

# Conservation Commission – Town of Spencer

## *Minutes*



Conservation Commission Meeting  
Wednesday, September 23, 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: 471-088-525**

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

Commissioners Absent: Charlie Bellemer

Staff present: George Russell, Jane Green  
Staff absent:

RECEIVED

OCT 20 2020

*Sue Johnson*  
Spencer Town Clerk

**Minutes Approved:** *A motion to approve the minutes of September 9, 2020 (Perry/Emerson) passed 4/0 with a roll call vote: Perry-yes, Snow-yes, Emerson-yes, McLaughlin-yes*

**Signed:** There were no items to be signed.

**7:10 p.m. 4.1 Opened the Public Hearing for Notice of Intent for Bertin Engineering Property: Charlton Bacon Hill Roads, Spencer, MA DEP#293-0984**

Mr. Russell said that Conservation has not yet received revised plans nor were they submitted to Peer Review. T.J. Recupero, Jeremy Chapman and Steve Pikul represented the applicant and joined the meeting. Mr. Pikul said that they wanted to review the comments, edit, and not duplicate their efforts. Mr. Pikul provided a roadmap to dissect comments from SWC group and BSC. They would like to address all comments once and do not want the applicant to spend twice as much money. Ms. McLaughlin asked if the plans were delivered to BSC. Mr. Pikul said that they have not been delivered. Mr. Recupero said that they would submit plans to BSC. Mr. Chapman said that they did get communication yesterday from Mr. Russell but they were waiting on an address. Mr. Russell said the address was forwarded to Bertin Engineering by the peer reviewer. They will send the plan and comments to Gillian Davies.

*At the request of the applicant, the hearing has been continued to October 14, 2020.*

**7:24 p.m. 4.2 Opened the Public Hearing for the Notice of Intent for Edwin & Christine Mullens**

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

Mr. Russell said that the applicant requested continuance due to survey issues.

*At the request of the applicant, the hearing has been continued to October 14, 2020.*

**7:25 p.m. 4.3 Opened the Public Hearing for the Notice of Intent for Edwin & Christine Mullens**

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

*At the request of the applicant, the hearing has been continued to October 14, 2020*

**7:26 p.m. 4.4 Opened the Public Hearing to Amend the Order of Conditions for James Schwartz**

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

Attorney Betsy Mason, Paul McManus and James Schwartz joined the meeting. Mr. Russell said that the amendments that were requested were for work that has already been done. The work was recognized as needed by the CESSWI inspector and Mr. Russell. The work is the installation of culverts on the site to better handle the stormwater run-off that's anticipated. There is no impact on the public right-of-way and the modifications are underground. There is a 24-ft impact to both banks to the stream on either side.

Jonathan Viner wanted to know if there was a plan submitted delineating the changes. Ms. McLaughlin told Mr. Viner that there were plans and they were done by Power Engineers L.L.C. David J. Columbo. Rebecca Baptista, from Silva Engineering,

joined the meeting. She wanted to know if the plans showed the exact location as surveyed and if it was an after the fact. Ms. McLaughlin said yes it was. Mr. Viner wanted to know if the plans were forwarded for Peer Review. Mr. Russell said that they were reviewed by the CESSWI inspector who is working for the town. He is the one that recommended it. Ms. Mason said that the inspector recommended it for erosion control. The inspector and Mr. Russell considered that it was a minor change. Mr. Viner wanted to know if there were any materials submitted to substantiate the degree of change. Mr. Russell said that working with Lenard Engineering, who is the Peer Reviewer for this project, this is the plan that they would approve and recommended. In essence, it did not go to peer review but the Peer Reviewers said this is what we should do. Mr. Viner said that the Peer Reviewer is Graves. Mr. Russell said that he stood corrected, it is Graves, and it is approved and recommended. Mr. Viner wanted to know how this came about. Mr. Russell said that it was reviewed by a professional Engineer, Jeff Walsh who is the on-site CESSWI. Mr. Viner said that the formal process was not followed. Mr. Russell said that it was followed and did not rise to the level of a Peer Review. James Schwartz said that the Design Engineer submitted to the Commission and Mr. Russell. Paul McManus from Ecotec wanted to address Mr. Viner's comments. He did submit, on behalf of the applicant, a formal request to amend with appropriate procedural practices. He paid the fees and notified the abutters and sent the certified abutters list and submitted his analysis as a registered Professional Wetland Scientist. Ms. Babbista read the report from October regarding this project.

