

# CONSERVATION COMMISSION DETAILED AGENDA

Posting Date: May 26, 2023  
Meeting Date: June 1, 2023  
Time: 6:00 pm



## DECISIONS

### I. WETLANDS DECISIONS

#### 1. 374 Main Street– RDA- Commercial Site Improvements

- Owner/Applicant: Steve Vann                      Representative: Steven Riberdy
- Request: Issue DOA
- Project Summary: Modification to the existing drive-thru and replacing landscaping to the existing Burger King.
- Staff Notes:
  - Proof of legal ad and proof of abutter notifications received.
  - Project is not within Priority or Estimated Habitat.
  - Modifications include changes the existing single drive thru lane to two lanes for better flow at the existing fast food restaurant. Landscaped islands will be incorporated into the parking lot which decrease impervious surfaces.
  - Some of the work is in the outer buffer zone and Riverfront Area.
  - See Page 3 of plans and Goodard letter for details. Work would be considered minor.
  - ECs proposed to protect catch basins and any stockpiling.
- Staff Recommendation: Close the hearing and issue a DOA:
  - Negative #3 with conditions:
    - Standard pre-work and sign off conditions.
    - EC install as outlined in application.
  - Positive #2b: no resource area approval
- Positive #5 w/ conditions noted above.

#### 2. 60 Main Street– NOI- Commercial parking lot-DEP File #300-XXXX

- Owner/Applicant: Ashley Steppic                      Representative: L. Jalbert, Jalbert Engineering
- Request: Issue an Order of Conditions
- Jurisdiction: Buffer Zone and SWB 365-1.1 – 1.3
- Project Summary: Project includes the conversion of the existing lawn for a residential single-family home to a parking lot for a proposed commercial use.
- Staff Notes:
  - Proof of legal ad and proof of abutter notifications received.
  - DEP File # has not been issued.
  - Project is not within Priority or Estimated Habitat.
  - All work is located within a developed yard.
  - Proposed project is commercial therefore subject to MA Stormwater Standards. NOI checked that it is residential house and not subject. However, it is as a commercial use is proposed. Would qualify for redevelopment. Checklist and analysis is required.
  - Project includes BMPs for stormwater. Basin is located at wetland edge. Snow storage snow on the lawn. Needs to be within an area that will receive treatment from stormwater BMPs.
  - Project includes new structure (parking lot) within 50' no disturb BZ and work in the 25' no disturb. Alternatives should be looked at to avoid work within the 25' No disturb. Drainage structure should be set back to provide a vegetated buffer to wetland. Also, instead of piping the water are there other alternatives that could be used?
  - Project would require a waiver and would need to demonstrate no alternatives and provide mitigation to qualify (see regs). If the board considers the new structure staff would recommend that the drainage is revised (move away from wetland edge) and that the lawn be converted to create a natural vegetated buffer as mitigation.
  - Site visit conducted. Representative to look at revisions to parking lot design to minimize impacts.

**Conservation Agent**

Rebecca Gendreau

**Administrative Assistant**

Erin Carson

**Conservation Commission Members**

Ed Goodwin  
Erik Gaspar  
Roy Bishop  
Ted Winglass  
Karsten Stueber

308 Main Street.  
Sturbridge, MA  
01566  
T 508/347-2506

[www.sturbridge.gov](http://www.sturbridge.gov)

- Staff Recommendations: Continue project to allow applicant to complete stormwater requirements and look at project alternatives to meet performance standards. Revised materials to be submitted to DEP.

