

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, October 11, 2017 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

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

Commissioners Absent: Heidi Olivo

Staff present: Margaret Washburn

Minutes Approved:

July 26, 2017 – *A motion to approve the minutes as amended (Snow/Bouley) passed 5/0.*

August 9, 2017 – *A motion to approve the minutes as amended (Bouley/Emerson) passed 5/0.*

August 23, 2017 – *A motion to approve the minutes as amended (Snow/Emerson) passed 5/0.*

Signed: 71 Wilson Avenue, Order of Conditions

7:15 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 October 25, 2017.

7:19 p.m. Opened the Continuation of Public Meeting for an 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 October 25, 2017.

7:21 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Daniel Harden

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

Mr. Harden said he made the revisions to the plan. The Commission told him it is ok to remove the flags off the Pualwan property. The Commission had Mr. Harden draw on the plan to cut only 50% of the crowns in the Buffer Zone between the septic and the BVW. That plan will be recorded.

A motion to close the public hearing (Graeff/Bouley) passed 5/0.

A motion to issue the Order of Conditions (Snow/Emerson) passed 5/0.

7:29 p.m. Opened the Continuation of Public Hearings for Notices of Intent for William Klansek

Properties: Lots 1, 2, 3, Valley View Drive, Spencer, MA DEP#293-0909, DEP#293-0908, DEP#293-0910

Lot 1, Valley View Drive has been withdrawn.

Jason Dubois presented. Lenard Engineering is reviewing for stormwater. Wetland flags have been approved. Mr. Dubois said that three lots at once trigger full stormwater policy. Lots 2 and 3 now changed to single-family houses instead of duplexes. Mr. Dubois said that the back corner of both houses is approximately five to seven feet from the wetland flags. Corey Brodeur, from Lenard Engineering, sent a letter expressing a concern that there is not enough room to fit the hay bales. Ms. Washburn asked if the houses will be on slabs or a foundation. Mr. Dubois said there is three or four feet underground. Ms. Emerson commented that it seems impossible to fit the hay bales and work between them and the house. Mr. Dubois said it will be tight but doable. Ms. McLaughlin asked Mr. Dubois to investigate obtaining a variance for the front yard setback. Ms. Washburn asked if the driveways could go on the side of the house instead of the front. Mr. Dubois said he could fit them there. Mr. Graeff said he doesn't see how he can agree to approve the project when there is so much buffer zone alteration. Ms. McLaughlin and Mr. Snow were in agreement. Mr. Snow asked the Commission what's the minimum distance they would approve. Ms. McLaughlin and Ms. Emerson said 10 feet. Ms. Washburn will talk to DEP next week.

At the request of the applicant, the hearings have been continued to October 25, 2017.

7:52 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Matt Schold

Property: 102 Chickering Road, Spencer, MA DEP#293-0911

Brian MacEwen presented. He explained the revisions that were made to the plan. Ms. Washburn commented that the plan submitted for preliminary, unofficial approval on 11/16/16 showed the proposed septic system as more than 50 feet from the BVW, thus meeting the Title V setback. That was the plan the Commission said they would be willing to approve. That 11/16/16 plan also did not show a 20-foot wide sand beach or any Bank alteration. The most recent plans submitted on 10/4 also show a larger wetland alteration area than the 11/16/16 plans. The 10/4/17 plans no longer show the undisturbed strip of vegetation between the sand beach and the open water of the Reservoir.

The plan submitted under the NOI shows the septic system as less than 50 feet from the BVW. The Commission is not under duress to approve the revised plan because of the 11/16/16 showed the proposed septic system as more than 50 feet from the BVW. Ms. Washburn said that Ms. McLaughlin asked at the last meeting for the engineer to show all trees to be removed on the plan. The engineer failed to show these on the 10/4/17 plans. The revised plans dated 10/4/17 now show alteration of 20 feet of Bank. The original NOI form listed zero linear feet of Bank alteration. The strip of vegetation recommended in The Lake Book has been removed between the wetland filled to make a 20-foot wide sand beach and the Reservoir. A three to four inch granite curb is proposed on the Bank. Ms. Washburn said the revised 10/4/17 plan shows sediment controls beyond the Bank, installed in the Reservoir. Ms. Washburn spoke with DEP today and they do not recommend approving the beach or the curb. DEP said that the ice will dislodge the curb. When the ice is out, wave action caused by the east wind, which prevails under low pressure conditions, will wash over the curb, bringing sand into the Reservoir. DEP said that allowing a 20-foot wide sand beach will destabilize the Bank. It will create an adverse condition. DEP told Ms. Washburn that if the Commission approves the plan and an abutter appeals, DEP would likely uphold the appeal. Ms. Washburn read a few of DEP's comments.

