

# Conservation Commission – Town of Spencer

## *Minutes*



Conservation Commission Meeting  
Wednesday, July 27, 2016 at 7:00 PM  
Town Hall, McCourt Social Hall

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The Meeting was opened at 7 p.m.

Commissioners Present: Margaret Emerson, Dana Reed, Warren Snow, John Haverty, Brian Graeff

Commissioners Absent: Mary McLaughlin, James Bouley

Staff present: Margaret Washburn

**Minutes Approved:** July 13, 2016 – Table to July 27, 2016

**Signed:** 104 McCormick Road – *A motion to approve the three-year Extension (Snow/Haverty) passed 5/0.*  
40 Thompson Pond Road, Order of Conditions  
Charlton Road (Crestwood) Route 31, Order of Conditions  
Charlton Road (Howe) Route 31, Order of Conditions  
17 South Spencer Road – *A motion to issue a Certificate of Compliance (Haverty/Graeff) passed 5/0.*  
60 Smithville Road – *A motion to issue a Certificate of Compliance (Snow/Graeff) passed 5/0.*  
134 West Main Street – *A motion to issue a Certificate of Compliance (Snow/Haverty) passed 5/0.*

**7:15 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Caruso Construction**

**Property: Lot 1, North Spencer Road, Spencer, MA DEP#293-0873**

The hearing has been continued to August 10, 2016.

**7:15 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Caruso Construction**

**Property: Lot 2, North Spencer Road, Spencer, MA DEP#293-0865**

The hearing has been continued to August 10, 2016.

**7:15 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Caruso Construction**

**Property: Lot 3, North Spencer Road, Spencer, MA DEP#293-0866**

The hearing has been continued to August 10, 2016.

**7:15 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Caruso Construction**

**Property: Lot 4, North Spencer Road, Spencer, MA DEP#293-0867**

The hearing has been continued to August 10, 2016.

**7:18 p.m. Opened the Continuation of Public Hearing for Notice of Intent for St. Joseph's Abbey**

**Property: 167 North Spencer Road, Spencer, MA DEP#293-0878**

The hearing has been continued to November 16, 2016.

**7:28 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Alan Stanwick**

**Property: 59 Wilson Avenue, Spencer, MA DEP#293-0880**

Maureen Finlay presented. Ms. Finlay said existing conditions plans were submitted in addition to a new revised site plan. The following changes were made:

- The stock pile area has been moved outside the buffer.
- The oil boom has been added.
- The tight tank has been labeled.
- The sediment controls were extended from the lake up to the street.
- Contours were added in the parking area over the tight tank.
- The retaining wall excavation across the road was eliminated.

*A motion to close the public hearing (Graeff/Haverty) passed 5/0.*

*A motion to approve the plan as submitted (Snow/Reed) passed 5/0.*

**7:41 p.m. Opened the Public Meeting for Request for Determination of Applicability for Patricia Ferrara**

**Property: 34 Point Eastalee Drive, Spencer, MA**

Ms. Ferrara explained she wants to expand an existing beach. The Commission did a site visit on July 20th and took photos. The beach was previously about 10-feet wide. Ms. Ferrara wants to expand it to 13-feet by 27-feet. She will use landscape timbers and blocks or edging between the sand and the four-foot strip of grass at the water's edge. She drew the timbers and blocks or edging on the plan. This is the approved plan.

*A motion to close the public meeting (Graeff/Reed) passed 5/0.*

*A motion for a Negative Determination as amended (Haverty/Graeff) passed 5/0.*

**7:56 p.m. Opened the Public Meeting for Request for Determination of Applicability for Warren Monette**

**Property: 35 Lakeshore Drive, Spencer, MA**

Mr. Monette said he is proposing to replace a retaining wall around the septic system, add another retaining wall, and add a concrete patio. The Commission inspected on July 20<sup>th</sup> and took photos. They had no issues.

*A motion to close the public meeting (Graeff/Reed) passed 5/0.*

*A motion for a Negative Determination (Haverty/Graeff) passed 5/0.*

**8:02 p.m. Opened the Public Meeting for Request for Determination of Applicability for Douglas Shogren**

**Property: 5 Wilson Avenue, Spencer, MA**

Mr. Shogren said there is a 5 1/2-foot tall retaining wall that the top two layers need to be replaced. The work area is approximately 20-feet long. The stones will be placed on the lawn instead of down in the Land Under Water Body. Mr. Shogren said he would cover the bare soil with boat shrink wrap if there is a thunderstorm. The project will only take about three days.

*A motion to close the public meeting (Haverty/Snow) passed 5/0.*

*A motion for a Negative Determination (Haverty/Snow) passed 5/0.*

**Other Business:**

**30 GH Wilson Road:** Ms. Washburn said on July 20<sup>th</sup> the Commission did a site visit and noticed that fill had been placed very close to a BVW. The Nashes offered to put a tarp over the fill until it can be moved this weekend. All areas will be stabilized and loamed.

**9 Wilson Avenue:** Ms. Washburn said she received a complaint that a retaining wall on the Bank of Stiles Reservoir had been removed. The Commission inspected on July 20<sup>th</sup>. A wall had been removed and a new driveway/boat launch had been built using hydraulic equipment with no permit, no boom and no sediment controls. The excavated material was placed across the street in the buffer zone to Stiles Reservoir at 10 Wilson Avenue. Ms. Washburn said she issued a Notice of Violation/Cease and Desist on July 25<sup>th</sup>. The NOV called for a remediation plan.

