

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, April 13, 2016 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

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

Commissioners Absent: Brian Graeff

Staff present: Margaret Washburn

Minutes Approved: March 9, 2016 – *A motion to approve the minutes as amended (Reed/Emerson) passed 6/0.*
March 23, 2016 – *A motion to approve the minutes as amended (Reed/Bouley) passed 6/0.*

Signed: 25 Thompson Pond Road, Re-sign Amended Order of Conditions

7:24 p.m. Opened the Continuation Public Hearing for Notice of Intent for Steven Turner

Property: 5 Meadow Road, Spencer, MA DEP#293-0870

At the request of the applicant, the hearing has been continued to April 27, 2016.

7:25 p.m. Opened the Continuation Public Meeting for Request for Determination of Applicability for Bond Construction Corp.

Property: 98 North Spencer Road, Spencer, MA

At the request of the applicant, the meeting has been continued to April 27, 2016.

7:27 p.m. Opened the Continuation Public Hearing for Notice of Intent for Caruso Construction

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

At the request of the applicant, the hearing has been continued to April 27, 2016.

7:27 p.m. Opened the Continuation Public Hearing for Notice of Intent for Caruso Construction

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

At the request of the applicant, the hearing has been continued to April 27, 2016.

7:27 p.m. Opened the Continuation Public Hearing for Notice of Intent for Caruso Construction

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

At the request of the applicant, the hearing has been continued to April 27, 2016.

7:27 p.m. Opened the Continuation Public Hearing for Notice of Intent for Caruso Construction

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

At the request of the applicant, the hearing has been continued to April 27, 2016.

7:30 p.m. Opened the Continuation Public Hearing for Notice of Intent for James Laney

Property: Holmes Street, Spencer, MA DEP#293-0874

Brendan Gove, from Zero-Point Development, Inc., and Bill Hannigan, from Hannigan Engineering, were present. Mr. Hannigan said the responsibility for the detention basin at the front of the site will be taken over by them. The town will have an easement to allow the pipes to go into the drainage basin and an easement for emergency purposes. Mr. Hannigan discussed and went through the major sheets of the plan individually with the Commission.

Mr. Hannigan said there are trees that need to be cut down within the shade buffer. No trees will be cut within the wetlands. A detailed review was provided in the plan that locates all the trees that will be cut. Ms. Washburn asked if they are dropping trees that are in the shade buffers into the wetlands. Mr. Hannigan said if some trees fall towards the wetland area, he will call Ms. Washburn.

Art Allen, from EcoTec, said he went out and reviewed the previous replication area. He said the replication was successful and is 100% vegetated. Ms. Washburn said a Certificate of Compliance was never requested and an as-built was never submitted for the replication area so she doesn't know how big the replication area is. Mr. Allen suggested that a special order be put in the Order of Conditions that requires an as-built for the previously constructed replication area. A Certificate of Compliance should be submitted prior to starting work. Ms. Washburn said they should submit the request at the time of the solar farm pre-construction meeting. Mr. Hannigan said the original Order of Conditions needs to be amended to remove the parcels that the solar field will be on from the subdivision. Ms. McLaughlin asked for language in the request to amend regarding 389 square feet of wetland replication out of 900 square feet of wetland replication was previously permitted. A special order will be written in the Order of Conditions that the request to amend the Order of Conditions must be submitted prior to

the pre-construction meeting. The Commission told Mr. Hannigan that a boom must be used if hydraulic equipment will be within 40 feet of the stream.

Dick Kirk, abutter from 22 Holmes Street, said he has concerns about the basin next to his house not being built correctly. He is also concerned about trees being cut down because that could cause more ground water that will come through the wetlands that drain onto his property. Mr. Hannigan said the basins will be a bit larger to hold back more water. Ms. Washburn said this whole project has been through intensive third-party review. Mr. Corey Broder, from Lenard Engineering, said the drainage calculations show there is no net increase in volume from runoff. Ms. Washburn said this project is not required to address the original subdivision plan. Mr. Kirk said his property started being affected when the original project was started. Mr. Kirk asked who is responsible for the subdivision project. Ms. Washburn said James Laney is responsible. Mr. Gove said this property and the solar array will be owned by Mr. Gove and his company. Ms. Washburn said James Laney will not own the solar farm property. Mr. Laney will be responsible for the balance of the subdivision and the as-built. Ms. Washburn said in the old Order of Conditions it states that the landscaping and maintenance of the basin next to Mr. Kirk's property is the responsibility of the land owners association.