Mr. MacEwen said he went before the Leicester Conservation Commission and they asked for some modifications. There is a very steep grade on the edge of the replication area and they want the grade tweaked a little bit. Ms. Emerson asked why sand has to be on the Bank instead of grass. Grass is more stable and should be put down instead of sand. Mr. Schold said he was just following suit with everyone else on the lake and his kids would like to play on a sand beach. Ms. Washburn said sand from the beaches wash in the lake which amounts to filling in a resource area. Mr. Schold said that's why the granite curbing is being put in. Ms. Washburn said why can't there be a 10-foot strip of grass on the Bank and sand behind it. Mr. Schold said they will do that if that's what will move the project forward. Ms. McLaughlin said grass needs to be put down between the beach and the water.

Ms. McLaughlin polled the Commission on their precedent to have the applicant meet Title 5 requirements:

Ms. Emerson – no precedent

Mr. Bouley – no precedent

Ms. McLaughlin – no precedent

Mr. Graeff – no precedent

Mr. Snow – thinks he needs to do some research

Ms. McLaughlin said that Mr. MacEwen should go back and see what can be done to meet the setback for Title 5. Ms. Washburn suggested a 10-foot grass strip that can be mowed between the sand and the water. The Commission agreed.

John VanHazinger, of Pine Street, expressed a driveway concern. He said there is a depression there now beside the road. He said water accumulates and causes road icing. He is also concerned about his well because it is shallow.

Lew Cornicule said that the trees block the sun from the wetlands and without the trees there won't be any wetlands. The wetlands are caused by tree shading.

Ms. Washburn said that the sediment controls shown need to be double-staked hay bales and silt fence.

At the request of the applicant, the hearing has been continued to October 25, 2017.

8:52 p.m. Opened the Public Meeting for Request for Determination of Applicability for Marc Peck

Property: 136 Paxton Road, Spencer, MA

Marc Peck said there were some trees taken down and stumps pulled out. He re-seeded the area and it is growing and stabilized.

A motion to close the public meeting (Bouley/Snow) passed 5/0.

A motion for a Negative Determination (Graeff/Snow) passed 5/0.

8:56 p.m. Opened the Public Meeting for Request for Determination of Applicability for David Dudley

Property: 48 Chickering Road, Spencer, MA

Tom Kennedy said he will be building the retaining wall. The wall will be on the Bank. Ms. Washburn said there are no conservation issues.

A motion to close the public meeting (Emerson/Bouley) passed 5/0.

A motion for a Negative Determination (Graeff/Emerson) passed 5/0.

8:59 p.m. Opened the Public Meeting for Request for Determination of Applicability for Artie Williamson

Property: 95 Clark Road, Spencer, MA

Tom Kennedy said he will be building the retaining wall. The wall will be on the Bank of Stiles Reservoir. No heavy equipment will be used. The project will all be done by hand.

A motion to close the public meeting (Graeff/Bouley) passed 5/0.

A motion for a Negative Determination (Graeff/Snow) passed 5/0.

9:00 p.m. Opened the Public Hearing for Notice of Intent for ForeFront Power, LLC
Property: 36 Cranberry Meadow Road, Spencer, MA DEP#293-

At the request of the applicant, the hearing has been continued to October 25, 2017.

9:02 p.m. Opened the Public Hearing for Notice of Intent for David Cole

Property: 25 Lake Avenue, Spencer, MA DEP#293-0914

Glenn Krevosky presented the project. There will be a net decrease of five cubic yards of fill in the lake. The ramp was originally approved in the year 2000. Recently, asphalt was added without a permit in 2016. The new ramp will function better. It will be level and the southern side of the ramp will be lower. The new ramp will be steeper at a grade

of 4.8:1. The spillway elevation of the dam will not change, it was re-pointed and re-mortared. Mr. Krevosky said the floodplain storage increased by 6± cubic feet. 16 cubic yards of fill will be taken out. Ms. Washburn suggested the following conditions:

- The applicant must contact the Spencer Conservation Commission five (5) business days prior to commencing the restoration work with an anticipated start date
- All excavated materials must be disposed of outside the Buffer Zone
- Removal of fill and restoration of Land Under Water Bodies should be documented and monitored by a qualified wetland scientist with a report to the Commission

Mr. Cole said he paid the \$300.00 fine issued by the Commission. Mr. Krevosky will submit a copy of the cancelled check to Ms. Washburn.

A motion to close the public hearing (Snow/Bouley) passed 5/0.

A motion to issue an Order of Conditions with conditions as discussed (Snow/Bouley) passed 5/0.

