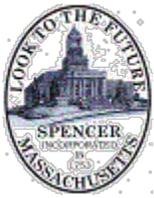


# Conservation Commission – Town of Spencer

## *Minutes*



Conservation Commission Meeting  
Wednesday, July 27, 2011 at 7:00 PM  
Town Hall, McCourt Social Hall

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The Meeting was opened at 7 p.m.

Commissioners Present: Ernie Grimes (Chairman), Judy Lochner, Ram Moennsad, Warren Snow

Commissioners Absent: Mary McLaughlin, Dana Reed (Dana was present but left at 7:02 to attend an OSRP Steering Committee Meeting at the Spencer Country Inn)

Staff present: Margaret Washburn

**Minutes Approved:** July 13, 2011 – *A motion to approve the minutes as amended (Lochner/Moennsad) passed 4/0.*

**Signed:** 29 Kittredge Road, Order of Conditions

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

#### **Property: 11 Jolicoeur Avenue, Spencer, MA**

Mr. James Gallagher described his project to replace an existing deck on the back of his house. He will dig new footings with a mini excavator. The deck will be larger than the existing deck. Ms. Lochner asked how many holes will be dug for sonotubes. Mr. Gallagher said Howe Lumber did a plan for five posts but he believes there will be a couple more tubes at the staircase. The Commission needs to see on the plan how far the deck and the staircase will be from the water. The landing is four feet from the wall along the water. Mr. Gallagher revised the plan showing the nine holes to be dug and distance from the holes to the water. Mr. Grimes said a hydraulic boom will need to be put into the water. Silt fence only must be installed down near the wall at the lake. There is a rotted stump near one of the holes that Mr. Gallagher will dig up.

*A motion to close the public hearing (Moennsad/Snow) passed 4/0.*

The proposed conditions are as follows:

- Silt fence to be installed
- Silt fence must be inspected before work can begin

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

**Other Business:**

**28 Jolicoeur Avenue:** On July 26<sup>th</sup> during site visits, Ms. Lochner, Mr. Grimes and Ms. Washburn noticed soil washing off a recently cleared lot into Jolicoeur Avenue and down the driveway across the road toward Cranberry Meadow Pond. Mr. John Kennedy recently purchased the property from Gary Cook. Ms. Washburn reached Mr. Kennedy's wife and asked if he could attend tonight's meeting. Mr. Kennedy did attend this meeting. Ms. Washburn has sent Mr. Kennedy a Notice of Violation ordering him to immediately install hay bales and silt fence to keep soil from washing into the road, install a 50 foot anti-tracking pad, clean the soil out of the road and off the property across the street, and attend the next Commission meeting on August 10<sup>th</sup>. A copy of the letter was sent to Gary Cook since he is still listed as the first owner in the assessor's records. Mr. Grimes told Mr. Kennedy that a traction pad must be installed. It must be at least 50 feet long from the edge of the road up the driveway. Mr. Kennedy was also told to install the hay bales and silt fence. Mr. Grimes said if any material does get into the road after going over the traction pad, it must be cleaned off the road. Mr. Kennedy will have everything done by Friday and will call for an inspection. Mr. Kennedy does not have to attend the August 10<sup>th</sup> meeting since he did come tonight. Mr. Grimes said if this happens again and the situation is not corrected, Mr. Kennedy will have to file a Notice of Intent.

**113 Wilson Avenue:** Ms. Washburn did an inspection and the Commission reviewed the pictures she had taken. The project was for a new house. Ms. Washburn said the project is complete and everything was stable per the plan. *A motion to issue a Certificate of Compliance (Moennsad/Snow) passed 4/0.*

**158 Greenville Street:** On July 18, 2011, Ms. Washburn, the Building Inspector and the Fire Chief did a site inspection. The owner, Nelson Labelle, was not at home. Ms. Washburn met with a Mr. Gerry Maloney. She took several photographs to show the Commission. The septic tank is partially exposed and there was a noticeable odor of septic nature. The area shown on the plan as a leach field is used as a driveway and the soil is disturbed. Metal and other construction debris are partially burned and lying in a fire pit near the edge of the BVW. ATV tracks run through areas that appear to be wetlands. Mr. Maloney indicated that not all the disturbance is on the subject property. Ms. Washburn observed a small pond loaded with junk. Glenn Krevosky has stated that he had previously given the septic system contractor a specific elevation, in the form of a wooden stake, indicating the depth of rich topsoil that was supposed to have been placed in the replication area. Mr. Krevosky has offered to inspect the replication area again and make recommendations to Mr. Labelle regarding any further soil or plants needed to complete the wetland replication. Ms. Washburn said that no Certificate of Compliance was ever issued for the Order of Conditions from 2007. Since the inspection, Lee Jarvis has ordered Mr. Labelle to have a Title 5 inspection, remove all the trash and debris from

the property, remove all but two of the unregistered vehicles, and discontinue use of the trailer as a habitation. Mr. Grimes said an Enforcement Order needs to be issued. He went on to say if the Title 5 passes, the area needs to be resurfaced, vegetated, and maintained as a lawn and not a driveway. Ms. Lochner said there should be a day that is specified for a site visit in the Enforcement Order. While on the site visit, the Enforcement Order can be read to Mr. Labelle and make sure he understands what must be done.

