

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, September 28, 2011 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

Commissioners Present: Ernie Grimes, Judy Lochner, Warren Snow, Ram Moennsad, Mary McLaughlin, Dana Reed

Staff present: Margaret Washburn

Minutes Approved: August 24, 2011 – *A motion to approve the minutes as amended (Snow/McLaughlin) passed 4/0.* Ms. Lochner and Mr. Moennsad abstained because they were not present for that meeting.

Signed: 17 Shady Drive, Order of Conditions

7:16 p.m. Opened the Continuation of Public Hearing for Request for Determination of Applicability for Ronald Dionne, P.E.

Property: Route 49, Spencer, MA

Mr. Grimes and Mr. Snow were not present for previous meetings for this application; they will not vote. Mr. Bill Clougherty was present. Ms. Lochner said the Commission asked for a continuance at the last hearing because the revised plan submitted was not clearly showing where the paved waterway would turn into a stone trench. Mr. Clougherty brought revised plans for the Commission. The plans are specific to the proposed locations of erosion controls. Straw wattles will be used. The concrete waterway will be removed and will be replaced with a stone swale, as shown on the plans. In addition, they are proposing to replace the 4 catch basins with deep sump catch basins. The end of the pipes will be replaced with concrete flare ends with stone outlets at the end of the pipes for energy dissipation.

Mr. Grimes asked if the other catch basins along Route 49 that are falling in will be replaced. Mr. Clougherty said if they see any that need to be repaired, they will be repaired. Ms. Lochner said she read an article in the newspaper about a Selectman's meeting that was held and there was a comment that the Conservation Commission had requested a bike lane along Route 49. Mr. Grimes said the Conservation Commission never made that request. Mr. Clougherty said he had a meeting with the Sturbridge Conservation Commission and they had asked him that question about the bike lane. The reporter must have mixed up the two towns.

A motion to close the public hearing (McLaughlin/Reed) passed 4/0. Mr. Grimes and Mr. Snow abstained.

A motion for a Negative Determination (Moennsad/Reed) passed 4/0. Mr. Grimes and Mr. Snow abstained.

Ms. Lochner and Mr. Grimes asked Mr. Clougherty if he could find out why there were no permits pulled with the Conservation Commission for trees that were cut along the Brooks Pond Bridge. Mr. Grimes said National Grid came before the Commission for permission to move some wires and trim some trees. There are no trees left there. Mr. Clougherty said there are permits in place for that project. There is an Army Corps (ACOE) permit that was issued back in 2007; there is a water quality certificate that was issued in 2007, and a dam safety permit from DCR. Mr. Clougherty said the bridge is a footprint bridge, which means there isn't any major reconfiguration. It is essentially exempt from the Wetlands Protection Act. In 2007, there was a pre-construction meeting with the ACOE and DEP.

Ms. Washburn said all the trees on both sides of the dam were cut and it doesn't look like the cutting of the trees was necessary to replace the bridge. The cutting extends way beyond the bridge. BPW owns the dam and they called Ms. Washburn to set up an appointment to fill out forms for cutting the vegetation on the dam. No filing was ever done and the trees are gone. Mr. Grimes said if trees were being cut, they should have notified the Conservation Commission.

Mr. Clougherty said the permit from DCR has conditions for the project on the bridge. Mr. Grimes asked what kind of conditions. Mr. Clougherty said the conditions are outlined in the permit. He said there was a consultant hired that is watching the construction on the bridge and impact the construction has on the dam. The consultant has to provide DCR with progress reports. Those areas of the causeway where the trees were cut are actually considered to be part of the dam.

Mr. Clougherty will meet the Commission at the site on October 11th at 5 p.m.

7:49 p.m. Opened the Public Hearing for Request for Determination of Applicability for Richard Bruley

Property: 34 Meadow Road, Spencer, MA

Mr. Bruley said he wants to stabilize his side of the pond the way it used to be. Mr. Bruley said he is going to cover the tree roots on the side of the pond with a couple inches of silt. The hay bales and silt fence have been installed. He also placed hay bales and fence around the pile of silt.

