

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, September 24, 2014 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

Commissioners Present: Mary McLaughlin, Dana Reed, Warren Snow, Margaret Emerson, James Bouley, John Haverty, Eric Peterson

Staff present: Margaret Washburn

Minutes Approved:

August 13, 2014 – *A motion to approve the minutes as amended (Snow/Emerson) passed 7/0.*

August 27, 2014 – *A motion to approve the minutes as amended (Reed/Emerson) passed 7/0.*

September 10, 2014 – Tabled to October 8, 2014

7:18 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Kristian Rondeau

Property: 40 South Spencer Road, Spencer, MA DEP#293-0822

Mark Farrell said that revised plans were submitted. Mr. Rondeau said the manure has been removed from the site and will continue to be removed. There is a plastic trailer that the manure is put into and that is carted off weekly. Ms. Washburn said she has no other issues.

A motion to close the public hearing (Emerson/Bouley) passed 5/0. (Mr. Snow & Mr. Peterson abstained)

The proposed conditions are as follows:

- No work shall proceed until the Order of Conditions has been recorded
- No work shall proceed until the DEP sign is posted
- No work shall proceed until the ESCs are inspected and approved by the Conservation Commission or its agent
- No refueling or overnight storage of hydraulic equipment shall be allowed in the buffer zone

A motion to accept the plan as submitted with conditions as discussed (Reed/Emerson) passed 5/0. (Mr. Snow & Mr. Peterson abstained)

7:26 p.m. Opened the Continuation of Public Hearing for Notice of Intent for LFB USA, Inc.

Property: 300 Charlton Road, Spencer, MA DEP#293-0835

Vito Colonna presented. He said Steve Tyler submitted comments. A crown line was added to the driveway and a note was added on the plan that the forebay will be brush hogged annually.

A motion to close the public hearing (Peterson/Bouley) passed 7/0.

A motion to accept the plan as submitted with a special condition of annual brush hogging of sediment forebays as discussed (Reed/Bouley) passed 5/0. (Mr. Snow and Mr. Peterson abstained)

7:30 p.m. Opened the Continuation of Public Meeting for Request for Determination of Applicability for James Gardner

Property: Jolicoeur Avenue, Spencer, MA

Mr. Bouley recused himself because he is an abutter. Mr. Gardner submitted more sketches. Ms. McLaughlin asked if there is enough soil to grow the grass without having to bring in soil. Mr. Gardner said he wants to try. Ms. McLaughlin said what grows there now can grow where grass can't grow.

Sue Tee asked what the purpose is of the grass. She said it is naturally vegetated. Mr. Gardner said it would be easier to maintain the area without the woody sticks and vines. Ms. McLaughlin said he can maintain what is there but not dig up the soil. Mr. Reed said they can't permit the grass planting if it has to be dug up.

George Prunier said someone owns the land. Mr. Reed said the town says no one owns it. James Gallagher said there is a request to put a dock in. He thinks it will limit other people's right of access. Mr. Reed said if the dock is on the right-of-way, other people with the right to use the right-of-way are also allowed to use the dock. Ms. Washburn said Mr. Gardner submitted his deed. Ms. Tee commented that it was her understanding that if you don't own the land then you had no legal right to put a dock on the land. Mr. Reed said that is a legal question.

Mr. Gallagher and the Tees all object to the dock. Ms. Tee was told that her driveway was a private way. Ms. Washburn told her according to the assessors map her driveway is not private. Mr. Prunier commented that Mr. Gardner has a deeded right to the area deeded to him, not in the water. He says if someone objects to the dock, that is a private matter.

Mr. Gardner said he would be using a weed whacker with a string or a blade to cut the brush. Mr. Reed asked if the stakes would be taken out. Mr. Gardner said they are

seasonal and he would be taking them out. The dock is on wheels and will be pulled out of the lake by hand.

