

# Conservation Commission – Town of Spencer



## *Minutes*

Conservation Commission Meeting  
Wednesday, July 8, 2020 at 7:00 PM  
Town Hall, McCourt Social Hall

**NOTE: THIS IS A REMOTE MEETING AND ALL PRESENTATIONS, QUESTIONS, COMMENTS AND/OR DISCUSSIONS WILL TAKE PLACE VIA TELEPHONE CALL IN. IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE CONSERVATION OFFICE BEFORE THE MEETING.**

**PERSONS SPEAKING CAN ONLY SPEAK WHEN RECOGNIZED BY THE CHAIR AND THEY MUST CLEARLY STATE THEIR NAME AND ADDRESS FOR THE MINUTES.**

**IN ORDER TO CALL IN, PLEASE CALL: 1-866-899-4679 AND USE ACCESS CODE 516-377-341**

**TO LISTEN TO THE MEETING ONLY GO TO SCATV.ORG**

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

Commissioners Present: Charlie Bellemer, Robert Perry & Warren Snow

Commissioners Absent: Margaret Emerson & Mary McLaughlin

Staff present: George Russell, Jane Green

Staff absent:

**Minutes Approved:** *A motion to Table the minutes of June 24, 2020 to July 22, 2020 (Bellemer/Perry) passed 3/0 with a roll call vote: Bellemer-yes, Perry-yes, Snow-yes*

**Signed:** There were no items ready for signature.

**7:15 p.m. 4.1 Opened the Public Hearing for Notice of Intent for the Town of Spencer Highway Department**

**Property: Paxton Road over Shaw Brook, Spencer, MA DEP#293-0989 SW Permit**  
The DEP file number that was just received in the Conservation office. The applicant did not attend the meeting and requested a continuance.

*At the request of the applicant, the hearing has been continued to July 22, 2020 (Perry/Bellemer) 3/0.*

*A roll call vote (Perry/Bellemer/Snow) 3/0.*

**7:19 p.m. 4.2 Continued the Public Hearing to Amend the Order of Conditions for Robert & Catherine McDonald**

**Property: 51 Lambs Grove, Spencer, MA DEP#293-0949**

Mr. Russell said that this was continued because there were significant questions concerning the bank modifications and impact on wildlife, by the members. We did receive the wildlife habitat guidance and the statement from Mr. Mark Farrell, an environmental engineer. There were no important habitat features identified where the modification to the bank took place. There would be no adverse effects on the wildlife. Mr. Farrell and Steven Comtois joined the meeting. Mr. Farrell asked the board if they would allow the alteration of 50 feet if there was no adverse impact, and allow the riprap to remain on the bank for erosion and habitat for small fish. Mr. Bellemer said that if people were deviating from the plan, and they notified us that they were going to do so, we could save a lot of time. What occurred was that Mr. Russell went for the inspection and saw that changes were done. He issued a Stop Work Order. He informed the applicant that the OOC must be amended.

*A motion to close the public hearing (Perry/Bellemer) 3/0.*

*A roll call (Perry/Bellemer/Snow) 3/0.*

*A motion to accept the amendment maintaining all the original conditions for project 51 Lambs Grove (Perry/Bellemer) 3/0.*

*A roll call vote (Perry/Bellemer) 3/0.*

**7:25 p.m. 4.3 Continued the Public Hearing for the Notice of Intent for Merrill Sprague-Allen**

**Property: 41 Oakland Drive, Spencer, MA DEP no file# has been issued.**

Mr. Russell said we do not have a DEP file number. Jason Dubois joined the meeting and was going to find out why they do not have a number.

*At the request of the applicant, the hearing has been continued to July 22, 2020*

*(Perry/Bellemer) 3/0.*

*A roll call vote (Perry/Bellemer/Snow) 3/0.*

**7:28 p.m. 4.4 Opened the Public Meeting for the Request of Determination of Applicability for Patricia A. Stark**

**Property: 6 Cedar Road, Spencer, MA**

Mr. Russell said that the permit was to remove a tree within the “no touch” zone of Sugden Lake. It was 25 feet of the bank of the pond and therefore an Administrative Approval was not an option. Mr. Russell recommends a negative # 3 determination.

*A motion to close the public meeting (Bellemer/Perry) 3/0.*

*A roll call vote (Bellemer/Perry/Snow) 3/0.*

*A motion for a negative #3 determination (Bellemer/Perry) 3/0.*

*A roll call vote (Bellemer/Perry/Snow) 3/0.*

**7:30 p.m. 4.5 Opened the Public Meeting for the Request of Determination of Applicability for Pamela Bombard**

**Property: 14 Paxton Road, Spencer, MA**

Mr. Russell said that this was for approval of an above ground pool. It exceeded the 150 square ft area, and therefore he could not issue an Administrative Approval. Pamela Bombard listened in on the meeting.

