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# Conservation Commission – Town of Spencer



## Minutes

Conservation Commission Meeting  
Wednesday, August 26, 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: 1-877-309-2073 AND USE ACCESS CODE: 956-800-205**

**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, Margaret Emerson, Mary McLaughlin, Robert Perry and Warren Snow

Commissioners Absent:

Staff present: George Russell, Jane Green

Staff absent:

**Minutes Approved:** *A motion to approve the minutes of August 12, 2020 (Perry/Bellemer) passed 5/0.*

**Signed:** There were no items to sign.

**7:03 p.m. 4.1 Continued the Public Hearing for the Notice of Intent for Spencer Solar II LLC**

**Property: Charlton & Bacon Hill Roads, Spencer, MA DEP#293-0984**

Steve Pikul from Bertin Engineering, Attorney TJ Recupero, Jeremy Chapman, and Elio Qorri from Bertin Engineering joined the meeting. Mr. Mr. Pikul said that they would like to follow the lead of the Planning Board and submit the Subdivision plans and NOI. Mr. Pikul wanted to know if there were questions from the board. Mr. Russell said that the Peer Review stated there was a significant amount of outstanding work that needs to be addressed. In addition, the project Engineer informed Mr. Russell that based on test pits, the Stormwater engineering is being re-done. Also, the application does not meet zoning and therefore has not been accepted by the Planning Board. Mr. Pikul pointed out that they did not receive the Peer Review comments until 2 weeks ago from the Town Planner. There was a discussion of when the applicant received the Peer Review comments. Mr. Russell said that the Planning Board Peer Review was done by a different engineering firm. Mr. Recupero would like to work on a clear path with both boards. Mr. Pikul said they would like clarity at this point. Mr. Russell said that the Commission would like the 9 pages of comments from the SWCA Peer Review addressed. Mr. Perry asked if there was a way to incorporate those notes into a singular process. Mr. Russell said that we have not seen any revisions addressing the Peer Review comments. If the Planning Board accepts the application, BSC will be doing the Peer Review. Ms. McLaughlin said that what we are asking for are revised plans based on the 9 pages from the peer review. Mr. Snow said yes, to address the issues from the comments. Mr. Recupero gave an example of a vernal pool study. It cannot be done until Spring. There are some questions we cannot address right now. Mr. Bellemer said that we want you to acknowledge the questions and answer what you can at the present time. Mr. Pikul said that he will review the 46 comments. Of those he can do and can address, he will revise the plans and provide the Commission with a comment resolution form. Those will acknowledge the ones he has corrected and the ones he cannot correct. The Commission recommended to continue the meeting.

*At the request of the applicant, the hearing has been continued to September 23, 2020.*

**7:48 p.m. 4.2 Continued the Public Hearing for the Notice of Intent for the Town of Spencer Highway Department**

**Property: Paxton Road over Shaw Brook, Spencer, MA DEP#293-0989**

Mr. Russell said that DEP had technical details that the applicant needed to address and that they reviewed and accepted them. Peter Ellison from TEC was present for the remote meeting.

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

*A motion to approve with stipulations from the Agent's Report for 8/8/20*

*(Snow/Bellemer) 5/0 passed.*

**7:50 p.m. 4.3 Open the Public Hearing for the Notice of Intent for Edwin & Christine Mullens**

**Property: North Spencer Road, Spencer, MA DEP# 293-0986**

There is extensive delineation and proximity to estimated habitat, so the peer review is in the process.

*At the request of the applicant, the hearing has been continued to September 23, 2020.*

**7:51 p.m. 4.4 Open the Public Hearing for the Notice of Intent for Edwin & Christine Mullens**

**Property: North Spencer Road, Spencer, MA DEP#293-0987**

There is extensive delineation and proximity to the estimated habitat, so the peer review is in the process.

*At the request of the applicant, the hearing has been continued to September 23, 2020.*

**7:55 p.m. 4.5 Open the Public Meeting for the Request of Determination of Applicability for Stephen Dayutis**

**Property: 3 Sherwood Drive, Spencer, MA**

The applicant was not present. It was agreed to continue to September 9, 2020.

**7:58 p.m. 4.6 Open the Public Hearing for the Notice of Intent for John Lucey**

**Property: 17 Sherman Grove, Spencer, MA DEP#293-0994**

Mr. Russell said that two days ago the applicant decided to change the application.

The Commission agreed to continue the hearing to September 9, 2020 since the 7-day submission requirement was not met.

**7:59 p.m. 4.7 Open the Public Hearing to Amend the Order of Conditions for James Schwartz**

**Property: 32 McCormick Road, Spencer, MA DEP#293-0936**

Mr. Russell said that we received information that the abutter notifications were not sent out by certified mail. Based on that, there is a procedural defect problem. The recommendation that Mr. Russell discussed with Town Council was that the hearing not be opened, be re-advertised to September 26, 2020 and abutter notifications be sent out certified mail.

