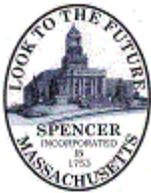


# Conservation Commission – Town of Spencer

## *Minutes*



Conservation Commission Meeting  
Wednesday, January 8, 2014 at 7:00 PM  
Town Hall, McCourt Social Hall

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The Meeting was opened at 7 p.m.

Commissioners Present: Mary McLaughlin, Dana Reed, Margaret Emerson

Commissioners Absent: Warren Snow, Brian Roode

Staff present: Margaret Washburn

**Minutes Approved:** December 4, 2013 – *A motion to approve the minutes as amended (Emerson/Reed) passed 3/0.*

**7:20 p.m. Opened the Continuation of Public Hearing for Notice of Intent for James Sweeney**

**Property: 22 Point Eastalee Drive, Spencer, MA DEP#293-0817**

*At the request of the applicant, the hearing has been continued to January 22, 2014.*

**7:23 p.m. Opened the Public Hearing for Notice of Intent for Michael & Wendy Payette**

**Property: 60 Smithville Road, Spencer, MA DEP#293-0818**

Mr. Scott Morrison, from EcoTec, said the owners are proposing to construct a horse barn. The barn will be 54 feet from the wetland. There will be a paddock for the horses which will be outside the 100-foot buffer zone. The trees will be cut down where the barn will be constructed. There will be a silt fence erosion barrier. All excavated material will be stockpiled within the silt fence, and then the excavated material will be spread and seeded. There will be a manure storage area. The manure will be covered and then hauled off site as it accumulates.

*A motion to close the public hearing (Reed/Emerson) passed 3/0.*

*A motion to accept plan as submitted (Reed/Emerson) passed 3/0, Order of Conditions to be issued.*

**7:29 p.m. Opened the Public Hearings for Notice of Intent for Doug Cutler**

**Property: 10 & 12 Sherman Grove, Spencer, MA DEP#293-0819 & #293-0820**

This is one parcel, Assessor number U32/64. Mr. Jason Dubois said there are two houses on this one lot. There is a proposed addition for one of the houses and both houses will have new septic systems installed. The two leach fields are located in the woods.

Ms. Washburn said there is a man-made stream channel that runs between both houses and the proposed leach fields. Since it has a BVW upstream of it, it appears to be jurisdictional. She said Mr. Dubois did not flag it. Mr. Dubois said there are no hydric soils in the stream channel. Ms. Washburn said it doesn't matter whether there are hydric soils in it as it would be flagged as Bank and not a BVW. Hydric soils are not required to flag Bank. There was standing water in a portion of the stream channel. The stream does not connect to a BVW downstream. The water in the stream apparently percolates through the soil. This often happens with natural streams as well. Ms. Washburn told Mr. Dubois that if he wanted to make the argument that the stream functions as a storm water conveyance and is not jurisdictional, he could refute the presumption that the Bank is jurisdictional. Ms. Washburn said we must have something in writing from him in this regard. Mr. Dubois said he would rather delineate than have a third-party review.

Ms. Washburn said she is also concerned about runoff from disturbed land area (forest must be cleared for leach fields) entering the stream channel during major storm events and eventually discharging onto abutting properties to the southeast.

Ms. McLaughlin said she will not be at the next meeting. Either Mr. Snow or Mr. Roode will have to listen to the tape so they can vote on this application.

*At the request of the applicant, the hearings have been continued to January 22, 2014.*

**7:46 p.m. Opened the Public Hearing for Notice of Intent for Nelson LaBelle**

**Property: 158 Greenville Street, Spencer, MA DEP#293-0821**

Mr. Julian Votruba, from New England Environmental Design, said the existing house caught on fire and burned to the ground. Mr. LaBelle is proposing to rebuild the house. Mr. Votruba said the footprint of the old house does not meet zoning. Part of the house needs to be relocated. The footprint of the new house will be smaller. The home has to be demolished first. The plan shows a proposed location for a new well further away from the septic tank. Ms. Washburn said her only issue was that there is a huge amount of junk in the buffer zone. This issue can be addressed in the Order of Conditions.

The proposed conditions are as follows:

- Standard conditions
- If a new well is constructed, a sump must be dug around the well to contain the well tailings.
- Debris and junk in the buffer zone must be cleaned up before the issuance of the Certificate of Compliance.

*A motion to close the public hearing (Reed/Emerson) passed 3/0.*

*A motion to approve the plan as presented with conditions as discussed (Reed/Emerson) passed 3/0, Order of Conditions to be issued.*

**7:55 p.m. Opened the Public Meeting for Request for Determination of Applicability for Richard Sherman**

**Property: 12 North Brookfield Road, Spencer, MA**

Mr. John Thomasian presented the plan for a new septic system. The land is relatively flat. Ms. Washburn did a site inspection on January 8<sup>th</sup> and had no issues. Hay bales and silt fence will be installed. The septic plan has been approved by the Board of Health.

