

# Conservation Commission – Town of Spencer

## *Minutes*



Conservation Commission Meeting  
Wednesday, September 14, 2011 at 7:00 PM  
Town Hall, McCourt Social Hall

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The Meeting was opened at 7 p.m.

Commissioners Present: Ernie Grimes (Chairman), Judy Lochner, Mary McLaughlin, Ram Moennsad, Warren Snow, Dana Reed

Staff present: Margaret Washburn

**Minutes:** The Minutes of August 24, 2011 have been tabled until September 28, 2011.

**Signed:** **4 Lamoureaux Lane, Certificate of Compliance** – Ms. Washburn reported that she did a site visit and everything is in compliance. She recommends issuing a Certificate of Compliance. *A motion to issue a Certificate of Compliance (Reed/Moennsad) passed 6/0.*

**Agricultural Preservation Restriction Grant:** Michelle Buck, Town Planner, has not entered the amount yet but will when she gets it. Mr. Grimes signed the grant. The Selectmen will sign it next.

### **7:15 p.m. Continuation of the Public Hearing for Request for Determination of Applicability for William Klansek**

#### **Property: 125 Wilson Avenue, Spencer, MA**

Mr. Klansek was present for his hearing. Ms. Washburn said Mr. Klansek submitted a letter and a map from Bertin Engineering showing that the end of the perennial stream is 200 feet from the proposed retaining wall. Mr. Klansek said he is putting in a patio with picnic area. There will be a retaining wall off the foundation and they will raise the grade to put dirt in to plant some flowers. The picnic area will be slightly below grade. Mr. Klansek will dig a little trench with his Kubota tractor and set block in the ground. He will then put the wall in and loam behind the wall. Mr. Grimes told Mr. Klansek to install silt fence. Mr. Klansek will truck the sod off site; he will not stockpile on the site. Mr. Klansek will start this project in the spring.

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

The conditions are as follows:

- Silt fence to be installed around the flower garden area
- All excavated materials are to be taken off site

*A motion for a Negative Determination with conditions as discussed (Snow/Reed) passed 5/0. Ms. Lochner abstained.*

**7:30 p.m. Continuation of the Public Hearing for Request for Determination of Applicability for Ronald Dionne, P.E.**

**Property: Route 49, Spencer, MA**

Ms. Washburn said more detailed plans were submitted along with a narrative explaining all the work that was not in the Request for Determination. The supplemental information that was requested by the Commission was submitted. Ms. Lochner read the narrative. The Commission reviewed and discussed the plan. There was no representative for the project at this meeting. The Commission still has questions about the project and would like to continue the hearing.

Mr. Grimes asked Ms. Washburn to check with DEP to find out if Mass Highway is allowed to do a Determination if they are in a resource area. Mr. Grimes said he believes they are exempt but wants to make sure.

*The hearing has been continued to September 28, 2011. Ms Washburn will call and tell the applicant that he must attend this meeting.*

**7:45 p.m. Opened the Public Hearing for Request for Determination of Applicability for James Laney**

**Property: 11 Mill Street, Spencer, MA**

Mr. James Laney said the project is to remodel a house. He will be taking off a 3-season porch and a deck. There will be no ground excavation. Mr. Grimes said the state statute doesn't allow a Determination in the resource area of a perennial stream. Ms. Lochner said there are a few exemptions. Ms. Washburn said Marty Jalonski from DEP told her that there is no exemption for not moving earth. Ms. Lochner said one of the exemptions she knows of is if someone is converting a pervious area to grass, there is an exemption for that. It is considered a minor activity within the buffer zone. Minor activities are not subject to regulations. Ms. Lochner read from the regulations, Section 10.02, 2b.1.f. Mr. Laney is exempt from filing a Notice of Intent.

Mr. Laney said the porch is on temporary 2x4 poles, there is no foundation. Mr. Laney said he will install hay bales and silt fence if the Commission wishes. Mr. Grimes told Mr. Laney to install silt fence only around the project.

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

*A motion for a Negative Determination with the condition of installing silt fence only as discussed (Snow/McLaughlin) passed 6/0.*

**7:55 p.m. Opened the Public Hearing for Request for Determination of Applicability for Eric Warman**

**Property: 41 Wilson Avenue, Spencer, MA**

Mr. Richard Michalak, the contractor, represented Mr. Warman. This is an after-the-fact filing. Mr. Michalak said he changed and re-supported all the supports under the camp. Holes were dug under the camp and 12 inch sonotubes were poured. Mr. Michalak hauled out two van fulls of debris. Ms. Washburn and Mr. Reed did a site inspection at the property. Ms. Washburn said there was no evidence of earth disturbance at all. It was very clean. Ms. Washburn said the building inspector had told Mr. Michalak to go and see Ms. Washburn, so he did. Ms. Washburn said the house is approximately 60 feet from the water. Mr. Reed asked how many loli-columns were installed around the perimeter. Mr. Michalak said there were 19 to 21 columns installed.

