

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, December 12, 2012 at 7:00 PM
Town Hall, Conference Room A

The Meeting was opened at 7 p.m.

Commissioners Present: Ernie Grimes, Mary McLaughlin, Warren Snow, Dana Reed, Ram Moennsad, Margaret Emerson

Staff present: Margaret Washburn

Minutes Approved: October 24, 2012 – *A motion to approve the minutes as amended (McLaughlin/Moennsad) passed 6/0.*
November 14, 2012 – *A motion to approve the minutes as amended (Moennsad/Snow) passed 6/0.*

Signed: Order of Conditions, 1 Jameson Lane

7:15 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Richard Barrell

Property: 26 Laurel Lane, Spencer, MA DEP#293-0783

At the request of the applicant, the hearing has been continued to January 9, 2013.

7:17 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Timothy Masterson

Property: 183 Paxton Road, Spencer, MA DEP#293-0786

The Commission did another site visit on November 25th. The applicant wishes to remove two large debris piles added to the buffer zone and remove young sumac growth in the same area. The piles are located near the property line abutting to 175 Paxton Road. Ms. Washburn said the areas should be shown more clearly on the site plan. Mr. Masterson updated the plan and initialed it. Mr. Moennsad said he thinks what Mr. Masterson is trying to do is justifiable and Mr. Moennsad has no issues with this project. Mr. Grimes said he would like Mr. Masterson to install permanent wetland markers. Mr. Snow suggested iron pipes be used to install the markers onto. Mr. Grimes also said permission is given to remove the piles of debris, not to landscape the area. The area is to remain a buffer zone. Once a year mowing is allowed.

The proposed conditions are as follows:

- Permanent markers must be installed

- Once a year mowing with a brush hog
- Removal of debris
- No landscaping
- No herbicides of any kind in the wetland or the buffer zone
- Materials must be deposited off site
- Work can be done between March and Labor Day
- Natural re-vegetation, no seeding required.

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

A motion to accept plan as submitted with conditions as discussed (Moennsad/Snow) passed 6/0, Order of Conditions to be issued.

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

Property: Jolicoeur Avenue, Spencer, MA

Mr. Gardner would like to cut some brush at the water's edge for a boat dock. He also would like to put in a little grassy area. Mr. Gardner will not cut the three-trunk maple tree. The floating dock will be attached to the bank with stakes. It will be removed in the winter and put onto Mr. Gardner's property. Mr. Grimes said Mr. Gardner can clear the brush and cut the trees. All the stumps must remain and there must be no disturbance of the soil. Nothing is allowed to be added to the lake. No adding rocks to the lake. The woody vegetation can be trimmed annually. Mr. Bouley, an abutter, asked if the right-of-way is shared. Mr. Grimes said it allows the people on the other side of Jolicoeur Avenue access to the lake. Mr. Grimes does not know whose deed the ROW is written onto. Ms. Washburn said Mary Williams, the assessor, told Mr. Gardner that the ROW doesn't belong to anybody. There is no assessor's ID number for the ROW. Mr. Reed said people that have deeded access to the water can't be stopped from accessing the water. Who uses the dock is not a Conservation issue. The 10x10 square foot grass area will be installed four feet back from the water.

The Commission agreed that this will not be used as a boat launch. Mr. Gardner can put the boat in at a boat ramp and drive the boat to the dock. Mr. Bouley asked if he could put a picnic table or park his car on this ROW. Mr. Reed said only if those who share the ROW are in agreement. Mr. Gardner asked if he can cut one of the leaders on the maple tree. Mr. Grimes said the tree shades the water which helps fish. It also helps keep the lake temperature down. Permission was not granted to cut anything on the maple tree.

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

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

7:52 p.m. Opened the Public Meeting for Request for Determination of Applicability for Jack and Nancy Paquette

Property: 129 Wilson Avenue, Spencer, MA

Ms. Washburn said the plan submitted depicts the stream as “Intermittent”. The stream is mapped as perennial on the U.S.G.S. maps and is therefore presumed to be perennial as per MA WPA regulations. If Mr. Stone, the applicant’s consultant, wants to try to overcome the presumptions, he must follow the procedure outlined in the MA WPA regulations, which calls for photographing the portion of the stream which is not flowing on four separate days and submitting the photographs to the Commission. He has chosen not to do this. The plan cannot be approved until he either changes the word “Intermittent” on the plan to “Perennial” or he submits sufficient documentation to overcome the presumptions regarding perennial streams in the MA WPA regulations.

