

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, April 8, 2009 at 7:00 PM
Conference Room A
Memorial Town Hall

The Meeting was opened at 7 p.m.

Commissioners Present: Ernie Grimes (Chairman), Mary McLaughlin, Warren Snow,
Karen Rubino

Commissioners Absent: Judy Lochner, Steve Manuel

Staff present: Ginny Scarlet & Lisa Daoust

Minutes Approved: March 25, 2009 – *A motion to approve the minutes (Rubino/Snow) passed 4/0.*

Signed & Notarized:

- * 47-49 Chickering Road, Enforcement Order - *A motion to issue an Enforcement Order (McLaughlin/Snow) passed 4/0.*
- * Deer Run, Extension and Enforcement Order
- * 37 Sherman Grove, Cert. of Compliance, DEP# 293-0336
A motion to issue a Certificate of Compliance (McLaughlin/Rubino) passed 4/0.
- * 37 Sherman Grove, Cert. of Compliance, DEP# 293-0598
This project never begun, therefore, can be closed out. *A motion to issue a Certificate of Compliance (Rubino/McLaughlin) passed 4/0.*

7:19 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Country Spirits Corp.

Property: 10 West Main Street, Spencer, MA DEP#293-0724

At the request of the applicant, the hearing has continued to April 22, 2009.

**7:20 p.m. Opened the Public Hearing for Notice of Intent for James Sielis
Property: Greenville Street, Spencer, MA DEP#293-0725**

Representing Mr. Sielis was Mr. Jeff Howland, Graves Engineering, Engineer for the project and Mr. Scott Morrison, Eco Tech, Wetlands Specialist for the project. The proposed project is called Pine Cliff Condominiums. Under the current Spencer Zoning Bylaws, this is being designed as an OSRD. This is the first such project to have gone this far. OSRD allows a much closer, cluster type density thus preserving open space. Ms. Scarlet said the open space area is not shown on the plan that Mr. Howland was presenting. The development is roughly 4 acres with an additional 29.3 acres which includes the majority of the pond. It includes access from Greenville Street and abuts Knox Trail School. The snowmobile trail will not be disturbed other than the location of where the new road crosses.

The OSRD criteria say the buildings need to be 100 feet away from Greenville Street or any public street and there has to be an additional 75 foot buffer around the entire perimeter of the property. There is no disturbance planned within 75 feet. The preliminary project has been before the Planning Board. The Planning Board wanted access to the open space on Greenville Street so there can be a parking area so nobody will park on Greenville Street. The Planning Board also asked that low impact development be looked at. A 22 foot wide private road is proposed to enter into the development. No sidewalks are allowed. A gazebo will be constructed overlooking the pond.

A replicated wetland and a separate treatment wetland will be constructed to be used as stormwater management. There are several locations in wetlands that need to be filled. They are town jurisdictional wetlands. There is an outlet structure that mirrors the flow from the wetland now. That area will be replicated again adjacent to the existing wetland between the snowmobile trail and the replicated wetland.

The development will be constructed with town sewer and town water. The sewer line will be improved from Sunset Lane up to the proposed site. The site meets stormwater management. Recharge will not be provided because the site has only NRCS soil group C or D soil and it would be very difficult to provide recharge. SWPPP will be provided.

Ms. Scarlet said she had sent questions to Mr. Howland ahead of time to prepare him for the meeting. Ms. Scarlet said that she is going to call the stormwater management wetland a “treatment wetland” because that one is functioning the way a detention basin would. This way it can be distinguished from the wetland replication, which is required by the Wetlands Bylaw to replace filled wetlands. The “treatment wetland” is a separate WPA requirement.

Ms. Scarlet had a question as to what would happen during a 100 year flood. Where will the water level be relative to the floor of the buildings? Mr. Howland said he will give the actual elevation; he did not have it with him. Ms. Scarlet was on site during the melt season. The wetlands were taking water off Greenville Street and discharging down the slope. Ms. Scarlet was wondering about the capacity of the pipe under the road during a

large storm since the road slopes down towards the buildings, according to the topography on the plan. Mr. Howland said the pipe has more capacity than necessary. The elevation of the water will stay the same as it is now. Ms. Scarlet asked if the hay bales are effectively on the limits of disturbance. Mr. Howland said yes. Ms. Scarlet asked if any soil test pits were done. Mr. Howland said no because they need permission from the Commission to cross the wetland in order to get into the property. It is too difficult to come in through the other direction. Mr. Grimes said under the regulations, they are allowed access through the wetland with minimal disturbance. Mr. Sielis asked what the soil samples are for. Ms. Scarlet said soil data from NRCS maps can be a little misleading about exactly where the border is. It would be nice to confirm that the soils are actually what is expected. Mr. Sielis asked what soils are there now. Mr. Howland said Class C or D soils. Mr. Grimes said he has been to the site and basically if a machine is digging, it will hit rock. It is all ledge. Water can not run through rock.

