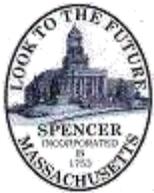


Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, February 11, 2009 at 7:00 PM
Conference Room A
Memorial Town Hall

The Meeting was opened at 7 p.m.

Commissioners Present: Ernie Grimes (Chairman), Judy Lochner, Mary McLaughlin, Tom Flannery, Warren Snow, Karen Rubino

Commissioners Absent: Steve Manuel

Staff present: Ginny Scarlet & Lisa Daoust

Minutes Approved: January 14, 2009 – *A motion to approve the minutes with an amendment (Flannery, Grimes, Rubino, Snow) passed 4/0. Ms. McLaughlin and Ms. Lochner did not vote, as they were not there for this meeting.*

Signed & Notarized: 7 Briarwood Lane, Order of Conditions

7:16 p.m. Opened the Continuation of Public Hearing for Valerian Kulesza Property: 39 Point Eastalee Dr., Spencer, MA DEP#293-0717

Two revised plans were submitted to the Commission. The 2x2x4 interlocking concrete blocks will be placed behind the existing wall, which will act as the coffer dam. There was another amendment made to the plan. The existing wall will be removed once the new wall is installed. The plan was amended, dated and initialed. Standard conditions apply to this plan.

A motion to close the public hearing (Rubino/Lochner) passed 6/0.

A motion to accept plan as submitted with an additional amendment as written and initialed with standard conditions (Rubino/Lochner) passed 6/0, Order of Conditions to be issued.

7:26 p.m. Opened the Continuation of Public Hearing for David Brooks

Property: 17 Condon Drive, Spencer, MA DEP#293-0715

Mr. Seth Lajoie represented Mr. David Brooks. A new septic system needs to be installed. The lot is relatively tight. A perc test was done in the end of August, 2008. The new system has a pump chamber that will pump to a battery feed system.

Mr. Grimes said at the last meeting there was an abutter concerned about more runoff water diverting on her property with the new system. Mr. Lajoie said there is no doubt there will be some additional runoff but with the use of swales, they are trying to mitigate the runoff as much as possible. The back of this lot is a natural swale. Mr. Lajoie said looking at the site, there is really no other feasible alternative than what is being proposed. Runoff water on the abutter's property is an existing condition due to the water flow from the steep driveways across the street. Ms. Scarlet said she will communicate with the Highway Department about the problem of street drainage. She will see if the issue of water entering driveways can get looked at.

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

A motion to approve the plan as presented with standard conditions (Lochner/Flannery) passed 6/0, Order of Conditions to be issued.

7:38 p.m. Opened the Public Hearing for Notice of Intent for Thomas Cleary

Property: 15 Rustic Lane, Spencer, MA DEP#293-0718

Mr. Mark Farrell, Green Hill Engineering, presented the project to the Commission for Mr. Richard Gobi, who could not be present. The owner has passed away. This is a lakefront lot. The septic system is being replaced. There is a cesspool there now. Hay bales will be installed first then the soil will be removed and stockpiled across the street. Ms. Scarlet asked how far away from the water is the area across the street where the soil will be stockpiled. Mr. Farrell said that it's approximately 140 feet from the water. Mr. Farrell does not know where the current cesspool is located. Mr. Grimes said that usually the old system is marked to be abandoned on the plan. Mr. Farrell said that a lot of the times he will not find out where the old system is until he starts digging. Ms. Scarlet said the Commission could write a condition that limits the area of work and notify the Commission if digging up the old system would require disturbance beyond said limits.

The proposed conditions are as follows:

- Limit the area of work and notify the Commission if digging the old system will require disturbance beyond said limits
- Standard ESC

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

A motion to approve the plan as presented with conditions as discussed (Snow/McLaughlin) passed 6/0, Order of Conditions to be issued.