Mr. Reed said he attended the court hearing today. The magistrate had told the Paquette’s that they must file. Mr. Reed told the magistrate that the Paquette’s have filed and Mr. Reed filed for a motion to dismiss. The magistrate also reduced the amount of the Paquette’s fine.

At the request of the applicant, the meeting has been continued to January 23, 2013.

8:02 p.m. Opened the Public Meeting for Request for Determination of Applicability for Marie Carlson

Property: 1 Willow Way, Spencer, MA

Ms. Washburn inspected for a septic repair. She has no issues at this time. Mr. Grimes would like Ms. Washburn to ask Lee Jarvis if there is a cut-off date when septic system cannot be installed. The Board of Health has approved this plan. ESC will be installed and the installer will call Ms. Washburn for an inspection before work begins. The hay bales and silt fence must be installed in a C shape (3 bales on each side curled up).

A motion to close the public meeting (Moennsad/Snow) passed 6/0.

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

8:13 p.m. Opened the Public Meeting for Request for Determination of Applicability for Robert Trudeau

Property: 65 Oakland Drive, Spencer, MA

Ms. Washburn said a complaint was received about trees being cut near Sugden Reservoir. Ms. Washburn issued a NOV on 10/22/12 and sent the tree cutting company a letter. The NOV instructed them to file an RDA by 11/21/12. The RDA was received on 11/15/12. Ms. Trudeau said the branches were cut by hand. One tree was taken down which was right next to the house. The stump was not pulled out. It will remain. The Trudeau’s would like to trim another unsightly pine tree on the left side of the house facing the water. They had planted hemlocks that they would like to trim now. The Commission would like to do another site visit on December 18th at 2:30 p.m.

At the request of the applicant, the meeting has been continued to January 9, 2013.

8:25 p.m. Opened the Public Meeting for Request for Determination of Applicability for Craig Krom

Property: 19 Delude Avenue, Spencer, MA

Mr. Krom would like to construct a deck with a landing at the bottom of the stairs. He has obtained a building permit. Four sonotubes will be installed 49' from the lake. The holes will be dug by hand. Mr. Krom said the area is fairly flat. Mr. Krom will build the landing in the spring. Excess dirt will be used to fill in the pot holes on the road. The Commission told Mr. Krom that he must put a tarp over the dirt.

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

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

Other Business:

131 Main Street, Price Chopper, Certificate of Compliance request: Mr. John Goddard briefly gave a review about the Price Chopper project. Since 2001 when an amended Order of Conditions was issued, there has not been a request for a Certificate of Compliance until now. On 12/5/12, Ms. Washburn, and John Goddard, from R. Levesque Associates, inspected Price Chopper. Ms. Washburn reports that the retaining wall on the west side of the rear of the building has partially collapsed into the perennial stream. There is a pipe that outlets from the base of the retaining wall about six feet below the top of the retaining wall, directly into the river. Ms. Washburn observed and photographed a milky, white substance discharging from the pipe into the river. Eben Butler and Ms. Washburn had arranged to meet the manager from Price Chopper on Monday, December 17th to do a dye test to determine where the white substance comes from. If the dye test does not work, a smoke test can be done. Mr. Moennsad said he is hesitant to issue a Certificate of Compliance unless the wall is intact. Ms. Washburn asked that since the Order of Conditions has expired, is a permit needed to repair the wall. Mr. Grimes said to issue an Enforcement Order. The wall must be repaired, stones removed from the river, and a hydraulic boom must be placed in the river. Once that work is completed, the Enforcement Order can be closed out and a Certificate of Compliance will be issued. Mr. Grimes said the wall needs to be made better than what it was. Mr. Grimes would like to see a plan before they proceed with the work on the wall. The plan must show how the rocks will be prevented from going into the stream again.

