Conservation Commission – Town of Spencer

Minutes

Conservation Commission Meeting
Wednesday, September 9, 2020 at 7:00 PM
Town Hall, McCourt Social Hall

NOTE: THIS IS A REMOTE MEETING AND ALL PRESENTATIONS, QUESTIONS, COMMENTS AND/OR DISCUSSIONS WILL TAKE PLACE VIA TELEPHONE CALL IN. IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE CONSERVATION OFFICE BEFORE THE MEETING.

PERSONS SPEAKING CAN ONLY SPEAK WHEN RECOGNIZED BY THE CHAIR AND THEY MUST CLEARLY STATE THEIR NAME AND ADDRESS FOR THE MINUTES.

IN ORDER TO CALL IN, PLEASE CALL: 1-866-899-4679 AND USE ACCESS CODE: 928-765-893

TO LISTEN TO THE MEETING ONLY GO TO SCATV.ORG

The Meeting was opened at 7:00 p.m.

Commissioners Present: Margaret Emerson, Mary McLaughlin, Robert Perry and Warren Snow

Commissioners Absent: Charlie Bellemer

Staff present: George Russell, Jane Green
Staff absent:

Minutes Approved: *A motion to approve the minutes of August 26, 2020 (Perry/Emerson) 4/0.*

Signed: There were no items to be signed.

7:05 p.m. 4.1 Opened the Public Meeting for the Request for Determination of Applicability for Stephen Dayutis
Property: 3 Sherwood Drive, Spencer, MA
Stephen Dayutis joined the meeting. His project is to pave the existing driveway in the same footprint and pave the walkway to the front door. Mr. Russell recommended a negative # 3 for the RDA.

A motion to close the public meeting (Snow/Perry) 4/0 passed.
A motion for a negative #3 per the Agent's Report (Snow/Perry) 4/0 passed.

7:10 p.m. 4.2 Opened the Public Hearing for the Notice of Intent for John Lucey
Property: 17 Sherman Grove, Spencer, MA DEP#293-0994
Scott Jordan from EcoTec Inc. joined the meeting representing John Lucey. They are proposing a 6-ft deck on Sonotubes. They plan to put in straw wattles in the backyard. At the front of the house, they propose to put in a driveway. Mr. Russell recommends the orders be granted.

A motion to close the public hearing (Perry/Snow) 4/0 passed.
A motion for the NOI with listed stipulations (Emerson/Perry) 4/0 passed.

7:12 p.m. 4.3 Opened the Public Hearing for the Notice of Intent for Steve Goyette
Property: 101 Wilson Avenue, Spencer, MA DEP no file # has been issued.
Mr. Russell said that the applicant's engineer would like to continue because there are legal issues to work out.

At the request of the applicant, the hearing has been continued to September 23, 2020.

7:15 p.m.4.4 Opened the Public Meeting for the Request for Determination of Applicability for James & Nancy Woods
Property: 70 Hastings Road, Spencer, MA
Jason Dubois joined the meeting. The applicant is proposing to put a septic system in this new lot. Mr. Russell indicated that he was going to approve this administratively, but the septic system moved from the original design so that it is close to the edge of the buffer. Mr. Russel inspected the site and recommends approval.

A motion to close the public meeting (Perry/Emerson) 4/0 passed.
A motion for a negative #3 determination (Perry/Emerson) 4/0 passed.

5,0 Other Business:

5.1 51 Lake Ave – Permit Amendment: Mr. Russell said that what transpired was that he went out on a routine inspection and observed the work was being done in a different area than originally approved. He has been in contact with the applicant's engineer. The Commission needs to decide if the applicant needs to file a new NOI or an Amendment. Another part of this, is that there is significant vegetative debris on the property that is owned by the applicant and they want to clean it up. Mr. Russell recommends that the clean-up be included in the amendment. Ms. Emerson asked if that was a different parcel? Mr. Russell said it was, but it is with the same ownership. It is considered one legal entity.

