

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, October 14, 2015 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

Commissioners Present: Mary McLaughlin, Dana Reed, Warren Snow, Margaret Emerson, James Bouley

Commissioners Absent: John Haverty

Staff present: Margaret Washburn

Minutes Approved: September 9, 2015 – *A motion to approve the minutes (Bouley/Emerson) passed 4/0.*
September 23, 2015 – Tabled to November 18, 2015.

Signed: 25 Point Eastalee Drive, Order of Conditions
3 Lakeview Drive, Sugden Dam, Order of Conditions

7:15 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Steve Tyler, Town of Spencer Utilities and Facilities

Property: Lake Whittemore Dam, Spencer, MA DEP#293-0863

Mr. Tyler said a revised plan was submitted. He said that four stumps must be removed. There will be heavy equipment in the area. Mr. Tyler drew a boom on the plan. That plan is now the final approved plan dated October 14, 2015.

A motion to close the public hearing (Emerson/Reed) passed 5/0.

A motion to accept the plan showing the boom as drawn by Steve Tyler (Reed/Emerson) passed 5/0.

7:23 p.m. Opened the Public Hearing to Amend an Order of Conditions for Gary Kady

Property: 96 Greenville Street, Spencer, MA

John Thomasian said the footprint of the house is larger than what was originally approved. The driveway is further away from the wetlands. The approved plan showed the house 60 feet from the BVW. The house that is under construction is 25 feet from the BVW. Ms. Washburn asked Mr. Kady to let the Commission know in the future if he is

not going to follow the site plan and to let them know before diverging from the approved plans.

A motion to close the public hearing (Bouley/Reed) passed 5/0.

A motion to amend the Order of Conditions (Snow/Reed) passed 5/0.

7:34 p.m. Opened the Public Meeting for Request for Determination of Applicability for Mary McLaughlin

Property: 47 Oakland Drive, Spencer, MA

Ms. McLaughlin recused herself because this is her property. Ms. McLaughlin said an Emergency Certification was previously issued. An arborist recommended more work for the damaged oaks. No trees have to be cut down; they only have to be trimmed for preventative measures. Hand equipment will be used with no hydraulics.

A motion to close the public meeting (Reed/Emerson) passed 4/0.

A motion for a Negative Determination (Reed/Emerson) passed 4/0.

7:40 p.m. Opened the Public Hearing for Notice of Intent for Robert McDonald

Property: 49 Lambs Grove, Spencer, MA DEP#293-0868

Mark Farrell, from Greenhill Engineering, said the owners are proposing to remove the existing cottage and construct a new cottage in the same place with the same footprint. Mr. Farrell said the lot is very small and there will be little disturbance. Straw wattles will be installed around the lot from the road down to the lake. A boom will be placed in the water. Ms. Washburn asked what the boom will be attached to. Mr. Farrell drew on the plan that the boom will be attached to the Bank. There will be no stockpiling on site.

A motion to close the public hearing (Snow/Emerson) passed 5/0.

A motion to approve the plan as amended (Reed/Bouley) passed 5/0.

Other Business:

Burncoat Pond Herbiciding: Ms. Washburn said she spoke to Matt Hickler, the botanist hired by BPWD to survey the Spencer aquatic vegetation. He said he found a very, very rare plant in Spencer. He is hesitant to tell Ms. Washburn which plant because BPWD paid him.

Mr. Hickler also said that the herbicides applied in Leicester have already had noticeable effects beyond the Town line.

The bur reed that was found is on the NHESP watch list. Mr. Hickler told Ms. Washburn that the herbicides killed every stem of the bur reed, but he wouldn't tell her exactly where this occurred.

Ms. Washburn asked Ms. Comeau of the Burncoat Pond Watershed District (BPWD) for the report a few weeks ago and BPWD is not willing to share the data with her. Ms. Washburn just asked her and Bob Dirsa again today.

Ms. Washburn said she contacted DEP and they recommended issuing a NOV requiring BPWD to revise their treatments in Leicester to prevent further damage to aquatic vegetation in Spencer. Ms. Washburn said she needs the report in order to write the NOV.

DEP recommends that, since BPWD claimed to be exempt from filing fees as a municipal entity, they are subject to the provisions of the laws regarding Freedom of Information and Public Records. Adam Gaudette recommended preparing the letter from the Commission requesting a copy of the Hickler report under these laws.

Ms. McLaughlin read and signed the letter to be mailed to Mr. Dirsra, from BPWD, requesting the report from Matt Hickler.

Brooks Pond: Ms. Washburn said she and Mr. Reed inspected. All the work appeared to be completed on the toe drain and they did a nice job. There is still a boom in the river so Ms. Washburn emailed the contractor to remove the boom.

Caruso subdivision (R56-4) – James Caruso: Ms. Washburn said that on 9/23/15, three incomplete Notices of Intent were submitted by Julian Votruba for the Caruso four-lot subdivision. The plans show three septic lines running under a driveway through wetlands where wetland filling is proposed. No stormwater application was submitted. Work is clearly proposed in the buffer zone on Lot 1, although no NOI for Lot 1 was submitted. The four lots will be reviewed as one major project for stormwater review. Major Projects under the local Stormwater Bylaw require plans submitted with the stamp and signature of MA licensed Professional Engineer (PE).

5 East Avenue: Donna Plouffe is representing the buyers. She said that they are looking to obtain a Certificate of Compliance. The original engineer has retired and they cannot get the statement from him. Ms. Washburn said they can get a statement from any engineer stating the project was done in compliance with the approved plan. Ms. Washburn said they have to submit the Request for Certificate of Compliance by October 21st for the October 28th meeting.