Ms. Tee asked how much land is going to be used. Ms. Washburn said the ROW is very large and includes the edge of the cove across from the Tees and Mr. Bouley. Ms. McLaughlin read an email from MaryAnn Dipinto of DEP, and from Judy Schmitz, DEP Circuit Rider. Mr. Bouley asked, as an abutter, that if anyone who has deeded access has to approve the work in this ROW. Ms. McLaughlin said since there are no owners, the issue becomes a civil issue.

A motion to close the public meeting (Reed/Emerson) passed 6/0.

Ms. McLaughlin said she does not believe there's a way to grow grass and is concerned about erosion. Ms. Emerson doesn't believe the grass will grow either. Mr. Peterson said he believes lowering the vegetation would be ok. The Commission agreed that Mr. Gardner is allowed to maintain previously cut vegetation without digging, tree cutting, or stump pulling. The Commission agreed that Mr. Gardner can maintain the ROW with a lawnmower, weed whacker and brush cutter.

The Commission agreed in keeping with the policy of not regulating the dock.

A motion for a Negative Determination with conditions as discussed (Reed/Haverty) passed 4/0. (Mr. Snow and Mr. Peterson abstained; Mr. Bouley recused himself)

**8:17 p.m. Opened the Public Hearing for Notice of Intent for George Prunier
Property: 89.5 Clark Road, Spencer, MA DEP#293-0838**

Robert Murphy, from Murphy Associates, submitted revised plans. Mr. Murphy said the bank is mortared stone wall. The mortar joints are too wide and the wall falls apart. They would like to replace the wall. The replaced wall will be in the same location and the same height. The wall will be built by hand. Straw wattles and a boom will be installed. The wattles will be the limit of work. A bobcat and excavator will be used. All work will be done during drawdown. Mr. Murphy changed the plan, initialed it and dated it to show the boom 40' away from the ends of the walls, and to eliminate the set of stairs on the left facing the lake.

The conditions are as follows:

- Standard conditions
- No overnight storage or refueling of equipment in the buffer zone
- A spill kit must be kept on site

A motion to close the public hearing (Snow/Reed) passed 7/0.

A motion to accept the plan with revisions and conditions as discussed (Reed/Bouley) passed 7/0.

**8:36 p.m. Opened the Public Hearing for Notice of Intent for Kenneth Jones
Property: 51 Thompson Pond Road, Spencer, MA DEP#293-0836**

The project is for a septic repair, approved by the Board of Health. Scott Jordan, from EcoTec, submitted revised plans tonight. Mr. Jordan told Quinn Engineering that the ESCs were not installed correctly. The ESCs will be re-installed and inspected. Mr. Jordan drew a boom on the plan, dated it, and initialed it. Mr. Jordan said the shrubs will probably have to be removed from the foundation plantings in the front of the house. Mr. Reed asked about an elevation change in the front yard. Mr. Jordan said a three foot high retaining wall will be built.

A motion to close the public hearing (Snow/Bouley) passed 7/0.

A motion to accept the plan with revisions as discussed (Reed/Emerson) passed 7/0.

**8:48 p.m. Opened the Public Hearing for Notice of Intent for Robert Lesley
Property: 22 Bellevue Drive, Spencer, MA DEP#293-0837**

Scott Jordan, from EcoTec, said a new septic system will be installed. The old leach field will be abandoned. The sewage must be pumped across the street to the new leach field. The work is within the buffer zone. The system has been approved by the Board of Health. The Commission told Mr. Jordan that wooden stakes with orange ribbon must be put up 15 feet from the maple tree trunk on the construction side of the tree and remain until the heavy equipment leaves the site. No boom is needed. Mr. Jordan said the work is 50 feet from Lake Whittemore.

A motion to close the public hearing (Bouley/Peterson) passed 7/0.

A motion to approve the plan with the condition as discussed (Snow/Bouley) passed 7/0.