Mr. Grimes does not have any issues with the project. He did tell Mr. Michalak to file papers before doing a project near water.

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

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

**8:05 p.m. Opened the Public Hearing for Notice of Intent for Landis & Bonnie Mitchner**

**Property: 17 Shady Drive, Spencer, MA DEP#293-0761**

Landis and Bonnie Mitchner and the contractor, Gabriel Berthiaume, were present. The project is to stabilize a wall in the front of the yard, remove a rotted wall and install a new terraced wall along the shoreline. Ms. Washburn and Mr. Reed did a site inspection. Ms. Washburn said the engineered plans are nicely done. Mr. Berthiaume said there is a wall along the front of the water. When the water goes down in the fall, they would like to rebuild it. There is an old timber wall they will remove, excavate the soil and tear out the old timber wall. Then re-stabilize a new terrace wall. All the excavated materials will be removed offsite.

There will be a set of stairs coming off the deck with a landing. There will be another set of stairs from the landing going down to the wall. The stairs will be solid granite and each set of stairs will be two to three steps. Ms. Washburn said it is very unsafe for anyone to walk over the wall to get to the water.

The water will be out approximately 20 feet from the construction site; therefore, Mr. Grimes said when they are working on the wall, hydraulic booms must be placed 40 feet from the work site. Hay bales and silt fence will be installed when the wall is being constructed at the waters' edge. The hay bales and silt fence will be moved up in front of the second wall on the land.

There was a comment from an abutter. She said she is very happy to see someone doing something great like this project. She said the project is very well thought out.

The proposed conditions are as follows:

- Standard ESC
- No stockpiling of materials on site
- Hydraulic booms to be placed out 40 feet from the work site
- Move hay bales and silt fence to higher ground before water rises.

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

*A motion to approve the plans and issue an Order of Conditions with conditions as discussed (Lochner/McLaughlin) passed 6/0.*

### **Other Business:**

**Depot Trail:** Ms. Lochner said she went and walked down the trail and she said it is really washed out. The Commission will do a site visit to the trail.

**Hastings Road:** Ms. Lochner also took a walk down Hastings Road and came back Delude Avenue. She reported that the road is pretty bad. The Commission needs to do a site visit there.

**Lake Street Extension:** Ms. Washburn issued a Notice of Violation to the Wissiups, which was delivered by a Constable. They still have not responded. Ms. Washburn asked the Commission what the next step should be. Ms. Lochner said to send a notice telling them if they do not show up for the meeting on September 24, 2011. On September 25<sup>th</sup> they will start receiving a \$100 fine for every day they do not contact the Commission. The letter will be delivered by a Constable.

**6 Hastings Road:** Mr. Les Holmes thanked the Commission for letting him speak. He said as of yesterday, hay bales and silt fence were installed at 57 Wilson Street. The hay bales and silt fence is not a permanent fix but will do for now. Ms. Washburn suggested they install a berm. Mr. Holmes thanked the Commission again for their quick action. They just want a resolution.

**57 Wilson Street:** After the Commission's site walk on September 4<sup>th</sup>, Ms. Lochner instructed Ms. Washburn to issue a NOV. The NOV was issued on September 6<sup>th</sup>, giving Mr. Donohue five days to install ESC and to appear before the Commission at this September 14<sup>th</sup> meeting.

Mr. Thomas Donohue is present for this meeting and did install the hay bales and silt fence. He will put grass seed down. Mr. Grimes said he should plant the seed in September so the grass will grow now. Mr. Donohue is going to install approximately 20 more hay bales and 30 – 40 feet of silt fence this weekend. He then will put the seed down the following weekend. Mr. Grimes suggested a mixture of seed. Mr. Grimes wants winter rye mixed in with the seed. It will grow all winter long. The Commission wants the seed down by September 25<sup>th</sup>. Ms. Lochner would like Mr. Donohue to put the seed down first then finish the hay bales and silt fence. Time is running out for the seed

to grow. Mr. Donohue will do the best he can to get the seed down ASAP. Definitely before the September 25<sup>th</sup> deadline.

**Water Street:** Ms. Washburn said there is a crushed sewer line. She inspected the portion of the failed sewer line with Mark Robidoux on September 7<sup>th</sup>. On September 13<sup>th</sup>, Ms. Washburn was going to issue the Emergency Certification for the work to commence on September 26<sup>th</sup> and finish by October 26<sup>th</sup>, but the manholes were not in. An RDA is going to be submitted.