A motion to close the public hearing (Moennsad/Reed) passed 6/0.

The proposed conditions are as follows:

- Maintain the hay bales and silt fence until the project is vegetated.
- Mow two or three times when vegetated.

A motion for a Negative Determination with conditions as discussed (Lochner/Reed) passed 6/0.

8:00 p.m. Opened the Public Hearing for Request for Determination of Applicability for Jeremiah Lucey

Property: 39 East Charlton Road, Spencer, MA

Ms. Washburn, Mr. Reed, and Mr. Moennsad did a site visit. The project is for a septic repair and installation of a leach field. Mr. Richard Gobi represented the homeowner. He said the property is relatively flat. Hay bales and silt fence will be installed. There will be a couple trees removed. Ms. Lochner read the site inspection report. There were no issues.

A motion to close the public hearing (McLaughlin/Moennsad) passed 6/0.

The proposed conditions are as follows:

- Follow the plans

A motion for a Negative Determination with conditions as discussed (Reed/Moennsad) passed 6/0.

Other Business:

45 Washburn Drive: Ms. Washburn and Mr. Reed inspected the ESC at Richard Chaffee's request. The silt fence was not entrenched and did not extend far enough between proposed septic and the abutting 47 Washburn Drive driveway. Ms. Washburn and Mr. Reed re-inspected on 9/22/11 and it is now satisfactory. Mr. Chaffee wants to replace the hay bales that Mr. Gobi indicated on the plan with a six inch wood chip berm. Mr. Gobi did change the plan to reflect a mulch berm. Ms. Washburn's concern is the heavy equipment going up and down the driveways. Hay bales and silt fence were approved at the hearing because that's what was initialed on the plan by Mr. Gobi. The unanimous decision by the Commission is to stick with the hay bales and silt fence.

Deer Run II: Steve O'Connell from Andrews Survey presented a new set of plans to the Commission. The work has ceased to occur. The bank has taken over the property. The Funari's have a relationship with the bank and are trying to make Deer Run work financially so the project can be finished. The deal hasn't been closed with the bank because the details with the Town Boards are being worked out.

The original plan, Briarwood Lane that came to a T and up to a cul-de-sac then down to Spencer Road, Hillsville Road and North Brookfield, has been modified just as a cul-de-sac. The T will be terminated. The reasoning for this is because Planning Board in North Brookfield has rescinded the subdivision in North Brookfield. There is no value in the portion in North Brookfield.

Everything is going to be the same; the roadway profile, the catch basins, the manholes, the piping, the wetland crossing in the culvert (which is already built), etc. The

modification only occurs where the cul-de-sac will be. Mr. O'Connell said they are in the process of completing the design. Almost all the catch basins are paved over. There are two catch basins that are currently open and operational. Mr. Moennsad asked what the total amount of catch basins is. Mr. O'Connell said there are eight catch basins and nine drain manholes.

Mr. O'Connell said there is an Enforcement Order for this property which clearly states that work needs to be completed. One thing that needs to be completed is the replication area totaling 5,000 square feet. Mr. O'Connell said that work will be done. There is no change to the amount of replication area that is on the lots. Lot 14 is going to be developed the same way as it was intended to be developed. Almost all of Lot 10 is outside the 100 foot buffer; there will be no impact. Lot 15 can be developed outside the 100 foot buffer and Lot 9 can be developed outside of the 50 foot buffer.

The Order of Conditions is set to expire in October. Mr. O'Connell said they are looking for an extension to complete the work. They are also looking for a ruling that the modification that is proposed is not substantial as far as the interest of the act. Mr. O'Connell said perhaps an amended Order could be issued which would serve as an extension. Ms. Lochner said an extension would still have to be issued. A public hearing has to be held in order to issue an amendment.