*A motion to close the public hearing (Perry/Snow) 4/0 passed.*

*A roll call vote Perry-yes, Emerson-yes, Snow-yes, McLaughlin-yes.*

*A motion for approval of the amendment (Snow/Perry) 4/0 passed.*

*A roll call vote Perry-yes, Emerson-yes, Snow-yes, McLaughlin-yes.*

**7:45p.m. 4.5 Opened the Public Hearing for the Notice of Intent for Sunpin Energy Property: 22 Norcross Road, Spencer, MA DEP#293-2996**

Mr. Russell said that we received the comments from DEP about this project. The peer review comments were received yesterday. The plans are going to require extensive revisions.

*At the request of the applicant, the hearing has been continued to October 14, 2020.*

**7:50 p.m. 4.6 Opened the Public Hearing for the Notice of Intent for Steve Goyette Property: 101 Wilson Avenue, Spencer, MA DEP#293-0995**

Jason Dubois joined the meeting representing Steve Goyette. The house is on Stiles Reservoir and has a failed cesspool. The project is to upgrade the septic system. Ms. McLaughlin wanted to know about the easement. Mr. Russell said that the piping goes on adjoining property. Mr. Dubois indicated they are going to execute an easement to allow this to happen. Mr. Russell recommends in his Agent's report that this easement be executed prior to any work being done.

*A motion to close the public hearing (Perry/Snow) passed 4/0.*

*A roll call vote: Perry-yes, Emerson-yes, Snow-yes, McLaughlin-yes*

*A motion to approve the plans and Agent's report (Snow/Perry) passed 4/0.  
A roll call vote: Perry-yes, Emerson-yes, Snow-yes, McLaughlin-yes*

### **Other Business:**

**Discussion – 3 Jolicoeur Avenue:** Mr. Russell said that work was done without a permit. There are two resource areas. The owners were not present. Mr. Russell issued a Stop Work Order and a Notice of Violation on June 18, 2020. The actual property owner lives in Florida. He spoke with the tenant and recommended an NOI.

**Discussion – 129 Wilson Avenue:** Mr. Russell said that leaves were deposited in the stream channel. He asked Nancy Paquette to file an NOI and to hire a wetlands scientist. Ms. Paquette joined the meeting and said that she went to New Bond street to file and she has receipts from February 22, 2020. Mr. Russell said that the DEP posts on their website all of the applications. It was not on the website. Mr. Russell said that we never received any of that paperwork to show it was filed. Therefore, the Commission denied the application because of lack of information.

Ms. McLaughlin said that Ms. Paquette needs to take this up with DEP. There was an Enforcement Order issued after the application was denied. Mr. Russell indicated that the Commission needs to decide what should be done with the E.O. He said that the debris, leaves, etc. need to come out of the stream channel, because they are going to impact the drainage in that area. It is creating an artificial damming affect. Mr. Russell thinks the E.O. should remain and that the work should be done at a determined date that the Commission would decide. Ms. Paquette said that she thought there would be more damage if the leaves were taken out. Mr. Russell said that it is violating the Wetlands Protection Act and the Town of Spencer bylaw by filling in a stream channel. It is impacting land under water body, a flood plain and bank. He recommends Ms. Paquette get an opinion from a Wetland Scientist whether the materials should come out or not. Ms. Paquette said that she did not know that the application was denied. She said that to get this done is going to cost her thousands and thousands of dollars. She thinks there are other things that are more substantial like dirt moving than leaves. Ms. Paquette said she went away and when she came back there was dirt being disturbed. Mr. Perry said that this is not about the natural deposition of leaves. This is about piles of leaves in the stream. Ms. McLaughlin said that the property owner is responsible for this. Ms. McLaughlin told Ms. Paquette that there is a deadline to get a wetland scientist by November 14, 2020.

