

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, January 13, 2010 at 7:00 PM
Richard Sugden Library

The Meeting was opened at: 7:00 p.m.

Commissioners Present: Ernie Grimes (Chairman), Judy Lochner, Mary McLaughlin, Warren Snow, Chris Plant

Commissioners Absent: Bonnie Nieves

Staff present: Ginny Scarlet

Minutes Approved: December 14, 2009 – *A motion to approve the minutes as amended (McLaughlin/Plant) passed 4/0. Warren abstained as he was not at the meeting.*

Signed: 45 Oakland Drive, DEP#293-517, Certificate of Compliance
45 Oakland Drive, DEP#293-709, Certificate of Compliance
A motion to issue Certificates of Compliance for both 45 Oakland Drive Orders of Conditions (Lochner/Plant) passed 40. Ms. McLaughlin abstained.

7:17 p.m. Opened the Continuation of Public Hearing for Notice of Resource Area Delineation for Clifford Leinonen

Property: 0 R. Jones Road, Spencer, MA DEP#293-0738

At the applicant's request, the hearing has been continued to January 27, 2010.

7:18 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Richard Uras

Property: 39 Oakland Drive, Spencer, MA DEP#293-0740

Ms. McLaughlin said she signed a disclaimer at the last meeting and would like to excuse herself from this hearing because there are enough Conservation Members present. Ms. Scarlet said technically members that acted for the first hearing should act on the hearings till the end. Ms. McLaughlin said that was fine; she will act on the Commission for the hearing.

Mr. Uras provided the Commission with a new set of plans as requested at the last hearing. The plan now shows the house to be demolished. It also shows an added stone berm to retain the beach sand, the asphalt paving to be removed, the shore wall of large boulders, and permeable pavers with spaces which will be used to replace the asphalt. Grass will be placed in the rest of the open area with an open air pavilion and a stone retaining wall to hold the slope back. The existing storm drain will be expanded. The replacement will be a 6'x6' concrete bee hive drain with holes on the sides and a solid bottom making an 18" sump bottom of the drain surrounded by stone so the water can infiltrate into the ground. The sand must be cleaned out periodically. The water will perk out into the ground. There will be an overflow with the outflow day-lighted to rip-rap. Then flow will go through boulders at the shore line. The sump will be cleaned out as needed. The drain will pick up road run off. There is no calculation of the contributing watershed but the intention is for the catch basin to be oversized. The current catch basin is approximately 8" deep that is being cleaned daily and discharges to a 4" pipe.

The strategy is to minimize the water running down through the property into the lake. Ms. Scarlet said the DEP stormwater standard for redevelopment is that there be improvement of the existing conditions. Ms. Lochner said it is an improvement.

A motion to close the public hearing (Lochner/Plant) passed 5/0.

The proposed conditions are as follows:

- Standard ESC conditions
- Hydraulic boom is needed on the ice if the water is frozen
- Catch basin Operation and Maintenance Plan (Log to be used to create schedule in the later on going condition which will be written at the time of Cert. of Compliance.
- Log to be available to Conservation Commission upon request

A motion to accept the plan as submitted with conditions as discussed (Snow/Plant) passed 5/0, Order of Conditions to be issued.

7:45 p.m. Opened the Public Hearing for Notice of Intent for Robert Norris

Property: 6 Cranberry Lane, Spencer, MA DEP#293-0739

This is an after the fact Notice of Intent for tree clearing resulting in bare soils in the buffer and bank vegetation removal. Mr. Norris explained the history. The project was done in ignorance; he had no idea any kind of permits were needed. Mr. Grimes asked what Mr. Norris is proposing to do now. Mr. Norris said "nothing". This Notice of Intent is for work already done, such as the cutting of the trees. In the spring, Mr. Norris will file a new Notice of Intent for a new block retaining wall and landscaping. Ms. Scarlet vouches that Mr. Norris promptly installed the ESC when told to.

Ms. Lochner asked how many trees were cut. Mr. Norris said approximately 5 trees along the shoreline and approximately 10 trees between the house and the lake. Mr. Grimes asked what is proposed to stabilize the bank. Mr. Norris said he is going to put up a block retaining wall just beyond the bank. Trees will be planted along with shrubs and

plants. Ms. Lochner asked if a plan is being drawn up. Mr. Norris said not currently. He wants to wait until the mortgage is put into his name. Mr. Grimes said all the exposed soil is now covered with snow which is a good thing. He asked what will keep all the loose soil from running down to the lake when the snow melts and rain comes. Mr. Norris said the silt fence and hay bales have been installed. The Commission will do a site visit on Sunday, January 17th at 9 a.m. to see what needs to be restored.

At the request of the applicant, the hearing has been continued to January 27, 2010.

Other Business:

Cranberry Meadow Lake Extension: Ms. Scarlet said she contacted DEP regarding Extensions after 20 years. The response to that email was in the Commissions' packets for them to read. DEP does not recommend an Extension. Ms. Scarlet noted that the regulations about Extensions do not mention adding new conditions when an Extension is granted.