Brian MacEwen from Graz Engineering joined the meeting. Mr. MacEwen wanted to know what the next step was. Mr. Russell said that he recommends the contractor be allowed to finish the septic itself, but any other work needs to wait for approval. We need the filing fees and abutter notices. Mr. MacEwen did not understand that he had to send out abutter notices and filing fees. He was really concerned because the applicant before him did new construction in the buffer zone and they were allowed to do an RDA for that. He asked if he could file an RDA and was told that he could not, and that was just for the septic system, not the extra work. He feels like there is latitude where some projects are allowed to move forward as RDA's, especially when it is a septic and failed septic in this case. He has seen two cases at meetings, where this type of work has gone through as an RDA. He is trying to understand why he is being forced to do this whole process when he sees other projects as an RDA. Ms. McLaughlin asked how close this is to the wetlands. Mr. MacEwen said that all of the work is outside the 50-ft buffer. Mr. Russell said that the original project was approved as a NOI, ergo any change to the orders requires an amendment. Mr. MacEwen said that almost every town that they work in they file an RDA.

Mr. Russell remembered the conversation with Mr. MacEwen about whether it should be an NOI or an RDA. In the time since Mr. Russell has been here, the Commission has not approved a septic system under anything but an NOI. As for the RDA that was approved on Hastings, the only thing that was done, in the buffer zone was the final grading. Mr. Perry said that to judge each case is difficult. Carrie Bowler, the property owner joined the meeting. The septic plan that they submitted included relocating two sheds and adding an additional tank in place where the sheds were. She said that the actual plans haven't changed but the location has. Mr. Russell said that at the end of the day, to get the release from conditions, the Engineer has to certify that the work was done according to the original plans. Mr. Russell indicated the plans have in fact changed. The goal is to get the septic system done.

A motion to require an amendment rather than a new filing (Emerson/Perry) 4/0 passed.

5.2 144 Mechanic Street – CofC: Mr. Russell said that all is ready for the request to be granted and the bond to be release.

A motion to release the bond and grant the CofC (Perry/Snow) 4/0 passed.

5.3 155 Mechanic Street – CofC: Mr. Russell said that all is ready for the request to be granted and the bond to be release.

A motion to release the bond and grant the (CofC) Perry/Emerson) 4/0.

<u>5.4 Request to address the Commission, T. McAuley:</u> Tanya McAuley joined the meeting to discuss the Solar project at 20 & 32 McCormick Road. She is an abutter to the project which embraces 3 sides of her property. She has concerns about the possible impact of Stormwater. Mr. Russell walked the property with Ms. McAuley and explained the proposal. She is anticipating issues with the solar arrays. There will be over 20,000 solar panels. There will be a lot of run-off water with more velocity. The woodland has been reduced by a couple of acres. The trees have very shallow roots. Over the past year a few trees fell due to storms. Ms. McAuley thinks that more water from the site will cause uplifting of more and more trees. It will render this piece of property out of woodland and be of no use to her family. It will devalue it as a property if Ms. McAuley should decide to sell it. Ms. McAuley said that Project 32 has a detention basin facing the woodland. She fears that after a storm, the basin will empty into the woodland and cause more trees to uproot. Ms. McAuley wanted to know what would be the remedial steps if her prediction comes through. She said that she spoke with the Engineer and the Engineer told her the detention basin will hold water for 70 hours. Ms. McAuley would like to know what the Commission advises her to do.

Mr. Snow wanted to know if the project is progressing per plan. Mr. Russell said that it is. The project is designed to current Stormwater standards, it was reviewed by an independent third-party Engineer and it is currently being built to those standards. The onsite CESSWI inspector has not found any problems. Ms. Emerson said that there have been problems at solar farms in the past, some applicants had to come and alter the plans to get an Order of Conditions.

Attorney Betsy Mason joined the meeting representing Independent Solar and James Schwartz. Ms. Mason said that neither of these projects are the same as other ones in town. They are designed by a Professional Engineer. They were professionally and independently peer reviewed by Graves Engineering and professionally constructed. There were no issues relating to wetlands protection and stormwater management. There are quite a few reports that document that. Ms. McAuley said that the issue is that the inspectors inspect the property border and not her land. Ms. Mason said that it has not happened yet, this is all hypothetical. Ms. Mason said that having reviewed all of Spencer's bylaws, wetlands, Conservation Commission regulations and policies, there are no specific requirements that stormwater from solar projects must remain on the project site. There is a requirement that says that the sediment remain on the project site. Ms. Mason said if at some point something unexpected happens under the Order of Conditions, they still have an obligation to follow the Operations and Maintenance Plan that was part of the stormwater report that was submitted. It states that the applicant will inspect the stormwater controls every year and do what is necessary. Ms. McAuley did not know that there was an Operations Plan. Ms. McAuley wanted to know who originally flagged the land. That will have to be looked into to find out. Mr. Russell wanted to point out that the Project Engineer still has to certify that the project was built to the standards approved by the Commission. If it is not, then that is the chance for the Commission to decide to make a determination for an amendment, or file a new NOI or to add additional safeguards for the abutting property owners. At the end of the day, the Commission will know if the project was built as it was designed.

