

# Conservation Commission – Town of Spencer

## *Minutes*



Conservation Commission Meeting  
Wednesday, March 11, 2020 at 7:00 PM  
Town Hall, McCourt Social Hall

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The Meeting was opened at

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

Commissioners Absent: Robert Perry

Staff present: George Russell, Jane Green

Staff absent:

**Minutes Approved:** February 26, 2020 (Snow/Emerson) 4/0 passed.

**Signed:**

**7:30 p.m. Continued the Public Hearing for the Notice of Intent for Colin Derhammer**

**Property: 133 Ash Street, Spencer, MA DEP#293-0978 SW Permit**

Mr. Russell would like to have the Supplemental Agent's Report made part of the record. The chair read the supplemental report into the record. There are significant problems with the application. We are still waiting on the Peer Review report and the revised plans. Mr. Russell recommended the hearing be continued to April 8, 2020.

*At the request of the applicant, the hearing has been continued to April 8, 2020.*

**7:34 p.m. Opened the Public Hearing for the Notice of Intent for Colin Derhammer**  
**Property: Charlton & Bacon Hill Roads, Spencer, MA no DEP# has been issued.**

Mr. Russell stated that as it stands now, the application does not meet Zoning. The Peer Reviewer had just received the plans. There is a probability that the revised plans will change dramatically. A resident, Barbara Bourassa, wanted to know why, in the packet, industrial/commercial is checked off. This is residential. Ms. Bourassa wanted to know how it is going to affect the property value. Mr. Russell said that those questions were zoning questions. Ms. Bourassa wanted to know how this solar array is going to

affect the wildlife. Mr. Russell said that the wildlife will end up moving. Ms. Bourassa wanted to know what the access to the property is going to be. Mr. Russell said the Planning Board is trying to figure that out. Another resident, Michael Milionis wanted to know if the abutters would be notified, once the plans are submitted. Mr. Russell told Mr. Milionis that the notices are only sent out once. Mr. Russell told Mr. Milionis that he can call the town hall or go to the website to find out when the next meeting will be held. Mr. Milionis wanted to know if the site was inspected and are there any vernal pools. Mr. Russell told Mr. Milionis that is a job for Peer Review. The developer pays for a third-party wetlands scientist to review the plans and do a site visit. Mr. Milionis is concerned about light pollution. Mr. Russell told him that is a question for the Planning Board. Jan Parke from CGLT (Common Ground Land Trust) wanted to know how much land that parcel has. Mr. Russell said that land has about 50 acres. Mr. Russell told the public that the applicants may have to build a road.

*At the request of the applicant, the hearing has been continued to March 25, 2020.*

**7:44 p.m. Opened the Public Hearing for the Notice of Intent for N.E. Power Co. & Mass Electric Company**

**Property: 7.5 Meadow Road & Row along Meadow & Wire Village Road, Spencer MA DEP#293-0983**

Theresa Portante from BSC Group, representing New England Power Company and Mass Electric Company, was present to discuss the plans. Ms. Portante said that they have to add a new feeder to accommodate the load to the system from the solar project on McComick Road. The sub-station has to be expanded in order to add a new feeder. Ms. Portante said that they just had a meeting with the Department of Public Works, because they identified that there is not adequate clearance from the existing fence line. They would like to get permission to locate a temporary fence. There will be some tree removal. There will be a few poles relocated across the street.

*A motion to close the public hearing (Emerson/Bellemer) 4/0 passed.*

*A motion to approve the plans with conditions noted in the Agent's Report and a motion to grant the variance for the 25-ft no touch zone. (Snow/Bellemer) 4/0 passed.*

**Other Business:**

**51 Lambs Grove:** Mr. Russell discussed the Stop Work Order/Notice of Violation. There were significant changes to the approved permit. There was rip rap on the bank that was not approved. There was a new retaining wall that was not approved. There was significant erosion and the stone deposited on site was not approved. The Commission needs to decide whether a new NOI is required or if there would only be an amendment to the existing Orders. There was discussion amongst the Commission while looking at the photos. Steve Comtois, the contractor, arrived and told the commission he would like to Amend the Order of Conditions. There was discussion amongst the Commission about removing the riprap and restoring the bank.

*A motion to require a modification to the existing Orders (Snow/Bellemer) 4/0 passed.*

**Recommendation on Chapter 61 A Parcel, Hastings Road:** Mr. Russell did the preliminary work to study all the Chapter 61 and 61B land in town. This is to be able to more accurately address issues such as the one before the Commission. The individual parcel that is being offered, is a parcel that is going to be created. They want to create a building lot out of a 36-acre parcel at the intersection of Hastings Road and Gold Nugget Road. It does not have a very high value in the study. Mr. Russell recommended that the town not purchase the property. Ms. Parkes wanted to know if the owner could take out a parcel at a time, an acre or two, and slowly dismantle a large parcel that's under Chapter 61. Mr. Russell said that it could happen, as long as they meet the zoning requirements. The Commission discussed the photos.

*A motion to recommend not to purchase the land (Snow/Bellemer) 4/0 passed.*

**Agent's Report:** Mr. Russell asked the Commission if they would consider amending the meeting organization to delete the 7:15 start time. This would allow them to start the public hearings as soon as they have finished items 1, 2 & 3. The Commission agreed with Mr. Russell's suggestion.

