

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, January 14, 2009 at 7:00 PM
Conference Room A
Memorial Town Hall

The Meeting was opened at 7:02 p.m.

Commissioners Present: Ernie Grimes (Chairman), Steve Manuel, Tom Flannery (arrived at 7:06 p.m.), Warren Snow, Karen Rubino

Commissioners Absent: Judy Lochner, Mary McLaughlin

Staff present: Ginny Scarlet & Lisa Daoust

Minutes Approved: December 10, 2008 – *A motion was made to approve the minutes as written (Manuel/Rubino) passed 4/0.*

Signed & Notarized: 1 Briarwood Lane, Certificate of Compliance: Ms. Scarlet said after the property was sold, the engineer certification was received. Ms. Scarlet inspected and everything is good. *A motion was made to issue the Certificate of Compliance (Snow/Manuel) passed 4/0.* The original file was labeled 3 Briarwood Lane. Ms. Scarlet asked Mr. Michael Harrington what the official address is now. Mr. Harrington said it is 1 Briarwood Lane.

7:15 p.m. Opened the Public Hearing for Notice of Intent for Valerian Kulesza Property: 39 Point Eastalee Drive, Spencer, MA DEP#293-0717

Mr. Kulesza and his contractor presented the plan. The plan is to fix the retaining wall and replace the septic system. The Board of Health has approved the septic system. The contractor said there is a retaining wall around the septic system on the original approved plans. There is also an existing old wooden lakeside retaining wall. In some places that wall leans in towards the water. If the wall lets go during construction, the soil will go into the pond. The contractor wants to fix the old wall at the same time the septic is being replaced. The contractor will use 2x2x4 interlocking retaining blocks for the wall. Mr. Grimes said the wall can not go any further into the lake. The State Regulations state that the wall has to stay in the same exact spot that it currently is in. Mr. Grimes said the work on the wall must be done during the drawdown of the lake; therefore, the work will not be able to be done until next fall. An Order of Conditions is good for 3 years. The septic system can be done anytime.

Mr. Flannery suggested a coffer dam be installed to do the work on the wall. Ms. Rubino asked why not build the new wall in between the 2 walls using the old wall as a coffer dam. Then remove the outer wall that is rotted. The plan will have to be amended and re-submitted to the Commission. Therefore, *at the request of the applicant, the hearing has been continued to January 28, 2009.*

7:33 p.m. Opened the Public Hearing for Request for Determination of Applicability for Edgar Paquette

Property: 6 Bellevue Drive, Spencer, MA

Mr. Gobi left a message for Ms. Scarlet letting her know that neither he nor Mr. Paquette could attend the hearing and asked that the Commission hold the hearing without them. Mr. Grimes said the Commission will open the hearing but if there is one question about the plan, the hearing will be continued. Ms. Scarlet said she has been there and took photos. The project is to replace the septic system. Ms. Scarlet said the system is not close to the water, it's beside the house. The Commission studied the plans and decided they were self-explanatory.

A motion to close the public hearing (Flannery/Manuel) passed 5/0.

The proposed conditions are as follows:

- Standard ESC conditions
- No work is to be done until ESC has been installed & inspected.

A motion for a Negative Determination with conditions as discussed (Flannery/Snow) passed 4/0

7:41 p.m. Opened the Public Hearing for Notice of Intent for David Brooks

Property: 17 Condon Drive, Spencer, MA DEP#293-0715

Mr. David Brooks was present but said that his representative, Mr. Seth Lajoie, was not present. The project is for a Title V upgrade. It has been approved by the Board of Health. Ms. Scarlet did inspect. There is snow on the ground, however, as far as she could determine the plan is accurate. Ms. Scarlet pointed out the wet spot on the abutting property. Under the fence between the two properties there is a mild drainage swale. The driveway is paved. The water coming off the roof and the driveway goes into the neighbor's yard.