Ms. Lochner asked who still owns the land. Ms. Washburn said she asked Mr. Gaudette, Town Administrator, and he told her that Mr. Michael Harrington still owns the land. Ms. Laurie Funari said that Mr. Harrington owns Deer Run, Phase I and the bank owns Deer Run, Phase II. The bank has a mortgage of \$750,000 which Mr. Harrington defaulted on. Once the Funari's purchase the land, they will foreclose on Mr. Harrington.

Ms. Washburn asked Mr. O'Connell to explain the existing utility easement. Mr. O'Connell explained there is a fire cistern under the ground within the boundary of the area called existing utilities. The existing utilities area was recorded on a plan at the Registry of Deeds. It has not been conveyed to the town but it is an easement in place ready for conveyance when the town will accept the road in the future. There have been inspections done by DPW and the Fire Department that says the cistern has been damaged. The cistern will be repaired as part of the roadway completion project.

Ms. Lochner asked what is proposed to be done to address the Enforcement Order. Ms. Funari said they should be able to start work in the spring. Ms. Lochner wants the hay bales and silt fence along the stream repaired before winter. Ms. Funari said natural vegetation has taken over within the past two years. They don't want to touch what has already been established over time. Ms. Washburn said she and the Commission did a site visit and found areas of exposed steep slopes along Briarwood Lane that need to be vegetated. Mr. O'Connell said that is outside of their jurisdiction but is still in the plan. Ms. Washburn said that is #4 on the Enforcement Order. Mr. Grimes said the Enforcement Order conditions must be taken care of prior to the completion of the project. With the transfer of the property, all responsibilities transfer to the new owner. Ms. Funari said she cannot do anything on the property until they have ownership.

Mr. O'Connell hopes that the Commission sees this as an opportunity to rectify the issues. Mr. Grimes said after the Extension is issued, the new property owners will have to come before the Commission and have a public hearing to amend the original Order of Conditions to reference the new revised plan.

A motion to grant a one year Extension for Deer Run, Phase II (Snow/Moennsad) passed 6/0.

Mr. Moennsad asked when the issues with the bank will be resolved. Ms. Funari said they are pretty close to getting it together. It was a matter of finding out what would happen with the Planning Board and the Conservation Commission. They needed the logistics in order to get some kind of an agreement with the bank because of the financial side of it. The closing can happen in 30 days. Ms. Lochner said when they come back before the Commission for the amendment; the Commission will be looking for a schedule and the wetland replication plan. Ms. Lochner also expressed her concern about the spot in the road that is eroded. It is going to rain and snow which all will go right into the stream. Ms. Funari said she will try to figure something out to take care of that problem.

Commissioner attendance: Mr. Snow will not be at the October 26th meeting. Mr. Grimes will not be at the November 9th meeting. Mr. Grimes said the meeting of November 9th must be posted. That will be the only meeting in November. There will not be a meeting on November 23rd. There will only be one meeting in December as well, December 14th. That meeting must be posted as well. There will be no December 28th meeting.

Properties for tax foreclosure: Ms. Washburn said Mary Barrell, Tax Collector, gave her a list of properties that the town will be selling for tax foreclosure. Ms. Barrell asked Ms. Washburn if the Commission would go out and do a site visit on each property to see if the Commission would like to keep the properties from being sold. Ms. Washburn, Mr. Reed and Ms. Lochner went to look at a piece of land on Browning Pond Road. The Mid State Trail runs through this piece of property. They could not find the land because it was too dark. The auction is on October 5th and the Commission needs to vote on the land tonight. The list was given to Ms. Washburn too late and there is not enough time for the Commission to walk the properties. Mr. Grimes said that a letter needs to be sent to Ms. Barrell informing her that the Conservation Commission meets on the 2nd and 4th Wednesdays of the month and the foreclosure lists need to be given to the Commission a month in advance. Ms. Washburn will write the letter. The Commission will evaluate the rest of the properties on the list. The Commission agreed to have a hold put on lots R45/3 and R57/41. Ms. Washburn will inform Ms. Barrell of the decision.

42 Main Street: Ms. Washburn inspected on September 28th. She reported that most of the debris is gone but not all. There was a pile of tires near a parked truck on the lower level. She took photos and got the license plate.