Ms. Washburn said Mr. Joyce contacted her on July 26th. At her request, he said he mulched the new driveway/boat launch and installed double-staked hay bales and silt fence at the base of the new slope.

On July 27th, Ms. Washburn met Mr. Joyce at the site. He indicated that he is willing to come into compliance, on both sides of the street. He also wants to do further site work near the water and also across the street.

Ms. Washburn said rather than presenting a remediation plan, she suggests requiring a retroactive (after-the fact) NOI filing, which would have been required if he had filed before doing the site work. The NOI could include work previously done without a permit as well as future work Mr. Joyce wishes to do on both sides of Wilson Avenue. Mr. Joyce agreed to file a NOI by August 24<sup>th</sup>. Ms. Washburn will issue an Enforcement Order with a date of August 24<sup>th</sup> to file the NOI. The Commission said it was ok to smooth out the fill and mulch at 10 Wilson Avenue over the weekend. Mr. Graeff will inspect on August 1<sup>st</sup>.

**Thompson Pond Drawdown:** Marty Nathan said the landscaping companies and hydro-seeding companies are still pulling up and withdrawing water from the lake. Ms. Washburn asked who it is and Mr. Nathan said it's a couple different companies. Ms. Washburn said she spoke with Judy Schmitz and she reiterated that the Commission does not have the right to limit the water withdrawals because the water in the pond is not a protected resource area. Ms. Schmitz had told Ms. Washburn if they knew who the companies were, they could inform the companies of the drought watch and that they can get the water from the DPW, or they could put up a sign saying we are in a drought watch and any water needed can be taken from DPW. Jason Brown, from Browns Trucking and Excavation, described his discussion with DEP.

Ms. Washburn said there are people that live on lakes that suck the water out of the lake to water their grass and gardens. Those withdrawals are greater than the trucks withdrawing the water. Mr. Nathan submitted a letter from himself and a letter from Duane Lavangi, from DEP in Boston. Mr. Nathan requested that his name and phone number be given to Adam Gaudette and Town Counsel.

Ms. Washburn will send an email to Adam Gaudette asking the following question: "Does the Conservation Commission have the authority to regulate water withdrawals of less than 100,000 gallons by commercial establishments when they believe there is an impact to the resource areas?" *A motion to present the question to Adam Gaudette (Graeff/Reed) passed 5/0.*

**22 Treadwell Drive:** The Order of Conditions is about to expire. Jason Brown is requesting a three-year extension. There is a plan to stabilize the area. *A motion to issue a three-year extension (Reed/Haverty) passed 5/0.*  
*A motion for the CESSWI inspections be done once a month unless there is a major storm event (Graeff/Reed) passed 5/0.*

**44 Buteau Road:** Jason Dubois presented a remediation plan. He will file an RDA for the solar panels. The RDA will show where excess fill will be outside of the buffer. The plan shows erosion controls and a sequence of construction. *A motion to approve the remediation plan as revised (Reed/Haverty) passed 5/0.* The remediation plan was approved under the Enforcement Order pending the filing of an RDA for the solar panels.

**43 GH Wilson Road:** Ms. Washburn said she observed a violation (excavator at work in the buffer zone without a permit) from the road and inspected. The owner showed her the work underway. Trees had been cut in the buffer zone in at least three different areas:

1. On the right side of the driveway as you enter from the road.
2. Beyond the finger-like projection of wetlands on the right side of the driveway as you enter from the road.
3. To the west of the large filled/disturbed area where the new garage and laundry room are under construction.

The driveway was also being reconfigured without a driveway permit. No building permit had been issued for the garage and laundry room. Ms. Washburn said she issued a Cease and Desist Order. Mr. Harden filed an RDA. The RDA is on the agenda for the next meeting. Ms. Washburn recommended issuing a Positive Determination requiring Mr. Harden to file a Notice of Intent.

**Site Inspections:** The Commission will do site inspections on Tuesday, August 9<sup>th</sup> at 10 a.m.

New Applications:   43 GH Wilson Road, RDA  
                              Route 31 South, RDA  
                              68 Browning Pond Road, RDA  
                              3 Browning Pond Road, RDA

*A motion to adjourn the meeting at 9:41 p.m. (Graeff/Snow) passed 5/0.*

Respectfully submitted by:

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Lisa Daoust, Senior Clerk  
Development & Inspectional Services

Documents reviewed at the 7/27/16 Spencer Conservation Commission meeting:

Agenda for the 7/27/16 meeting  
Margaret's report dated 7/27/16  
Extension for 104 McCormick Road (signed)  
Extension for 22 Treadwell Drive (signed)  
OofC for 40 Thompson Pond Road (Crestwood) (signed)  
OofC for Charlton Road (Crestwood) (signed)  
OofC for Charlton Road (Howe) (signed)  
Certificate of Compliance for 17 South Spencer Road (signed)  
Certificate of Compliance for 60 Smithville Road (signed)  
Certificate of Compliance for 134 West Main Street (signed)  
Continuance form for Lots 1-4 North Spencer Road (signed)

Continuance form for 167 North Spencer Road (signed)  
NOI file for 59 Wilson Avenue  
RDA file for 34 Point Eastalee, including Negative Determination (signed)  
RDA file for 35 Lakeshore Drive, including Negative Determination (signed)  
RDA file for 5 Wilson Avenue, including Negative Determination (signed)  
Remediation plan submitted by Jason Dubois for 44 Buteau Road  
Correspondence from Martin Nathan re: Thompson Pond water withdrawals  
Violation file for 43 GH Wilson Road  
Violation file for 30 GH Wilson Road  
Violation file for 9 Wilson Avenue