Mr. Hannigan and the Commission discussed the special conditions. Ms. Washburn will make the corrections and send the revised conditions to the Commission and Mr. Hannigan. The conditions will be voted on by the Commission at the next meeting on April 27, 2016.

A motion to close the public hearing (Bouley/Emerson) passed 6/0.

A motion to accept plan as amended (Snow/Haverty) passed 6/0.

8:55 p.m. Opened the Continuation Public Hearing for Notice of Intent for PLH, LLC

Property: 144 Mechanic Street, Spencer, MA DEP#293-0876

Steve Broyer said plans were re-submitted Wednesday of last week. Ms. Washburn said the plans she received were not full sized. Mr. Broyer submitted full size plans tonight. He said test pits were done today. Mr. Broyer said he was granted the variance last night from the Planning Board.

Mr. Broyer said that Ecos Energy owns 18.2 acres of land that was subdivided from Bob Moschini's parcel. Mr. Broyer said it was decided that the best way to access the site is where Mr. Moschini currently accesses the site before he sold it. There is a draft agreement with the Spencer Fish and Game for an easement for the private driveway. They are trying to finalize the easement before the site plan review meeting next week. The easement will encompass the private driveway all the way to the south. It will grant access to the southwest corner of the site.

Mr. Broyer said the total tree canopy removal on the entire site has been reduced to under three-tenths of an acre. Mr. Broyer discussed the Phase 1 grading area. There is grading occurring on the southwest corner of the Fish and Game property. It is the existing hand gun range. The access road will have 3,900 yards of cut. The Spencer Fish and Game

berm needs 1,900 yards of that cut. As the grading occurs, excess fill will be transported to the inter-connection location.

Mr. Broyer said Phase 1 grading has two basins. One basin is sized to take drainage from the entire roadway and all the drainage to the north of it. There is another small basin, 120 square feet in size, by the Spencer Fish and Game at the bottom of the hill to collect any runoff from the new gravel roadway that can't be captured uphill by the other basin. This basin will treat the stormwater that is within the riverfront area where grading will occur. There is a basin for each one of the sub-watersheds within the array. There are a total of six basins in Phase 1.

Mr. Broyer said the driveway is 20 feet wide with a 25'x25' turnaround area which was required by National Grid so they can get their trucks in there to set up the arms and get the buckets up to the re-closer meters. There are a total of six poles that will be installed.

Mr. Broyer discussed the landscaping plan which shows the locations that are going to be blanketed with erosion controls. The slopes will have straw blankets as well as seed. The fill area will be seeded.

Mr. Broyer explained the cross-sectional detail of the basins. They range from two to four feet deep. The water will enter the basin from a direct swale. There are a lot less swales now. There is only one adjacent to the road. Ms. Washburn asked if they will be able to get the swale constructed and stabilized before any alterations. Mr. Broyer answered yes the swale will be stabilized.

Mr. Broyer asked for a continuance because he is waiting for an easement from the Spencer Fish and Game, waiting for Mr. Moschini to sign the Notice of Intent, and revising the basins. *The hearing has been continued to April 27, 2016.*

9:47 p.m. Opened the Continuation Public Hearing for Notice of Intent for Boy Scouts of America

Property: Browning Pond, Spencer, MA DEP#293-0875

Ray Griffin and Dominic Meringolo were present. Ms. Washburn said the mapping doesn't show the copper sulfate treatment area. Mr. Meringolo suggested a condition that if and when copper sulfate is proposed a work plan must be submitted. Ms. Washburn said this Commission does not have the expertise to review that report and a third party reviewer with the expertise would have to do the review. Mr. Reed said, in his opinion, a third party review is not necessary. A review has not been required on other lakes and ponds in Spencer. Ms. Washburn said she does not have the expertise to review the reports. Ms. McLaughlin asked the other Commission members if they believe a third party review is necessary. Ms. Emerson said it is needed. Mr. Bouley agreed, Mr. Snow agreed, Ms. McLaughlin agreed, Mr. Haverty agreed. Mr. Meringolo said they are not proposing any vegetation management in Spencer. Mr. Griffin said he doesn't understand why this Commission needs someone to tell them they are not applying chemicals, they are not applying herbicides, and no manual harvesting is being done. Ms. Washburn said they have questions that they want advice on. Mr. Griffin said there is no way they would

apply anything that would have a negative impact on the pond. Ms. McLaughlin said then there should not be a problem with a third-party review.

