting
- Request: Removal of property from Chapter 61A and BOS release of right of First Refusal

- Presentation and Discussion:
  - This is a 5-acre parcel of land with a single-family home. Staff does not see benefit for the Town of Sturbridge to exercise right of first refusal.
- Vote: Vote to recommend to the Board of Selectmen to pass on the Right of First Refusal for 49 Bushnell Road. AIF 5-0

**16. 133-139 Fiske Hill Road & 48 Old Farm Road-Chapter 61A Right of First Refusal Request**

- Owner: Spencer Solar     Requester: Blaise Berthiaume
- Request: Removal of property from Chapter 61A and BOS release of right of First Refusal
- Presentation and Discussion:
  - This is a 52-acre parcel within 4 lots. The property was recently harvested under a FCP. The property does have characteristics of a suitable conservation property but is not currently part of the town’s masterplan. Staff does not see benefit for the Town of Sturbridge to exercise right of first refusal. Comments from the Open Space Com. Were shared and discussed.
- Vote: On a motion by E. Goodwin, 2<sup>nd</sup> by E. Gaspar the commission send a recommendation to the Board of Selectmen to negotiate an easement on the property to access Hall road and the to the Town Common and pass on the Right of First Refusal for 133-139 Fiske Hill Road and 48 Old Farm Road. AIF 4-1(Barnicle)

**III. ADMINISTRATIVE DECISIONS**

**17. Minutes of 2/2/21 to be approved**

- Documents Presented: draft minutes
- Vote: On a motion of E. Gaspar, 2<sup>nd</sup> by D. Barnicle the commission vote to accept the 2/2/21 minutes as written. AIF 5-0

**UPDATES**

**IV. OLD BUSINESS**

**18. MA DOT Enforcement Order Cedar Lake & MA Turnpike**

- Documents Presented: revised plans
- Discussion
  - This revised plan has many changes and updates, which requires a change to the timeline. MA DOT has a completion date of 9/2022 per the contract but is optimistic that completion can be spring of 2022. Peter Reed from MA DOT provided an overview of the visual restoration plans for the commission and Cedar Lake Association residents.
  - The Agent and Commission are pleased to see the improvements to the project but concerned with potential timeline changes.
  - Raoul Ricard (Cedar Lake Association) expressed concern with the lengthy timeline for completion since the restoration was set to be completed in fall of 2021. He felt this is the best plan provided to the CLA yet and is hopeful that the project can be completed sooner than the contact.

**19. 508 International and Sellew, A., Enforcement Order 27 Ladd Road**

- Documents Presented: restoration Plan (dated 2-2-21)
- Project Status Summary
  - An EO was issued in 2019 for unpermitted activities on this property. A NOI was being reviewed by the SCC which was recently withdrawn. A restoration plan was submitted to address Order #5 of the EO. This matter has been heard in Superior Court and the case is still open.
- Discussion: There were no representatives for this matter in attendance at this meeting. The Agent provided her recommendations to the Commission to approve the restoration plan provided with the following conditions:
  - Work must follow the submitted plan.
  - Equipment is not permitted in the flagged wetland or any wetland.
  - Work must be overseen by a competent wetland scientist.
  - Areas within the 25 foot No Disturb Zone shall be stabilized. These areas shall be seeded with an appropriate native seed mix. Due to compaction from use, the areas may need to be scarified etc. prior to seed application.
  - A report shall be submitted within one week of restoration activities to include photographic documentation and certification that work was done in compliance with the plan and conditions.

- The area shall be monitored to ensure stabilization has been achieved. Staff recommend that the wetland scientist review the site within one month of restoration activities and submit said report within one week of site visit. If the site is fully stabilized to the SCC's approval, then the monitoring can cease. If it is not fully stabilized, then the wetland scientist shall include recommendations for achieving stabilization in the report. Additional monitoring may be required.
    - EO shall not be released and court case should not be recommended to be released until these conditions are met and areas are fully stabilized.
- Vote: On a motion of DB, 2<sup>nd</sup> by S. Halterman the commission approve the restoration plan with the previously stated conditions for the Enforcement Order at 27 Ladd Road. AIF 4-0-1(Chidester)

**20. 508 International and Jennings, B. and I., Enforcement Order 205 B and 205C Podunk Pike**

- Documents Presented: n/a
- Project Status Summary
  - An EO was issued on 10-30-21 for unpermitted activities. A series of trails/roadways had been installed on the property and used for commercial recreational activities including but not limited to the use of motorized vehicle events and pedestrian endurance events. This unpermitted work occurred within jurisdictional wetland resource areas and the buffer zone. The SCC had originally requested that an application be submitted for activities discovered on 205B and 205C Podunk Pike in an effort to permit such work. An application had been received. However, the application was insufficient and after multiple continuances the application was denied and an EO was issued as there are outstanding violations which were required to be addressed.
- Discussion: There were no representatives for this matter in attendance at this meeting. The Agent provided her recommendations to the Commission:
  - Since there have been no materials provided to the SCC to date, the SCC will provide a letter to the violators giving 21 days to comply with the EO from date of issuance of the letter.
  - If they do not comply in the 21-day time frame than the SCC will refer the matter to Town Counsel, to seeking compliance with the Enforcement Order in Superior Court.
- Vote: On a motion of DB, 2<sup>nd</sup> by E. Gaspar the commission vote to send the applicant a letter giving them 21-day notice to comply with the Enforcement Order at 205 B and 205 C Podunk Pike. AIF 4-0-1(Chidester)

**21. RV Management Services-SB, LLC, Enforcement Order Pine Lake RV Resort, 30 River Road DEP File #300-1021**

- Documents Presented: Plan: Pine Lake RV Outlet 6 Revision 022321, Site Photos
- Project Status Summary
  - This discussion was continued from 12-1-20. The SCC requested additional information pertaining to the project and compliance with the EO. Staff provided guidance and a document was created based on the meeting discussion from December. The matter has postponed as the project team requested additional time to respond.
- Discussion: S. Morrison from EcoTec provided an overview on the project plans submitted and their response since the last discussion and what the project team plans to complete to get in compliance with the SCC. The Agent provided comment on each item as noted in the detailed agenda. The Commission expressed the following:
  - Concern that proper documentation has not been providing certifying that the stormwater system (particularly the infiltrators) have been installed according to plan.
  - The SCC office must receive a completed request to amend the Orders of Conditions by the April 13<sup>th</sup> noon deadline to be heard at the May 4<sup>th</sup> CC meeting.
  - After large rain events, the applicant must provide SCC staff with reports to substantiate site compliance.
- Consensus: The applicant will shall submit a request to Amend the Order of Conditions for the April 6<sup>th</sup> meeting if possible but absolutely for the May 4<sup>th</sup> meeting. The Board requested that the Agent draft a letter outlining requirements for filling on the May 4, 2021 meeting.

**V. ADMINISTRATIVE UPDATES**

**22. Committee Updates**

- CPA: Next meeting 3-21

- Trail Committee: Next meeting 3-11-21
- Open Space Committee: N/A
- Lakes Advisory Committee: N/A

**VI. NEW BUSINESS**

**23. Agent's Report**

- WPI Students will provide a 20-minute presentation at the beginning of the next meeting on the trails adjacent to the new parking lot at 501 Main Street.
- March 9<sup>th</sup> staff will participate in a virtual meeting with Holyoke Community College staff and students launching internship opportunities throughout the state.
- Next Meeting Date: 3-16-21      Site Visits: 3-9-21

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***ADJOURN at 9:49 pm Motion by S. Chidester, 2<sup>nd</sup> by E. Gaspar. AIF 5-0***