

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, October 25, 2017 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

Commissioners Present: Mary McLaughlin, Margaret Emerson, Warren Snow, James Bouley, Heidi Olivo

Commissioners Absent: Brian Graeff

Staff present: Margaret Washburn

Minutes Approved: October 11, 2017 – Table to November 15, 2017

Signed: 43 GH Wilson Road, Order of Conditions
66 Chickering Road, Order of Conditions
25 Lake Avenue, Order of Conditions

7:17 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 February 14, 2018.

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 hearing has been continued to November 15, 2017.

7:20 p.m. Opened the Continuation of Public Hearing for Notice of Intent for ForeFront Power, LLC

Property: 36 Cranberry Meadow Road, Spencer, MA DEP#293-0919

Juliet Caplinger, from TRC/Forefront Power, presented the solar project. She said a delineation was done in the wetlands and the river across the road. The project will impact the buffer zone of the BVW and 7% of the Riverfront Area (RA). Ms. Washburn read Art Allen's peer review comments. Ms. Washburn said most of the comments have not been addressed. Corey Brodeur, from Lenard Engineering, also had comments that have not been addressed. Ms. Caplinger said most comments have been addressed. There are some that have not been addressed as of yet. Mr. Snow commented that the revised plans were not submitted within the timeline and have not been reviewed by Ms. Washburn. Corey Brodeur said there have been no bonds received. He said the berm is

not high enough near the neighbor's house. The approach to the berm needs to be level. Ms. Washburn said the Engineer's for TRC need to be at the next meeting. Ms. McLaughlin read a letter dated October 25, 2017 from Bond Corporation. Ms. Washburn said that the plan shows work being done on Bond Corporation property. She told TRC that if work is being done on Bond Corporation property then Bond Corporation needs to be partied as a property owner and included on the Notice of Intent filing. DEP has recommended that Forefront Power submit survey evidence that the pipe outlet is associated with a town drainage easement. Steve Tyler said as far as he knows there is no town drainage easement there.

Ms. Caplinger says the plan showing the culvert and riprap is not scaled properly. The detail at the end of the plan is scaled. She said Bond Corporation property is not being disturbed. Ms. Washburn said a detailed project phasing plan is required. Ms. Caplinger said it is in the plan. Ms. McLaughlin pointed out that slopes that are greater than 15% are not suitable for solar panels, according to the solar bylaw.

Ashley Costa, property abutter, expressed a huge concern about the project being built 25 feet away from her property. She said there is already significant washout coming down the hill to her house. Now that the trees have been removed it is worse and she is concerned that the plantings will not protect. Ms. Caplinger said they are proposing to grade the slope so the water does not rush onto Ms. Costas property. Spreaders will be added around her property and they will seed and add a 10 foot landscape buffer. Ms. Costa said she also has a concern about her well and she has water in her basement.

At the request of the applicant, the hearing has been continued to November 15, 2017.

7:51 p.m. Opened the Continuation of Public Hearing for Notice of Intent for William Klansek

Property: Lots 2&3, Valley View Drive, Spencer, MA DEP#293-0908/293-0910

Jason Dubois, from DC Engineering & Survey, presented. The revised plan date is October 16, 2017. Mr. Dubois said the houses were 28 feet wide but has been changed to 24 feet wide which now gives 10 feet to the wetlands from the house. Ms. Washburn said they opted not to pursue a variance from the front yard setback.

The proposed conditions for both properties are as follows:

- A stormwater surety bond is required to ensure the work is completed according to the permit, in the amount of \$5,234.00. Fifty percent of the stormwater surety bond shall be released when the project is rough graded in compliance with the approved plan, but the stormwater surety bond shall not be fully released until the Stormwater Authority has issued a Certificate of Compliance. The Conservation Commission shall have forty-five (45) days to review bond amounts and requests for partial or full release.

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

A motion to accept plan as submitted with conditions (Snow/Bouley) passed 5/0.

8:05 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, from Graz Engineering, presented. Revised plans were presented and will be dated October 25, 2017 to show the revised work in Leicester. He said the septic system has been re-designed and relocated and the Title 5 setback has been met. They tweaked the replication area grading in Leicester. The grass strip between the sand beach and the Bank of Stiles Reservoir will be 10 to 15 feet wide. The sediment controls will be double-staked hay bales and silt fence.

The conditions are as follows:

- Permanent four-foot high monuments acceptable to Spencer Conservation Commission must be installed at the locations of WFA3, WFA4, WFA11 and WFA12 as shown on the Notice of Intent plan approved at the 10/25/17 meeting of the Spencer Conservation Commission. Three feet of the monuments must be buried underground. They must extend one foot above the soil. The monuments shall indicate permanent limits of disturbance.
- The proposed wetlands alteration cannot proceed until an Order of Conditions from the Leicester Conservation Commission permitting the wetlands replication area under DEP file number 197-0610 has been recorded at the Worcester Registry of Deeds.
- A stormwater surety bond is required to ensure the work is completed according to the permit, in the amount of **\$20,000.00**. Fifty percent of the stormwater surety bond shall be released when the project is rough graded in compliance with the approved plan, but the stormwater surety bond shall not be fully released until the Stormwater Authority has issued a Certificate of Compliance. The Conservation Commission shall have forty-five (45) days to review bond amounts and requests for partial or full release.
- The wetland replication area must be constructed, planted, and inspected by the Spencer Conservation Commission or its Agent before any other site work can commence, except for the construction of the stabilized construction entrance.
- The wetland replication area must be monitored by a wetland specialist bi-annually, by June 1 and September 1, for 2 years after the replication area is constructed. Monitoring reports prepared by wetland specialist must be submitted to the Spencer Conservation Commission bi-annually, by June 1 and September 1, for 2 years after the replication area is constructed.