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

New Applications:    129 Wilson Ave – NOI  
                                 East Charlton Road - NOI

*A motion to adjourn the meeting at 8:12 p.m. (Snow/Bellemer) passed 4/0.*

Respectfully submitted by:

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Jane Green, Senior Clerk  
Development & Inspectional Services

## Documents Reviewed at 3-11-20 Conservation Commission Meeting

Agent's Report

Agent's Report Supplemental

Minutes 2-26-20

Peer Review information -133 Ash Street

51 Lambs Grove - letter

Hastings Road - letter & map

Mass Audubon - Informational letter

Chapter Study Values

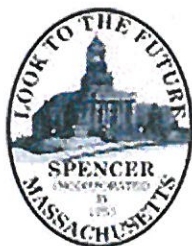
# Town of Spencer, Massachusetts

## Office of Development & Inspectional Services

Planning Board  
Zoning Board of Appeals  
Conservation  
Board of Health

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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: 3/11/20

#### 4.0 PUBLIC HEARINGS:

**Item 4.1. 133 Ash St. NOI:** We are still waiting on the peer review report and the revised plans. I am leery to recommend the hearing be again continued unless we receive a final peer review report and final plans by the meeting. There will be a packet of the "Wetland Compliance Report" at the meeting but this does not take the place of the peer review report. I am also enclosing a copy of an e-mail from our peer reviewer which indicates just how much remains to be done/revised etc.

Given the length of time this has been pending (since October), I am not sure if everything should start again from the beginning. The downside to denying the application, is the amount of money the applicant has already spent on permitting fees and if it is appealed to DEP, the town loses all control. However, the failure to get this application to a level where it can be acted upon by the Commission is absurd.

I cannot recommend any conditions of approval until I see the final peer review report.

**Item 4.2. Notice of Intent for Colin Derhammer Property: Charlton & Bacon Hill Rds. :** We do not have a DEP number and we have sent the application out for peer review. I would recommend no testimony be taken and the hearing continued until we receive the final peer review.

**Item 4.3. New England Power Co. NOI:** This project is to run a new connection for the solar array to be constructed on McCormick Road. This project is being submitted as a "limited Project" and thus must demonstrate to the Commission that among other things there is " . . . no reasonable alternative route with fewer adverse effects . . ." The vast



majority of the work area subject to jurisdiction is in the buffer zone with some very minimal impact in the riverfront.

I have inspected the work area and do not see any problem areas. If we receive the DEP number, I would recommend approval with the following special conditions: 20, 23, 24, 27-30, 34, 37, 41 44, 47 & 50-53.

## **5.0 OTHER BUSINESS:**

**Item 5.1** Proposed amendment to Orders for 51 Lambs Grove: In your packets you will find a stop work order/notice of violation and a series of photos for this project. There is significant deviation from what was originally approved by the Commission, and it is spelled out in the letter. The issue before the Commission is whether a new NOI is required or just an amendment to the existing Orders.

The stone rip rap which has been placed on the bank is a very effective erosion control/bank stabilization system and is currently functioning as such.

The modifications may make sense from a construction standpoint and it is probably in everybody's best interests if the Orders are modified vis-à-vis a new Notice. This would still require new plans and a public hearing with abutter notification.

**5.2 Sale of Chapter 61A land:** This item is for a sale of chapter 61A land (agricultural) over which the town has the right of first refusal. I have developed a study which evaluates all chapter land in town to prepare for this exact scenario, so that all parties can make a more informed decision. Unfortunately, this study is still in draft form, but preliminary results would indicate that this land should not be purchased by the town, especially since this sale involves an ANR lot that will be created out of a large 36± acre lot.

In the report, this lot has a numerical value of 12 and the only lots that may receive serious consideration have a value of 25 or more. I will have a copy of the assigned values at the meeting.

## **6.0 AGENT REPORTS:**

**Item 61.25 Kingsbury Ave.:** At the last meeting, the enforcement order for this address was discussed. A review of the file indicates that the filed RDA was not approved by the Commission, as per the minutes of 6/12/20. I have conducted a site inspection of the area and it appears all is in order. FYI, the cows are running all over the place and the buildings are literally falling down.

**Item 6.2. Meeting organization:** At the last meeting, the Commission finished all of the non-public hearing items early and had to wait for 7:15 to begin the public hearings. The Open Meeting Law requires that a hearing cannot start before a scheduled time but may start later.

I would request the Commission consider amending the meeting organization to delete the 7:15 start time on the agenda and just leave item 4 to read: "Public Hearings". This would allow the Commission to start the public hearings as soon as they have finished items 1, 2 & 3.

**Item 6.3.** Administrative Approvals: There were no administrative approvals since the last report.

**Item 6.4.** 39 E. Charlton: An NOI with a restoration plan has been submitted for the Jenese property on E. Charlton. The Commission, based on the advice of counsel, has issued an EO to Mr. Moore who was the logger. I have issued the first citation to Mr. Moore since I have no contact with him since the EO was issued. Does the Commission wish to keep issuing the citations?

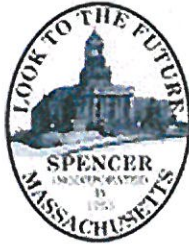
# Town of Spencer, Massachusetts

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Given the length of time this has been pending (since October), I am not sure if everything should start again from the beginning. The downside to denying the application, is the amount of money the applicant has already spent on permitting fees and if it is appealed to DEP, the town loses all control. However, the failure to get this application to a level where it can be acted upon by the Commission is absurd.

I would request that the following be read into the record as my recommendation concerning this application:

There has been considerable discussion among the staff, concerning the lack of progress on this application. I would most strongly recommend that the hearing on this application be continued until 4/8/20 not 3/25/20. If the application is not ready to go forward by that date, meaning all peer review and plan revisions are complete, the application should be denied or withdrawn. Further, the Planning Board issues, concerning among other things the possibility of a subdivision, must be worked out to assure that the Board and the Commission are reviewing and voting on the same plan.



I would request the Commission seriously consider supporting this position so that the applicant understands when they stand coming into the next meeting.