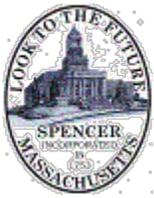


Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, September 12, 2012 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

Commissioners Present: Ernie Grimes (Chairman), Mary McLaughlin, Warren Snow, Dana Reed

Commissioners Absent: Ram Moennsad, Margaret Emerson

Staff present: Margaret Washburn

Minutes: August 22, 2012 – Minutes tabled until September 26, 2012

Signed: 57 Oakland Drive, Order of Conditions
43 Oakland Drive, Order of Conditions
17 Laurel Lane, Order of Conditions
40 Point Eastalee, Order of Conditions
Salem Street, Order of Conditions
131 Greenville Street, Phase I, Partial Negative Determination
Off Route 49, Certificate of Compliance

7:18 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Paul Huard

Property: 22 Longview Drive, Spencer, MA DEP#293-0772

Art Allen, EcoTec, Attorney Phil Stoddard, and Mrs. Huard were present. Revised plans were submitted showing the hydraulic boom (if hydraulic equipment is to be used) and a stockpile area. Mr. Allen said due to changing currents in the lake, the stone pier will be completely removed. A removable dock will be attached to a small stone abutment at the property line. There will be restoration of the bank and the old stone wall will be moved back to the property line. There will be no plantings on the wall. A gazebo, shown on the plan, is to be constructed with an underground conduit for electricity. Mr. Allen also submitted a small sketch plan showing stream flagging and a loam pile. Attorney Stoddard added that the Huard's got a consensus from the abutters for the removable dock.

Ms. Washburn said she inspected yesterday and found there were no hay bales between the pile of fill and the stream. The only hay bales are between the pile of fill and the hay field and they are not staked. There is also a pile of woody debris within the buffer. Mr. Allen suggested making a condition to remove the fill outside the buffer. Mr. Grimes wants the fill stored outside the buffer. In the meantime, stabilize it.

Ms. Washburn asked what kind of equipment would be used to remove the pier. Mr. Allen said he really has no idea. He said they did it by hand. He expects they may use a jackhammer to bust up the concrete.

Mr. Grimes asked how they know the area will get back to the original grade. Mr. Allen said he will monitor the work. The dock is six feet wide with original grade on both sides. There was some pre-existing stone there so in reality, there will be less material in the lake when the project is done. It will match grades on either side of the existing dock. Attorney Stoddard said permission was obtained from both abutters to use their land for access to the project.

Mr. Grimes wants more erosion control other than the boom around the project. Mr. Allen said he will install silt fence around the work area. Mr. Grimes said the boom needs to be floating. From the photos, you can see the water is 40' from the bank during drawdown. The boom needs to be 40' from the hydraulic equipment. If the lake freezes, the boom needs to be laid on top of the ice.

Steve Evilia, abutter, asked how long it will take to take down the dock. Mr. Grimes answered one season of drawdown. Mr. Evilia asked what a stock pile is. Mr. Grimes said it is a temporary storage area. Mr. Evilia asked when the demolition will start. Mr. Allen said it will start as soon as the lake is drawn down. They will give a one week notice prior to the start of work. Mr. Evilia is concerned about the lake coming back up. Mr. Grimes said sometimes it does and sometimes it doesn't. Ms. Washburn said the person in charge of the 30" drawdown is Lee Jarvis. The Order of conditions limits how far it can go down.

A motion to close the public hearing (Snow/McLaughlin) passed 4/0

The proposed conditions are as follows:

- submit a revised plan to show silt fence and boom moved
- before material is removed, the Conservation Commission must be notified seven days in advance
- request a Certificate of Compliance by June 30, 2013 if grass has grown in and soil is stable. The Commission must be contacted by 6/30/13 whether all soils are stable or not.

A motion to accept the plan with conditions as discussed (Snow/McLaughlin) passed 4/0, Order of Conditions to be issued.

7:46 p.m. Opened the Continuation of Public Hearing for Notice of Intent for William Klanssek

Property: 96 Wilson Avenue, Spencer, MA DEP#293-0773

Jason Dubois, from Bertin Engineering, submitted revised plans. Mr. Grimes told Mr. Dubois that he needs to purchase permanent wetland markers showing wetland flags 4, 5 and 6 and place them on a large rock where no one can remove them easily.

The proposed conditions are as follows:

- follow the plan
- purchase and install wetland markers.

A motion to close the public hearing (McLaughlin/Reed) passed 4/0.

A motion to approve the plan with conditions as discussed (McLaughlin/Snow) passed 4/0.