Mr. Paul Tee is not present on behalf of the Planning Board, but as a private citizen/resident of the lake. The Extension has been requested mainly due to the expenses of an NOI and because nothing has changed in many years. Mr. Tee said Mr. Lyman from Lycott was present to answer any questions. Mr. Lyman repeated that nothing has changed. New Notices of Intents just cost more money. There have been no new regulations and no new science. The only thing that has changed is DEP is requiring a five year management plan and a wildlife habitat survey. Those two things can be done at very little cost and submitted without having to submit a new Notice of Intent with all kinds of fees. Mr. Grimes pointed out that information presented in 2007 when the Commission considered the last Extension, showed that the number and frequency of herbicide treatments has been increasing over the years. Ms. Lochner remarked that her Commission (Oxford CC) has used Extensions with new conditions.

Ms. Scarlet said if the Commission is going to grant an Extension, the conditions need to be discussed. The Commission decided conditions would be:

- Wildlife habitat survey
- 5 year management plan to include best management practices for long term pond maintenance/management
- Report for pre-treatment and year end report
- Notification of treatment seven days before treatment
- All submitted by October 31, 2010

There was much discussion of how to get the Extensions from Charlton and Spencer at the same time. A final agreement was made that the Association can get both Extensions in the winter. The Lake Association may wait until both Extensions are in hand then make only one trip to the Registry to have them recorded. No lake work can be done in the winter months anyway. *A motion to issue a three year Extension with conditions as discussed (Snow/Lochner) passed 5/0.*

Westerman Estates: Ms. Scarlet said based on records there was an approved delineation showing the line of flags for the stream. Ms. Scarlet read Minutes from June 8, 2005 approving permission for a temporary crossing. USGS map and DEP wetlands GIS show a perennial stream at the crossing, which Ms. Scarlet believes may be incorrect. Ms. Lochner said she remembers showing Ms. Scarlet that the USGS map shows the stream being intermittent. Ms. Scarlet said in any case it shows a stream. Ms. Scarlet added that the stream stopped flowing at some point between 2005, when presumably it was flowing, and the present. The 2005 RDA delineation shows the stream going through there. Mr. Speicher said it has never flowed over the road. The stream hasn't flowed since the dam was built way back when. Ms. Scarlet asked when? Mr. Speicher said before the Beagle Club had electricity (no date). Since then, the water has gone out from the pond to Morgan swamp instead of out through the stream. The road has been used recently to haul out trash such as old cars, washing machines, etc. Mr. Speicher took an aerial photo to show the Commissioners and made copies of the Topographic map for the Commissioners. Ms. Scarlet asked when the stone was put down. Mr. Speicher said the stone was put down in 2006, when the Commission allowed a "temporary crossing", not recently.

Attorney Damien Berthiaume said all the permits from the Town have expired or been terminated. There is no intention to do any additional work on the property. Requiring a culvert be put in would change the current flow patterns. Some minimal work of clearing brush was done in the buffer zone. The large dirt pile is not impacting the wetlands and there is a small berm between the roadway and the wetlands. Atty. Berthiaume believes Mr. Westerman understands that any new work at the site within the buffer or wetlands requires a permit.

Mr. Speicher said laser measurements were done to determine the distance from the old road to the pond. At the narrowest distance from pond side of the road to the pond is 62'. (That's 38' into the buffer) There is no impact on the pond. Ms. Lochner said there was nothing she saw that showed there had ever been a culvert at the crossing. Ms. Lochner added that she did probe for metal and found none. It was noticed that there were tracks (disturbed soil) close to the pond. Mr. Speicher said those tracks are from the ATV's. The site visit report from the Commission said they did not see any impact.

Atty. Berthiaume suggested an Enforcement Order is not appropriate. It has been found that no additional work was done within the buffer zone. Atty. Berthiaume said that Mr. Westerman knows that any work within the buffer zone without a permit is not acceptable.

Mr. Speicher asked if the brush can be cut. Mr. Grimes said yes but no ground is to be dug up. Annual mowing is allowed also. The Conservation Commission decided not to issue an Enforcement Order.

Sullivan Street: Glenn Krevosky brought a draft agreement between Mr. Kady and Mr. Jardus to finish cleaning the basin and install the forebay. Ms. Scarlet read the agreement aloud (a copy is in our file). The Commission will issue Enforcement Orders to both Mr. Kady and Mr. Jardus. The work will be finished, as stated in the signed agreement, by October 1, 2010. Ms. Lochner thinks in the meantime something should be done to prevent the silt from passing through the detention basin into the wetland. Ms. Scarlet said by January 31, 2010, the outlet must be blocked to provide a settling depth in the pond. The height of the blocking will be determined by Ms. Scarlet and Mr. Krevosky.

MACC Conference: The following are attending:
Warren, Advanced Credit Core
Mary, Freshwater wetland plant ID, Buffer zones & climate change
Judy, Agricultural exemption

Thompson Pond: DCR owns the whole pond. Copies of supporting documents are now in the file. Concerned Citizens of Thompson Pond has submitted the Notice of Intent for herbiciding.

New Applications: 99 Maple Street, RDA

A motion to adjourn the meeting at 10:00 p.m. (Snow/McLaughlin) passed 5/0.

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services