

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, August 26, 2009 at 7:00 PM
Richard Sugden Library

The Meeting was opened at 7 p.m.

Commissioners Present: Ernie Grimes (Chairman), Warren Snow, Chris Plant, Mary McLaughlin, Judy Lochner (arrived at 7:25 p.m.)

Commissioners Absent: Steve Manuel

Staff present: Ginny Scarlet & Lisa Daoust

Minutes Approved: August 12, 2009 – *A motion to approve the minutes with amendments as discussed (Snow/Plant) passed 4/0.*

Signed & Notarized: 64 Paxton Road, Certificate of Compliance
6 Condon Drive, Certificate of Compliance
221 North Spencer Rd., Certificate of Compliance

Other Business:

Emergency Certification, South Spencer Road: The beavers have been building up a dam downstream from South Spencer Road on the Cranberry River. Given the conditions of the Towns' sewer and water pipes, Mr. Rob McNeil would like the Conservation Commission to issue an Emergency Certification so the beaver dam can be removed before the water gets any higher. Ms. Scarlet did a site visit and took pictures. She does concur with Mr. McNeil in that an Emergency Certificate should be issued. Mr. McNeil is in the process of getting the beaver permit from the Board of Health. Mr. Snow asked why not just lower the water level, why breach the whole dam? Ms. Scarlet said because the beavers will build the dam back up. Utilities & Facilities is going to lower the water level as needed. Mr. Malcolm Speicher said Mr. McNeil told him the water qualities are changing and asked Mr. Speicher to remove the dam. Mr. Speicher told Mr. McNeil to obtain the proper permits from the Conservation Commission and the Board of Health. Ms. Scarlet said Mr. McNeil asked for an Emergency Certificate and then will submit a Notice of Intent afterward. The Notice of Intent can cover on-going beaver control. *A motion to issue an Emergency Certification (Snow/Plant) passed 4/0.* A copy of the signed Emergency Certification was given to Mr. Speicher so he can begin work on Friday, August 28, 2009.

Muzzy Pond: Scott Morrison has been hired by the Town to file the Notice of Intent and a Management Plan for lowering Muzzy Pond. Ms. Scarlet and Mr. Morrison were out there today. The abutters list has been requested and Ms. Scarlet has to figure out where the Order of Conditions would be recorded because Muzzy Pond does not have a map and parcel number or a book and page number.

6 Condon Drive: Ms. Scarlet inspected. There is some patchy grass. There is solid grass down slope of the system. Ms. Scarlet recommends issuing the Certificate of Compliance. Ms. Scarlet said the hay bales have been removed again. *A motion to issue a Certificate of Compliance (Snow/McLaughlin) passed 4/0.*

221 North Spencer Road: The concrete markers have been installed. Ms. Scarlet inspected and took pictures to show the Commission. *A motion to issue a Certificate of Compliance (Plant/McLaughlin) passed 4/0.*

47-49 Chickering Road: The wetlands replication has not been completed. There has been some of the replication excavation done. Ms. Scarlet informed the owner, Oscar Gauvin, that holes must be dug to show that the proper soil is in place, which he did. Ms. Scarlet said the soil is wetland subsoil but no organic soils have been placed on top. She also informed the owner that a list of plants must be submitted because the plants that are on the approved plan will not grow in wetlands. Ms. Scarlet said that wetland replication plans submitted by Coyle Engineering should be checked over carefully as she has received some complaints about the success of other replication plans submitted by Coyle Engineering. Ms. Scarlet mailed a standard wetlands replication diagram of how a replication should be constructed and a list of plants that can be used. Ms. Scarlet later made a change on the owner's list from the low bush blueberry plants to high bush blueberry plants. Low bush blueberry plants do not do so well in wet soils and hence were not one of her suggestions.

Ms. Lochner asked if this was a new project or did the owners do something wrong. Ms. Scarlet said the site was going to be a house lot but various things have intervened so the house has not been built. A driveway was constructed which filled wetland. The replication is needed to replace the area filled. The owners are just trying to sell the lot. Ms. Scarlet said the owners are under an Enforcement Order because they let the Order of Conditions expire. Ms. Scarlet hopes to have the owners get a decent wetlands replication constructed and then issue a Certificate of Compliance. The owners are motivated now because they do want to sell.