*A motion to close the public meeting (Reed/Emerson) passed 3/0.*

*A motion to issue a Negative Determination (Reed/Emerson) passed 3/0.*

**Other Business:**

**Depot Trail:** The Commission reviewed the Depot Trail estimates. Mr. Reed will contact the State Representatives and State Senator. Ms. Washburn will contact the Selectmen, Spencer Trailways, The Snowbirds, and Bill Shemeth, from Parks and Recreation. Mr. Shemeth needs to be asked where the money will come from to pay the contractor if the town does not get the grant. *A motion to sign and execute the contract to prepare the grant (Reed/Emerson) passed 3/0.*

The Commission wants Ms. Washburn to contact Terramor, LLC and tell them to refine their estimate ASAP. Bill Shemeth has to write up numbers for Phase 2 for the Capital Budget. Mr. Reed also said the estimate does not include erosion controls. ESC must be included in the estimate. Ms. Washburn asked when the grant will be awarded. Ms. McLaughlin said they were told it wouldn't be awarded until June, 2014 and work won't start until late 2014 to 2015.

**Clark Road:** Mr. Bob Murphy, representing Ralph Williamson. Mr. Murphy said he visited the site. He said he has determined that there are hydric soils at the base of the recently deposited fill. There are some trees growing in fill that is approximately 100 years old. There was no excavation done in the BVW. Mr. Murphy said they will draw out the fill and slope it so it is 15 feet away from the BVW. Ms. Washburn said the Enforcement Order requires that a complete surveyed remediation plan be submitted. It does not require filing a Notice of Intent.

Mr. Murphy said there are springs in the side of the hill. There is a lot of ground water passing through the gleyed sand. Mr. Reed asked how much area is disturbed. Mr. Murphy said approximately 1,500 sf.

Ms. Washburn said the deadline for the remediation work is June 30, 2014. Mr. Murphy said a remediation plan will be submitted by March 12, 2014. No work will be done before March 12<sup>th</sup>.

**7 Debbie Drive:** Mr. Scott Morrison said he is looking to amend the Order of Conditions. The house is going to be smaller, two retaining walls will remain in the front and the one retaining wall along the driveway is not needed anymore, and the swale is smaller and flows the other way. The work will still be inside the same ESC's. There is less overall disturbance. The Commission said an amendment is not necessary. Ms. Washburn will write a new memo including the minor changes and put it in the file.

**Local Emergency Planning Committee (LEPC) Volunteer:** Mr. Adam Gaudette wants a volunteer from the Commission. The Committee meets four times a year. Ms. Margaret Emerson volunteered.

**40 South Spencer Road:** Ms. Washburn issued Ms. Rondeau a \$100 fine today for failing to file a Notice of Intent by the December 31, 2013 deadline, as required in the October 30, 2013 Enforcement Order.

**40 Point Eastalee:** Ms. Washburn said she received a response from Mr. Dansereau to the Enforcement Order. He said the ESC's were moved closer to the work and unstable soils were covered with erosion control fabric and mulch. Ms. Washburn said she will send Mr. Dansereau a list of wetland specialists to flag the bank.

**60 GH Wilson Road:** Ms. Washburn inspected on 12/11/13. She said the ESC's have been satisfactorily installed across the proposed wetland crossing and on either side of the driveway up to that wetland crossing. After talking with Steve Tyler, she told Mr. Maloney he could start work and that he should install the swales on either side of the driveway at the same time that he builds the driveway. Mr. Tyler stated that it is not practical for Mr. Maloney to build the swales before he builds the driveway.

Mr. Maloney has stated that he would like to possibly pour the open-bottomed culvert on site instead of building it precast. Steve Tyler e-mailed Ms. Washburn some references in this regard. Under certain conditions, pouring the components of the culvert on site may be feasible.

**115 Charlton Road:** Ms. Washburn inspected on 12/18/13. She met with Scott VanderSea of CEA, Inc., Spencer Fire Dept., and DEP originally responded when the oil spill was reported. DEP contacted CEA, Inc. for cleanup services. There are two houses on the property. The house in front is occupied and the rear house is not. Two above-ground oil storage tanks behind the rear house apparently were leaking for an undetermined length of time. There is a river within a few feet of the spill. Twenty or thirty cubic yards of contaminated soil have already been removed. CEA is working on a plan to remove more contaminated soil from underneath the rear house.