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

A motion to accept plan as submitted with conditions (Snow/Emerson) passed 5/0.

**8:17 p.m. Opened the Public Hearing for Notice of Intent for Marcus Panori
Property: 214 Old North Spencer Road, Spencer, MA DEP#293-0915**

Mark Farrell, from Greenhill Engineering, presented. He said the septic system is in failure. The leachfield will be dug out and replaced. The leachfield will be slightly bigger. Straw wattles, hay bales, and silt fence will be installed. The revision date on the submitted plan is October 19, 2017.

A motion to close the public hearing (Olivo/Emerson) passed 5/0.

A motion to accept the plan (Emerson/Snow) passed 5/0.

**8:26 p.m. Opened the Public Hearing for Notice of Intent for Valley View Realty
Property: 8 Valley View Drive, Spencer, MA DEP#293-0916**

At the request of the applicant, the hearing has been continued to November 15, 2017.

**8:29 p.m. Opened the Public Meeting for Request for Determination of Applicability
for David Annunziata**

Property: 69 Wilson Avenue, Spencer, MA

David Annunziata presented the project. He said he wants to repair the retaining wall and ramp to Stiles Reservoir. He will use bags of concrete and a hose for the repair of the wall. No equipment will be used. He said hay bales and silt fence will be installed. Ms. McLaughlin read the inspection report.

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

A motion for a Negative Determination (Olivo/Bouley) passed 5/0.

**8:34 p.m. Opened the Public Hearing for Notice of Intent for Town of Spencer
Property: Sugden Reservoir, Spencer, MA DEP#293-**

Ms. McLaughlin recused herself. Dominic Meringolo, from Solitude Lake Management, presented. They are looking to continue treatments on the lake. The drawdown had been going on for many years. Treatment started in 2009 and then skipped a few years. There are no non-native plants. They are managing native plants. Mr. Meringolo said the drawdown is part of this filing. However, hand-pulling is not in the Notice of Intent. Mr. Meringolo said he will submit something regarding the hand-pulling.

Mr. Meringolo said the drawdown will be the same as it has been in the past. The maximum will be 36 inches. It will follow state Fish and Wildlife protocol in terms of drawing the lake down slowly at one to two inches per day at the most and maintaining the flow. Mr. Meringolo said 11.6% of the lake bottom will be exposed from the drawdown.

The herbicide treatments will treat the nuisance areas. They will follow up with a post-treatment survey. The herbicides they want to use are Reward/Diquat, Endothall, Glyphogate, several copper-based products, and algicides, which are peroxide based. All herbicides are aquatic type of herbicides. Mr. Meringolo said the staff are trained and licensed applicators.

After two years of not treating, they treated 25 acres this year. There was a fish kill reported. Mr. Meringolo said it is a rare occurrence. It was very warm with low dissolved oxygen. Most of the fish were very small but there were some larger fish.

Massachusetts Fish and Wildlife was notified as required. It was labeled as a probable herbicide related fish kill. Now that they know the lake is susceptible they will take caution. Mr. Snow asked how the chemicals were applied. Mr. Meringolo said they were applied from an airboat through subsurface hoses. The chemical was mixed with lake water and the hose was suspended from a boom behind the boat.

When they treat the lake they will keep track of the water temperature. It was hot in July when the fish kill happened. The fish were already stressed by low dissolved oxygen. They can also treat in a different pattern of applications. Mary McLaughlin, in the audience, said she heard that water chestnut was pulled by hand. Mr. Meringolo said that's the first he heard of this.

Michael Toomey, in the audience, asked if they test the nutrient load to see existing parameters before the application. Mr. Meringolo said nutrient loading is not tested for because it requires an extensive study. They do test dissolved oxygen. Mr. Toomey asked if there are any basic readings for the pH or dissolved oxygen before the treatments. Mr. Meringolo said they could test for dissolved oxygen and pH levels before treating. They can test the day of the treatments.

Rob Lanava, in the audience, asked what the true half life of the chemicals is after treatment. Mr. Meringolo said it is different for each herbicide. Typically it is a matter of days.

Ms. McLaughlin asked if the drawdown will be on November 1st. Mr. Meringolo asked for the Commission to give permission to start the drawdown on November 1st. He said the Fish and Wildlife guidelines say the lake should be down before it freezes. *A motion to allow the drawdown starting November 1, 2017 (Snow/Bouley) passed 4/0.* At the request of the applicant, the hearing has been continued to November 15, 2017.