**7:50 p.m. Opened the Public Hearing for Notice of Intent for Beverly Glass
Property: 17 Delude Avenue, Spencer, MA DEP#293-0720**

Mr. Mark Farrell, Green Hill Engineering, presented the project to the Commission. The existing septic system does not meet Title V requirements because it is less than 50 feet from the well. An alternative system will be installed. The new system will have a treatment unit to clean the water. The water will enter into a pump chamber then be disposed into a small leach field located between the house and lake. The new system is approximately 51 feet from the well. There will be limited excavation because the leach field is small. The leach field is 30' x 5'. Hay bales and silt fence will be installed on the slope and by the side of the house across the slope. Mr. Farrell will send in revised plans showing the hay bales and silt fence being installed every night on the side of the house. Ms. Scarlet asked if the leach field can be installed first. Mr. Farrell said it doesn't matter because installation of the tank will be quick. Ms. Scarlet asked how long the construction will take. Mr. Farrell said about 3 to 4 days, depending on storms.

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

A motion to approve the plan as presented with standard conditions as discussed (Rubino/Lochner) passed 6/0, Order of Conditions to be issued.

**8:05 p.m. Opened the Public Hearing for Notice of Intent for Terrance Maloney
Property: 113 Wilson Avenue, Spencer, MA DEP#293-0721**

Mr. Jason Dubois, Bertin Engineering, presented the plan to the Commission. The existing house will be torn down and replaced with a new single family home, adding a boat ramp and replacing part of a shoreline retaining wall. The Commission did a site visit. The boat ramp must be vegetated. Ms. Scarlet suggested pervious concrete pavers or gravel and grass. Mr. Grimes said the plan does not show the location of the septic system or the well. Mr. Dubois said the septic system is in front of the house and the well is in the corner. Ms. Lochner asked if trees will be cut down. Mr. Dubois said that 2 trees will be removed. Ms. Scarlet asked if there will be any landscaping and planting done. Mr. Maloney said he plans to plant but does not know what yet. Ms. Scarlet asked where the stockpiles will be. Mr. Dubois said that debris will be taken off site. There will be no stockpiling. Mr. Grimes said when working on the retaining wall, the boom needs to be placed across the abutters' property as well as along the work area. Mr. Dubois said the wall will be constructed during drawdown.

The proposed conditions are as follows:

- Standard ESC
- Pervious concrete pavers or hollow block must installed as the boat ramp paving

A motion to close the public hearing (Lochner/Rubino) passed 6/0.

A motion to approve the plan as presented with conditions as discussed (Flannery/Snow) passed 6/0, Order of Conditions to be issued.

**8:23 p.m. Opened the Public Hearing for Notice of Intent for James Bouley
Property: 67 Jolicoeur Avenue, Spencer, MA DEP#293-0724**

Mr. Jason Dubois, Bertin Engineering, presented the plan to the Commission. The existing house will be demolished. The new house will be pushed back about 3 feet from the previous existing house location. The area in the back of the lot between the house and the septic system is where the cesspool is currently located. Ms. Scarlet said that area looks soggy. The new house will be in the flood plain. Mr. Dubois does not know where the well is located on the property. The Commission must be notified of the well location when it is determined. The new septic system will be on a 2nd lot further from the lake.

The proposed conditions are as follows:

- Standard ESC
- No stockpiles
- Conservation Commission must be notified of well location when determined

A motion to close the public hearing (Snow/Flannery) passed 6/0.

A motion to approve the plan as presented with conditions as discussed (Flannery/Snow) passed 6/0, Order of Conditions to be issued.

**8:31 p.m. Opened the Public Hearing for Notice of Intent for Country Spirits Corp.,
Property: 10 West Main Street, Spencer, MA DEP#293-0724**

Mr. Jason Dubois, Bertin Engineering, presented the plan to the Commission. Mr. Alan Letendre, owner of Country Spirits, was also present. The Commission has not done a site visit yet. The house that was there was demolished but the foundation remains. The proposed 6000 sq. ft. building is going to be a new liquor store. There will be access from West Main Street and a second access from Old Spencer Road. The second access will mainly be used for receiving but customers can also use the access. Much of the site is located in the National Grid Easement. Total disturbance is approximately 7,800 sq. ft. Catch basins will be installed. Ms. Scarlet requested Mr. Dubois to submit 2 more copies of the Operation and Maintenance Plan and the Stormwater Pollution Prevention Plan. Ms. Rubino asked how wide the driveway will be. Mr. Dubois said 24'. The Commission would like to do a site visit and review the SWPPP and the Operation and Maintenance Plan. The site visit was scheduled for February 22, 2009 at 9 a.m. *At the request of the applicant, the hearing has been continued to February 25, 2009.*

Other Business:

Board of Selectman: Ms. Scarlet apologized to the Board of Selectman for not being tactful at the last Conservation Commission meeting but she does not withdraw the thought. She does know that the Board of Selectman themselves are not dumb but the action that took place on Pine Acres was dumb.