### **Agent's Report:**

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

New Applications:    Amended Oof C – 51 Lake Avenue  
                              RDA – 35 Old Farm Road  
                              RDA – Hastings Road Lot 3  
                              NOI – 16 Stiles Avenue

*A motion to adjourn the meeting at 8:18 p.m. (Perry/Emerson) passed 4/0.  
A roll call vote: Perry-yes, Emerson-yes, Snow-yes, McLaughlin-yes.*

Respectfully submitted by:

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Jane Green, Senior Clerk  
Development & Inspectional Services

Documents Reviewed at 9/23/20 Conservation Commission Meeting

Agent's Report 9/23/20

Minutes 9/9/20

Agenda 9/23/20

Conservation Commission Packets

Continuance form Charlton Bacon Hill Roads

Continuance form North Spencer Road Lots 1 and 3

Amended Order of Conditions 32 McCormick Road

Continuance form 22 Norcross Road

Order of Conditions 101 Wilson Ave



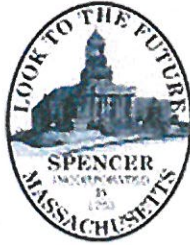
# Town of Spencer, Massachusetts

## 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: 9/23/20

#### **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 timeline shown by the solar array application on Ash St.

We have not received the revised plans that were promised at the last meeting to send for peer review and thus the hearing should once again be continued.

**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 recommended both hearings be continued until the peer review is complete.

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. See packet information.

You will also note in your packets, an e-mail from the project engineer, questioning the cost of peer review. I have discussed this with our reviewer (Gillian Davies from BSC) and there are three things to bear in mind: (1) the project in Sturbridge was NOT the same as the project in Spencer in that the review was different; (2) given the extensive

delineation, Mr. Krevosky's claim that the line is obvious is immaterial in that the line still needs to be checked; and (3) there is a probability that some of the peer review funds will not be used and will be returned to the applicant. To have less funds than may be necessary would require change orders to the contract if more funds are needed and stopping the work until those funds are received. I do not believe this is in the best interests of anyone.

**Item 4.3.** North Spencer Road, NOI: MA DEP#293-0987: See item 4.2.

**Item 4.4.** 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 CESSWI on site, that these changes will greatly improve the drainage and eliminate problems including erosion on site.

In my opinion, it is very important that the Commission read the narrative description of the changes in your packet and item C on the abutter notifications. It is argued by the applicant that within the original stipulations, cited in the narrative, that this change is in fact already authorized. Should the Commission agree with this position, I believe a formal vote should be taken to recognize the Commission's opinion.

I have included in your packet the latest inspection reports on this project to show that we are in fact "on top of" what is happening on site.

Should the Commission still believe that the changes do in fact rise to the level of an amendment, I would recommend the amendment be approved and all original stipulations remain in force.

**Item 4.5.** 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 underway. I would recommend the hearing be continued until such time as peer review is complete and the Commission has had a chance to inspect the site.

**Item 4.6.** 101 Wilson Ave. NOI: We do not have the NOI number for this permit as of yet. The permit is for a new septic system and was continued from the last meeting at the request of the applicant. 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 and a copy of said executed easements shall be submitted to the Health and Conservation Departments prior to building permit sign off."

## **5.0 OTHER BUSINESS:**

**Item 5.1** 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 5.2 129 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.

In your packet, is another request to address this issue and a letter from me concerning the lack of discussion at the 8/26/20 meeting.

I take issue with the contention that there was no notification since a copy of the agent's report and the agenda were sent to the applicant. We have sent a copy of tonight's agenda to her via certified mail as well as e-mail.

## **6.0 AGENT REPORTS:**

### **Item 6.1.**