

Conservation Commission – Town of Spencer



Minutes

Conservation Commission Meeting
Wednesday, September 11, 2019 at 7:00 PM
Town Hall, McCourt Social Hall

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

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

Commissioners Absent:

Staff present: George Russell, Jane Green

Staff absent:

Minutes Approved: August 28, 2019

Signed: 24 Rustic Lane – Emergency Certificate

7:15 p.m. Continue the Public Hearing for the Request for Determination of Applicability for Sunpin Solar – c/o William Behling

Property: North Brookfield Road, Spencer, MA

At the request of the applicant, the hearing has been continued to September 25, 2019.

7:18 p.m. Continue the Public Hearing for the Notice of Intent for Lynn Ely

Property: 7 First Street, Spencer, MA DEP#293-0970

Maryann Dipinto from Clearwater Environmental discussed the Septic plan. Updates which Mr. Russell had requested, were done to the plans.

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

A motion to approve the plans with the standard conditions noted on Agent's Report (Snow/Bellemer) 5/0 passed.

7:25 p.m. Open the Public Hearing for the Notice of Intent for Ricci W. & Bree A. Hall

Property: 101 Clark Road, Spencer, MA DEP#293-0969

Leonard Jalbert from Jalbert Engineering represented the Halls. Mr. Jalbert discussed the addition on the house, garage and deck. Ms. McLaughlin recommended the oil absorbent boom continue forty feet from where the equipment is operating.

A motion to close the public hearing (Perry/Bellemer) 5/0 passed.
A motion to approve the plans with conditions noted in the Agent's Report (Bellemer/Perry) 5/0 passed.

7:37 p.m. Open the Public Hearing for the Request of Determination of Applicability for David Cronin

Property: 24 Oak Lane, Spencer, MA

David Cronin explained that the trees were hanging over his dock and boat. Mr. Russell discussed observations from his inspection. Ms. McLaughlin wanted to know how the trees would be removed. A climber will take down the trees but leave the stump.

A motion to close the public hearing (Perry/Bellemer) 5/0 passed.
A motion to issue a negative #3 determination (Snow/Perry) 5/0 passed.

7:43 p.m. Open the Public Hearing for the Request of Determination of Applicability for William Gribbons

Property: 81 Wilson Ave, Spencer, MA

William Gribbons discussed the tree to be taken down. It was struck by lightning years ago, and they discovered the bottom of it is now rotting. It is a very large pine tree and if it comes down, it will fall on the house. Mr Gribbons said that the stump will remain.

A motion to close the public hearing (Emerson/Perry) 5/0 passed.
A motion to issue a negative #3 determination (Emerson/Perry) 5/0 passed.

Other Business:

19 Woodchuck Lane: Certificate of Compliance.

A motion to approve the Certificate of Compliance (Emerson/Snow) 5/0 passed.

Holmes Street: Certificate of Compliance.

A motion to approve the Certificate of Compliance (Perry/Snow) 5/0 passed.

5 Meadow Road: Extension of Order of Conditions.

A motion to Extend the Order of Conditions (Snow/Perry) 5/0 passed.

17 Sherman Grove: Certificate of Compliance.

A motion to release the Certificate of Compliance (Perry/Bellemer) 5/0 passed.

Bixby Trail Connector: Grant Buchanan from SMOC (South Middlesex Opportunity Council) and Steven Crow from Sunshine Landscape were present regarding the Bixby Trail plans. They came in to see if the Conservation Commission had any questions. The trail is out of the buffer zone, but the run-off affects it. Ms. McLaughlin wanted to know if there was still a lot of poison ivy.

Mr. Buchanan said it was treated with weed control. Mr. Russell met with Mr. Buchanan and The Common Ground Land Trust. They looked at the plans and approved of them. Mr. Buchanan wanted to know if he could remove the silt fencing. Mr. Russell told him that he could and recommended straw wattles for erosion controls if it was needed.

A motion to approve the concept for the Bixby Trail Connector (Perry/Snow) 5/0 passed.