Ms. Scarlet got a call from an abutter, Ms. Carol Payne, 15 Condon Drive, with a concern about the water going into her yard. Ms. Payne said it is not just a little wet spot; it's like a duck pond that has gotten worse over the years. But there is more than one thing contributing to the wet spot. All the houses that were built across the street have steep driveways and all that water goes right into the lower properties. Ms. Payne said she also thinks a lot of pine trees have been cut down across the area. Ms. Payne had asked the Highway Department to install some kind of ditch or curbing which they did and it has helped with the water problem but not solved it.

Ms. Payne is mainly concerned that with the upgrading of Mr. Brooks' septic system, it will flood her property more. Ms. Scarlet said this hearing needs to be continued so the Engineer can be present to explain what will be done about the water. *At the applicant's request, the hearing has been continued to January 28, 2009.*

7:58 p.m. Opened the Public Hearing for Request for Determination of Applicability for James Ostromecky

Property: 19 Lake Avenue, Spencer, MA

Ms. Scarlet said this property has an Order of Conditions to construct a new leach field from 2002 that expired in 2005. A Certificate of Compliance was never requested. Also, this new plan is very clear in showing that the lot line is not at the water line. There is a stone retaining wall and water line/bank out in the "water" outside the lot. The new proposed expansion of the deck is right up to the lot line. Mr. Daniel Leahy, DFL Enterprises, represented Mr. Ostromecky. He said the project is to expand Mr. Ostromecky's deck. The expansion of the deck will be installed on 5 sonotubes placed 10 inches apart. The holes will be hand dug with manual equipment. Mr. Leahy said the deck location is level. Mr. Grimes said 3 hay bales can be installed around each hole. Mr. Leahy does not have to install the bales around the whole yard. Mr. Flannery said he does not see any Conservation issues with this project.

Ms. Scarlet said the original Order of Conditions from 2002 was recorded at the Registry of Deeds. Therefore, she recommended to Mr. Ostromecky he request a Certificate of Compliance and have that recorded at the Registry of Deeds to clear the Order of Conditions.

The proposed conditions are as follows:

- The holes must be dug by hand with manual equipment
- 3 hay bales must be installed around each hole.

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

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

8:13 p.m. Opened the Public Hearing for Notice of Intent for Michael Harrington
Property: 7 Briarwood Lane, Spencer, MA DEP#293-0719

Nathaniel Mahonen represented Mike Harrington. The project is for a single family home with attached garage. The house has been constructed and almost finished. The private well and septic system have been installed to the southwest of the house. Erosion and sedimentation control as shown on the plan has already been installed. The limit of work to the wetland is 80 feet. The work that will intrude into the buffer is required fill for the septic system. None of the building construction is within the buffer. Ms. Scarlet said the disturbance behind the house goes right up to the ESC.

Mr. Manuel asked what was between the house and the wetland. Ms. Scarlet said it is woods. Mr. Manuel asked what the intention is for the yard. Mr. Harrington said it will just be seeded. Mr. Harrington said the owner before him used to log trees from the land and use them to burn in his woodstove. Mr. Harrington said everything is essentially done. Ms. Scarlet reported that things have been improving at the site and she will not have to do as many inspections. She will just drop by randomly.

The proposed conditions are as follows:

- Follow the plan as presented.
- The property may not be transferred until the Conservation Restriction required by Section 401 of the US Clean Water Act has been recorded at the Registry of Deeds.

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

A motion to approve the plan as presented with conditions discussed (Flannery/Rubino) passed 5/0.

Other Business:

Depot Trail: The Recreation Commission wants to have maintenance done on the Trail. The Highway Department has told the Recreation Commission that work can not be done there until a Notice of Intent is filed and an Order of Conditions issued. Ms. Scarlet asked whether any Commission Members could go and check the trail. Ms. Rubino said she will check the trail. Ms. Scarlet will remind the Recreation Commission that snowmobiles are allowed on the trail.

Town Planner: Mr. Adam Gaudette will be attending the meeting on January 28th to meet the Commission.