7:53 p.m. Opened the Continuation of Public Meeting for Request for Determination of Applicability for Mass Audubon Society

Property: 131 Greenville Street, Spencer, MA

Mr. Wyman submitted revised plans. He does not have the drainage calculations at this time, therefore, has to request a continuance. Mr. Wyman reviewed the storm water plan with the Commission. The drainage calculations will be submitted to the Commission hopefully tomorrow. *At the applicant's request, the meeting has been continued to September 26, 2012.* Mr. Moennsad will have to listen to the hearing on the digital recorder for a voting quorum for the next meeting.

8:00 p.m. Opened the Public Meeting for Request for Determination of Applicability for David Boutillette

Property: 62 Cranberry Meadow Road, Spencer, MA

Mr. Boutillette would like to open up an access driveway along the main driveway. He will discontinue using the old driveway and will put lawn there. Mr. Grimes asked where the hay bales will be installed. Mr. Boutillette said 20' of hay bales will be installed on his side of the street along Cranberry Meadow Road. Ms. Scarlet asked how many square feet of disturbance and what the slope is. Mr. Boutillette said there will be approximately 2,250 feet of land will be disturbed and the slope is 18%. Ms. Scarlet commented that this project does not trigger a storm water permit.

A motion to close the public meeting (Snow/Reed) passed 4/0.

A motion for a Negative Determination (Reed/Snow) passed 4/0.

8:10 p.m. Opened the Public Meeting for Request for Determination of Applicability for Donald Lacaire

Property: 49 Jolicoeur Avenue, Spencer, MA

Mr. Lacaire is replacing the septic system. Currently there is a septic tank with a leachfield that is approximately 41 years old. The closest work is 70' from the pond. The

Commission has no issues at this time. Hay bales and silt fence will be installed and he will call for an inspection.

A motion to close the public meeting (McLaughlin/Snow) passed 4/0.

A motion for a Negative Determination (McLaughlin/Snow) passed 4/0.

8:15 p.m. Request for Certificate of Compliance Intent for Diversified Automotive, Inc.

Property: Podunk Highway (Route 49), Spencer, MA DEP#293-171

Dan Feeney, from Beals and Thomas, is requesting the Certificate of Compliance on behalf of CSX and Sevenmile River Association. The Order of Conditions was issued a number of years ago and was extended several times. The Certificate of Compliance request is to include the area that was not originally part of the Order of Conditions but where work was done. Two sets of plans were submitted to the Commission. One set will be signed by the Commission and kept in the Commission's files. The other set will be recorded at the Registry of Deeds along with the Certificate of Compliance. The Commission reviewed the plans. There will be an on-going condition on the Certificate of Compliance that will read the "fishermen's access" must remain open to Spencer residents forever.

A motion to issue a Certificate of Compliance with an on-condition that the fisherman's access remains open to the public forever (Reed/McLaughlin) passed 4/0.

8:30 p.m. Opened the Public Hearing for Notice of Intent for Diversified Automotive, Inc.

Property: 22 Phillip A. Quinn Memorial Highway (Route 49), Spencer, MA DEP#293-0779

Dan Feeney from Beals and Thomas presented the project. There is an existing three acre parking lot. The water drains by sheet flow to the North. The water flows into a heavily vegetated swale. There is a pipe from the swale that goes into an existing basin on the north side of the development which discharges through rip rap and flows into the bordering vegetated wetland associated with the Seven Mile River to the north. Mr. Feeney received a letter from Natural Heritage stating that the proposed work is not considered a take.

The parking lot will not be expanded. There will be a 12,600sf maintenance facility to service trucks that take cars off the site. The garage will have four bays, an office space and two refueling islands. A catch basin has been added at the southeast corner of the site. There will be minor grade revisions to the rear of the parking lot. Pavement will be added to the entire parking lot located within the buffer zones.

There will be additional storm water measures which Graves Engineering will review. The storm water basin at the bottom of the hill must be expanded. The septic system is located outside the buffer zone. The system has not been approved by the Board of Health. Permits for site plan review are needed from the Planning Board and Zoning Board also. There will be a permit, through the Fire Department, for fuel storage. Mr.

Snow asked about a hazardous waste permit for the maintenance facility. Mr. Feeney said that he was not sure about that permit. The fueling area is under cover. The catch basin drains to a holding tank.

There will be a draft SWPPP that covers the construction related to the activities and an operator's manual. Mr. Grimes asked if there is a ground water recharge in place. Mr. Feeney said yes. The subsurface infiltration chamber is designed to store a one inch storm event. A one inch storm event is approximately 95% of rain received.