**3. 76 Stallion Hill Road– RDA- Removal of trees in the Riverfront**

- Owner/Applicant: Erick Carmona Colmenero                      Representative: N/A
- Request: Issue DOA
- Project Summary: Removal of 4 trees in the Riverfront.
- Staff Notes:
  - Proof of legal ad and proof of abutter notifications received.
  - Project is not within Priority or Estimated Habitat.
  - Site is within Riverfront Area (RA).
  - Certified Arborist evaluation included.
  - 2 trees are dead – 1 is on Bank.
  - 2 trees noted as healthy but a safety hazard and removal is requested due to safety concerns.
  - Will increase sunlight onto brook. Shade should be compensated for?
  - Areas along the bank and across the stream are being altered. These activities require review. No additional alterations without permits. If the intent is to convert areas to yard, then a NOI must be filed and RA permitting standards met. Areas historically may have been yard/landscaped but areas revegetated after site/areas were abandoned. Bridge installed over brook requires permitting which was previously explained.
  - Leave all stumps. Doesn't appear necessary to remove stumps (grinding) on the 2 trees.
  - No replacements proposed. Site is challenging for replacements.
- Staff Recommendation: Close the hearing and issue a DOA:
  - Negative #3 with conditions:
    - Standard pre-work and sign off conditions.
    - Leave all stumps.
  - Positive #2b: no resource area approval
  - Positive #5 w/ conditions noted above.

**4. 1 Old Sturbridge Village Road – NOI-Tree removal and vista pruning-DEP File# 300-XXXX**

- Owner/Applicant: Old Sturbridge Village                      Representative: D. Frydryk, Sherman and Frydryk
- Request: Issue an Order of Conditions
- Jurisdiction: Buffer Zone
- Project Description: Project includes removal of 17 trees.
- Staff Notes:
  - Proof of legal ad and proof of abutter notifications received.
  - Project is not within Priority or Estimated Habitat.
  - Site is within Riverfront Area (RA).
  - Removal requested to increase light to the museum gardens that are part of the village and to improve vistas.
  - Request includes 4 large oaks, 1 pitch pine and 12 smaller pines.
  - Work would not appear to have a significant impact to RA. OSV owns a significant portion of the RA along the river and it is heavily vegetated.
  - If board is concerned maybe a compromise can be made to keep the 2 oaks further down the slope.
  - ECs don't appear necessary as no stump removal or other earth work.
- Staff Recommendations: Provided DEP File # is received; staff recommend closing the public hearing.
  - Approve the project pursuant to the WPA with the following conditions:
    - Standard OOC conditions.
    - Approval for vista maintenance activities outlined in the O & M activities.
  - Approve the project pursuant to the SWB with the following conditions:
    - Conditions noted above.

**5. 26 South Road– SWB NOI- Single Family Home with associated site work**

- Owner/Applicant: Derek Bender                                      Representative: N/A
- Request: Issue DOA
- Project Summary: The project includes construction of a single-family house, septic system and well within the SWB 200-foot buffer zone.

- Staff Notes:
  - Proof of legal ad and proof of abutter notifications received.
  - Site visit conducted.
  - The limit of work was cited outside of the 100 ft buffer zone. Therefore, no state review required pursuant to the WPA.
  - Project is not within Priority and Estimated Habitat. MESA determination letter provided. No take issued provided all work stays within the LOW as shown on the plan. Revised plan needs to be sent to NHESP as LOW was slightly modified.
  - Plan was modified to increase the LOW for grading.
  - The Applicant needs to keep in mind that the LOW represents all projects/activities that alter the area. Any additional alteration (including conversion of the of old field to lawn/landscaped areas would need to be part of board and NHESP review. Does the LOW represent this?
  - NHESP would need to know this too as mowing during the vertebrates' active season is a threat. Old fields provide suitable wildlife habitat. If it is the intent to turn this to yard, the plan needs to be revised. However, staff recommend that this is avoided. NHESP may entertain a mowing restriction to allow once a year mowing outside of the active season to maintain field habitat. Wetland is partially located within that old field.
  - Permanent visual bounds should be set at the LOW in the buffer zone especially since the presence of the data sensitive rare vertebrate. Bounds to be shown on plan. Staff recommend 25' intervals & at corners starting at stonewall and ending by the barn to property line. Board should consider what bounds they would prefer if so. In past, boulders or bollards with/without signs have been used. Signage doesn't seem necessary.
  - The driveway has been built. A driveway permit was issued in early 2017 (pre-NHESP mapping of the property) and work started under a previous ownership. Driveway was not finished and was causing significant impacts to the roadway and an adjacent property.
  - Driveway leads to road drainage which discharges to wetlands across the street. BMPs will be needed at the top of the driveway while site work for the house is being completed. This can be bales which can be moved during work hours and reset at the end of the work day.
  - Project qualifies for a security deposit during work to ensure conditions are met. To be released upon issuance of a complete Certificate of Compliance.
- Staff Recommendation: Applicant to submit revised plan to NHESP for comment to ensure no concerns before public hearing is closed. Verify LOW is all work. Recommend bounds at LOW to be shown on the plan.

