

# Conservation Commission – Town of Spencer

## *Minutes*



Conservation Commission Meeting  
Wednesday, August 12, 2009 at 7:00 PM  
Richard Sugden Library

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The Meeting was opened at 7 p.m.

Commissioners Present: Ernest Grimes (Chairman), Judy Lochner, Chris Plant, Karen Rubino, Warren Snow

Commissioners Absent: Steve Manuel, Mary McLaughlin

Staff present: Ginny Scarlet & Lisa Daoust

**Minutes Approved:** July 22, 2009 – *A motion to approve the minutes with amendments (Snow/Plant) passed 5/0.*

**Signed & Notarized:** 6 Condon Drive, Order of Conditions  
Thompson Pond, Herbicide Extension  
8 Bellevue Drive, Certificate of Compliance  
17 Delude Ave., Certificate of Compliance  
40 Thompson Pond Rd., Certificate of Compliance  
Lot 3, Candlewood Dr., Certificate of Compliance

### **7:15 p.m. Opened the Public Hearing for Request for Determination of Applicability for John Turner**

#### **Property: 65 Lakeshore Drive, Spencer, MA**

The project is to construct an 11' x 24' addition with a full foundation to the existing dwelling. Ms. Scarlet measured from the addition to the lake and the addition will be 97 feet from the lake. Mr. Grimes said the numbers on the plan do not match the 97' to the water that Ms. Scarlet measured. Ms. Scarlet said the numbers must be wrong and she measured 97' from the addition to the water. The property used to be three lots but has been combined into one lot. Ms. Lochner asked Mr. Turner to write on the plan the distance from the proposed addition to the water. The addition will abut a non-buildable vacant lot which Mr. Turner tried to purchase. Mr. Turner has received a variance from the Zoning Board to build the addition. Ms. Scarlet asked where the materials will be stockpiled. Mr. Turner said the dirt will be piled in the driveway because he will be using the dirt again.

The proposed conditions are as follows:

- Follow the plan
- Hay bales or silt fence must be installed

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

*A motion for a Negative Determination with conditions as discussed (Snow/Plant) passed 5/0.*

**Other Business:**

**8 Bellevue Drive:** Ms. Scarlet said everything looks good. The Order of Conditions was never recorded but the owners would like a Certificate of Compliance anyways. *A motion to issue a Certificate of Compliance (Lochner/Rubino) passed 5/0.*

**17 Delude Avenue:** Ms. Scarlet passed around photos. The slope did not erode and grass is growing well. Ms. Scarlet spoke to Mr. Lee Jarvis, Board of Health Agent, about the water that is sitting on top of the soil absorption system. Mr. Jarvis said it was not a problem; it will go away. *A motion to issue a Certificate of Compliance (Snow/Plant) passed 5/0.*

**40 Thompson Pond Road:** Ms. Scarlet and Mr. Grimes said everything looks good. *A motion to issue a Certificate of Compliance (Plant/Rubino) passed 5/0.*

**37 GH Wilson Road:** Ms. Scarlet did send the Aucoins a ticket for filling wetlands. Ms. Aucoin came to see Ms. Scarlet just before this meeting began and said they had pulled everything out and regraded. She asked Ms. Scarlet to come inspect. Ms. Aucoin said there was no way they could've cleaned out the wetlands before with all the rain that we got. Ms. Scarlet will inspect and see if the clean up has been done correctly. Ms. Scarlet asked how much leeway should be given if removal of fill is not done to the Commissions liking. Mr. Grimes said if it's not done correctly, give the Aucoins one more week and if the work is not done after the week, start fining them. Ms. Scarlet thought to give them one more week then modify the Enforcement Order to require that the Aucoin hire a professional. Ms. Lochner asked whether Ms. Scarlet had marked the wetlands with stakes. Ms. Scarlet said she had but they were pulled out.

**59 GH Wilson Road:** Mr. Patrick Garner has withdrawn the Notice of Intent application that he was doing to help Mr. and Mrs. Aucoin. He suggested to the Aucoins that they apply on their own but they refused. Ms. Scarlet said she spoke with the Highway Department and the department is concerned with that beaver dam and what would happen to GH Wilson Road and Chickering Road if it let go.