Other Business:

22 Treadwell Drive: Ms. Lee Curtis, from BSC, said she is the certified erosion sediment control inspector. She said BSC submitted a statement of understanding letter regarding how the Conservation Commission wants this project monitored. Mr. Reed said it's his understanding that the construction of Phase 1, 2, and 3 will be done simultaneously. Ms. Curtis said as they move along with the construction, they will stabilize. Ms. McLaughlin questioned whether the stabilization was permanent. Ms. Curtis said some areas will be permanent and some temporary. Ms. McLaughlin asked what forms of temporary stabilization they could use. Ms. Curtis said there are several different kinds of mulch, seeding, hydro seeding, etc.

Ms. McLaughlin said the Commission was very clear that Phase 1 was to be completed before Phase 2 and Phase 2 was to be completed before Phase 3. Mr. Hem Shankhar said the Department of Energy and Natural Resources has given a deadline of February 27, 2015 to have everything installed. Ms. McLaughlin said he should appeal that deadline decision. Ms. Shankhar said there has to be some kind of compromise with that deadline date or the project will not move forward. Ms. Curtis said they will move the panel work outside of the buffer zone, get the stormwater features done and stabilized during the growing season, and keep all other work 100 feet away from the wetland resource areas.

Ms. Washburn said she recommends that the applicant should be required to adhere to the phasing on the plans. The request to eliminate the phasing is not a minor change. Ms. Washburn said getting the swales and basins stabilized and vegetated before the start of Phase 2 is the goal. After much discussion, the Commission agreed that if there is a good faith effort to get Phase 1 stabilized and growing, they will work with them on Phase 2 and Phase 3. Ms. Curtis said she will be in touch with Ms. Washburn for inspections.

44 Buteau Road: Ms. Washburn said when she inspected on 9/8/14 and she gave permission to commence removing the stumps in the buffer zone, Mr. Kuchinski complained that the Commission is not uniformly telling applicants which sediment controls to use. He was told to use double-staked hay bales and silt fence. The Audubon property as Sibley Farm on Greenville Street was allowed to use wattles. Ms. McLaughlin said not every project is the same. The Commission will pick and choose which ESCs are allowed on a case by case basis.

0 Woodbine Terrace: Ms. Washburn said on 9/23/14, the Commission inspected and took photos. The sand is washing into Thompson Pond and creating a delta at the foot of the boat launch which was illegally constructed. Ms. Washburn called, emailed and sent photos to MA DEP asking them to help with enforcement. The Commission told Ms. Washburn to issue a fine of \$100 per day that Ms. Petrozzi does not respond to the Commission and send one more amended Enforcement Order to immediately install erosion controls and submit a remediation plan. Ms. Washburn asked if any member would be willing to go to court if Ms. Washburn is not available. The Commission said it depends on the court date. Ms. Washburn will let them know when she receives the court date.

Browning Pond Boat Launch: Ms. Washburn said she inspected in response to a complaint on 8/5/14. Two steel posts have been installed at the water's edge without a permit. The person who complained is afraid that Treasure Valley Scout Reservation is going to put up a gate on the posts. Ms. Washburn issued a Notice of Violation on 8/6/14.

Ms. Washburn said because they are working in a resource area, a Notice of Intent must be filed. The Bank needs to be delineated and all resource areas involved need to be shown on the plan. The NOV issued required them to file a NOI by 9/17/14. They failed to meet this deadline or request an extension. They have not contacted EcoTec, as they said they would.

The Commission told Ms. Washburn to issue an Enforcement Order telling them to file a NOI by November 1, 2014.

20 Laurel Lane: Ms. Washburn said an Order of Conditions was issued for a septic repair. The Order allows crossing a stream with steel plates for heavy equipment access. Mr. Stone called Ms. Washburn to ask again if they could put a pipe in the stream and fill it. He was already told that the pipe and stream filling could not be permitted when the

first version of the plan showing this work was submitted by Richard Gobi. Ms. Washburn told him that this could never be permitted by the Town or DEP but he insists on asking the Commission in person.

