

# Conservation Commission – Town of Spencer



## *Minutes*

Conservation Commission Meeting  
Wednesday, July 24, 2019 at 7:00 PM  
Town Hall, McCourt Social Hall

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The Meeting was opened at 7 p.m.

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

Commissioners Absent: Charlie Bellemer

Staff present: George Russell

Staff absent: Jane Green

### **Minutes Approved:**

### **Signed:**

#### **7:15 p.m. Opened the Public Hearing for the Notice of Intent for Robert Giggey Property: 135 Wilson Street, Spencer, MA DEP#293-0963**

The plans were not signed by the owner. The hearing was recessed until the owner came in. Once the owner came in and signed the Commission approved the permit.

*A motion to close the public hearing (Commission members) passed 4/0.*

*A motion to issue with special conditions (Commission members) passed 4/0.*

#### **7:20 p.m. Continued the Public Hearing for the Notice of Intent for Matt Klansek Property: 9 Point Eastalee, Spencer, MA DEP#293-0964**

Jason Dubois and Matt Klansek were present. Mr. Dubois discussed the Septic System. Barry Arsenault, an abutter, discussed drainage issues. Mr. Arsenault claimed he had wetlands on his property and the new house would be in the 100' buffer. The Commission said that the grades would not change and the water would not go anywhere else.

*A motion to close the public hearing (Commission members) passed 4/0.*

*A motion to approve the plans (Commission members) passed 4/0.*

#### **7:45 p.m. Continued the Public Hearing for the Notice of Intent for Peter Floss Property: 30 Roys Drive, Spencer, MA DEP#293-\*\*\*\* No file no. has been issued.**

*At the request of the applicant, the hearing has been continued to August 28, 2019.*

**7:50 p.m. Opened the Public Meeting for the Request of Determination of Applicability for Angela Kamendulis Defalco**

**Property: 64 Chickering Road, Spencer, MA**

The Commission discussed the diagram and the plans.

*A motion to close the public meeting (Commission members) passed 4/0.*

*A motion to issue a negative determination (Commission members) passed 4/0.*

**8:00 p.m. Opened the Public Meeting for the Request of Determination of Applicability for Stuart B. Howe**

**Property: 33 Pine Acres, Spencer, MA**

There was a discussion about the addition. There was a question as to where the Septic System is located.

*At the request of the applicant, the meeting has been continued to August 28, 2019.*

**Other Business:**

**43 Point Eastalee:** George Russell sent a Notice of Violation to Alan Berman. Work was done on the property without a permit. After some discussion, the Commission recommends Mr. Berman file a Notice of Intent.

**19 Woodchuck Lane:** The Stormwater Bond can not be released until the Certificate of Compliance has been issued.

**Chairperson:** The Commission discussed rotating the Chairperson if the Chair is absent.

**22 Sunset Lane:** The Commission discussed the basins. The work was not done on the basins, so the Commission will not issue the Stormwater Bond.

**184 Greenville Street:** George Goulas requested a Certificate of Compliance.

*A motion to issue the Certificate of Compliance (Commission members) 4/0.*

**George's Report:** George would like the Commissions approval of a new updated Special Conditions form to go along with the Order of Conditions. This new form will start on August 1, 2019.

*A motion to approve the updated Special Conditions form (Commission members) 4/0.*

New Applications: 15 West Ave, RDA  
90 Northwest Road, NOI  
37 Lakeshore Drive, NOI

*A motion to adjourn the meeting at 9:14 p.m. (Commission members) passed 4/0.*

Respectfully submitted by:

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Jane Green, Senior Clerk  
Development & Inspectional Services

### Documents reviewed at 7/24/19 Spencer Conservation Commission Meeting

Agenda for 7/24/19

Agent's Report 7/24/19

135 Wilson Street OofC signed

9 Point Eastalee OofC signed

30 Roy's Drive Continuance form

64 Chickering Road RDA signed

33 Pine Acres Continuance form signed

184 Greenville Street CofC signed

New Special Conditions form starting 8/1/19

# 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

TO: Conservation Commission

FM: George Russell, AICP  
Conservation Agent

RE: Agent's Report

DATE: 7/24/19

Item 4.1. NOI 135 Wilson Ave: I have reviewed the file, made a site visit and met with the property owner. During construction, it will be imperative that the new retaining walls etc. be carefully monitored to insure there is no erosion into the pond. The addition in the rear of the house will not pose a significant problem. In light of this, I would suggest that the following stipulations be added to the Orders in addition to the regular conditions the Commission already uses (**EXCEPT #30** {see last paragraph below}):

1. The Commission must receive a written report with respect to the project's conformance to the Order of Conditions every April and October from a professional consultant (e.g. civil engineer or wetlands scientist) until a certificate of compliance is issued.
2. At lease every other week, beginning with the first week in which there is any land disturbance or construction, and for as long as thereafter as the ground remains destabilized, the Commission must receive a report from a professional consultant (e.g. civil engineer or wetlands scientist). This report must include weekly erosion control inspection logs, details of any necessary site remediation taken and any deviations from the approved plans.
3. No land alteration, save for the installation of erosion control, may begin and no building permit will be signed by the Conservation Office until such time as the Orders are recorded and the erosion controls are installed.

In addition, the permit application is NOT signed by the property owner and this signature is a legal requirement that an ALJ informed me in no uncertain terms must be done. The permit can be signed at the meeting. If not signed, I would suggest the hearing be kept open until this is done.