175 Paxton Road: Mr. Cutler is currently working under an Enforcement Order. Mr. Grimes said Mr. Cutler must move the brush pile out of the buffer zone. He is also to remove the rocks and stumps. He is not to landscape. No herbicide in the buffer zone. He can use a brush hog once a year. Mr. Grimes doesn't feel comfortable with the flagging there. He would like to do a site visit in late March/early April. Before then, Mr. Cutler can pull the brush out and burn it with a permit. Ms. Washburn asked what Mr. Cutler is going to do with the stumps. He said the stumps will be taken off site. Mr. Cutler can remove the stumps starting around March 15th. Mr. Grimes said after the wetland line is approved, Mr. Cutler must install the permanent wetland markers on pipes where the line is determined.

115 Wilson Street: Ms. Washburn said she is concerned about the order in which construction is proceeding at the Solar Farm. Item #6, construction of temporary drainage swales, was supposed to commence before Item #7, installation of array systems and utilities. Ms. Washburn said this did not happen. The arrays in Array 1 were being installed, ditches for electrical trenches were dug, and a hole was dug for a transformer pad in Array 1 before any of the swales with check dams shown on the plans were constructed. No swales with check dams have been constructed in Array 2, even though arrays are being installed.

Also, construction of permanent sediment basins was supposed to commence before preparing the array areas, equipment pads and roadways. This did not happen. Item #4, construction of temporary sediment basins, was supposed to start before arrays were installed. This did not happen. The construction of the permanent basin in Array 2 has not commenced. There are no check dams in any of the swales.

Jay Bates said they have constructed the swales. Pond #1 should be finished temporarily by the end of this week. They are starting on Pond #2. No sediment is leaving the site. They need to finish the berms on the pond. They have also been importing the fill from Bond Corp. They are filling in the area creating berms. The clearing was finished by the first week of November. The areas have been stabilized. The project will be built as planned. Mr. Grimes said the ponds and sediment controls should have been in and functional before any of the array installation.

Mr. Moennsadt suggested to work from where the project is now as a starting point. The swales must be constructed because of the mud. David Albrecht, P.E. from Borrego Solar, said a construction sequence has to be flexible. To construct detention basins in muddy areas is very difficult. Mr. Snow said we are trying to prevent erosion before the stabilization. Mr. Albrecht said there have been no issues with sedimentation leaving the site.

Mr. Grimes commented that he read a comment somewhere that stated someone had dug a ditch from the mud puddle in the roadway into a stream. Ms. Washburn said she has pictures of the ditch. Mr. Albrecht said he believes that was a washout.

Ms. Washburn said the 3:1 slopes on the swales do not exist. The swales are ditches. Mr. Albrecht will be a new contact and will now join the weekly meetings.

Mr. Albrecht said they would like to have a better access to the site. They would like to be able to use Paxton Road as the entrance. Mr. Albrecht said they are going to go before the ZBA and ask permission. The Commission is in support of this.

7 Woodland Lane: Ms. Washburn said there was sand washing into the lake. Ms. Washburn sent a Notice of Violation on 11/12/12 instructing Mr. Morgan to file an RDA by December 19th. Mr. Morgan came into the office on 12/4/12 and filed the RDA.

89 Smithville Road, Zukas: On October 10, Peter Zukas told the Commission he would file an RDA. Ms. Washburn said he failed to do this. On 11/27/12, she inspected with Steve Tyler and Joe Bellino of MA DEP. Mr. Bellino wanted to attend because Mr. Zukas has previously had a consent order from the MA DEP Drinking Water Program in regards to his public water supply well. At the site walk, Mr. Tyler and Mr. Bellino felt that a NOI would be required due to proximity of the wetlands, and that the location of the Mean Annual High Water Line of the Sevenmile River needed to be delineated. The gravel pit is in the Zone II Wellhead Protection Area (Aquifer Protection District overlay as per the Aquifer Protection bylaw). Steve Tyler felt that material needs to be replaced in the gravel mine where it has been excavated to less than a 48-inch separation from groundwater. Apparently, the DEP can fine the Town if this separation is not maintained in the Zone II Wellhead Protection Area. The Town Planner is investigating whether Mr. Zukas needs a special permit from the ZBA for earth removal. *A motion to ratify the Enforcement Order (Snow/McLaughlin) passed 6/0.*

49 East Charlton Road: On 12/3/12, Ms. Washburn observed and photographed two piles of fill that are in the buffer zone to a BVW shown on the Assessor's GIS maps. On 12/4/12, Ms. Washburn issued a NOV instructing Mr. Maffei to file an RDA by 12/19/12 to be on the agenda for the 1/9/13 meeting.