15 Marble Road: Ms. Washburn said at the 9/10/14 meeting, the Commission wanted a letter sent to Mr. Bob Ceppi regarding the work he was given permission to do under a ZBA Special Permit. Mr. Jarvis did not want a letter sent. Ms. Washburn called Mr. Ceppi and arranged to meet with him on 9/24/14. When Ms. Washburn called to remind Mr. Ceppi of the meeting, he cancelled and rescheduled for next week.

144 Mechanic Street: Ms. Washburn said we have received Lenard Engineering's estimate to review the stormwater plan. Ms. Washburn had a lengthy conversation with Steve Broyer, the applicant, of Ecos Energy, regarding the deficient information submitted for the NOI. A Tech Review session is scheduled for October 1, 2014. Mr. Broyer will submit missing information and fees.

15 Paxton Road: Ms. Washburn said she observed fill near a stream. Monette was the name on the vehicles working on digging up the driveway in the buffer zone. Ms. Washburn met Ms. Andrews, and took a photo of the stump grindings recently deposited within 15 feet of the brook. The Andrews have cut vegetation on both sides of the brook. They are concerned about the brook filling up with sand from the road. Ms. Washburn relayed information about the driveway work to Steve Tyler. The Commission told Ms. Washburn to issue a Notice of Violation stating to pick up the stump grindings by the middle of October.

42 South Spencer Road: Ms. Washburn said she inspected and took photos in response to a complaint about digging in the aquifer protection district. Trash has been dumped next to a retaining wall that was going to be backfilled. Upland soils had been disturbed outside the buffer zone. Ms. Washburn sent the photos to Steven Tyler, Lee Jarvis and Bill Klansek, who was on vacation. Mr. Tyler went there and talked to the residents, who agreed to remove the trash before backfilling. Mr. Klansek needs to inspect the wall due to its height. Mr. Tyler said there were no driveway permit issues.

Brooks Pond Dam Repair: Ms. Washburn said that Mr. Reed had sent the following email:

Any hint from Brooks Pond Cons. Assoc./F&O when they plan to start the project out here? The earthen dam was fully cleared of all woody and herbacious vegetation a few weeks ago, using weed wackers and maybe a small circular blade or two for the slightly larger growth. Looks like maybe a preliminary effort for the larger effort (Toe Drain, etc.). First time re-clearing same since the bridge project in 2012.

Ms. Washburn said it sounds like they have started work without recording the Order of Conditions. Ms. Washburn sent the following e-mail to Mitra Morgan today:

Mitra, Dana Reed told me that vegetation has been cut on the dam since the Order of Conditions was issued. No work can be done until the DEP sign is up, the Order of Conditions has been recorded (please send us proof of that), we have had a pre-construction conference with the contractor, and the erosion controls have been installed and inspected.

Usually, when work starts before all that has been done, we have to issue a Notice of Violation.

Site Visits: The Commission will do site visits on October 7th at 4:30. They will meet at Town Hall.

New Applications: 54 Highland Street, Lacroix
65 Jolicoeur Avenue, Bouley

A motion to adjourn the meeting at 10:40 p.m. (Reed/Emerson) passed 7/0.

Respectfully submitted by:

Lisa Daoust, Senior Clerk
Development & Inspectional Services

Documents reviewed at the 9/24/14 Spencer Conservation Commission meeting:

Agenda for the 9/24/14 meeting
Margaret's report dated 9/24/14
Minutes from the August 13, 2014 CC meeting
Minutes from the August 27, 2014 CC meeting
Minutes from the September 10, 2014 CC meeting
Photographs of 15 Paxton Road taken on 9/16/14 by Margaret Washburn
Inspection report for 15 Paxton Road, dated 9/16/14
Photographs of 0 Woodbine Terrace taken on 9/23/14
Approved site plan for 22 Treadwell Drive solar development
NOI file for 22 Bellevue Drive
NOI file for 51 Thompson Pond Road
NOI file for 89.5 Clark Road
RDA file for right-of-way work off Jolicoeur Avenue
NOI file for 300 Charlton Road
NOI file for 40 South Spencer Road