**64 Paxton Road:** A Certificate of Compliance was requested. Ms. Scarlet said she recommends giving them their Certificate. She passed around pictures to the Commission. There is grass behind the pool and grass down the slopes by the shed. Ms. Scarlet said at this point, the area is stabilized. Ms. Lochner said she does not have a good feeling about issuing a Certificate of Compliance without doing a site visit. Mr. Grimes said the Enforcement Order stated to get the area stabilized by July 31<sup>st</sup>, which Mr. Fryberg has done. *A motion to issue a Certificate of Compliance (Snow/Plant) passed 5/0.*

**19 Bixby Road:** Mr. Patrick Gallant has requested a three year Extension. No work has started. The Order of Conditions does not expire until October 25, 2010. The Extension will expire October 25, 2013, three years from the original expiration date. *A motion to grant a three year Extension (Rubino/Snow) passed 5/0.*

**Spencer Wetland Bylaw:** Most of the changes Ms. Scarlet made to the Bylaw were moving words around and making necessary clarifications. The following changes of meaning were made:

- There is a section (16.3.1) that talks about using hay bales and silt fence only. Ms. Scarlet would like to change it to say hay bales and/or silt fence or functionally equivalent or better erosion protections.
- Section 8.7 regarding Extensions must be changed to say the Commission can grant an Extension for up to three years. Additional 1-3 year Extensions may be granted if requested 30 days prior to the Extension expiration date. Determinations are NOT extendable.

Mr. Snow said something should be written in the Bylaw about emergencies and being able to authorize work to prevent emergencies. Ms. Scarlet said that would be more permissive than the State Regulations. Mr. Snow said the state regulations are saying an emergency can not be prevented. Ms. Scarlet said the state regulations say if the emergency is foreseeable, then there is plenty of time to file for work necessary to prevent the emergency. Mr. Snow had grammatical corrections that Ms. Scarlet will tend to. Ms. Lochner said in Section 4.1.3 of the Draft, 61b should be removed and the acronyms should be spelled out. Ms. Scarlet will make those corrections.

Ms. Scarlet informed the Commission that she changed the Notice to Abutters form to show a short, general description of the project that the Notice of Intent is being filed for. In Section 6.4, it will be changed to say a copy of the Public Hearing Notice will be sent to the Board of Health, Planning, Zoning and Highway Departments; Sewer Department if necessary.

Ms. Scarlet would like to make vernal pools a type of protected wetland. Currently they are not protected by the Bylaw. The state has published a potential vernal pools map. It could be posted at the office. Vernal pools will have to be discussed and voted on at Town Meeting to be put in the Bylaw. Mr. Grimes asked whether vernal pools fall under a Wetlands Protection Act (WPA) non-jurisdictional wetland because the Bylaw already protects those. Ms. Scarlet said that many of them will fall under the WPA non-jurisdictional wetland but a lot of them will not.

Final revisions to the draft will be made at the next meeting on August 26, 2009.

**Spencer Furniture:** The project has started. There are minor changes. Rip rap was put down on the access route down the slope to the plunge pool below the stream outfall where the erosion controls were placed. The slope was crumbling under use. An asphalt berm has been used on the parking lot and driveway surface instead of hay bales or sand bags to contain the dirt. Muzzy Brook has had continuously acceptable clarity so far as of 8/12/09. The diversion was started on 8/10/09. The trench shoring for the first replacement section is in.

**15 Rustic Lane:** The Commission issued a Negative Determination for a septic replacement. At the hearing it was said the system was in failure. Ms. Scarlet drove by and saw nothing has been done. She asked Mr. Lee Jarvis, Board of Health Agent and he said he will follow up. Mr. Jarvis may have to pull the Occupancy Permit because the house has kids living there, playing in the yard where sewage is breaking out.

**12 Sherman Grove:** An outside home heating oil tank ruptured and oil went into Sugden Lake. DEP Emergency Response and Clean Harbors responded. Booms were placed in the water and the storm drains were cleaned out. Board of Health will require nearby wells be tested.

**Authorization Review:** Since the Commission members change, Ms. Scarlet thinks it would be a good idea for the Commission to vote and sign the Authorizations annually.

**Pine Acres:** The Selectmen will publish a notice in the paper giving private road repair rules. They will also send a certified letter to Pine Acres Road residents at and beyond the culvert and invite them to an informational meeting to be held on September 16, 2009 at 7 p.m.

**51 Lakeshore Drive:** Mr. Ahearn installed a swale to clean up the runoff from the road that was going down his property straight into the lake. Since that time, Mr. Ahearn discovered that the swale did not contain the problem very well. So, Mr. Ahearn hired a contractor to put in a catch basin at the top and the contractor was smart enough to put in another catch basin and a pipe down after the two catch basins so there are two traps for the silt. The work was done without filing with the Conservation Commission. The catch basin up by the road is out of the 100 foot buffer but the pipe went down to where the rip rap and new catch basin are within the 100 foot buffer. What was done is absolutely terrific but done without proper permits. Ms. Scarlet asked the Commission what she should do. Ms. Scarlet said she thinks a letter should be sent to Mr. Ahearn. The Conservation Commission concurred and a letter will be sent.

New Applications: None

*A motion to adjourn the meeting at 9:15 p.m. (Snow/Lochner) passed 5/0.*

Respectfully submitted by:

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Lisa Daoust, Clerk  
Development & Inspectional Services