**67 Jolicoeur Avenue:** Ms. Washburn inspected the site on September 6<sup>th</sup> and took photos. The ESC is allowing sediment-laden water to flow under it toward the cove of Cranberry Meadow Pond. She issued a NOV on September 6<sup>th</sup>, giving Mr. James Bouley five days to re-install the ESC on the right side of the driveway as one enters the site. Mr. Bouley did not fix the ESC. Ms. Washburn requested the Commission to do a site visit to this site with Mr. Bouley and Mr. Archambeault, the neighbor.

**64 Jolicoeur Avenue:** Mr. James Gardner has done a lot of land clearing uphill and redirected the drainage. He has either re-routed or created an intermittent stream. The water was gushing down and washed out the 67 Jolicoeur Avenue driveway. So much more water and gravel ran down into 67 Jolicoeur Avenue, it made the site worse. Ms. Washburn is requesting the Commission to do a site visit. Ms. Washburn took photos and showed the Commission.

**28 Jolicoeur Avenue:** Ms. Washburn inspected the site on September 6<sup>th</sup>. She took photos. The anti-tracking pad has been removed. The hay bales were not in place at the foot of the driveway. There was a large area of exposed soil upslope of Jolicoeur Avenue. Mr. Kennedy is not in compliance with what he agreed to do when he came before the Commission. Ms. Washburn inspected again on September 8<sup>th</sup> and Mr. Kennedy was there, sweeping sediment out of the road after about 48 hours of rain. Sediment has washed down the driveway and is now running down an intermittent stream or storm water conveyance between the neighbor across the street's driveway and the house to the right facing the pond. Ms. Washburn did take photos to show the Commission.

**42 Main Street:** Ms. Washburn inspected after receiving photos from Mr. Snow. She photographed fiberglass insulation and other trash within about 50 feet of the perennial stream. Mr. Lee Jarvis, Board of Health Agent, called Mr. Ben Naim, owner, and told him to clean it up within 48 hours or he would have it cleaned up and send him the bill. The next day there was a dumpster there.

**44 Jolicoeur Avenue:** On September 8<sup>th</sup>, Ms. Washburn saw large amounts of gravel and soil washed into Jolicoeur Avenue and into the driveway at 45 Jolicoeur Avenue. Sediment also was flowing into the next driveway on the right facing the pond. Ms. Washburn took photos and filled out an inspection report.

**Site Visits:** The Commission will go on site visits on Sunday, September 18<sup>th</sup> at 9:15 a.m. Meet at the Town Hall.

**2.5 Buteau Road:** The Commission did a site visit. Mr. Grimes said there are numerous issues there. The Commission requested Mr. St. Germain to attend the first meeting in October (October 12<sup>th</sup>) and gave him a deadline to submit a Notice of Intent by October 12<sup>th</sup>.

**Deer Run:** Ms. Washburn said that they are going before the Planning Board next week. Ms. Washburn spent almost two hours with Lori Funari going over Deer Run Phase I & II. Afterwards, Ms. Washburn called DEP for clarification. The Order of Conditions for Deer Run Phase II was issued on April 27, 2006. A six month extension was issued on April 8, 2009. Joe Bellino, from DEP, said that there is no such thing as a six month extension for an Order of Conditions. The extension should have been good until at least April 8, 2010 (there are one, two and three year extensions). Ms. Lochner said that in the Regulations, it states that an extension can be granted up to three years. The Commission decided on a six month extension because Mr. Harrington had to take care of a few things. The automatic extension extended that Order of Conditions until April 8, 2012. DEP said that the applicants don't necessarily have to have the wetlands re-delineated if the Order of Conditions is still valid. Ms. Washburn told Ms. Funari that the wetland flags will have to be maintained over the life of the project. The applicants are expected to file additional plans with the Planning Board for their September 20<sup>th</sup> meeting.

Ms. Washburn will not be working on October 6<sup>th</sup> and October 11<sup>th</sup>.

New Applications:   34 Meadow Road, RDA  
                              39 East Charlton Road, RDA

*A motion to adjourn the meeting at 9:55 p.m. (Snow/Moennsad) passed 6/0.*

Respectfully submitted by:

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Lisa Daoust, Clerk  
Development & Inspectional Services

Documents reviewed at 9/14/11 Spencer Conservation Commission meeting:

Agenda for 9/14/11 meeting

Draft minutes from 8/24/11 meeting

File for 4 Lamoureaux Lane

Agricultural Preservation Restriction Grant

File for 125 Wilson Ave. RDA

File for Route 49 Resurfacing Project RDA

File for 11 Mill St. RDA

File for 41 Wilson Ave. RDA

File for 17 Shady Drive NOI

File for 44 Jolicoeur Ave.

File for 57 Wilson St.

File for Water Street Emergency Certification for Sewer Repair

File for 42 Main St.

File for 67 Jolicoeur Ave.

File for 64 Jolicoeur Ave.

File for 28 Jolicoeur Ave.

MACC Quarterly, Fall 2011

APR Preservation Restriction Baseline Documentation Report for Proctor, Northwest Road