

# Conservation Commission – Town of Spencer

## *Minutes*



Conservation Commission Meeting  
Wednesday, July 26, 2017 at 7:00 PM  
Town Hall, McCourt Social Hall

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The Meeting was opened at 7 p.m.

Commissioners Present: Mary McLaughlin, Warren Snow, Margaret Emerson, Brian Graeff, Kaitlin Desmarais, James Bouley

Commissioners Absent: John Haverty

Staff present: Margaret Washburn

**Minutes Approved:** June 28, 2017 – *A motion to approve the minutes as amended (Emerson/Bouley) passed 6/0.*  
July 12, 2017 – Table to August 9, 2017

**Signed:** Order of Conditions, 56 Northwest Road  
Order of Conditions, Stiles Reservoir (re-sign)

**7:15 p.m. Opened the Continuation of Public Meeting for Abbreviated Notice of Resource Area Delineation for Karen Hubacz-Kiley**

**Property: 93 & 97 Hastings Road, Spencer, MA**

At the request of the applicant, the meeting has been continued to August 9, 2017.

**7:18 p.m. Opened the Continuation of Public Meeting for Request for Determination of Applicability for Alan Nash**

**Property: 30 GH Wilson Road, Spencer, MA**

At the request of the applicant, the meeting has been continued to August 9, 2017.

**7:19 p.m. Opened the Public Hearing for Notice of Intent for Daniel Harden**

**Property: 43 GH Wilson Road, Spencer, MA DEP#293-0905**

David Faist, from McClure Engineering, represented Daniel Harden. An Enforcement Order was issued to Mr. Harden. Mr. Faist said a limited existing conditions survey was done. Mr. Harden built two buildings without permits. He also had tree removal and grading done with no permit. Mary-Ann DiPinto recently checked/replaced/re-numbered the wetland flags originally hung by Seth Lajoie. Mr. Faist said Mr. Harden is proposing to remove some trees in the wetland. Ms. Washburn said she told Mr. Harden he could brush hog the area where the septic system is located because there was woody brush

starting to grow on it. She said Mr. Harden did some plantings up on the slope between the new buildings and by the wetland to the west. Ms. McLaughlin said there were some trees taken down in the area near the septic system. Ms. Washburn asked for clarification on the plan for which areas are to remain undisturbed. Mr. Harden arrived at 7:25. The Commission requested that the plan be revised to 50% of removal of trees in the buffer zone between the septic system and the BVW. Mr. Harden said he will leave 50% of the crown. He wants to cut the trees to let in sunlight so the shrubs will grow. Sally Naser, of the Trustees of the Reservation, asked questions. She manages the Conservation Restriction for the Pualwan property. Mr. Harden said he would mark the trees he wants to cut over time in the buffer zone. The Commission liked that idea of marking the trees. Mr. Harden said he would refrain from cutting trees within 10-feet of the wetlands to the northwest.

Ms. Naser said she has monitored the Pualwan property since 2011. She noticed that trees were cut on the other side of the stone wall that delineates the boundary between the two properties. Mr. Harden said Steve Tyler, DPW Director, told him it was town property. Mr. Harden said the tree was headed towards the power lines and National Grid didn't do anything about it. Ms. Naser said the tree cutting is a violation of the Conservation Restriction. She is also concerned that the plan does not show the property lines. The boundaries are very important to manage the Conservation Restriction. Mr. Harden said the stone wall is the boundary up to the cart path. Ms. Naser requested that Mr. Harden leave 10 to 15 feet of a buffer from the Paulwan property. Ms. Washburn told Mr. Harden he needs to remove the soil and slash from the stone wall without disturbing the wall. It is a property boundary that needs protection.

Ben Pualwan, Betty Pualwan's son, addressed the Conservation Commission reviewing Mr. Harden's plan. He says some things are misrepresented. He said there was no "illegal dump" and no law was broken. The dump was made in the 1930's. He also said the plan references a "new wetland". Mr. Pualwan said it is not a new wetland. He showed a map of Alder Meadow from the 1800's. It was the size of Stiles Reservoir. Mr. Pualwan said trees have been cut by Mr. Harden and he did not have permission. The Conservation Restriction is sensitive and the property has been mischaracterized. He asked the Commission to be diligent and protect it. Mr. Harden refuted that he mischaracterized the wetland.

The Commission told Mr. Harden that no more work is to be done until the Order of Conditions has been recorded, the DEP sign is up, and an inspection has been done. The Commission also asked to show on the plan a 10 to 15 foot no-cut zone beyond the stone wall and the cart path on the Pualwan's property line. Mr. Pualwan asked that next time any work is done on the Pualwan property that they be notified.

At the request of the applicant, the hearing has been continued to August 23, 2017.