*A motion to close the public meeting (Perry/Bellemer) 3/0.*

*A roll call vote (Perry/Bellemer/Snow) 3/0.*

*A motion for a negative #3 determination (Perry/Bellemer) 3/0.*

**7:33 p.m. 4.6 Opened the Public Hearing for the Notice of Intent for Peter & Carrie Bowler**

**Property: 51 Lake Avenue, Spencer, MA DEP# 293-0990**

Mr. Russell said that the permit is to repair the septic system. All the work is in the buffer zone. The septic system is across the street. From the house, there is vegetative debris in the buffer that will be cleaned up as part of the permit. The DEP number just came in. Brian MacEwen from Graz Engineering joined the meeting and commented on the meeting agreeing with Mr. Russell's presentation.

*A motion to close the public hearing (Perry/Bellemer) 3/0.*

*A roll call vote (Bellemer/Perry/Snow) 3/0.*

*A motion to accept the NOI with the conditions noted in the Agent's Report (Perry/Bellemer) 3/0.*

*A roll call vote (Bellemer/Perry/Snow) 3/0.*

**Other Business:**

**5.1 12 Ledge Ave:** The Agent's report stated that there were missing reports required in the Order of Conditions. The office has since received the reports. Mr. Russell said that all is ready for the request to be granted

*A motion to release the CofC (Bellemer/Perry) 3/0.*

*A roll call vote (Perry/Bellemer/Snow) 3/0.*

*All in favor (Perry/Bellemer/Snow) 3/0.*

**5.2 22 Podunk Highway/Rt 49 – C of C:** Mr. Russell said that this was for 2 different projects with 2 DEP numbers. The CSX Auto Transload facility (293-0779) and the Diversified truck repair facility (293-0795) were requesting CofC. All is ready for the COC's to be granted.

*A motion to release 22 Podunk two Certificate of Compliances (Perry/Bellemer) 3/0.*

*A roll call vote (Perry/Bellemer/Snow) 3/0.*

**5.3 19 Jolicoeur Avenue:** Mr. Russell said that all is ready for request to be granted.

*A motion to release the CofC (Perry/Bellemer) 3/0.*

*A roll call vote (Perry/Bellemer) 3/0.*

**5.4 Lot B2-I Capen Road:** Mr. Russell said that all is ready for the release to be granted.

*A motion to release the CofC (Bellemer/Perry) 3/0.*

*A roll call vote (Bellemer/Perry/Snow) 3/0.*

**5.5 Amendment 20 & 32 McCormick Road:** Mr. Russell said that the minor plan changes in question were approved on-site by the Town's CESSWI and Mr. Russell, because they would improve drainage and all heavy equipment was on site working in the area in question. Mr. Russell does not recommend a new NOI, but that the existing OOC should be amended in accordance with DEP Policy 85-4. James Schwartz from Independent Solar said that the changes in question were to reduce the potential for some erosion on the access road.

*The Commission voted that the proposed changes do not rise to the level of requiring submission of a new NOI but rather should be accomplished through an amendment to the existing OOC in accordance with DEP Policy 85-4 (Bellemer/Perry) 3/0.*

*A roll call vote (Bellemer/Perry/Snow) 3/0.*

**133 Ash Street:** Mr. Russell said that the Commission denied this application because of lack of information.

**Marble Road:** Mr. Russell said that this was denied because of a procedural legal error. There were two addresses and DEP issued a number for a lot with a house on it. The Town Attorney agreed there was a legal error and the application should be denied.

Jonathan Viner of 34 Donnelly Cross Road joined the meeting and wanted to know what transpired with 20 & 32 McCormick Road. George Russell told Mr. Viner that the Commission voted to require an amendment to the Order of Conditions.

**Agent's Report:**

**Enforcement Order: 144 Mechanic Street:**

Mr. Russell has sent out several letters concerning the issue. The Order required an NOI to be filed for all the originally approved work in jurisdiction that was not completed, e.g. detention basins and mitigation plantings, unless the applicant can prove they are complete.