Ms. Washburn asked if there is a construction sequence. Mr. Feeney said the SWPPP does have a sequence but he is not sure if it is detailed. The Commission does want a detailed sequence. Ms. Washburn asked if Graves Engineering recommends additional test pits, who will witness the test pits. Mr. Feeney said typically the test pits are done without a witness.

Mr. Grimes said this Commission will not approve the submitted set of plans until the Planning Board approves the plan.

At the request of the applicant, the hearing has been continued to October 10, 2012.

8:48 p.m. Opened the Public Meeting for Request for Determination of Applicability for Robert Dahrooge

Property: 10 Cooney Road, Spencer, MA

Mr. Dahrooge said he had added some fill to his driveway. He installed hay bales and silt fence. Ms. Washburn said there was a pre-existing crossing and Mr. Dahrooge used that instead of filling in more wetlands. Mulch was installed where the fill was taken out. Mr. Dahrooge has not completed the project yet. He stopped work when he was asked to.

A motion to close the public meeting (Snow/McLaughlin) passed 4/0.

A motion for a Negative Determination (Reed/Snow) passed 4/0.

8:58 p.m. Opened the Public Meeting for Request for Determination of Applicability for Michele McTiernan

Property: 61 Lake Avenue, Spencer, MA

Ms. McTiernan said a lot of dangerous branches were hanging over her house that she has trimmed. She would like to remove 3 trees in total. One tree is right by her house and two trees are by the lake. There is a birch tree hanging over the lake that she would like to take down. She would also like to trim the branches off of three trees. She would only go up a short distance to trim the branches. The trunk easily goes up 15 to 20 feet without any branches on it. There is probably a five to six foot span of branches that she would like to clean up.

Mr. Grimes said the oak tree can be taken down. He also said the Commission can give her an additional five feet up the trunk to trim dead branches. Ms. McTiernan will also be allowed to remove one trunk from the leaning birch tree over the water. Mr. Reed said he

is not ok with this. He said that this is private property and there is no reason to pick and choose what trees can and cannot be taken down. The conditions are as follows:

- remove the big oak tree
- trim the dead branches an additional five feet up the trunk
- remove only one trunk of the birch tree leaning over the water.

A motion to close the public meeting (McLaughlin/Snow) passed 4/0.

A motion for a Negative Determination (Snow/McLaughlin) passed 3/1. Mr. Reed opposed.

Other Business:

24 Laurel Lane: Ms. Washburn had received a complaint about site work within the buffer zone to the pond. Ms. Washburn inspected and took photos. Soils have been exposed, no erosion controls were installed and no permit was issued. Ms. Washburn issued a Notice of Violation and asked that Ms. Balofka attend tonight's meeting. Mr. Grimes asked how far the work is from the lake. Ms. Washburn said 30 to 50 feet to the closest. Ms. Balofka said she measured it and she is 75 feet from the lake which puts her within the Conservation Commission jurisdiction. Ms. Washburn asked if Ms. Balofka obtained a building permit for the work. Ms. Balofka said she was told she did not need a permit because she was only replacing deck boards. She did no structural work.

Mr. Grimes said a Request for Determination must be submitted. Ms. Washburn said if Ms. Balofka could submit the application by September 19th, she can be on the meeting agenda for October 10th. Mr. Grimes told her to install double staked hay bales ASAP. Ms. Balofka will call for a hay bale inspection.

30 Bond Street: Mr. Joe Beauvais said he is talking to Brian Waterman regarding a proposal to remedy the work that is going on. Mr. Beauvais said Mr. Waterman wants to oversee the removal of the fill and tell them where the hay bales and silt fence need to be installed. Mr. Waterman will also delineate the wetlands while fill is removed. Mr. Grimes said he wants the erosion controls to be installed first. Mr. Beauvais will call for an inspection.

129 Wilson Avenue: Alton Stone, Alton Engineering, is representing Nancy Paquette. Mr. Stone said, in his opinion, the bordering vegetated wetland was not filled and no restoration should be required. Mr. Stone said he dug one boring down 48 inches and found no evidence of hydric soil, therefore, there is no condition of wetland hydrology. Ms. Washburn said a permit is needed to dump fill in the buffer zone. Mr. Stone said he does not know that anybody has dumped fill there recently. Mr. Snow asked what the ground disturbance is in the pictures. Ms. Washburn said it looks like it's the fill from the work being done between the house and the lake.