**6. 11 Carey Road –SWB NOI –Addition of an accessory dwelling unit and expansion of leach field**

- Owner: Stephen & Jamie Rudent Applicant: Terry Paquin Representatives: M. Farrell, Green Hill Engineering
- Request: Issue an OOC
- Jurisdiction: Buffer Zone
- Project Summary: Project includes the construction of an accessory structure to an existing single-family home, modification of a septic system and associated site work. All work to remain outside the 100 ft buffer zone.
- Staff Notes:
  - Proof of legal ad and proof of abutter notifications received.
  - Project is not within Priority or Estimated Habitat.
  - No work within the 100 ft buffer zone. Therefore, no state review required pursuant to the WPA.
  - Town now allows accessory units on SFH lots. Approval given by BOH and Planning for use.
  - New plan with a limit of work required and requested.
  - As shown, most of house is outside of the 200 ft BZ. Portion of the site is forested.
  - Wetlands are located across Carey Road and had been recently flagged by that property owner.
  - Existing septic to be modified to incorporate existing bedroom form accessory unit. Water line will come from existing house (existing well).
  - ECs to be installed to prevent site runoff from entering the road and heading towards lake. Additional ECs on driveway side of lot and to block driveway after workday until site is stabilized.
  - Drainage work shown along the road. Same concern here. Steep road work should be done only in dry conditions and if it takes more than 1 day needs ECs.
- Staff Recommendation: Provided revised plans with EC received, staff recommend closing the public hearing and approving the project pursuant to the SWB with the following conditions:
  - Standard OOC conditions.
  - Spoil piles, not to be reused, to be directly moved off site.

- EC install on downslope side and block driveway at end of workday.
- Require a surety bond or deposit during work to ensure conditions are met. Funds to be returned or bond to be released upon issuance of a complete Certificate of Compliance. \$5,000 for SFH projects has been previously required.

**7. 446 Main Street – NOI – Work to satisfy an expired OOC-DEP#300-1161**

- Owner/Applicant: Dong & Chin Lien Chen    Representatives: G. Krevosky, EBT Environmental
- Request: Issue an OOC
- Jurisdiction: Buffer Zone
- Project Summary: Project includes the removal of a concrete pad and a beaver maintenance plan.
- Staff Notes:
  - Proof of legal ad and proof of abutter notifications received.
  - DEP File # issued w/ no comments.
  - Project is not within Priority or Estimated Habitat.
  - NOI filed in response to open OOC (DEP File #300-480) on property. Property transaction found open historic OOC.
  - OOC was for redevelopment of the property which included a stormwater water quality swale and beaver management. Flow devices had been installed but weren't maintained non-existent now. Extensive beaver activity on the site and in the area. Expert recently looked at area and due to the water depths, water flow devices won't work here. He recommended continued trapping.
  - Stormwater swale wasn't maintained. Engineer reviewed swale elevations are correct and vegetation maintained (cut as required in O & M Plan). The swale does not require any work now and is not included in this NOI as in past OOC. Concrete pads discovered that were supposed to be removed. Applicant proposing to do so. Includes sufficient work plan.
  - Beaver maintenance plan submitted w/ inspection plan.
  - File CoC Request for past OOC to be submitted when work completed with CoC Request for this OOC.
- Staff Recommendations: Provided the board is satisfied; staff recommend closing the public hearing.
  - Approve the project pursuant to the WPA with the following conditions:
    - Standard OOC conditions.
    - Perpetual condition for beaver management plan to include report submission to SCC yearly.
  - Approve the project pursuant to the SWB with the following conditions:
    - Conditions noted above.