Mary Bennett said this is a unique ecosystem with rare species. The milfoil isn't growing rapidly. She said she does want the Boy Scouts there. This plan kills the aquatic life. This is not a one-time application and is intended to go on for years. She lives here; the Boy Scouts play there. Mr. Meringolo said there is no swimming restriction. Ms. McLaughlin said the vote stands for a third-party review.

Ms. Washburn noted there is no signature of owner. Mr. Meringolo said no one will sign as owner of the pond. Ms. Washburn said she spoke to Judy Schmitz at MA DEP. Ms. Schmitz said that the Commission can require monitoring for effects in Spencer in the Order of Conditions. The Commission can either require Solitude Lake Management to do the monitoring, or they can require the applicant to pay for third-party monitoring. Mr. Griffin asked if the herbicides are taken out of the equation, would monitoring still be required. The Commission answered no.

Ms. Washburn asked if there is an overall pond management plan. Mr. Griffin said they do not have a plan. The closest they have to a plan is a student from WPI is doing a Major Qualifying Project to study the flow into Browning Pond and will be presented at WPI.

Tom Pelletier, an abutter, said he would be willing to help with the physical removal. Trying some sort of physical removal should be tried first.

Mr. Griffin suggested a joint meeting with Oakham. Ms. Washburn said she tried to get a joint meeting with Oakham and they never contacted her. Ms. McLaughlin said this Commission originally wanted a joint meeting. Ms. Washburn will write a letter to the Oakham Conservation Commission and ask if they would be willing to meet and discuss the NOI and come to a common agreement. Ms. McLaughlin read the NHESP Fisheries Division comments.

Mr. Griffin said he is fearful of a tragic accident of a cub scout to be entangled in the weeds.

At the request of the applicant, the hearing has been continued to April 27, 2016.

10:55 p.m. Opened the Public Meeting for Request for Determination of Applicability for Tim Ryan Property: 22 Buteau Road, Spencer, MA

Mr. Bouley recused himself from the meeting. Mr. Tim Ryan said he is looking to build a new house, driveway, install a septic system, and install a well. The Commission did a site visit and took photos. Ms. McLaughlin read the inspection report. Ms. Washburn had asked Mr. Ryan to submit a sketch showing a more accurate depiction (with actual measurements) of the area of land alteration in regards to determining whether a storm

water permit needs to be issued. Mr. Ryan did submit the sketch. There will be no wetland impact and no storm water permit is needed.

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

A motion for a Negative Determination (Emerson/Reed) passed 6/0.

10:58 p.m. Opened the Public Meeting for Request for Determination of Applicability for Paul Braney

Property: 15 Pine Acres, Spencer, MA

John Thomasian said the project is for a septic system replacement. There is only one available spot on the site for the system. Hay bales and silt fence will be installed. The project should only take approximately five days. Ms. Washburn said there is a question about whether there is a BVW between the septic system and Thompson Pond. Ms. Washburn had the Commission look at the photos to see the heavily vegetated area that has not been delineated. She said the entire site appears to have a very high water table. According to Map 21 in the Soil Survey of Worcester County, Massachusetts, Southern Part, the soils on the subject property are poorly drained hydric (wetland) soils: Ridgebury fine sandy loam. Ms. Washburn spoke to Lee Jarvis and he told her to have the wetland flagged.

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

A motion for a Positive Determination (Snow/Emerson) passed 4/2.

The BVW must be flagged and a Notice of Intent must be filed.