21 Ethier Drive-Peter Millette: Ms. Washburn received a complaint in September in which someone saw fill being dumped in Cranberry Meadow Pond at this site. Ms. Washburn inspected and photographed the site on 11/26/12. Large areas of exposed soils were observed. She photographed areas with erosion problems. There were no erosion controls in place. Some stone retaining walls on the Banks appeared to be relatively new. There were cement blocks on a portion of the Bank. There was evidence of vegetation having been removed (trees, shrubs, and herbaceous). There was a lot of crushed stone on what may have previously been wetlands (fill). The work may have qualified for a permit under the Stormwater Bylaw. There was no Title 5 inspection when the Millettes bought the house and Lee Jarvis sent them a letter telling them they need to do a Title 5 inspection immediately. The house is being renovated and there was construction material stockpiled very close to the bank. There was a backhoe, a trailer, and a vending machine-sized refrigerator located very close to the bank. Ms. Washburn issued a NOV on 12/5/12.

22 Longview Drive: Mr. Grimes asked Ms. Washburn about the progress at this property. Ms. Washburn said she spoke with Art Allen this week. Mr. Allen will be contacting Mr. Huard this week. Then he will be contacting Ms. Washburn.

Site Visits: The Commission will do site visits on December 26th at 1 p.m.

195 Charlton Road – James and Rachel Laliberte: Ms. Washburn met with Ross Hubacz and Steve Tyler to review the draft plan on 12/3/12. Most of the clear cut area is supposedly going to regenerate back into forest. A Forest Management Plan signed by Doug Hutcheson, DEM Forester, is forthcoming, according to Mr. Hubacz. Manure storage will need to be addressed. Mr. Laliberte has contacted Natural Resources

Conservation Service (NRCS) in Holden to ask for advice on manure storage. Ms. Washburn called NRCS. They will not be able to go there until May 2013. In the meantime, Anthony Moschini may be able to use some of it for compost. Mr. Laliberte showed Ms. Washburn where he wants to stockpile it more than 100 feet away from the BVW that borders on the stream.

70 Chickering Road – Timothy Shipman: Ms. Washburn inspected 3 times before he could start work. The first time, the hay bales were not secured to the ground and the DEP sign was not up. The second time, some of the hay bales were staked adequately and the DEP sign was made from a torn piece of cardboard box. The third time, bales were all staked and the DEP sign was made of wood. Ms. Washburn inspected again on 12/5/12. The septic repair was complete. There were no issues at this time.

62 South Spencer Road – Sharon McGee: Ms. Washburn inspected on 11/20/12. Ms. McGee wants to build a crossing over the perennial stream for tractors and livestock, and clear wooded land for pasture. She has met with Scott Morrison from EcoTec, Inc. Ms. Washburn and Ms. McGee discussed the permit process and the Stormwater Bylaw. Ms. McGee wants to get all necessary permits before starting work. On 12/3/12, Ms. Washburn sent her a letter telling her how to contact NRCS regarding creating pastures and installing fences near the perennial stream.

121 Wilson Avenue – Bob Fournier: On 12/3/12, Ms. Washburn inspected at his request. Mr. Fournier wants to have the existing mortared stone retaining wall (on the left facing Stiles reservoir) repointed. He will use a mason and a cement mixer, with no heavy equipment and no digging or soil disturbance. Ms. Washburn spoke with Lee Jarvis about this. Mr. Jarvis felt no RDA filing was needed. She told Mr. Fournier to have the mason put a piece of plastic on the ground at the base of the wall before starting work. She also told Mr. Fournier to call her a week before the mason commences work. Ms. Washburn took photographs. In the future, when the wall on the right facing the water needs work, they will need to file with Conservation. That wall currently has no mortar in it.

Podunk Highway – New England Automotive Gateway: On 12/10/12, Ms. Washburn received a revised plan. The revisions had been made at the request of Graves Engineering regarding the existing drainage pipe from the sediment basin to the revised infiltration basin. The changes to the revised plan include adding a manhole to the existing drain line and revising the lower half of the drain pipe. The invert of the proposed drainage pipe has been raised above the bottom of the proposed basin to elevation 642.0. In addition, a riprap apron has been added at the outlet of the revised drain line to dissipate the storm water discharge and protect against erosion. There is an Operations and Maintenance Plan for the drainage structures within the Site Owner's Manual. It is part of the Stormwater Report.