**8:02 p.m. 4.8 Open the Public Hearing for the Notice of Intent for Chris Chanis**

**Property: 47 Jolicoeur Avenue, Spencer, MA DEP#293-0993**

Jason Dubois from DC Engineering & Survey represented the applicant Chris Chanis.

Mr. Dubois said that there is a failing septic system cesspool. They want to replace it with a Title 5 Septic System. The Board of Health approved the plans. Mr. Russell said that he recommends approval with stipulations in his report. He said that there is significant vegetative debris within jurisdiction. The debris can remain or be removed. Mr. Dubois said the plan is to get rid of the debris.

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

*A motion for the NOI with stipulations in the Agent's report (Perry/Snow) 5/0 passed.*

**8:07 p.m. 4.9 Open the Public Hearing for the Notice of Intent for Sunpin Energy Services**

**Property: 22 Norcross Road, Spencer, MA DEP no file # has been issued.**

Mr. Russell said that this application is currently under Peer Review. He recommended to the Commission to do a site visit once the peer review is finished.

Jamie Boyd from Sunpin Solar joined the meeting. Douglas Olsen from 53 Norcross Road joined the meeting and said that he spoke with Peter & Carol Gaucher who own the land. They already cleared 42 acres of land that Sunpin agreed to use. Now Sunpin has moved their plans 3 times. The Gauchers have disability lawyers. Mr. Olsen works with disabled people and he thinks the Gauchers have some form of dementia. Mr. Bellemer wanted to know if the 40 acres were part of the Gaucher's property. Mr. Olsen said yes, they have over 275 acres that is being considered as a wildlife preserve. Ms. McLaughlin said that this is not a Conservation issue, this is between the Gauchers and Sunpin. Ms. Boyd said she was the original developer on this project and that any clearing was because of Pete & Carol. Sunpin has not sanctioned construction on the property. When they do, it will be with their own money. Mr. Russell said that what the abutters are talking about is a legal issue. Ms. Boyd said that if Mr. Olsen would like to talk to Sunpin she would recommend talking to Dale Kiley, the Gaucher's Attorney. Mr. Olsen is concerned with Conservation because of the 40 acres of land that was cleared. Ms. McLaughlin said that those issues are for DCR but not conservation. Steve Herzog from Wood Environmental Infrastructure wanted to know what the status of the Peer Review was. Mr. Russell said the Town Administrator just signed the contract and it was given to BSC to proceed.

*At the request of the applicant, the hearing has been continued to September 23, 2020.*

**8:19 p.m. 4. 10 Open the Public Hearing for the Notice of Intent for Steve Goyette**

**Property: 101 Wilson Avenue, Spencer, MA DEP no file # has been issued.**

Mr. Russell said the applicant has to work out some legal issues with the project, so the hearing needs to be continued.

*At the request of the applicant, the hearing has been continued to September 9, 2020.*

**5.0 Other Business:**

**5.1 129 Wilson Avenue – Discussion:** The applicant had sent a letter to Mr. Russell and said she wanted to talk to the Commission at the meeting. She was not present for the remote meeting. No action taken or discussion held.

**5.2 3 Jolicoeur Avenue – Discussion:** The applicant was not present for the remote meeting. No action taken or discussion held.

**5.3 51 Lake Avenue – Permit Amendment:** The revised map came in today. Due to the 7-day policy, this will have wait until the September 9, 2020 meeting to be discussed.

**5.4 214 North Spencer Road – Request for Extension:** Mr. Russell reached out to the applicant and found out that the Septic System was never done. The owner wants to keep his options open. Ms. Emerson said that she remembered this, and it was failing terribly. It was bubbling out of the ground. There was discussion amongst the Commission about what should be done.

*A motion to deny the request for extension (Perry/Snow) 5/0 passed.*

**Agent's Report:**

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

New Applications: RDA – 70 Hastings Road

*A motion to adjourn the meeting at 8:32p.m. (Emerson/Perry) 5/0 passed.*

Respectfully submitted by:

\_\_\_\_\_  
Jane Green, Senior Clerk  
Development & Inspectional Services

Documents Reviewed at 8/26/20 Conservation Commission Meeting

Agent's Report 8/22/20

Minutes 8/12/20

Continuance form Charlton & Bacon Hill Roads

Order of Conditions Paxton Road over Shaw Brook

Continuance form Lot 1 and Lot 2 North Spencer Road

Continuance form 3 Sherwood Drive

Continuance form 17 Sherman Grove

Order of Conditions 47 Jolicoeur Ave

Continuance form 22 Norcross Road

Continuance form 101 Wilson Ave

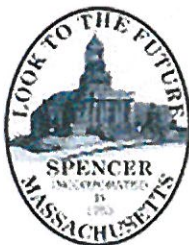
# Town of Spencer, Massachusetts

## 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: 8/26/20 (revised)

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

**Item 4.1.**Continued NOI Bacon Hill & Charlton Rd.: The application has still not been accepted by the Planning Board since it does not meet the zoning regulations. It is my opinion that the plans will change. Bearing in mind that this permit was filed in early February, we have not taken any testimony, we are starting to approach the time line shown by the solar array application on Ash St. I recommend the permit be denied for lack of information.