9:11 p.m. Opened the Public Hearing for Notice of Intent for Richard Wolanski
Property: 66 Chickering Road, Spencer, MA DEP#293-0913

Frank Bicchieri, from Bertin Engineering, presented the project. He said the existing house, shed, and greenhouse will be demolished and a new single family house will be constructed. The Bank will not be altered. The project and grading is proposed in the floodplain (Bordering Land Subject to Flooding (BLSF)). There will be a net cut and no fill in the BLSF. Lenard Engineering reviewed the calculations regarding flood storage and submitted their report. Hay bales and silt fence will be installed. Mr. Bicchieri asked for approval with following special condition:

- The conditions imposed by Lenard Engineering for additional information in their peer review report dated October 5, 2017, shall be met prior to construction

A motion to close the public hearing (Snow/Bouley) passed 5/0.

A motion to issue an Order of Conditions with the condition as discussed (Snow/Bouley) passed 5/0.

9:25 p.m. Opened the Public Meeting for Request for Determination of Applicability
for William Goodhue

Property: Jameson Lane, Spencer, MA

William Goodhue said he'd like to remove a dangerous tree. It overhangs his boat and dock. Young's Tree Service will be removing the tree. The stump will be left in place.

A motion to close the public meeting (Bouley/Emerson) passed 5/0.

A motion for a Negative Determination (Graeff/Snow) passed 5/0.

9:28 p.m. Opened the Public Meeting for Request for Determination of Applicability for Glen Bombard

Property: 6 Jameson Lane, Spencer, MA

Tracy Bombard presented the project. Ms. Washburn said while inspecting nearby, she observed site work underway in the Buffer Zone to a BVW. It also looked like some vegetation had been removed from the Buffer Zone to Sugden Reservoir. Ms. Washburn met with Glen Bombard and he agreed to file an RDA for the addition and for other site work he would like to do in the next three years. Ms. Bombard said the clearing that was done was mostly overgrown brush and branches. They are proposing to add a deck on the back of the garage, install a stone patio, and install a shed which will sit on cinder blocks. The shed will be placed approximately 15 to 20 feet from the water's edge. They will use stones from on-site to make a stone wall and a fire pit. A swale will be stabilized with fabric and stone and there will be a depression at the end of the swale that will be stabilized. No work will be done on the Bank. Ms. Washburn suggested one condition:

- The Bombards contact the Conservation Commission by phone prior to constructing the shed.

A motion to close the public meeting (Snow/Bouley) passed 5/0.

A motion for a Negative Determination with condition as discussed (Snow/Emerson) passed 5/0.

Other Business:

103 Clark Road: There are two requested Certificates of Compliance. Ms. Washburn and Ms. Emerson inspected. All work has been completed and no issues.

A motion to issue a Certificate of Compliance for DEP# 293-0889 (Emerson/Snow) passed 5/0.

A motion to issue a Certificate of Compliance for DEP# 293-0859 (Snow/Emerson) passed 5/0.

99 Maple Street: Ms. Washburn inspected. There were no issues. *A motion to issue a Certificate of Compliance (Graeff/Snow) passed 5/0.*

48 Paxton Road & 19 Woodchuck Lane: Ms. Washburn said Pro-Tech proposes to maintain a \$50,000.00 bond on both projects until final acceptance therefore a request is made of a \$12,000.00 reduction at 19 Woodchuck Lane and a \$117,000.00 reduction at 48 Paxton Road. Graves Engineering recommended issuing the partial stormwater releases. *A motion to release the bonds as stated (Snow/Bouley) passed 5/0.*

20 Sherwood Drive: Ms. Washburn inspected and there are no issues. *A motion to issue a Certificate of Compliance (Emerson/Graeff) passed 5/0.*

5 Meadow Road: Ms. Washburn said a request was received to reduce the amount of the stormwater bond promissory note due to the project being half completed. Ms. Washburn

asked Corey Brodeur to inspect the site. He felt that 50% of the project was completed and the bond reduction amount was acceptable. Steve Turner will submit a revised promissory note for \$18,000.00 instead of \$36,000.00. *A motion to allow Steve Turner to revise his promissory note to \$18,000.00 from \$36,000.00 (Snow/Bouley) passed 5/0.*

Lot 1, Hastings Road: Ms. Washburn said Attorney Phil Stoddard has requested that this parcel to be removed from Chapter 61A. It is not adjacent to any permanently protected open space, public trails and is not subject to the NHESP mapping. There are streams, wetlands, and a bit of flood zone. Ms. Washburn showed the Commission a map showing the area. *A motion to allow the request to remove the parcel from Chapter 61A (Snow/Bouley) passed 5/0.*