Conservation Restriction: 13 more acres of land is being purchased near Burncoat Pond by Mass Audubon and Audubon would like a Conservation Restriction placed on the property. The Commission already holds a restriction on the first 60 acres of the property. The Commission reviewed the plan. *A motion to have a Conservation Restriction placed on the land and supporting Audubon's application for the grant (Snow/Flannery) passed 5/0; Mr. Grimes abstained.*

Deer Run: There has been no evidence submitted that a Conservation Restriction has been recorded on Deer Run II lots. Mr. Harrington is planning on closing on the sale of 7 Briarwood Lane at the end of this week. He can not close until that restriction is recorded, which is stated in the Order of Conditions. Fines will be administered if the restriction is not recorded prior to the closing of the property.

Elm Street: An Order of Conditions was issued in February of 2008 for demolition of 2 buildings on the National Grid site on Elm Street along with excavation of debris. The buildings to be torn down are very close to the Muzzy Brook/Wall Street culvert. National Grid has been coordinating with Rob McNeil, Director of Utilities and Facilities, to do road repair which has an Order of Conditions to repair the culvert. Both Orders require erosion control to keep contaminated soils out of the brook. Once the building is demolished and pipes are removed, the curb facing will have to be removed. Jersey barriers will be placed along the side of this additional stretch of road. This is a minor coordinating project change that is within the scope of the existing Orders. *A motion was made to accept the revision and no formal amendment is necessary because the work is covered either within National Grids Order of Conditions or the Towns Order of Conditions (Lochner/Rubino) passed 6/0.*

Town Planner, Adam Gaudette attended the meeting to introduce himself to the Commission and talk about Open Space Residential Development (OSRD) and the Open Space Plan. Mr. Gaudette explained that OSRD is a form of cluster zoning where a developer is allowed to construct a dense cluster of buildings in return for preserving the rest of the land as open space. Spencer's OSRD is in the Zoning Bylaw; no special permit is required. Sielis RDA for delineation was on the cluster part of a possible OSRD development. Mr. Gaudette pointed out that the Planning Board review concerns the roadway. The locations of buildings can be dictated by the Conservation Commission. For the Sielis project, there was no firm information about the size or boundary of the open space parcel. There is usually some sort of conservation restriction on the open space which includes that information. The holder of the restriction can be a Town Board, the Town as a whole, a land trust or another sort of non-profit with a preservation purpose, e.g. rail easements can be held by a recreational organization in return for

maintenance. Easement holder, conservation restriction holder and land owner can be separate as long as the responsibilities of each are spelled out in properly worded and recorded documents.

Discussion turned to co-ordination among the boards of plan reviews and permitted of proposed developments. Mr. Gaudette encouraged informal preliminary discussion and staff meetings to give the developer/applicant guidance before formal application. Then, the formal hearing before each board should be continued until each can see the final version of the plans and issue a permit based on a plan. This avoids circular and repeated applications.

Open Space Plan: Since Mr. Gaudette has been working for the town, no Open Space grant applications have been submitted. He and Ms. Scarlet have been meeting weekly discussing the OSP. OSP's are the MGL Chapter 8C responsibility of Conservation Commissions. An OSP Committee is being formed again. Ms. Scarlet asked for a Commission member to volunteer to be on the committee. The meetings will be held once a month in the evening. Ms. Rubino has volunteered if the meetings will be on Wednesday evenings before Conservation Commission hearings. It is hoped but not likely to get the plan together by Town Meeting in May. Nonetheless, it is not a long term commitment.