Ms. Paquette said she removed the timbers and the stone dust. Ms. Washburn suggested that the Commission do a site visit. Ms. Washburn said a NOV was issued on June 6th for work between the house and Stiles Reservoir. They were told to file a Notice of Intent by

June 20th. The NOI was never filed. An Enforcement Order was issued on August 8th. They were told to come in to the Commission with a restoration plan by August 22nd. They did not come in on the 22nd. The Commission told Ms. Washburn at the last meeting to issue a fine. A fine was issued and Ms. Paquette was told to come in and file a NOI with a remediation plan. Mr. Stone said again, in his opinion, the area is not a bordering vegetated wetland and no restoration is required.

Ms. Scarlet said she has been out to this property many times. She said the area has been incrementally creeping toward the stream channel. Ms. Washburn said she thinks Mr. Stone should flag what resource areas are there. Ms. Scarlet suggested that maybe permanent markers should be installed now. She said each issue should be dissected and resolved. Mr. Grimes said that Mr. Stone needs to flag the wetlands. The Commission will do a site visit on September 23rd at 9 a.m.

89 Smithville Road: Peter Zukas said he uses the area to screen loom. Mr. Grimes said the issue is the area is in a flood plain which is a protected resource area. There are exposed soils in this flood plain area with no erosion controls. Ms. Washburn read her report. Ms. Washburn asked what Mr. Zukas will do, voluntarily, to get back into compliance so a Notice of Violation or an Enforcement Order does not have to be issued.

One of the main issues is that some fill was placed into the flood plain. Ms. Washburn said virtually all of the eight interests of the MA Wetlands Protection Act come into play on this particular project. Mr. Grimes said Mr. Zukas can be permitted to do the work but a Notice of Intent would have to be filed. Ms. Washburn showed Mr. Zukas the GIS/Google Earth old maps and new maps. Ms. Scarlet told Mr. Zukas if they plan on taking the gravel off their property, they will need to obtain a gravel permit from the Zoning Board of Appeals. Ms. Washburn said that Mr. Zukas needs to pull back the fill and she and the Commission will inspect to see if they are back into compliance. Ms. Scarlet also said the asphalt piles should to be removed.

25 Thompson Pond Road, Cert. of Compliance: Ms. Washburn inspected on 9/10/12. The work on the NOI plan was never done. Virtually all the wetlands on the lot have been mowed. The owner claimed that his son is allergic to goldenrod. The owner no longer lives next door. *A motion to issue a Certificate of Compliance (Snow/McLaughlin) passed 4/0.*

70 Browning Pond Road: On 9/9/12, the Commission inspected. Some vegetation was observed growing near the water's edge. Some sand was observed at the entrance to the culvert but not on the downstream end. Mr. Grimes advised Mr. Toupin to speak with Ms. Scarlet about what type of vegetation he should use. Ms. Scarlet said the Commission should give Mr. Toupin three years to re-vegetate.

45 Point Eastalee Drive: The Commission did an inspection on 9/9/12. They told the owner to shovel the sand away from the water toward the house. The owner was also told to cease depositing sand near the water. Mr. Grimes wants Ms. Washburn to send a letter stating that they need to install something to contain the sand, such as a sandbox. Also,

the containment must be all-season and durable. The letter will request that the owners attend the October 24th meeting to present a plan.

Site Visits: 129 Wilson Avenue and 21 Shore Drive. The Commission will do site visits on Sunday, September 23rd. They will meet at Town Hall at 9 a.m.

Depot Trail: Ms. Washburn said Mr. Shemeth stopped by on September 11th. He wants the Commission to create a scope of work for the trail repairs. He wants the Commission to get three quotes. He said the quotes need to include time lines (proposed schedules to start and end work). He said it does not have to go out to bid. He wants to know if the Snowbirds ever got a grant to work on the trail. After the above work is done, he wants to know what else should be added to the capital planning list in November, that is: What should the dollar amount be for yearly upkeep? Mr. Grimes said the town paid Artie Williamson to finish the work on the trail. A lot of other people donated their time. The money is sitting in a tax exempt account held by the Trail Organization, Spencer Trails Committee. Ms. Scarlet said there are maps of the Depot Trail where the work needed to be done. The Commission will do a site visit to the trail on Tuesday, September 18 at 3 p.m. They will meet at the South Spencer Road entrance.

Tax Title properties: One property is off of Thompson Pond Road, R57/56-1. The Commission said to forget that one. Another property is off Paxton Road, R55/5. The Commission would like to keep this one. The last property is McCormick Road, R45/3. The Commission would like to keep it as well.

New Applications: 21 Shore Drive, RDA
 84 Chickering Road, RDA
 31 Lake Avenue, NOI

A motion to adjourn the meeting at 10:53 p.m. (Snow/McLaughlin) passed 4/0.

Respectfully submitted by:

Lisa Daoust, Senior Clerk
Development & Inspectional Services