19 Jolicoeur Ave: The Commission issued Mr. Fallon an NOI back in May and part of the plan was to plant trees. Robert Fallon would like to put up a fence instead of plant trees. Ms. McLaughlin stated that when trees are removed, the Commission recommends replacing them. Mr. Russel stated that there is no impact to put up a fence.

A motion to allow Mr. Fallon to plant two trees instead of eight trees and put up a fence (Snow/Perry) 5/0 passed.

9 Debbie Drive: Extension of OofC. Mr. Russell said that the work is not done.

A motion to extend the conditions (Snow/Perry) 5/0 passed.

6 Treadwell Terrace: Scott Morrison and Peter Strand were present regarding the Notice of Violation. Mr. Morrison discussed the gardens, hoop house, greenhouse, rain barrels and how these pre-date The Wetlands Protection Act. The land is used for Agricultural use. Mr. Morrison would like the Commission to rescind the Violation. Mr. Morrison and Mr. Strand showed photos from 1980 to the present. Mr. Russell asked the applicant if he had his property surveyed. Mr. Russell said that the leaf pile may be in the public right-of-way. There was discussion about this amongst the Commission and Mr. Strand. The Commission would like to go on a site visit of the property.

53 East Charlton Rd: Andrew Sweet wanted to update the Commission on the drainage ditch. He is waiting on the report from EcoTec.

1 First Street: Certificate of Compliance. Mr. Russell said that it was a 28-year-old OofC and a surveyor has indicated the work appears to conform to the plans.

A motion to issue the Certificate of Compliance (Perry/Snow) 5/0 passed.

Camp Marshall: Ms. McLaughlin had been asked by Bill Dobson if the Commission was aware of what's going on with Zip Line project at Camp Marshall. There is a problem with it because of something to do with the trees and the line.

Agent's Report:

Plant List: Mr. Russell asked the Commission is they would formally adopt the plant list.

A motion to adopt the plant list with modifications (Bellemer/Snow) 5/0 passed.

6.2 O.S.R.P Survey is due September 13, 2019.

6.3 Abutter Notification for NOI: Mr. Russell would like the Commission to collect the slips or a copy of them. This is the only way to ensure statutory compliance with the abutter notification requirements.

6.4 Mr. Russell would like to request a policy to amend to an existing order as in the Agent's report.

A motion to adapt the 6.4 policy (Perry/Bellemer) 5/0 passed.

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

New Applications: Washburn Drive – NOI
41 Oakland Drive - NOI

A motion to adjourn the meeting at 8:55 p.m. (Snow/Perry) 5/0 passed.

Respectfully submitted by:

Jane Green, Senior Clerk
Development & Inspectional Services

Documents reviewed at 9/11/19 Spencer Conservation Commission Meeting:

Agenda for 9/11/19

Agent's Report dated 9/11/19

Minutes from 9/28/19 meeting

Map of 19 Jolicoeur Ave

Emergency Certificate – 24 Rustic Lane signed

Continuance form North Brookfield Road

7 First Street-OofC signed

101 Clark Road-OofC signed

24 Oak Lan-RDA signed

81 Wilson Ave-RDA signed

19 Woodchuck Lane-CofC signed

Holmes Street-CofC signed

5 Meadow Road-Extension OofC signed

17 Sherman Grove-CofC signed

1 First Street-CofC signed

9 Debbie Drive-Extension OofC signed

Abutter Notifications

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.
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TO: Conservation Commission

FM: George Russell, AICP
Conservation Agent

RE: Agent's Report

DATE: 9/11/19

3.0 To be signed:

3.1. Emergency Cert: I have issued an emergency certification for work in a riverfront zone for 24 Rustic Lane. The on-site well has failed and the residents are without potable water. They are replacing the well pump and installing a new water line to the home. Erosion controls and oil booms if needed will be put in before any land disturbance takes place.

4.0 PUBLIC HEARINGS:

4.1 NOI 101 Clark Rd. DEP#293-969 This permit application is to remove the old deck, build a new one and an addition to the front and side of the house. I have undertaken a site inspection, talked to the owner and his engineer. Plan revisions were requested and have been provided. I would recommend approval with the following special conditions: 20-24, 27-30, 33-35, 37, 38, 41, 44, 47, 51-56.