Other Business:

Camp Marshall: David Standish said that the State is mandating that the pipe that runs from Buck Hill Pond through the dam be replaced. There is a beaver dam at the pipe outlet. They would like to dig with a machine, a small excavator, in the stream and pull the beaver dam back so it drains. They want to dig hundreds of feet from the pipe outlet to Mrs. Fogarty's property line. Sediment controls will be needed. Mr. Standish said it's not dam safety that is pushing the issue; it's the insurance company. A Notice of Intent needs to be submitted.

Sugden Reservoir: A Certificate of Compliance for DEP#293-0702 was requested. *A motion to issue the Certificate of Compliance (Snow/Bouley) passed 4/0.*

63 Browning Pond Road Extension Request: Robert Lanava, from the Mohegan Council Boy Scouts, said there is a structure on the property that needs to be removed. It has already collapsed. A funding source was not available and is now. *A motion to issue an Extension (Snow/Emerson) passed 5/0.*

Chicopee Watershed Association: Mike Toomey informed the Commission that they are having a meeting. They will be teaching with trout. He said DEP does not have the manpower to do all the testing. They are also working on trails from Lake Lashaway in East Brookfield to Warren.

70 Browning Pond Road: The Commission inspected. Sand is flowing along the shore under the bridge. Ms. Washburn will send a Notice of Violation and tell Mr. Toupin to attend the November 15th meeting.

South Spencer Road, Cranberry River Extension: Ms. Washburn inspected and showed the Commission pictures. She recommended issuing the Extension. *A motion to issue the Extension (Snow/Olivo) passed 5/0.*

Bond East Gravel Pit: Ms. Washburn said she received a narrative remediation plan and a plan showing the wetland flags and remediation work for the isolated vegetated wetlands. Ms. Washburn inspected and took photos. Speckled alders plants have been ordered for the purpose of re-planting an altered wetland. Ms. Washburn said she is satisfied with the stabilization that has been done so far and she told the applicant and her representative that no one needed to attend tonight's meeting for this remediation work.

Policy Statements: *A motion to sign a policy statement regarding filling wetland resource areas to meet Title 5 setbacks (Snow/Olivo) passed 5/0.*
A motion to post policy statements on the website (Emerson/Olivo) passed 5/0.

9 & 10 Wilson Avenue: Ms. Washburn said that she and Ms. Emerson took photos on 10/17. Site work had been done in an area on front of the existing house at 9 Wilson Ave. that was not shown on the plan. On 10/23 Mr. Joyce told Ms. Washburn that they tied the sewage effluent from the existing house at 9 Wilson Avenue into the new septic system at 10 Wilson Avenue. This work was NOT shown on the NOI plans.

Ms. Washburn said to her knowledge, the septic system at 10 Wilson Avenue was not designed to receive the effluent from 2 houses. The plan dates back more than 10 years.

Lee Jarvis apparently was on vacation when the effluent from 9 Wilson Avenue was tied into the new septic system at 10 Wilson Avenue.

Ms. Washburn recommended issuing an Enforcement Order, requiring a Request to Amend the Order of Conditions to show the unauthorized septic connection between 9 and 10 Wilson Avenue and submit by November 15, 2017.

On 10/23, Mr. Joyce also agreed to repair the silt fence near the northeast corner of the new house at 10 Wilson Avenue. The 10/17 photos show the silt fence lying flat on the soil surface, not properly entrenched. An inch or two of rain was predicted for 10/24 – 10/25. Mr. Joyce said the silt fence would be fixed on 10/23.

New Applications: 104 McCormick Road, Amend Order of Conditions
20 Lake Whittemore Drive, RDA
19 Lamoureaux Lane, RDA

A motion to adjourn the meeting at 9:48 p.m. (Snow/Emerson) passed 5/0.

Respectfully submitted by:

Lisa Daoust, Senior Clerk
Development & Inspectional Services

Documents reviewed at the 10/25/17 Spencer Conservation Commission meeting:

Agenda for the 10/25/17 meeting
Margaret's report dated 10/25/17
Continuance form for 30 GH Wilson Road (signed)
Continuance form for 93 & 97 Hastings Road (signed)
Continuance form for 36 Cranberry Meadow Road (signed)
Continuance form for 8 Valley View Drive (signed)
Order of Conditions for 43 GH Wilson Road (signed)
Order of Conditions for 66 Chickering Road (signed)
Order of Conditions for 25 Lake Avenue (signed)
NOI files for Lots 2 and 3 Valley View Drive
NOI file for 102 Chickering Road
NOI file for 214 Old North Spencer Road
RDA file for 69 Wilson Avenue, including Negative Determination (signed)
NOI file for Sugden Reservoir aquatic management
Continuance form for Sugden Reservoir aquatic management (signed)
RDA file for 95 Clark Road, including Negative Determination (signed)
NOI file for 25 Lake Avenue
NOI file for 66 Chickering Road
Extension permit for Browning Pond Road (signed)
CofC for Sugden Reservoir aquatic management (signed)
Extension permit for South Spencer Road (U&F beaver dam removal permit, signed)
Conservation Commission policy statement re: filling wetlands to meet title V setbacks (signed)