Roys Drive Apartments: These apartments are behind the Dairy Queen. The basements are below the sewer line on Roys Drive. The sewage from the buildings is pumped up to the line. During the power failure, the pumps could not function. The buildings are on Town water so no one stopped using the toilets or showers. The sewage backed up into the basements, some of which are finished rooms. Tenants complained to the owner who got emergency diesel pumps brought in. After the power returned, a tenant alerted the Board of Health. Lee Jarvis, Board of Health Agent, investigated. Another tenant, who wished to remain anonymous, told Mr. Jarvis that the sewage was pumped to the street drains.

Ms. Scarlet did an inspection and found the street drain outlet. It goes into a wetland west of Roys drive which drains into Lake Whittemore. There is no direct channel to the lake. Ms. Scarlet did not find any toilet paper or other obvious signs of sewage but by the time she was out there it had snowed again. At the outfall there was a bit of black gunk at the edges of the water path.

Mr. Jarvis is requiring that the building be thoroughly cleaned and disinfected. In addition, he is requiring a system be installed that either supplies backup power to the sewer pumps or the incoming water will be shut off automatically whenever the power fails. Ms. Scarlet attended the Board of Health meeting and explained to the owner his responsibility under the federal clean water act, the state clean water act and the wetlands protection act, all of which had been violated. Ms. Scarlet will follow up with Mr. Jarvis and also send the owner a Notice of Violation letter to reiterate his lawful duties.

Pine Acres Culvert at Toby Brook: Ms. Scarlet was told that a citizen from Pine Acres, a private road, called the Town Administrator and more than one selectman on January 2, 2009 complaining about the impassable road. On receiving the call, two of the selectmen and the Administrator left to inspect the road, which was clearly impassable. When they arrived at the site, there were three residents that live on the road standing in the water attempting to divert it into the lake and concerned for their safety. The residents were informed that the Board of Selectmen would do what they could to assist them. On the way back to the Town Hall, it was decided that an attempt to fix the problems should be made. The Selectmen involved then called Mr. Eben Butler of Utilities and Facilities and informed him what they wanted done. Mr. Butler's response was that he did not have the time or the manpower and could not do the job on a private road. The work on public roads was not finished. This was unacceptable to the Selectmen. The Selectmen involved then agreed to allow Mr. Ed Thibeault do the job. The job was done. The residents were pleased.

Ms. Scarlet looked at the new culvert. Mr. Thibeault did his usual good work but there were no erosion and sedimentation controls used which allowed mud to go down stream. After much discussion, the Commission decided, since it was not possible to undo the event, not to issue an Enforcement Order. Mr. Grimes told Ms. Scarlet to draft a letter to the Board of Selectmen and have it signed by any Commission Member that feels that they can sign it.

Cleanup of Storm Debris: The proposed policy that Ms. Scarlet made was that no application to the Commission is necessary as long as there was no ground disturbance; it would be perfectly fine to cut up any wood. For any trees that are in the water, it is fine to pull them out of the water and cut them up. Any wood that gets into the pond that is not pulled out will become a hazard for boats. If a rather large vehicle is needed to remove trees, no ruts or torn up ground is allowed near the water. Ms. Scarlet will be inspecting in the spring for impact.

Fees: The Town Planner has been instructed to come up with reduced fees. Ms. Scarlet lobbied that the Conservation fees for the Request for Determination of Applicability be reduced and leave the Notice of Intent fees as they are. Mr. Flannery said that this town's fees are substantial compared to other towns. Ms. Rubino made the point that even with the school department, there is a fee attached to everything that students have to pay for. (Fees, by law, must be used to fund the service the fee is for. They do not go into the Town's General Fund.)

45 Oakland Drive: Mr. Tom Flannery had a change to his original plan. The proposed deck is going to be smaller than on the original plan and will not be any closer to the water. Overall, the square footage will be less. *A motion to approve the plan change (Manuel/Rubino) passed 4/0.*

Site Visits: The Commission will do site visits on Sunday, January 25, 2009. Members are to meet at the Town Hall at 9 a.m.

New Applications: 15 Rustic Lane, NOI
 17 Delude Ave., NOI
 113 Wilson Ave., NOI
 67 Jolicoeur Ave., NOI
 35 Gold Nugget Road, NOI

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

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services