**8. 660 Main Street– RDA- Vernal Pool Study**

- Owner/Applicant: Old Road Realty    Representative: EBT Environmental
- Request: Issue a DOA
- Jurisdiction:
  - Sturbridge Wetland Bylaw Regs.: 365-5.6 Vernal Pools
- Project Summary: Project includes the study of two wetlands to demonstrate if the wetlands meet criteria as vernal pools.
- Staff Notes: Pools meet criteria for vernal pool certification. Representative to file with NHESP.
- Staff Recommendation: Provided NHESP Certification submitted, close the hearing and issue a DOA:
  - Positive #1: The area described on the referenced plan(s) is an area subject to jurisdiction under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.
  - Positive #2b: no resource area approval
  - Positive #5: the area and/or work described on referenced plan(s) and document(s) is subject to review and approval by the SCC pursuant to the SWB. The two wetlands, shown as Pool #1 and #2 sketched on the existing conditions plan, were surveyed and found to contain obligate vernal pool species. These pools meet criteria as Vernal Pool Habitat pursuant to the SWB.

**9. 68 Paradise Lane –NOI – Raze and rebuild of a lakefront home – DEP File #300-1155**

- Owner/Applicant: Jeffery Buchanan    Representatives: S. Morrison, EcoTec
- Request: Issue OOC.

- Jurisdiction: Buffer Zone & SWB Regs. 365-1.1E - H.; 365-1.2, 365-1.3
- Project Summary:
  - Project includes the raze and rebuild of the existing house. A permeable driveway, grading, stormwater improvements and corrective grading w/ wetland impacts are also included.
- Staff Notes:
  - Project continued to allow peer review to start. Peer review initiated on 5-25-23.
- Staff Recommendations: At the time of issuing the detailed agenda, the review was just being conducted and the report has not been received. Therefore, staff recommend to continue hearing to the next meeting to allow for peer review to be completed and report submission.

**10. Lot 3, 20 Fiske Hill Road & 30 Main Street (Future Road named Berry Farm) – NOI-Construction of a 68 lot manufactured housing community-DEP File# 300-1156**

- Owner: M. Sosik                      Applicant: Justin Stelmok      Representative: B. Madden, LEC Environmental
- Request: Issue an Order of Conditions
- Jurisdiction: Buffer Zone (WPA & SWB) & Vernal Pool Habitat (Sturbridge Wetland Bylaw)
- Project Description: Construction of a manufactured home community with associated appurtenances.
  - Staff Notes:
    - Hearing was postponed at last meeting by applicant as they did not want testimony taken as 2 members were not present.
    - New information received to include: revised plans, revised stormwater report, McClure Engineering letter (dated 5-1-23) & LEC letter (dated 5-3-23)
    - Pare Engineering peer review memo (dated 5-2-23) received based on revised project.
    - Some revisions were made to move out of and reduce work within the 200' VP BZ; however, there still is work within this area.
    - Stormwater structure revisions made based on new soil test pits which were required at drainage locations.
    - Staff spoke to Town Counsel on land protection proposal. Board could move forward with Declaration of Restriction if they elected to, however, it would have to be decided who would have enforcement abilities. As written it would be con com. That is up to the board. If not the board, then they will have to find another group. Language and engineered plan will be required and need review by town counsel. Some modifications would be required. Will require formal vote by board at a public meeting when ready. Condition must state that the DR to be recorded prior to start of work.
    - Public comment receive don 5-15-23 and attached to this email.
  - Staff Recommendations: Staff still recommend that the project is revised to be located out of the 200' VP BZ. VP species require habitat surrounding vernal pools. As mentioned before, the project proposes substantial loss of habitat surrounding the vernal pools and bisects the habitat. This was noted of concern by Oxbow Associates. Oxbow noted a review of studies which stated that mole salamander populations exist and depend upon habitat over 540 feet from wetlands. Oxbow recommended that the board require that the 200-foot vernal pool habitat be protected for these reasons as outlined in the regulations. There does appear to be substantial impacts within 540 feet to the vernal pools on this lot and within 200 feet of the wetlands that will affect the areas ability to support these populations. It's important to note that the VP buffer includes wetlands. The 200-foot wetland buffer has substantial development proposed within it near the vernal pools. Upland habitat is required to support amphibians. Loss of this critical habitat is of concern to the viability of the populations.
  - Applicant has not demonstrated that no alternatives exist to protect the 200 VP BZ. Nor have they provided any documentation to support that the VP species populations will not be impacted by development and that the pools will not be impacted by water quality.
  - The Commission should keep in mind that future projects on this property will require impacts to VP Habitat based on the lot layout created by the property owner. Lot 4 will have significant impacts within 200' VP BZ and Lot 2 and 5 have potential for VP habitat impacts, too. These impacts and future cumulative impacts are a concern. A precedent will be set.
  - Pare Engineering will be at the meeting if the board has any questions. Board should review the memo and compile any questions.
  - If there are no further revisions proposed to the newest plan set, then it appears the Commission could vote on the project as presented. Members should prepare conditions for discussion.
  - Staff remind the Commission that the votes are to be separate under the WPA and SBW.