*A motion to issue an enforcement order at 144 Mechanic Street (Bellemer/Perry) 3/0.  
A roll call vote (Bellemer/Perry/Snow) 3/0.*

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

New Applications: None

*A motion to adjourn the meeting at 7:44p.m. (Perry/Bellemer) passed 3/0.  
A roll call vote (Bellemer/Perry/Snow) 3/0.*

Respectfully submitted by:

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Jane Green, Senior Clerk  
Development & Inspectional Services

Documents Reviewed at 7-8-20 Conservation Commission Meeting

Agent's Report 7-8-20

Paxton Road over Shaw Brook – Continuance Form

51 Lambs Grove – Amended Order of Conditions signed

41 Oakland Drive – Continuance Form

6 Cedar Road – RDA

14 Paxton Road – RDA

51 Lake Avenue – OofC

12 Ledge Avenue – CofC

22 Podunk Highway – CofC's DEP#293-0779 and 293-0795

19 Jolicoeur Avenue – CofC

Lot B2 I Capen Road – CofC

144 Mechanic Street – Enforcement Order

"The items listed which may be discussed at the meeting are those reasonably anticipated by the Chair. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law."



# 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.  
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If you're going through hell, keep going.  
Winston Churchill

TO: Conservation Commission

FM: George Russell, AICP  
Conservation Agent

RE: Agent's Report

DATE: 7/8/20

3.0. To be signed:

**Item 3.1.** Enforcement Order, 129 Wilson: Based on the vote of the Commission at their last meeting, I have prepared the Order and it is in your packets. One thing I have added is that the restoration order and the NOI must be prepared by a wetland scientist.

#### **4.0 PUBLIC HEARINGS:**

**Item 4.1.** the Town of Spencer Highway Department, NOI: This permit is for a bridge rehab project on Paxton Road over Shaw Brook. This project is also designed to improve drainage. Given that we do NOT have an NOI number, I would recommend the hearing be opened and continued. When approved, I would recommend the following stipulations: 20, 23, 24, 27-30, 34, 35, 37-41, 44, & 49-54.

**Item 4.2.** Proposed amendment to Orders for 51 Lambs Grove: This project was issued a SWO for significant deviations from what was originally approved by the Commission, The Commission voted to require an amendment to the existing Orders which is what is before you.

See excerpts from 310 CMR 10.00 in your packet.

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 amendment to the Orders are modified approved with the original stipulations still applicable

**Item 4.3.** 41 Oakland Ave. NOI: We do not have the DEP file number as of yet. This permit is to replace the wall on the bank of the lake and the wall is badly in need of replacement.

When ready, I would recommend the following stipulations: 20, 23, 24, 27-30, 34, 35, 37-41, 44, & 49-54.

**Item 4.4.** 6 Cedar Rd. RDA: This permit is to remove a tree within the "no touch" zone on Sugden Lake. I would have approved this administratively save for the location. I would recommend a negative #3.

**Item 4.5.** 14 Paxton Road, RDA: This permit is for an above ground pool. I would have approved this administratively save for the size. I would recommend a negative #3.

**Item 4.6.** 51 Lake St. NOI: This permit is for a septic system repair. All the work is in the buffer zone. It needs to be noted that there is so vegetative debris in the buffer that will be cleaned up as part of the permit. When the DEP number is issued, I would recommend approval with the following special conditions: 20, 23, 24, 27-30, 34, 35, 38, 44, 51 & 57.

## **5.0 OTHER BUSINESS:**

**Item 5.1** 12 Ledge Ave, COC: Please see the letters in your packet concerning non-compliance with the OOC. I cannot recommend approval given this non-compliance.

**Item 5.2:** 22 Podunk Highway COC: All is ready for the COC to be granted. (Note this is the CSX auto transload facility and the Diversified truck repair facility. These are two separate sets of Orders {293-0779 & 293-0795} and both should be referenced in the vote.) there will be two releases to be signed.

**Item 5.3.** 19 Jolicoeur Ave. COC: All is ready for the COC to be granted

**Item 5.4.** 14 I Capen Road: COC: All is ready for the COC to be granted

**Item 5.5.** Amendment 20 & 32 McCormick. In your packets you will find a narrative of proposed and already undertaken changes to this solar project. Some of these changes, e.g. the drainage pipe under the access road, were "authorized" by me and the CESSWI when the equipment was on site and the work started since the site conditions required these changes, on the provision that amendments be submitted. I would recommend an amendment to the existing Orders vis-a via a new Notice.

## **6.0 AGENT REPORTS:**

**Item 6.1. Enforcement Order, 144 Mechanic:** I have written several letters concerning this issue. A lot of this correspondence has been ignored. Given the way the COVID-19 has interfered with the timing of Commission meetings, I am going to ask Commission to issue the enforcement order in your packet. The Town Attorney had rendered an opinion that this process is legal. The Order requires an NOI be filed for all of the originally approved work in jurisdiction that was not completed, e.g. detention basins and mitigation plantings, unless the applicant can prove they are complete.