Mr. Howland said the SWPPP contains a requirement for an Erosion Control Monitor on site. Ms. Scarlet said the Commission can write a condition in the Order that states a copy of the SWPPP must be submitted along with the name of the Site Erosion Control Monitor. Ms. Scarlet had a question regarding the TSS calculation. She wanted to know if Mr. Howland looked it up. Mr. Howland said whether he double counts it or not, it is still more than 80% removed. Ms. Scarlet said it is her understanding that there has to be a fore bay across the treatment wetland for them to get the 80%. Mr. Howland said there is a fore bay which gives 40%, plus the treatment wetland which gives 80%. The required percent is still exceeded.

Ms. Scarlet wanted to know how much freeboard is on the detention basin. Mr. Howland said at least a foot which is above the emergency spillway. Ms. Scarlet asked where the access for maintenance will be. Mr. Howland is not exactly sure yet, he will get that to the Commission. The treatment wetland will be done by the Condo Association. The Condo Association documents are being prepared and will be submitted to the Planning Board at the hearing on April 21st. Ms. Scarlet said the Operation and Maintenance Plan that was submitted is sketchy. Ms. Scarlet requested that Mr. Howland improve the plan to include time intervals and resubmit it. Mr. Howland said that he has already added time intervals to the plan and will submit a new copy to the Commission.

At this time, Mr. Grimes opened the hearing to the public. The following comments were made:

- Concern about building on the wetlands. The land is fields and old farms. There is a lot of nature that lives there such as beavers, turkey, ducks, etc. This development is disturbing nature. This abutter does not understand why wetlands have to be built on at all. Mr. Grimes said there are provisions made within the Wetlands Protection Act to allow projects to go forward and build small areas of wetlands. Every square foot in the Town of Spencer of wetlands that are filled, the contractor has to give back a replicated area of 1 ½ square feet. Not all the replicated areas survive. But it is the hope they will survive. Mr. Grimes asked Mr. Howland how many square feet of wetlands will be replicated. Mr. Howland said 4,500 square feet of replacement wetland.

- An abutter that lives on 6 Garrett Lane went before the Commission about a year and a half ago. He said that there was a rock that was within the buffer zone that was to be removed. They went through hell trying to get his permit to remove this rock because it was within the buffer. Now there is a development going up within this buffer zone and how could the Commission allow that. Mr. Grimes said the buffer zone itself is not protected under the Wetlands Protection Act. Ms. Scarlet said the rock actually went into the wetland. The abutter said that Mr. Grimes said specifically at the site visit that the rock was not in the wetland. Ms. Scarlet said she was the one that took the picture of the rock that had rolled into the wetland. The regulations say that the Commission has to make a judgment about buffer zone, whether the work in the buffer zone will affect the wetland.
- Mary Peterson was wondering how many houses have been built in Spencer that have not been purchased yet and is there a need for more housing. Mr. Grimes said that issue does not come before this Board which has no jurisdiction.
- The abutter from 6 Garrett Lane also said that he does not see the advantage to the town having this development. All through this property there are all kinds of caves, ledges and hazardous areas besides the water where the town could be held liable for some type of injury. He does not think the town needs to be involved with this property. Mr. Grimes said that it is part of growing up, it's exploring. The town already has liability insurance for numerous things.
- Jan Gordon from the Snowbirds Snowmobile Club said that the Sielis family has let the snowmobile club go through their property since 1969 and have never had a problem. By turning the land over to the town and making it Open Space, Jan says he thinks this is a great idea.
- An abutter asked if blasting will take place to construct the condo development. Although the site contractor has not determined that yet, Mr. Howland would not be surprised. The abutter asked what kind of protection would his 1887 Victorian home have against damage. Ms. Scarlet said the contractor who is doing the blasting has insurance. The blasters insurance company will send someone with a video recorder to record the condition of the homes before the blasting so if anything should happen, there is a record of what the homes looked like before. Mr. Howland said the Fire Department has to do a pre-blast survey before issuing the blasting permit.
- An abutter asked if they will be notified of the blasting. Mr. Howland said he was not sure because it is regulated through the Fire Department. Ms. Scarlet said the regulations should be available from the Fire Department.
- An abutter is concerned that from Sunset Lane and up to the site will be disturbed due to the sewer line. Mr. Howland said they are in the process of going through the Sewer Commission now.

- An abutter said that the letter sent out about the project was very vague and where is the communication. Mr. Howland said that the letter sent out is a state form and unfortunately it is very vague. Any abutter is allowed to view the plans in the ODIS office at the Town Hall.