**11. SHLO SE of 248 Podunk Road– NOI – MA DOT Geotechnical Soil Borings – DEP File #300-1154**

- Owner: MassDot District 3 & Town of Sturbridge     Applicant: MA Electric Company     Representatives: H. Graf BSC Group
- Request: Issue OOC.
- Jurisdiction: Buffer Zone
- Project Summary
  - Project includes exploratory geotechnical soil borings to plan for road maintenance and stormwater design along the unpaved section of Podunk Road. Project was continued.
- Staff Notes:
  - Site visit conducted.
  - DOT will not allow mechanical soil borings, therefore, filing indicated to be withdrawn. Hand dug holes are proposed to review soils for stormwater design.
  - New filing will be submitted for complete project.
- Staff Recommendations: If withdrawal is submitted, close hearing.

**II. WETLAND DECISIONS**

**12. 38 Draper Woods Road-Request for Certificate of Compliance –DEP File# 300-469**

- Owner/ Applicant: Attorney Thomas Marino
- Request: Issue a partial COC
- Staff Notes: Lot (#34) part of OOC for Draper Woods. Not within jurisdiction. Real estate transaction noted open OOC on lot. Subdivision OOC expired but never closed out.
- Staff Recommendations: Issue Complete CoC.

**III. ADMINISTRATIVE DECISIONS**

**13. Minutes of the 5/11/2023 Meeting**

**IV. OLD BUSINESS**

**14. Ongoing Violation Resolution Discussions**

- **71 Mashapaug Road**
  - Staff Notes:
    - Discussion had been continued as new information was received late. EcoTec, Inc Letter (dated 4-17-2023). Staff have reviewed the letter. Staff do not agree with the interpretation of the regulations.
    - Applicant has provided some past BOS permits for auto licenses for site.
    - Staff sought additional advisement. Work occurred within jurisdictional areas which was a violation. Ongoing use of jurisdictional areas is a violation. It has been advised that an Enforcement Order is warranted.
    - Issue Enforcement Order.
- **110 Brookfield Road**
  - Staff Notes:
    - It was agreed upon that a NOI would be provided for the May 11, 2023 meeting for work which occurred on the property and any additional work proposed. This has not been provided and no other information has been provided. Property owner was advised that a filing would be required for work on this property in July 2022. In Sept. of 2022 it was observed that work was occurring on this property without conservation approval. Advised to file NOI then. No filing has been received. Property owner attended last meeting and stated that he will not file a NOI. Work is in violation of the WPA and the SWB.
    - Staff recommend issuance of an Enforcement Order.