22 Laurel Lane: Ms. Washburn said an RDA was filed for this property in order for vehicles to access the property next door, 20 Laurel Lane (John and Mary Stone), for a septic repair on Sugden Reservoir. Richard Chaffee, the contractor, did a significant amount of grading in order to install a new driveway because, he claimed, he could not get his equipment into the site. This significant amount of grading, in the buffer zone to an intermittent stream, was not shown on the RDA sketch, and it is immediately adjacent to the intermittent stream. Mr. Chaffee has altered the Bank of the intermittent stream; this is work in a protected resource area that was not covered under the RDA. The work has altered a protected resource area without an NOI.

Ms. Washburn inspected on 9/30/15. Mr. Chaffee was supposed to meet Ms. Washburn. He did not appear. Someone named Scott was there. About 3 inches of rain had fallen.

Mr. Chaffee had made an earthen berm across the top of the driveway. It kept water from the road out of the site effectively.

The Commission's consensus at the last meeting was to issue an Enforcement Order and fines, to be delivered by a constable, to the owner, Andrew Slowaski.

Ms. Washburn said since the last meeting, Mr. Chaffee agreed to submit a step-by-step plan, in writing, to restore the site to its previous condition, by 10/7/15. He has failed to do so. His last statement regarding this was that Mr. Gobi would prepare the restoration plan. None has been submitted.

Ms. Washburn said that Mr. Chaffee had told her on the phone that he does not intend to do the restoration work himself. He intends to have a third party do it. This is of grave concern regarding accountability for the violations that have occurred.

Ms. Washburn recommended issuing an Enforcement Order requiring that a NOI must be filed with a plan stamped by a P.E. showing existing and proposed grades, as well as all means proposed for stabilization, including stabilizing and planting the Bank. Ms. Washburn discussed this with Lee Jarvis today and she said he did not object.

Mr. Chaffee said they had silt fence installed so nothing got into the swale. He said Mr. Slowaski was nice enough to allow use of his property and issuing him an Enforcement Order and a fine is not right. Mr. Chaffee said this is the one of the most difficult sites to work with. Ms. McLaughlin said the apron is totally gone from the rains last week and there is mud down the road. Mr. Chaffee said they will sweep the street. Mr. Stone is asking what needs to be done in order to get this project complete; he wants to just move on. Ms. McLaughlin said he must submit a Notice of Intent along with a plan stamped by a professional engineer showing existing and proposed grades as well as all means proposed for stabilization including stabilizing and planting the bank.

Mr. Chaffee submitted a plan and letter from Richard Gobi. Mr. Chaffee said before the work began, he installed the silt fence and had gone above and beyond and installed an additional 60 feet of silt fence. Ms. Washburn had inspected and approved the silt fence. Mr. Reed commented that it seems to him that the mess made is due to the nature of the terrain and he would rather the job be stabilized and completed sooner by whatever means is acceptable. Ms. McLaughlin said the Commission can only work with what information is given to them. She said when it became clear that that much grading was taking place, someone should have come back and said the project is more extensive than what was on the original plan. The Commission will allow work to continue.

Mr. Chaffee said he can't commit to the job being 100% done in two weeks but he said there will be a significant improvement. He will work diligently to have it done in two weeks. An Enforcement Order will be issued and the Commission will do a site visit on October 28th at 4:30 p.m.

0 Woodbine Terrace: The Commission did a site visit on 9/30/15. Photos show that sand continues to enter Thompson Pond. The site inspection report states that the Arborvitaes don't meet the minimum four-foot height and the blueberry bushes previously planted were uprooted and transplanted. The blueberry bushes don't meet the minimum size either. Grass does not appear to have become established in the area where the illegal sand beach was installed. Oaks were planted instead of maples. The Votruba remediation plan dated 8/31/15 called for two (2) five to six foot maple trees. The court order requires a remediation report from New England Environmental Design by 10/30/15. None has been received as of 10/14/15.

Site Visits: The Commission will do site visits on October 20th at 2:15 p.m.

New Applications: 89 Smithville Road, NOI

A motion to adjourn the meeting at 9:25 p.m. (Snow/Emerson) passed 5/0.

Respectfully submitted by:

Lisa Daoust, Senior Clerk
Development & Inspectional Services

Documents reviewed at the 10/14/15 Spencer Conservation Commission meeting:

Agenda for the 10/14/15 meeting

Margaret's report dated 10/14/15

Minutes from the 9/9/15 meeting

Letter to Robert Dirsia of the Burncoat Pond Watershed District re: Freedom of Information and Public Records request for botanist's aquatic survey report (signed)

Order of Conditions for 25 Point Eastalee Drive (signed)

Order of Conditions for Sugden Dam (signed)

RDA file for 47 Oakland Drive

Portions of the rules and regulations from the Wellesley and Norfolk, MA Conservation Commissions re: winter inspections

Letter and site sketch prepared by Richard Gobi re: 22 Laurel Lane restoration work

Photographs of 22 Laurel Lane taken by Margaret Washburn

NOI file for 49 Lambs Grove

For 96 Greenville Street: site inspection report dated 10/4/15, original approved site plan, and revised site plan prepared by John Thomasian for Gary Kady's request for an amended Order of Conditions

Final approved plan amended by Steven Tyler on 10/14/15 for the Lake Whittemore Dam
NOI

Photographs of 0 Woodbine Terrace taken by Mary McLaughlin