Authorizations for Wetland/Soil Specialist: Ms. McLaughlin read the authorizations. *A motion to accept the Authorizations (McLaughlin/Snow) passed 5/0.*

Spencer Wetland Bylaw: Ms. Scarlet has made all the changes that were discussed at the August 12th meeting. Ms. Scarlet did add the following to the Bylaw:

- 16.4 – No Determination of Applicability or Order of Conditions issued by the Commission shall permit cutting of trees or clearing of forest land in a resource area protected by this bylaw IF within five (5) years preceding the application forest cutting has already taken place based on a Department of Conservation and Recreation Forest Cutting Permit. The Commission shall allow no cutting until the full five (5) year waiting period required by 310 CMR 11.05(1) (d), the regulations of the Massachusetts Forest Cutting Practices Act, M.G.L. c. 132; 4.1 has elapsed.

Mr. Snow said on Page 9, 10.1.2, what did Ms. Scarlet mean by “running with the land”? Ms. Scarlet said it is a term that means whoever has title to the land, the restriction goes with it. It becomes the responsibility of whoever has title.

Ms. Lochner suggested where the word Determination is used in the Bylaw, it should be spelled out as Determination of Applicability. Ms. Scarlet said she can put Definitions in the beginning of the Bylaw. Ms. Lochner also said numbers one through ten should be spelled out, not in numeric format, e.g. one (1).

A motion to use this Draft to submit amendments for the Bylaw to Town Meeting (Lochner/Snow) passed 5/0.

Forest Tree Cutting Plan: There was a plan submitted for a large acreage parcel but the parcel had more than one owner which is not legal. Ms. Scarlet noticed on the GIS System that the property had been subdivided into six lots. Forest cutting permits are not supposed to be issued on properties that are going to be developed. Ms. Scarlet sent a letter to Mr. Guy LaChance, the region service forester. Mr. LaChance called Ms. Scarlet and expressed how unhappy he was about the permit being issued for land that was going to be developed. On the other hand, Mr. LaChance can not forbid developing once a permit has been issued and he can not forbid a permit on the basis of what looks like land that will be developed. Mr. LaChance felt his hands were tied. Mr. LaChance said that if a forest cutting permit is issued then they do not need to file for wetlands.

Mr. LaChance also said if the contractor gets a tree cutting permit which allows work in the buffer zone or a wetland, he is not allowed to work in the area again for five years. Mr. LaChance suggested that a provision be written into the Local Wetlands Bylaw saying if permission was granted to work in the wetland within the last five years, the Commission shall not issue a wetlands permit that allows further disturbance in those areas until the five years has elapsed. Mr. Grimes said it is going to be hard to keep track of the Forest Cutting areas. Ms. Scarlet said she will keep track of the forest plans and put a red dot on the ones that cut in the wetlands.

Westerman Estates: Ms. Scarlet received two complaints and went to inspect. There has been work in the buffer and fill (stone put down) at the cart path stream crossing. Ms. Scarlet sent a Notice of Violation with a deadline of September 23, 2009 to submit a Notice of Intent. Mr. Adam Gaudette, Town Planner, plans on calling Mr. Westerman's attorney, Damien Berthiaume. Mr. Grimes said he has noticed that there is a "for sale" sign by the north access point near 115 Ash Street.

Spencer Furniture: Ms. Scarlet said they are doing an impressively good job. The contractors are adding and moving erosion control BMP's as the project goes along. The stream is fine, even in the rain.

Muzzy Pond Cleanup: Mr. Snow went to the cleanup. He said shopping carts and golf carts have been taken out of Muzzy. There were a total of 12 volunteers. There were three inch fresh water clams and turtles found. The Highway Department loaded up four dump trucks worth of junk that was removed.

Sunset-Holmes: This subdivision is being foreclosed. Mr. Hill will be requesting a three year Extension. All is currently in compliance.

15 Pine Acres: Ms. Scarlet is meeting with the owner on Monday, August 31st at 6 p.m. at the site to go over his responsibilities and prescribe remediation for the debris in the wetland. Any Commission Member that would like to come is welcome.

Pine Acres: The Town Administrator is putting a notice in the paper this week saying that the Town no longer will do repairs on private roads. The Town will continue to plow in the winter.

Site Visits: The Commission will do site visits at 28 Lakeview Drive, 77B Maple Street, Lot 9, Greenville Street and 8 Bond Street on Sunday, August 30th at 9:30 a.m. Meet at the Town Hall. Ms. Scarlet will inspect CSX Railroad, 369 Main Street and Ahearn Equipment.

New Applications: CSX Railroad, RDA
28 Lakeview Drive, RDA
77B Maple Street, NOI

A motion to adjourn the meeting at 8:37 p.m. (McLaughlin/Snow) passed 5/0.

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services