**V. ADMINISTRATIVE UPDATES**

- Committee Updates: CPA, Trails, Open Space, and Lakes

**VI. CORRESPONDENCE**

**VII. NEW BUSINESS**

**15. Special Land Use Application – Leadmine Rotary Club – Halloween 5k**

**16. FY 24 Wetland Fund Appropriation & Assistant Position Reclassification**

- Yearly vote to appropriate a portion of staff salary. Staff recommend \$12, 056.20 to cover the FY24 w/ the assistant position reclassification.

**17. Agent’s Report**

**18. Next Meeting-June 22, 2023 and Site Visit Schedule-June 14, 2023**

## Conservation Commission – June 1, 2023 Flings – Town Planner Comments

60 Main Street – This property is located within the Commercial District and is non-conforming in respect to area and frontage and it also appears the structure is non-conforming with regard to front and side setbacks. The most recent use of this property has been as a single family home.

The applicant has recently purchased the property with the intent to convert this to a commercial use. We did explain to the prior owner and any prospective purchasers that contacted my office that this was a difficult site and that a variety of permits were necessary to determine if this conversion could happen. I have also met with the applicant's engineer to review this proposal as well. It was noted that approvals are required from Conservation, ZBA, DRC, and Planning Board for the proposed change of use on a non-conforming lot and for the proposed site improvements.

The property is accessed through a 10' right of way and currently does not contain a parking lot that will be required to operate a business. Since the property is constrained by both size, access and wetlands, I advised the applicant to seek Conservation Commission approval of the proposed parking lot. If the parking lot meets the requirements of the Commission and is approved, the applicant will need to apply for and receive approval from the Design Review Committee, Zoning Board of Appeals and Planning Board for this proposed use.

OSV – No approvals are necessary through this department for the tree removal as they are all located on private property.

11 Carey Road – This project meets all the requirements for an Accessory Dwelling Unit and the Zoning Board of Appeals approved this project on April 19, 2023. The appeal period has passed and the Special Permit will need to be recorded. My understanding from the applicant is that all approvals will be recorded at the Registry at the same time.

446 Main Street – I have no concerns with the proposed repairs and cleaning of structures. It should be noted that all of the plantings in the front strip by the street have died and this area should be cleaned up, replanted, and mulched during this process as this planted area was part of the original site plan approval. Hearty, drought and salt tolerant species should be used.

26 South Road – This lot is conforming, no approvals are required through this department.

RECEIVED

MAY 15 2023

May 15, 2023

Good evening,

CONSERVATION

I apologize for not being able to be here tonight. I have faithfully been to almost every meeting regarding Lot 3 20 Fiske Hill Road and 30 Main Street (Berry Farm Road). Yet this evening I am away at a very important Conference for Veterans in the commonwealth of Massachusetts.

I was at the May 11<sup>th</sup> meeting prepared to speak and although there was a quorum to conduct business, the applicant chose not to open the public hearing and was taken aback by finding out two of the committee members were not present. Not sure why the applicant didn't want to conduct the public hearing when a quorum of the committee was present.

Here is my official statement to the committee:

An excerpt from the town of Sturbridge By-laws Section 5 365-5 6E : "The commission shall take into account indirect effects, including but not limited to effects of nearby human activities, on a case-by-case basis."

**Is the impact on the vernal pools worth the project scope.**

Another excerpt from the town By-laws 365-5.8 "Wildlife studies have shown that direct impacts from work, filling, grading, vegetation removal, construction of barriers to movement, etc. in resource areas can severely harm wildlife populations."

We all know that indirect impacts, and the effects of human activities near wildlife habitat, can have harmful effects.

This decision shouldn't be about economic development and financial commitments, it is about indirect and direct effects to the vernal pools.

At the April 20<sup>th</sup> meeting Mr. Gasper said during a hearing that the committee is here as the stewards of the land. **I urge all of you to be the stewards of the land.**

Respectfully submitted,

Jon Zwirblia

70 Crestwood Dr

Southbridge, MA

Direct Abutter of the project