Lake Street Extension: On September 21st, Ms. Washburn called Mrs. Barry and informed her that the Commission will start fining the Wissiup's \$100 per day beginning October 6th unless they present the proposed driveway changes by October 5th, as per the Enforcement Order. Ms. Washburn will write a letter to the Wissiup's, to be delivered along with the fine, telling them they must attend the October 12th meeting with a plan.

67 Jolicoeur Avenue: A follow-up letter will be sent to Mr. Bouley.

64 Jolicoeur Avenue: Mr. Grimes said a letter needs to be sent informing Mr. Gardner that something must be done to contain the water coming down the hill. Ms. Washburn will send a letter requesting that Mr. Gardner attend the next Conservation Commission meeting on October 12th to present a plan on how the massive water flow will be controlled on his property.

Cranberry Road Gravel Pit: Ms. Washburn inspected on September 28th in response to a complaint about odor and flies. Ms. Washburn scheduled a longer inspection for next week with Jim Talvey of New England Organics and Cheryl Poirier of MA DEP Solid Waste. Ms. Washburn called the abutter and told them the smell is temporary. Mixed piles of paper mulch and fertilizer are being spread and should be seeded within two weeks.

Cranberry well emergency generator: Steve Tyler, U&F Director, asked Ms. Washburn to help file an RDA. They need to pour a concrete pad. Ms. Washburn met with Mr. Tyler and inspected the site. She is going to have to flag the wetlands. Mr. Tyler estimated using GIS that the river is approximately 200 feet away. Mr. Grimes said it must be 200 feet away. Mr. Tyler wants Ms. Washburn to fill out this RDA and another NOI. Mr. Grimes said Ms. Washburn does not work for Mr. Tyler. Ms. Washburn can help fill out the forms but not fill out the forms herself. Ms. Washburn will flag the wetlands.

Northwest Road culvert: There is a perennial stream that flows into Brooks Pond. Mr. Tyler wants to replace the existing elliptical culvert. Mr. Tyler said it is better long term to have a solid elliptical pipe and bury the bottom so there is a natural bottom for wildlife and fisheries. Mr. Grimes said that DEP does not recommend that type of culvert. DEP recommends an open bottom. Ms. Washburn asked the Commission how far they would like to see the flags up and down the stream. Ms. Lochner would like to know where the multiple streams come in. Ms. Washburn will only flag the outer edges of two of them.

Site Visits: The Commission will do site visits on Sunday, October 2nd at 9:15 a.m. Meet at the Town Hall.

Depot Trail: Ms. Washburn will send a letter to the Parks and Recreation Chairman, Bill Shemeth, informing him the trail is in dire need of maintenance. Ms. Washburn took pictures and will send the pictures along with the letter.

New Applications: None

A motion to adjourn the meeting at 10:09 p.m. (Snow/Moennsad) passed 6/0.

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services

Documents reviewed 9/28/11:

Minutes from 8/24/11 meeting
Margaret Washburn's report dated 9/28/11
Order of Conditions for 17 Shady Drive
RDA filing for Route 49 resurfacing / plans submitted by Bill Clougherty on 9/28/11
RDA filing for 34 Meadow Rd.
RDA filing for 39 East Charlton Rd.
Site plan for 45 Washburn Drive
Plans submitted by Andrews Surveying on 9/28/11 for Deer Run Phase II
Letter from Andrews Surveying dated Sept. 23, 2011, requesting extension of Order of Conditions for Deer Run Phase II
Memo from Steve Tyler to Michelle Buck re: Deer Run Phases I & II, dated 8/15/11
Memo from Fire Chief Robert Parsons to Michelle Buck re: Deer Run Phase I & II
Letter from Quinn Engineering Dated 8/15/11 re: Deer Run Phase I & II
List of Town of Spencer tax foreclosures received 9/27/11
Memos from Ginny Scarlet to Mary Barrell dated 4/5/11 and 4/15/11 re: keeping R57-41 from being auctioned off.