Proposed Stormwater Management Bylaw: The Stormwater Committee, Adam Gaudette, Rob McNeil, Lee Jarvis and Ginny Scarlet, thanked the Commission (Judy and Warren's) comments. The bylaw will apply to all construction sites disturbing 1 acre or more. In addition it will apply to projects on sites which have 2 of the 3 conditions: steep slope greater than 15%, existing or proposed; a catch basin within 100 feet of the work; 10,000 square feet of disturbance. The exemption for "infiltration" is for infiltration into a stormwater conveyance, not into the ground. Judy suggested that should be clarified.

Judy had asked for more details on what is required of the applicant. Ginny explained that the details will be in the regulations. The basic requirement is in the bylaw where it says nothing can go into the drainage system but uncontaminated stormwater. Adam explained that the Stormwater Committee will be working on the beginning of the regulations between the hearing on the bylaw and Town Meeting. The regulations will be considered at a public hearing before being adopted. The EPA permit required that Spencer have the bylaw by May 1 2008, so we want to get the bylaw adopted promptly. We're already overdue. The hearing will be on March 3, 2009. Ginny said she'd attach it to email.

Karen Rubino said she was unclear who will do the regulating called for by the bylaw. The Planning Board will have responsibility for overall administration. They can delegate parts to other boards. The distribution will have to be worked out. Ginny said first we have to get the authority.

Pine Acres Culvert: Ms. Lochner drafted a letter to the Board of Selectmen. Ms. Scarlet said that the letter implies the Commission will follow up requiring a Notice of Intent and stabilization. The Commission needs to decide who should get copies of the letter. There are questions about who has the responsibility to submit the plans. It could be the Selectmen, contractor or the property owners, all of whom were involved. Ms.

Lochner and Mr. Grimes feel that the Selectmen told the contractor to do the work, therefore, the Selectmen should determine who will have to submit the Notice of Intent and plans.

Mr. Gaudette said that the person responsible for submittal of any Notice of Intent is the property owner. Mr. Grimes said that no one claims the ownership of this property. Ms. Rubino asked with a situation on a private road like this one, is it the responsibility of only the abutters of culvert to have it repaired. Mr. Gaudette said the owners on either side of the road own to the middle of the road. Ms. Scarlet said that nothing is stated in the deed where the road is relative to the property line. Mr. Gaudette said if there is an easement stating that an abutter has permission to cross the property owners land, the property owner is not responsible for the upkeep. Typically on a private road, everyone on that private road is responsible. Mr. Grimes said a Notice of Violation should be sent to the owners of the culvert and all 7 residents on the other side of the culvert. Ms. Lochner said the residents did not do the work. Ms. Scarlet said under the regulations, the property owners are responsible.

The Commission agrees that this burden falls with the Selectmen. The letter will state that the Commission suggests the Selectmen contact the residents whose responsibility this is and make clear that while the Selectmen stepped in during an emergency, the residents themselves must follow up. The deadline for someone to contact the Commission as to what steps have been taken to follow up is March 25, 2009.

35 Gold Nugget Road: The Notice of Intent for construction of a cell tower and access road has been withdrawn.

Lake Associations: Ms. Scarlet suggested to the Commission that they sponsor a meeting for Spencer's Lake Associations to talk over Protection of their Lakes, WPA responsibilities and how the Commission can help. Ms. Scarlet can send out invitations and pull together information packets for the Associations.

Gold Nugget Road: Ms. McLaughlin got a complaint about Judge George's property. It is absolutely disgusting with trash everywhere. The complainant said they would bring in pictures to clarify. Ms. Scarlet has walked the river several times and has not seen any trash. Ms. Scarlet said that the complainant should submit a written complaint with photos. She can remain anonymous.

Depot Trail: Ms. Rubino went to the Trail. She had taken some pictures that she handed to the Commissioners. Ms. Rubino wanted to know who is responsible for the upkeep. Mr. Grimes said that Parks and Recreation is responsible for upkeep.

North Brookfield Road: Rob McNeil and Ms. Scarlet have been discussing doing a generic NOI and Order of Conditions for highway work. Ms. Scarlet wants the Commission to look informally at the plan of work and decide if the techniques that were used are something that the Commission would be comfortable putting into a generic Order.

New Applications: Rail Trail, Town of Spencer, RDA

A motion to adjourn the meeting at 10:30 p.m. (Rubino/Snow) passed 6/0.

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services