4.2 RDA for 24 Oak Lane: This RDA is for the removal of 5 trees on the property, two of which are very close to the water body. All of the trees are marked and no stumping will be undertaken. Given those conditions, I would recommend a Negative #3 be granted by the Commission.

NOTE: When the commission approves an RDA, there are positive and negative determinations; 7 Positive and 6 Negatives. Some are very similar in wording but still different. I believe the Commission would be better served if when they voted to

grant say a negative determination, they specify which one; e.g. negative #3. I will always try and give my recommendation (e.g. negative #3) in my report.

4.3 RDA 81 Wilson Ave.: RDA is for the removal of a tree between the house and the water body. The tree is in danger of falling on the house and should be removed. I would recommend a negative #3 since the stump will remain.

4.4 RDA for North Brookfield Rd. This application is asking the Commission to accept the wetlands line on site. If accurate, the line will place the upcoming solar project outside of jurisdiction. I recommended peer review for this line and have discussed this with the applicant. The cost has been developed and forwarded to the applicant. We have received the review and another small wetland was discovered on site.

The applicant requested the hearing be kept open until they could respond to the peer review findings and that was granted at the last meeting.

When the application is ready to go forward, I would recommend a negative #4.

4.5. 7 First Street NOI: DEP #292-0970 A site inspection was conducted and a review e-mail generated to the applicant. There are some deficiencies in the application/plans which needed to be addressed. These revisions and deficiencies have been addressed, we have received a NOI # from DEP and therefore the application is ready to go forward. If approved, I would recommend the following special conditions: 20, 21, 23-24, 27-30, 34, 35, 37, 38, 40, 41, 44 & 47-54.

5.0 OTHER BUSINESS:

5.1. Release from conditions for Woodchuck Lane solar Farm: All is ready for the release to be granted;

5.2. Release from conditions for Holmes St. solar array: All is ready for the release to be granted.

5.3. Extension of Orders for 5 Meadow Road: I have undertaken a site inspection and reviewed the file. I see no reason for not extending the Orders.

5.4. 17 Sherman Grove Release from Conditions: I have undertaken a site inspection and reviewed the file. All is ready for the release to be granted.

5.5. Bixby Trail Connector: I understand a representative will be at the meeting to discuss the "new" trail.

5.6. 19 Joicoeur: We have received a request to not plant trees as approved under an OOC, but substitute a fence. I do not feel comfortable approving this change because I feel I do not have the legal authority to do so. If the Commission does not see this as a

"big deal", I would suggest a modification to the existing Orders, which will require a legal notice and abutter notifications.

NOTE: See item 6.4 below. If the Commission adopts this policy, an administrative approval may be order if the applicant can comply with the listed conditions.

5.7 Release from Conditions 1 First St.: All is ready for the release to be granted,

I would like to point out that this is a 28 year old set of Orders and the new policy on expired permits worked.

5.8. Extension of the Orders for 9 Debbie Drive: I have undertaken a site inspection and reviewed the file. I see no reason for not extending the Orders.

AGENT REPORTS:

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:

6.1. At the last meeting a "plant list" from a portion of a document which I helped write and was distributed for Commission review with an eye toward requiring all mitigation planting to be drawn from this list. If the Commission is comfortable with using this list for mitigation plantings, please vote to do so.

6.2. Also distributed some time ago, was a draft OSRP survey. If any comments from the body as a whole are to be made, they are due on the 13th.

6.3. One other item I would recommend the Commission consider: I noticed that the Commission does not collect the slips from the abutter mailings on NOI hearings. Given that the abutter notification is a statutory requirement. I would suggest that these cards, especially the white ones, be collected and filed. It is the only way to legally determine compliance with the statutes. Keeping the green cards is also a good idea since then if someone complains/sues the Commission that improper or no notification was given, the green and white cards are the Commission's safety net for insuring compliance.

6.4. Attached for your review is another policy I would request the Commission to consider. This one is for an amendment to an existing order and is basically in line with DEP's policy on this issue, which I have also attached.

I really do not have a history on how the Commission has handled this in the past. But generally, staff does not have the legal authority to grant changes to an approved set of Orders. I believe the attached policy will clear-up the process.