**8:02 p.m. Opened the Public Meeting for Request for Determination of Applicability for Susan Swihart**

**Property: 140 Paxton Road, Spencer, MA**

John and Susan Swihart were present. Ms. Swihart said they just bought the property and they have 175-foot waterfront area. There is one small pine tree in the middle of the area that they'd like to clear. They are also looking to clear 12-feet of the bank and would like to clear the reeds out of the water. Ms. McLaughlin said there is an area where it is easier to enter on the Bank further away from the dock. Mr. Swihart said it's approximately four-feet deep and a lot of big field stones at the end of the dock where the kids get hurt.

The Swihart's are leaving town on August 9<sup>th</sup>. They will come back before the Commission with a sketch showing stones to be moved in Land Under Water Body. The sketch will also show the new path to be made in relation to the dock, (16-feet north of the dock) and the rock to be relocated to create access into the water. At the request of the applicant, the hearing has been continued to November 8, 2017.

**Other Business:**

**26 Thompson Pond Road:** Ms. Washburn said she issued Paul Robertson, property owner, a Notice of Violation for sand being dumped in Bordering Land Subject to Flooding and/or BVW of Thompson Pond. Mr. Robertson said he didn't realize you couldn't put sand in the water. He agreed to remove the sand and will dump it more than 100 feet from any resource area. The Commission will inspect on Tuesday, September 5<sup>th</sup> at 2:30.

**57 Jolicoeur Avenue:** Ms. Washburn said that July 26<sup>th</sup> was the deadline set by the Commission for Mr. Carmel to submit the results of a Title 5 inspection. Mr. Carmel said to Ms. Washburn on the phone on July 19<sup>th</sup> that the Title 5 costs \$1,000.00 and he can't afford it. He is willing to allow the Commission to conduct a site visit. The Commission will do a site visit on Tuesday, August 22<sup>nd</sup> at 1 p.m.

**13 Lake Avenue:** *A motion to issue a three-year Extension (Graeff/Snow) passed 6/0.*

**GH Wilson Road, Beaver Dam Breaching:** Ms. Washburn said she sent out revised Enforcement Orders to Michael Spalatro and Thomas Martin. *A motion to ratify the revised Enforcement Order for Michael Spalatro (Snow/Emerson) passed 6/0. A motion to ratify the revised Enforcement Order for Thomas Martin (Emerson/Snow) passed 6/0.*

**25 Lake Avenue:** *A motion to ratify the Enforcement Order (Emerson/Bouley) passed 6/0.*

**6 Woodbine Terrace:** Ms. McLaughlin read the Enforcement Order. *A motion to ratify the Enforcement Order (Snow/Emerson) passed 6/0.*

**Sugden Reservoir:** Ms. McLaughlin said Sugden was treated two weeks ago and later that day it rained. She said by Friday, there was a pretty good fish kill. She had pulled out 25 to 30 fish from the side of her dock. Other people on the lake pulled a lot of fish out as well. Ms. Washburn said she thinks it had to do with it being really hot and no oxygen. Ms. McLaughlin said the application of the herbicide treatment was topical. Mr. Graeff suggested sending a letter to Solitude asking if they will come to a meeting or send an email to educate the Conservation Commission as to what caused the July 12<sup>th</sup> fish kill. Ms. Washburn will send a letter.

**7 Point Eastalee:** Ms. McLaughlin said she noticed there is new sand on an existing beach. She took photos. Ms. Washburn will send a NOV and ask them to come to the August 23<sup>rd</sup> meeting.

**Site Inspections:** The Commission will do site inspections on August 2<sup>nd</sup> at 1 p.m.

New Applications:    13 Lake Ave., RDA  
                              Lot 1, Valley View Dr., NOI  
                              Lot 2, Valley View Dr., NOI  
                              Lot 3, Valley View Dr., NOI  
                              73 Wilson Ave., NOI

*A motion to adjourn the meeting at 9:33 p.m. (Emerson/Bouley) passed 6/0.*

Respectfully submitted by:

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Lisa Daoust, Senior Clerk  
Development & Inspectional Services

Documents reviewed at the 7/26/17 Spencer Conservation Commission meeting:

Margaret's report dated 7/26/17  
Minutes from the 6/28/17 CC meeting  
Continuance form for 93 & 97 Hastings Road (signed)  
Continuance form for 30 GH Wilson Road (signed)  
Correspondence from Solitude Lake Management re: herbicide applications for Sugden reservoir and Cranberry Meadow Lake  
Letter from National Grid re: proposed gas main relay project  
Revised Enforcement Order for 25 Lake Avenue (ratified)  
Photo taken by Mary McLaughlin of new sand at a beach at 7 Point Eastalee  
OofC for 56 Northwest Road (signed)  
Violation file for 26 Thompson Pond Road  
Letter from Patrick Garner dated 7/20/17 re: 59 GH Wilson Road  
Four estimates to assess culverts potentially impacted by the GH Wilson Road beaver dam breached on 6/3/17  
Revised Enforcement Order for Michael Spalatro (ratified)  
Revised Enforcement Order for Thomas J. Martin (ratified)  
Extension Permit for OofC for 13 Lake Avenue (signed)  
RDA file for 140 Paxton Road, including Continuance Form (signed)  
NOI file for 43 GH Wilson Road, including Continuance Form (signed)