The following conditions will be issued in the Enforcement Order:

1. Require all debris to be removed from any wetland or buffer zone.
2. Stop driving ATV's etc, through wetland areas.
3. If Title 5 passes, the leach field must be vegetated and maintained.
4. The replication area must be maintained/reflagged as necessary.
5. A report from the Wetland Scientist stating the condition of the replication area.
6. The fire pit in the buffer zone must be removed.
7. All unstable areas beyond the driveway within the buffer zone must be vegetated and maintained.

A site visit has been scheduled for Tuesday, August 2, 2011 at 6pm. The Enforcement Order will be hand delivered to Mr. Labelle at the site visit. If Mr. Labelle cannot be at the visit, the Enforcement Order will be mailed to him.

**South Spencer Road, Flexcon:** On July 14<sup>th</sup>, Ms. Washburn met with one of the general contractors, Kyle Renaud of Cutler Associates, for an ESC inspection. The ESC is installed satisfactorily, except that the ESC on either side of the storm drain has not been installed yet. Ms. Washburn asked for a call when that is installed. She took one photo of the ESC along the entrance and one at the heavily vegetated drain outlet in the wetlands on the other side of South Spencer Road.

On July 25<sup>th</sup>, Jim Tibbetts of Cutler Associates called to request the removal of two trees in the buffer zone. Ms. Washburn met with him. Both trees are in the buffer zone to the BVW between the proposed building and South Spencer Road and both overhang the area where the new building is proposed. The entire canopy of a red maple overhangs the proposed building. Ms. Washburn made a note on the site plan labeling this red maple, Tree A. She also gave permission to cut Tree A. The second tree is an oak that splits about 15 feet from the base into two main trunks. The canopy of one trunk overhangs the proposed building. The canopy of the other trunk does not overhang the proposed building. Ms. Washburn suggested cutting only the overhanging trunk, thus saving the tree. Mr. Tibbetts agreed. Ms. Washburn made a note on the site plan labeling the oak, Tree B.

**4 Wilson Street:** On July 18<sup>th</sup>, Ms. Washburn met with Michelle Chaffe, owner. Ms. Chaffe indicated that she would like to cut two other trees on her property. Ms. Scarlet had previously approved the removal of two other trees. One of the trees to be cut is a double-trunked red maple tree between their driveway and Wilson Street. The tree looks unhealthy, with dying leaves. The other tree is a dead elm on the other side of the brook

on the east side of the house. Ms. Washburn gave permission to cut the trees as described with the following conditions: No stumps are to be pulled out and no machine tracks or ruts will be left. The areas shade patterns will not be significantly altered.

**Chickering Road Culvert:** On July 18<sup>th</sup>, Ms. Washburn sent letters to Joe Socha and Tim Shipman to the effect that the window screen must be removed from the culvert. On July 19<sup>th</sup>, Ms. Washburn received a phone call from Mr. Socha. He said they would lift the window screen up part way so fish could swim through the culvert but it would still intercept the duckweed. He said he would call Phil Nadeau at DEP. Ms. Washburn asked the Commission if she wants to have Mr. Socha remove the screen completely. Mr. Grimes said they are not following the instructions to remove the screen completely. Mr. Grimes told Ms. Washburn to ask Eben Butler to remove the screen next time he goes by the culvert, if the screen is still there.

**54 Smithville Road:** Mr. Travis Reilly met with Ms. Washburn on July 26<sup>th</sup>. He has pulled some of the fill and debris away from the stream. Ms. Washburn suggested that she and/or the Commission Members do a site inspection and come up with recommendations for restoring the disturbed resource areas. Mr. Reilly has sold his two cows and now has only one calf. He stated that he no longer has any intention of letting the livestock have any access to the stream or the land on the other side of the stream. Mr. Reilly seems eager to restore the resource areas. Ms. Washburn will go out and take pictures and report back to the Commission.

**34 Meadow Road:** Ms. Washburn sent a second NOV letter on July 18<sup>th</sup>. The letter required Mr. Bruley to cease and desist all site work, install ESC by July 26, 2011, and has a deadline to file a Notice of Intent by September 1, 2011. The letter stated that a site inspection will take place on July 26<sup>th</sup> after 6:15pm. Ms. Washburn checked with Eben Butler who said that the Bruley's drainage system ties in with the old town drainage system. Mr. Bruley called to acknowledge receipt of the second NOV and to clarify details of the ESC required by July 26<sup>th</sup>. Ms. Lochner, Mr. Grimes and Ms. Washburn attended the site walk on July 26<sup>th</sup>.

**4H Camp logging:** On July 26<sup>th</sup>, during site visits, Ms. Lochner, Mr. Grimes and Ms. Washburn noticed that logging has been done on the 4H property across from the soccer fields. Ms. Washburn is in the process of investigating whether a forest cutting plan was submitted.