Item 4.2. NOI 9 Point Eastalee: There is a question as to why this project was started before any permits were issued. This is a concern I have heard from the adjoining property owners. I have undertaken two site inspections and I would recommend the following conditions be attached to the Orders in addition to the regular conditions the Commission already uses (**EXCEPT #30** {see last paragraph below}):

1. The Commission must receive a written report with respect to the project's conformance to the Order of Conditions every April and October from a professional consultant (e.g. civil engineer or wetlands scientist) until a certificate of compliance is issued.
2. At lease every other week, beginning with the first week in which there is any land disturbance or construction, and for as long as thereafter as the ground remains destabilized, the Commission must receive a report from a professional consultant (e.g. civil engineer or wetlands scientist). This report must include weekly erosion control inspection logs, details of any necessary site remediation taken and any deviations from the approved plans.
3. No land alteration, save for the installation and repair of erosion control, may begin and no building permit will be signed by the Conservation Office until such time as the Orders are recorded and the erosion controls are installed.

In addition, the permit application is NOT signed by the property owner and this signature is a legal requirement that an ALJ informed me in no uncertain terms must be done. The permit can be signed at the meeting.

Item 4.3. NOI 30 Roys Drive: The applicant will not have the necessary plans ready for the meeting and requests a continuance to the 8/14/19 meeting.

Item 4.4. RDA for 64 Chicikering Road: I met with the applicant on site and recommended some changes in the plans submitted with the application. The owner agreed. There will be approximately 600 ft<sup>2</sup> of new impervious surface and this will drain into the pond. This will not be a point source discharge but rather sheet flow and I do not see this as being significant.

The revised plans have been submitted. I would recommend a negative #3 with conditions listed below on the last page.

Item 4.5. RDA for 33 Pine Acres: When an addition such as the one proposed is being built, I would normally suggest an NOI is required. In the instant case however, the addition is on the side of the house away from the pond and is approximately 90' from an isolated wetlands. The one issue that needs to be addressed is the location of the septic system. I have reason to believe it may be located in the area of construction and this may require approval from the

health department. I would recommend the Commission not close the hearing until this is determined since additional construction/alteration/impact may be indicated.

If the septic system is not in the area of construction, I would recommend a negative #3 with erosion barriers between the construction and the isolated wetlands and said barriers to be approved by my office prior to any land disturbance and the conditions on the last page.

Item 5.1. Violation, 43 Point Eastalee: A letter has been generated to the property owner based on the information contained in the Assessor's records. It turns out that the property owner listed is deceased and we have had conversations with his son. He cannot make the meeting indicated in the letter and we have informed him that the best course of action is to file the NOI permit.

A copy of the letter will be available to the members at the meeting.

Item 5.2 Stormwater bond: I have inspected the site and would recommend that all is in order for the bond to be released.

Item 5.4 22 Sunset Terrace Stormwater Bond: Margret Emerson and I met on site with the applicant and we agreed that the bond is ready to be released after the vegetation in the basins etc. is addressed. The erosion control still needs to be removed.

Item 5.5 184 Greenville COC: I have inspected the site and all appears to be in order for the release to be granted. The silt fencing still needs to be removed.

Item 6.0. Report from Agent: This report was sent to the applicants via e-mail and in draft form.

Other issues which I would like to discuss/consider are:

1. Enforcement Policy: This was passed out at the last meeting and I would like to know if the members are OK with it. If so, I will make it the formal enforcement policy of my office.
2. I have reviewed the conditions that the Commission has been using when issuing Orders. I would submit for the Commission's consideration a couple of changes in these conditions in that the commission adopts stipulation numbers 20, 23, 27, 29, 34 & 51 on the attached. In my experience, #23 has been extremely helpful in making sure the project is on track with what has been approved. Stipulations 20 and 34 would replace current stipulation number 3 and would delete all references to silt fencing and hay-bales. They would also shift the burden of proof to making sure the erosion control is in according to the plan the a certified professional such as a P.E. I am recommending this since hay-bales often carry seeds for invasive plants and silt fencing is often left in place for decades after a project is complete since it will not biodegrade and is often not installed and/or maintained correctly. Stipulation # 27 would replace current stipulation # 8 and would require the Commission to adopt the referenced DEP policy which is also attached. Your consideration is appreciated.

3. I would also recommend that until the by-law can be modified, the Commission's stipulation #30 not be used since it is in conflict with § 6.2 of the local Regulations. I hope to be able to go thru the Commission's regulations, by-law and SOP's to highlight any other conflicts so that they can be addressed.

Name:  
Determination of Applicability  
Date:

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Before work begins, the applicant shall furnish a copy of the Determination of Applicability and these conditions to the contractor. ***The Contractor must read these conditions, and sign and date the certification at the bottom of the page attesting that he has read and understood them.***

1. A copy of this Determination and the approved plan(s) must be kept on site during all construction and available to the Commission at site visits.
2. Biodegradable erosion control to be installed as on the approved plan and in accordance with Section 16.3 of the Spencer Wetland By-Law. No work shall commence until the protection measures are approved by the Commission. The applicant must notify the Conservation Commission for an inspection of the protection measures. The control devices shall be maintained and remain in place until the Commission authorizes removal.
3. When work is about to **begin**, the Conservation Commission must be notified by telephone or e-mail.
4. When the work is **complete**, the Conservation Commission must be notified by telephone or e-mail..
5. Failure to comply with these conditions or the Town of Spencer Wetland By-Law may be deemed reason to modify or revoke this Determination of Applicability.

I Certify that I have read and understood the conditions above.

Signature \_\_\_\_\_

Date \_\_\_\_\_