Contaminated soil is being pumped into a frac tank onsite. The frac tank separates the oil from the water. So far, the treated water has been hauled away. CEA Inc. will apply for a permit from EPA to discharge the treated water into the river. Some oil probably washed down the river before the spill was reported. Ms. Washburn photographed an oil-absorbent boom and pads in the river.

Ms. Washburn asked Mr. VanderSea for an update on 1/7/14. This is what she received:

“Since we met, we have continued to pump water from the ground into the holding tank, then ship water to an off-site disposal facility. We are submitting the permit application to USEPA to seek approval for the treatment and discharge of water on-site. It will likely be another 14 to 21 days before we have that approval. The surface water is nearly frozen over.

We are still evaluating what will be done with the barn structure so no decision on that yet. We would like to get underneath the southern portion of it to remove any remaining oil that is currently inaccessible. I’ll keep you posted.”

**115 Wilson Street:** Ms. Washburn said Dave Albrecht of Borrego solar is pushing for a Certificate of Compliance inspection date. Holiday schedules and the weather have been problematic in scheduling this inspection, which several commission members wish to attend. Issues include the locations of some permanent wetland markers, large areas seeded in very late fall that have not been mowed, other areas with insufficient vegetation, unstable soils in drainage ditches (euphemistically referred to as “swales”) that were never graded or lined with erosion control fabric as per the plan. The ditches were intended to be temporary, but Borrego wants them to be permanent. In Array 1, some of the ditches hasten the speed at which water drains from the site, impeding on-site groundwater recharge. In Array 2, some of the ditches are preventing surface runoff and shallow subsurface flow from reaching the upper reaches of the stream that runs through the middle of the site. Instead, the water is diverted to the detention basin. Mr. Reed said a site visit should be done in the spring.

**South Spencer Road – Roger Plourde:** Ms. Washburn said she inspected at Mr. Plourde’s request on 12/31/13. He wishes to construct a new driveway on his land (R11-4), which is under a Conservation Restriction held by DCR. The purpose of the driveway is for forest management practices. The early successional habitat development work, funded by NRCS, will be overseen by Mr. Plourde and DCR. The work will be done under a Forest Cutting Plan.

Ms. Washburn said she measured from the proposed driveway to the BVW. The driveway will be greater than 100 feet from any resource area. The BVW is mapped as endangered species habitat and so NHESP will have to review the Forest Cutting Plan. The driveway will need to cross a ditch that functions as a stormwater conveyance. It is not jurisdictional since there is no BVW upstream of the ditch. Ms. Washburn told Mr. Plourde that he does not have to file for a permit through Conservation and referred him to Steve Tyler for a driveway permit.

**195 Charlton Road:** Ms. Washburn inspected on 12/31/13. She said construction is about halfway done. There are no issues at this time.

**9 & 9.5 R. Jones Road:** Ms. Washburn inspected at Mr. Leinonen's request on 12/16/13. She reported that the erosion controls had been installed as per the plan. The Order of Conditions is stored on-site and he signed it while Ms. Washburn was there. The DEP sign was a piece of paper with plastic over it. Ms. Washburn told him to put up a wooden or metal sign and to call her after he put it up. He complied.

**Envirothon Team:** Ms. McLaughlin said the Envirothon Team will have to meet with the Commission before May.

**Site Visits:** The Commission will do site visits on Tuesday, January 14<sup>th</sup> at 2:30 p.m.

New Applications: 89 Jolicoeur Ave., RDA, Daige

*A motion to adjourn the meeting at 9:27 p.m. (Reed/Emerson) passed 3/0.*

Respectfully submitted by:

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Lisa Daoust, Senior Clerk  
Development & Inspectional Services

Documents reviewed at the 1/8/14 Spencer Conservation Commission meeting:

Agenda for the 1/8/14 meeting

Minutes from the 12/4/13 Spencer Conservation Commission meeting (approved as amended)

Margaret's report dated 1/8/14

Continuance form for 22 Point Eastalee Drive (signed)

Notice of Intent file for 60 Smithville Road

Notice of Intent file for 10 Sherman Grove, including continuance form (signed)

Notice of Intent file for 12 Sherman Grove, including continuance form (signed)

Notice of Intent file for 158 Greenville Street

RDA file for 12 North Brookfield Road, including Negative Determination (signed)

Revised site plan for 7 Debbie Drive submitted by Scott Morrison

Letter from Robert G. Murphy & Associates, Inc. re: Clark Road E.O. (Ralph Williamson, U27-73)

Letter from National Grid dated 12/4/13

Agreement between Spencer Conservation Commission and Conservation Works, LLC for Depot Trail grant writing work