7 Debbie Drive – Brian Kennen: Ms. Washburn inspected on 12/4/12 with Scott Morrison and Brian Kennen. She took a photograph of the area where the drainage swale will discharge to the uplands. Most of the water in the swale should recharge into the ground before it reaches the outlet.

26 Laurel Lane – Richard Barrell: Ms. Washburn said he needs to demonstrate how he meets the performance standards for Bank. There should be an existing conditions plan and a proposed conditions plan. He appears to have placed blocks in the Land Under Water Body. The Bank needs to be delineated and the flags need to be shown on the plan. The new wall needs to be shown in relation to the Bank flags and the retaining wall he got permission to do last year. The site plans for 14 Chickering Road provide an excellent example of how the plan should be revised.

Ms. Washburn said Mr. Barrell had stated on 10/24/12 that the new retaining wall will tie in with the existing wall he got permission to do last year. However, the revised site plans do not show the wall he previously constructed east of the existing dock. Mr. Grimes specifically wanted a note on the plan stating that excavated materials will be removed daily from the site. There is no such note on the revised plans. Mr. Barrell should be urged to plant native vegetation along the water's edge to control erosion. Mr. Grimes told Ms. Washburn if the plans come before Ms. Washburn and she finds them to be unacceptable, she is to reject the plan.

Ms. McLaughlin said Mr. Barrell had told her that Jody Bolafka had brought fill on to her property and why didn't she need a permit to do that. Ms. McLaughlin told him she would mention it at the next Conservation meeting. Ms. Washburn said that she did not see any fill at Ms. Bolafka's property and that Ms. Bolafka has a permit now so it is a non-issue.

Depot Trail: Mr. Grimes went to Depot Trail with David Bercume and Warren Monette to see if they would submit a bid for the work that needs to be done. Mr. Grimes said there is not a construction list of what needs to be done on the trail. A scope of services needs to be created. Mr. Grimes wants to use money from the Spencer Conservation Bylaw Fee Account to have a scope of services created. Mr. Grimes said The Town of Southbridge receives Grant Money to maintain their trail system.

New Applications: 7 Debbie Drive, NOI
 7 Woodland Drive, RDA
 5 Shady Lane, RDA

A motion to adjourn the meeting at 10:20 p.m. (Moennsad/McLaughlin) passed 6/0.

Respectfully submitted by:

Lisa Daoust, Senior Clerk
Development & Inspectional Services

Documents reviewed at the 12/12/12 Spencer Conservation Commission meeting:

Agenda for the 12/12/12 meeting.
Minutes from the 10/24/12 and 11/14/12 Conservation Commission meetings.
Margaret's report dated 12/12/12.
Order of Conditions for 1 Jameson Lane (signed)
Continuance form for 26 Laurel Lane (signed).
NOI file for 183 Paxton Road, including plan Timothy Masterson drew changes on and initialed.
RDA plan and Negative Determination for dock off public right-of-way, Jolicoeur Ave., (signed).
RDA file and continuance form for 129 Wilson Ave. (signed).
RDA plan and Negative Determination for 1 Willow Way (signed).
RDA plan and continuance form for 65 Oakland Drive (signed).
RDA plan and Negative Determination for 19 Delude Ave. (signed).
File for 175 Paxton Road.
Enforcement Order for 89 Smithville Road (ratified).
File for 49 East Charlton Road, including NOV.
File for 21 Ethier Drive, including NOV.
File for 131 Main Street (Price Chopper), including a Request for CofC (not signed).
Letter from Lycott Environmental, Inc. dated 12/11/12, re: Legislative Extension Act expiration date for Brooks Pond OofC, DEP file # 293-0697.
Letter from National Grid dated 11/21/12 re: herbicide applications along power lines in Spencer.
Three press releases and three letters from MACC to the Spencer Board of Selectmen re: Ramchandra Moennsad, Mary McLaughlin and Margaret Washburn have completed MACC's Fundamentals for Conservation Commissioners training course.