**Deer Run Subdivision, Phase II:** On July 26<sup>th</sup>, Ms. Washburn received a request from Michelle Buck to review the application for a Definitive Plan and submit a written report of comments and recommendations before the August 16<sup>th</sup> hearing. Ms. Washburn also has been requested to attend a technical review session on August 4<sup>th</sup>. She is seeking guidance from the Commission on this, particularly as to whether I should inspect the site. The applicant, Steve Funari, must be notified and a representative present during all site inspections. Ms. Lochner asked why the applicant must be notified of all inspections. Ms. Washburn said because he sent a letter requesting just that. Mr. Grimes said the Commission and Ms. Washburn can inspect this property whenever they would like,

without the applicant there. The Order of Conditions states that. Mr. Grimes noticed that the letter requesting that the applicant be present on site walks was addressed to the Planning Board. Mr. Grimes said the Conservation Commission can do a site visit anytime. Ms. Lochner said to just make sure whoever does a site visit that they have a copy of the Order of Conditions with them.

Ms. Washburn said the wetlands need to be reflagged. Mr. Grimes said Phase II should be all done and in the plans. Ms. Washburn said they are changing the plans. Ms. Lochner said they need to file a request to amend the existing Order of Conditions and approved plans. Then it will be reviewed.

Mr. Grimes said there should be a replication area that should be done on Phase II. Ms. Washburn will do a site inspection and report back to the Commission with her findings at the August 10<sup>th</sup> meeting.

**Certificate of Compliance Requests:** The Commission agrees that page two should be filled out and question number 6 answered with a yes or no. If there was a replication or storm water devices installed, then a statement from the Engineer certifying that the replication area is done and/or storm water devices have been installed must be submitted along with the Certificate of Compliance request. Ms. Lochner suggested when an applicant comes in for a hearing and they will have a replication plan and/or storm water devices installed, they will be told that this form must be submitted along with the written statement from the Engineer.

**Steering Committee:** Mr. Grimes said Ginny Scarlet had called him and said the Steering Committee is looking for a Conservation Commission member to be part of the Steering Committee. Ginny suggested Mr. Reed; Mr. Reed did volunteer as he is readily available.

Mr. Grimes also said that Ms. Scarlet told him that the Steering Committee applied to Central Mass Regional Planning to do a workup for cost of developing the Sibley Farm property versus leaving the land as Open Space. The Committee would like to do another public informational meeting and would like the Conservation Commission to host the meeting. The meeting will be held at the August 24<sup>th</sup> Conservation meeting.

**Donnelly Road cell tower:** Mr. Grimes said the road was getting washed out this past spring. Someone went in and re-graded the ditch. Ms. Scarlet went out and met with the people that were going to fix the road but the tornados hit and it didn't get fixed. Mr. Grimes went by today and saw an excavator there. They are going to begin fixing the road and Mr. Grimes asked Ms. Washburn to go there and introduce herself and keep an eye on them. Mr. Grimes cannot get involved because he is an abutter to 59 Donnelly Road.

**Conservation Commission Candidate:** Mr. Brian Roode is interested in becoming a Conservation Commission Member. He just moved to Spencer from Franklin and lives on Thompson Pond. Mr. Grimes told Mr. Roode that the Commission meets twice a month and inspections usually once every two weeks. Mr. Grimes explained the Sibley property to Mr. Roode and whoever comes up with the most money will control the property. Mr. Roode said he has always been interested in Conservation. Mr. Grimes told Mr. Roode that there are fundamentals classes that the Commission attends. Mr. Roode has not applied with the town yet but he will go and speak with the Town Administrator.

**45 Lake Street Extension:** On June 28<sup>th</sup>, Ms. Scarlet had left a phone message that it was the Wissiup's turn to do their work and to call back with the projected schedule of finishing their part. They have not called back. Mr. Grimes told Ms. Washburn to try to go to their house and try to call them and if Ms. Washburn does not reach the Wissiup's, have the Constable deliver a letter.

**Site Visits:** The Commission will do their site visits on Tuesday, August 2<sup>nd</sup> at 6pm; meet at the Town Hall.

Mr. Grimes and Mr. Snow will not be at the August 10<sup>th</sup> meeting.

New Applications:     Route 49, RDA  
                                  45 Washburn Dr., NOI

*A motion to adjourn the meeting at 9:34 p.m. (Snow/Moennsad) passed 4/0.*

Respectfully submitted by:

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Lisa Daoust, Clerk  
Development & Inspectional Services

**Documents reviewed at 7/27/11 meeting:**

Draft minutes from 7/13/11 meeting

An inspection report and photographs taken by Margaret Washburn at 158 Greenville St. on 7/18/11.

Page 2 of the blank Application for a Certificate of Compliance

Application for Definitive Plan for Deer Run subdivision Phase II

File for 11 Jolicouer Ave. RDA

Photographs taken by Margaret Washburn at 28 Jolicoeur Ave. On 7/26 and letter to John J. Kennedy III dated 7/27/11 re: 28 Jolicoeur Ave.

7/22/11 letter from Lycott Environmental re: herbicide for Cranberry Meadow Pond

Email from TRC Environmental dated 7/18/11 re: National Grid wetland restoration

Margaret's report dated 7/27/11

File for 113 Wilson Ave. request for CofC

File for 29 Kittredge Road NOI