Bond East gravel pit: Ms. Washburn inspected for a gravel pit. An isolated wetland was altered and not stable. Ms. Washburn issued an Enforcement Order. *A motion to ratify the Enforcement Order (Emerson/Bouley) passed 5/0.*

66 GH Wilson Road: Irfan Nasrullah represented the Maloneys. Ms. Washburn read the inspection report that Mr. Nasrullah signed on September 20, 2017. Ms. Washburn said a \$300.00 fine was issued. Mr. Nasrullah paid the fine and the check is being held in the ODIS office. EcoTec has been hired to flag the resource areas. Scott Morrison flagged the three areas of concern. A Notice of Intent was supposed to be filed by today. Mr. Nasrullah said they are diligently working on filing the Notice of Intent. Ms. Emerson recommended the fine be rescinded if the NOI is filed by the December 13, 2017 meeting. *A motion to rescind the fine if the NOI is filed by the December 13, 2017 meeting (Emerson/Snow) passed 4/1.*

Mr. Graeff said most of this property is in a buffer zone. If Mr. Maloney does work where wetlands weren't flagged then Mr. Maloney may think he is not in a buffer zone. Mr. Nasrullah said that the Maloney's land is agricultural land and normal maintenance of agricultural land is allowed.

Oil Booms: Ms. Washburn said that Steve Tyler requested that oil booms be required on projects in the aquifer protection zone and in the rivers and streams that directly discharge into the aquifer protection zone. Ms. Washburn will ask Mr. Tyler how far he wants the booms to be placed in the water.

6 Woodbine Terrace: Ms. Washburn said that on September 5, 2017 she and Ms. Emerson inspected and took photos. The remediation work covered under the Enforcement Order has been done in accordance with the remediation plan, according to a report from Mary Ann DiPinto, dated September 21, 2017.

Site Visits: The Commission will do site inspections on Tuesday, October 17, 2017 at 10:15 a.m.

New Applications: 214 Old North Spencer Road, NOI
8 Valley View Drive, NOI
69 Wilson Avenue, RDA
Sugden Reservoir, NOI

A motion to adjourn the meeting at 10:37 p.m. (Graeff/Snow) passed 5/0.

Respectfully submitted by:

Lisa Daoust, Senior Clerk
Development & Inspectional Services

Documents reviewed at the 10/11/17 Spencer Conservation Commission meeting:

Agenda for the 10/11/17 meeting
Margaret's report dated 10/11/17
Minutes from the 7/26/17, 8/9/17 and 8/23/17 CC meetings
Order of Conditions for 73 Wilson Avenue (signed)
Continuance form for 30 GH Wilson Road (signed)
Continuance form for 93 & 97 Hastings Road (signed)
Continuance form for 36 Cranberry Meadow Road (signed)
NOI file for 43 GH Wilson Road
NOI files for Lots 2 and 3 Valley View Drive
Continuance form for Lots 2 and 3 Valley View Drive (signed)
NOI file for 102 Chickering Road
Revised page 3/9 of the NOI form for 102 Chickering Road
Shoremaster catalog of docks boat lifts and accessories submitted by Bryan MacEwen for 102 Chickering Road
Continuance form for 102 Chickering Road (signed)
RDA file for 136 Paxton Road, including Negative Determination (signed)
RDA file for 48 Chickering Road, including Negative Determination (signed)
RDA file for 95 Clark Road, including Negative Determination (signed)
NOI file for 25 Lake Avenue
NOI file for 66 Chickering Road
Cover letter from Bertin Engineering for 66 Chickering Road dated 10/11/17 attached to the following: calculations used in determination of the flood elevation, clarification of the flood volume calculations and a portion of an Army Corps flood study
RDA file for Jameson Lane, including Negative Determination (signed)
RDA file for 6 Jameson Lane, including Negative Determination (signed)
103 Clark Road CofC (for DEP file no. 293-0859, signed)
103 Clark Road CofC (for DEP file no. 293-0889, signed)
99 Maple Street CofC (signed)
20 Sherwood Drive CofC (signed)

Violation file for 66 GH Wilson Road, including a memo and a site sketch regarding delineated wetland resource areas from EcoTec, Inc. dated 10/10/17

Letter from Philip Stoddard requesting a release from Chapter 61A for Lot 1 Hastings Road (Bruso, R44/36)

Enforcement Order for Bond Construction Corporation, Hastings Road (R48-17, ratified)

Photos of wetlands altered without a permit at the Bond East gravel pit, dated 9/18/17

Violation file for 6 Woodbine Terrace