Agent's Report:

Agent's report is appended to and made part of the minutes.

New Applications: No new applications.

A motion to adjourn the meeting at 8:14 p.m. (Perry/Emerson) passed 4/0.

Respectfully submitted by:

____

Jane Green, Senior Clerk
Development & Inspectional Services

Documents Reviewed at 9/9/20 Conservation Commission Meeting

Agent's report 9/9/20

Minutes 8/26/20

Agenda 9/9/20

RDA 3 Sherwood Drive

Order of Conditions 17 Sherman Grove

Continuance form 101 Wilson Avenue

RDA 70 Hastings Road

Certificate of Compliance 144 Mechanic Street

Certificate of Compliance 155 Mechanic Street

Conservation Commission Packets

Town of Spencer, Massachusetts
Office of Development & Inspectional Services

Planning Board
Zoning Board of Appeals
Conservation
Board of Health

Town Planner
Inspector of Buildings
Health Agent
Wetland/Soil Specialist

Memorial Town Hall
157 Main Street
Spencer, MA 01562

Tel: 508-885-7500 ext. 180

If you're going through hell, keep going.
Winston Churchill

TO: Conservation Commission

FM: George Russell, AICP
Conservation Agent

RE: Agent's Report

DATE: 9/9/20

4.0 PUBLIC HEARINGS:

Item 4.1. 3 Sherwood Drive, RDA: This permit is to pave and existing gravel driveway. Assuming the applicant calls in, I would recommend a negative #3.

Item 4.2. 17 Sherman Grove, NOI: this permit is for additions to the existing structure and a new driveway. The hearing was continued since revised plans were not submitted 7 days before the last hearing. I have conducted a site inspection and would recommend approval with the following stipulations: 20, 21, 23, 24, 27, 29, 30, 34, 37-41, 44, 47, & 51-54.

Item 4.3. 101 Wilson Ave. NOI: We do not have the NOI number for this permit as of yet. The permit is for a new septic system and was continued from the last meeting at the request of the applicant. If the application is approved, I would recommend the following special conditions: 20, 21, 23, 24, 27, 29, 30, 34, 37-41, 44, 47, 51-54 and a special conditions that reads: "All easements required to complete the project, must be executed prior to the beginning of any work."

Item 4.4. 70 Hastings Road, RDA: This permit was originally submitted for an administrative approval. However, the applicant decided to move the impact closer to the resource area and I recommended an RDA be filed._The project is for a new house and septic system and it is the latter which triggers the permit. I have reviewed the application and inspected the site.

I would recommend a negative #3.

5.0 OTHER BUSINESS:

Item 5.1. 51 Lake Ave: In your packets there are copies of correspondence with the applicant's engineer concerning work that was beyond what was approved. The Orders need to be amended and the question before the Commission is would an amendment suffice or is a new NOI necessary. I would recommend an amendment.

I have also recently learned that the owner of 51 Lake purchased the adjoining property (parcel U27-42) from Central Land Development back in October 2019. My office has a notice of violation on this property for the deposition of vegetative debris. I would recommend that any amendment to the OOC to include the removal of said debris.

Item 5.2 144 Mechanic Street – CofC: All is ready for the request to be granted and the bond to be released.

Item 5.3. 155 Mechanic Street – CofC: All is ready for the request to be granted and the bond to be released.

Item 5.4 Request to address the Commission: This is a request from an abutter to the solar farms on McCormick to address concerns with this development. The request was received on 9/2/20 and if the certified mail receipt is received before the meeting, the discussion can go forward. If the receipt is not received, the discussion must be postponed to the next meeting.

6.0 AGENT REPORTS:

Item 6.1. The contract for the peer review for the NOI at 22 Norcross has been executed and peer review has begun. I will advise the members when it is complete so a site visit can be arranged.