See peer review report in your packets to understand how much work remains.

**Item 4.2.** North Spencer Road, NOI MA DEP#293-0986: This application, as well as item 4.3 need peer review given the extensive delineation and proximity to an estimated priority habitat. In light of this, I recommend both hearings be continued until the peer review is complete. It also should be noted that we did not receive an electronic copy of these applications and as such they could be considered incomplete.

It needs to be noted that the peer review fee has been sent to the applicant and the applicant's engineer sent it to the Town Administrator.

**Item 4.3** 3 North Spencer Road, Spencer MA DEP#293-0987: See above item.

**Item 4.4. 3 Sherwood Drive, RDA:** This permit is to pave and existing gravel driveway. I would recommend a negative #3.

**Item 4.5. 17 Sherman Grove, NOI:** this permit is for additions to the existing structure. I have conducted a site inspection and would recommend approval with the following stipulations: 20, 21, 23, 24, 27, 29, 30, 34, 37-41, 44, 47, & 51-54.

**Item 4.6. Amend the Order of Conditions for 32 McCormick Road, DEP#293-0936:** See the material in your packet. It is my opinion, and that of Graves Engineering, the stormwater inspector on site, that these changes will greatly improve the drainage and eliminate problems including icing. I would recommend the amendment be approved and all original stipulations remain in force.

**Item 4.7. 47 Jolicoeur Avenue, NOI:** this permit is for a new septic system. I have reviewed the plans and discussed the project with the project engineer. There is a large area of cut down tree branches within jurisdiction. I would recommend we make the removal and/or allow them to stay part of the permit. I would recommend the following stipulations be attached to the Orders: 20, 21, 23, 24 27-30,34, 37-39, 41, 44, 46, 47,51, & 54.

**Item 4.8. 22 Norcross NOI:** This site previously had an ANRAD approved to delineate the wetlands. This permit is to change the access way and given that it involves a stream crossing, it has been sent out for peer review which is almost ready to go. I would recommend the hearing be opened and continued until such time as peer review is complete.

**Item 4.9. 101 Wilson Ave. NOI:** This permit is to construct a new septic system with the tanks being within jurisdiction and the leaching fields across the street and out of jurisdiction. I have conducted a site inspection and have clarified some issues with the project engineer. We do not yet have an NOI number and the hearing will need to be continued until we receive the number. In addition, the applicant has requested a continuance to work out some legal issues. If the application is approved, I would recommend the following special conditions: 20, 21, 23, 24, 27, 29, 30, 34, 37-41, 44, 47, 51-54 and a special conditions that reads: "All easements required to complete the project, must be executed prior to the beginning of any work."

## **5.0 OTHER BUSINESS:**

**Item 5.1 129 Wilson Ave.:** The Commission has issued an EO on this site for leaves placed in the stream channel and the owner has requested an opportunity to discuss this with the Commission. The EO required an NOI/Restoration plan be filed by 8/7/20, but the request to discuss the issue has stayed that date.

**Item 5.2. 3 Joicouer:** In your packets you will find correspondence and background information on the site and issues. The work is complete but was undertaken in two resource areas: riverfront and 100 year flood zone. As such, I believed a permit was necessary, especially given that when I saw the work in progress, there were mounds of

dirt piled up within jurisdiction. I still believe a permit is required and given that the work was in multiple resource areas, the statute and 310 CMR 10.00 requires an NOI.

It should be pointed out however, that I was initially concerned about the loose soil washing into the Cranberry River down the steep slope in the proximity of the work. Fortunately, this did not happen.

**Item 5.3. 51 Lake Ave:** In your packets there are copies of correspondence with the applicant's engineer concerning work that was beyond what was approved. The Orders need to be amended and the question before the Commission is would an amendment suffice or is a new NOI necessary. I would recommend an amendment.

I have also recently learned that the owner of 51 Lake purchased the adjoining property (parcel U27-42) from Central Land Development back in October 2019. My office has a notice of violation on this property for the deposition of vegetative debris. I would recommend that any amendment to the OOC to include the removal of said debris.

**Item 5.4. Request for extension, 214 Old North Spencer Road:** This permit would have expired on 6/17/20 if not for the stay based on COVID-19. As per the Commission's request, I have reached out to the applicant, and the applicant's engineer who e-mailed me to find out what the status of the request was, to determine why the septic work has not been done.

In your packets is a letter from the applicant indicating that the new system was never done and never needed. The Owner wants the permit extended to keep his options open if the system is needed in the next three years.

## **6.0 AGENT REPORTS:**

There is nothing new to report.