11:20 p.m. Opened the Public Hearing for Notice of Intent for Peter Millette

Property: 21 Ethier Drive, Spencer, MA DEP#293-0877

Ms. Washburn read the comments from DEP. Ms. Washburn spoke to Judy Schmitz from DEP today and she had stated that the plan doesn't show what is existing versus what is proposed. Mr. Millette wrote on the plan what exists and what is proposed. The revised written plan is the final approved plan. Ms. McLaughlin read the inspection report. The Commission will do a re-inspection on April 26, 2016 at 3:00 p.m.

A motion to close the public hearing (Emerson/Bouley) passed 6/0.

A motion to accept the plan as revised with standard conditions (Snow/Emerson) passed 6/0.

Other Business:

32 Paxton Road: Ms. Washburn said today was the deadline for a remediation plan to be submitted as per the Enforcement Order and a plan has not been submitted. Mr. Berthiaume apologized for miscommunication. He said he was under the impression that the people who he has doing the work had submitted the plan a week ago. He said the wetlands had been flagged a month ago. Mr. Berthiaume was told the remediation plan will be done next week. Ms. Washburn said the plan must be submitted by April 20th.

369 Main Street, Certificate of Compliance: Ms. Washburn inspected and took photos on April 11th. Ms. McLaughlin read the inspection report. Ms. Washburn said there are several piles of fill on the edge of the wetlands behind the building and in the buffer zone on the edge of the parking lot, with no sediment/erosion controls. The plan submitted for the addition indicated it would have a grassed area on the south side (front). That area is now paved. Cheryl Lavalley, owner, said all the fill in the back is from the plow. The winter was warm and the land didn't freeze. Ms. Emerson suggested the Commission do a site visit. The Commission will do a site visit on April 14th at 4:30. *A motion to issue a Certificate of Compliance (Reed/Haverty) passed 6/0.*

78 Donnelly Road: *A motion to ratify the Enforcement Order (Emerson/Bouley) passed 6/0.*

25 Thompson Pond Road: Ms. Washburn read her report. There was unpermitted work done in the buffer zone. Ms. Washburn issued an Enforcement Order. *A motion to ratify the Enforcement Order (Haverty/Emerson) passed 6/0.*

22 Treadwell Drive: Ms. Washburn said there are a lot of erosion and sediment issues there. Ms. Washburn issued an Enforcement Order. *A motion to ratify the Enforcement Order (Snow/Bouley) passed 6/0.*

Point Eastalee, Certificate of Compliance: Ms. Washburn said the work was never done. She inspected and took pictures. *A motion to issue the Certificate of Compliance (Snow/Emerson) passed 6/0.*

10 Meadow Road: Ms. Washburn said she inspected and took photos on April 11th. Ms. McLaughlin had said she had a question about woody debris in the stream. All the woody debris appears to be natural logs, branches and shrubs. No construction or demolition debris. She did not observe anything that indicated that any action needed to be taken.

A motion to adjourn the meeting at 12:00 a.m. (Reed/Haverty) passed 6/0.

Respectfully submitted by:

Lisa Daoust, Senior Clerk
Development & Inspectional Services

Documents reviewed at the 4/13/16 Spencer Conservation Commission meeting:

Agenda for the 4/13/16 meeting

Margaret's report dated 4/13/16

Minutes from the 3/9/16 and 3/23/16 meeting (approved as amended)

Amended OofC for 25 Thompson Pond Road (re-signed)

Continuance form for 98 North Spencer Road (signed)

Continuance form for 5 Meadow Road (signed)

Continuance form for Lots 1-4 North Spencer Road (signed)

Enforcement Order for 78 Donnelly Road (ratified)

Enforcement Order for 25 Thompson Pond Road (ratified)

Enforcement Order for 22 Treadwell Drive (ratified)

NOI file for Holmes Street solar farm

NOI file for 144 Mechanic Street

Continuance form for 144 Mechanic Street (signed)

NOI file for Browning Pond lake management

Continuance form for Browning Pond lake management (signed)

RDA file for 22 Buteau Road, including Negative Determination (signed)

RDA file for 15 Pine Acres, including Positive Determination (signed)

NOI file for 21 Ethier Drive

Certificate of Compliance for 369 Main Street (signed)

Certificate of Compliance for Point Eastalee (Bonaventura) (signed)

Photographs and site inspection report for 10 Meadow Road (Knights of Columbus)