Ms. Rubino commented that she does agree that any space that the Town can acquire as Open Space is going to increase the value to the properties around it and to the town. Ms. Scarlet also said with regards to the liability comment that unimproved land left in the natural condition which a land owner allows to be open to the public, the land owner is protected from liability by Massachusetts State Law; unless there is some kind of gross negligence.

Mr. Grimes asked Mr. Howland if the plan was still before the Planning Board. Mr. Howland said the first public hearing is on April 21st.

At this time, the applicant has requested a continuance to May 13th.

Other Business:

Deer Run: Ms. Scarlet did a site visit this morning and took photographs for the Commission to review. Ms. Scarlet said Mr. Harrington's engineer has been sending inspection reports to her. The inspection reports do not match what Ms. Scarlet sees when she inspects. One report from the engineer said all slopes and disturbed areas, not actively being worked, are stabilized. Ms. Scarlet said this is not true and has dated photos. Another inspection report says all natural resource areas are protected with barriers or similar BMP's and are maintained. Ms. Scarlet says she does not think they are protected which is worse than not being maintained. There are inspection reports for other areas where the engineer is quite accurate. *A motion to issue a 6 month Extension and Enforcement Order (McLaughlin/Rubino) passed 4/0.*

Conservation Commission candidates: Ms. Scarlet said there are three candidates. Two of the candidates the Commission has already met, Chris Plante and Bonnie Nieve. The other candidate is Dana Reed who was present to meet the Commission. Mr. Grimes asked Mr. Reed to tell the Commission about himself. Mr. Reed said his interest both professionally and as a hobby is Conservation. He lives on Brooks Pond and has acquired this type of interest just living there and also from a career standpoint. He has a high degree of interest in the town. Ms. Scarlet asked if Mr. Reed would be interested in taking on the leadership role to get the Open Space Plan up to date. Mr. Reed is open to the idea. Mr. Snow asked if he would be available for most meetings. Mr. Reed said he is available. Ms. Scarlet said that Chris Plante does have first precedence to be on the Commission because he tried to become a Commissioner the last time a position was open. It is the consensus of the Commission to recommend Chris Plante.

123 Wilson Avenue: There is a retaining wall above the water line. There are 4 stones that are loose and the property owner wants to lift them out and re-cement them. The owner wants to know if he needs to file in order to do this. Ms. Scarlet called DEP and they said that when dealing with small projects, the Commission can make the decision that a homeowner does not have to file. Mr. Grimes said it is maintenance. If the owner starts to do the whole wall, that is something different and he will have to file.

19 Lake Avenue: Ms. Scarlet took photos and handed them out to the Commission. The determination states a deck to be constructed with hay bales around the posts only. The photos show a coffer dam in the water to repair the steps. The owners have a new contractor. The homeowners told the new contractor to stop above the water. The question is does the Commission say the steps can not be done at all or can the contractor continue and finish the upper part of the stairs. Ms. Scarlet said doing the upper steps is a good idea because they are eroding. Ms. Scarlet wants the Commission to decide whether or not Ms. Scarlet is to stop the step work. Ms. McLaughlin said fixing the steps has to be better than leaving what is there now. Ms. Scarlet will write in the letter that the contractor needs to install a barrier between the work and the water in case anything goes over. Mr. Snow said he has no issues as long as the erosion controls are installed and the contractor does not work in the water. Mr. Snow also said the repairs of the stairs should have been on the plan to begin with. It is the consensus of the Commission to have Ms. Scarlet send the letter allowing work above water with protections.

Pine Acres, Legal Authorization: The town has hired a lawyer, Attorney Judy Pickett. She is a board member of MACC. Her office is in Worcester. Ms. Scarlet gave the Commission a copy of the proposal to review. *A motion to hire and authorize Attorney Judy Pickett to do title search for Pine Acres per the proposal (McLaughlin/Snow) passed 4/0.*

O’Gara Park: Mr. Tony Bove has to get electricity run to the light poles at O’Gara Park. A contractor has to dig ditches from pole to pole to install the wiring for the lights. There is a brook down the side of the park outside the fence. Mr. Bove has to get the lighting done within 15 days because of opening season. Ms. Scarlet thinks it is possible to do the trenching without affecting the wetlands. (On the other side of O’Gara where there is a bigger wetland, the town has been using it as a snow dump site. They have been pushing snow and sand into the wetlands.) Ms. Scarlet is proposing to allow Mr. Bove to do the work and file an RDA concurrently IF he gets Utilities and Facilities to do the snow disposal away from the wetlands. It is the consensus of the Commission to allow the work to be done with the filing of an RDA.

Site Visits: A site visit for 30 GH Wilson Road has been scheduled for Monday, April 13, 2009 at 5 p.m. Meet at the Town Hall.

Ms. McLaughlin and Mr. Snow will not be able to attend the meeting of April 22, 2009.

New Applications: None

A motion to adjourn the meeting at 8:48 p.m. (Rubino/Snow) passed 4/0.

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services