

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, October 14, 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

RECEIVED
SPENCER TOWN CLERK
Bryan D. Johnson
2020 OCT 29 AM 9:19

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 September 23, 2020 as amended (Emerson/Perry) passed 5/0 with a roll call vote: Bellemer-yes, Perry-yes, McLaughlin-yes, Snow-yes, Emerson-yes*

Signed: There were no items to be signed.

7:15 p.m. 4.1 Continued the Public Hearing for the Notice of Intent for Bertin Engineering

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

Mr. Russell said that the applicant has submitted revised plans and all that was requested from the peer reviewers. It is currently out to BSC for Peer Review. The representative, Steve Pikul, joined the meeting and agreed to continue to October 28, 2020. Gary Woodbury, a resident joined the meeting and could not find the plans online. The office will add the revised plans to the Spencer website.

At the request of the applicant, the hearing has been continued to October 28, 2020.

7:16 p.m. 4.2 Continued 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 we have received the Peer Review payment. The contract is in the Town Administrator's office and as soon as it is signed, peer review can begin. Glenn Krevosky, the applicants' representative, joined the meeting. Mr. Krevosky asked if we could wait on the peer review. He does not want the client to have to spend any more money than they already have. Ms. McLaughlin asked if there is going to be a plan revision. Mr. Krevosky said that there is going to be a revised plan, and they would like to continue in a month. Mr. Russell said that we still have to get the contract signed. When the contract is signed, we will inform the peer reviewer that a revision to the plan is forthcoming and hold off the review until it is submitted.

At the request of the applicant, the hearing has been continued to November 18, 2020.

7:16 p.m. 4.3 Continued the Public Hearing for the Notice of Intent for Edwin & Christine Mullens

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

See above 4.2

At the request of the applicant, the hearing has been continued to November 18, 2020.

7:21 p.m. 4.4 Continued the Public Hearing for the Notice of Intent for Sunpin Energy Services

Property: 22 Norcross Road, Spencer, MA DEP#293-2996

Mr. Russell said that the initial peer review comments have been submitted to the developers. They are revising plans accordingly.

At the request of the applicant, the hearing has been continued to October 28, 2020.

7:24 p.m. 4.5 Opened the Public Hearing for the Request to Amend the Order of Conditions for Peter & Carrie Bowler

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

Brian MacEwen from Graz Engineering joined the meeting. Mr. MacEwen said the plan to clear the area to provide parking and relocate two sheds. The site work is 50 feet from the BVW. Mr. Russell said that this change came about due to a routine inspection. Mr. Russell recommended an amendment be granted and stipulations remain in place.

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

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

A motion to approve the amendment with the conditions in the Agent's Report (Snow/Perry) passed 5/0.

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

7:31 p.m. 4.6 Opened the Public Meeting for the Request for Determination of Applicability for Geoffrey & Amanda Landstrom

Property: 33 Old Farm Road, Spencer, MA

Scott Morrison from EcoTec joined the meeting to represent the applicant. The applicant is looking to construct a garage edition. There is a tree that needs to be removed. They plan to plant another tree to replace the one that they remove.

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

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

A motion to approve with a negative #3 Determination (Snow/Perry) passed 5/0.

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

7:38 p.m. 4.7 Opened the Public Meeting for the Request of Determination of Applicability for J Dubois Contracting LLC

Property: Hastings Road Lot 3, Spencer, MA

Jason Dubois joined the meeting. The project is a single-family house with a septic system. The permit is required since the final grading for the system is in the 100' buffer. Mr. Russell recommends a negative #3 determination.

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

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

A motion for a negative #3 Determination (Perry/Bellemer) passed 5/0.

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

7: 45 p.m. 4.8 Opened the Public Hearing for the Notice of Intent for John Mahaney
Property: 15 Stiles Avenue, Spencer, MA DEP#293-0997

Jason Dubois represented the applicant. The plan is to demolish the existing home on the property and build a new home. The closest point of the structure is 26 feet away from the shoreline. Mr. Russell wanted to know if there was something structurally wrong with the house. Mr. Dubois said that it is an old camp house, and they want to upgrade the whole structure. Mr. Russell recommends approval.

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

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

A motion to approve the NOI with stipulations in Agent's Report (Snow/Perry) passed 5/0.

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

5.0 Other Business:

5.1 – EO 135 Smithville - disregard

5.2 – Sale of Chapter 61A Land – Mr. Russell said that this is a question of right of first refusal for this municipality. The ANR lots have already been approved and it is currently being developed. Mr. Snow remembered that the Commission already discussed this and agreed on it. Mr. Russell said that since we received the formal Right of first refusal, the Commission must make a new recommendation on it.

A motion to recommend no purchase on the first right of refusal (Perry/Bellemer) passed 5/0.

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

5.3 – Discussion – 3 Jolicoeur– Septic – James Cooper who is the tenant joined the meeting. The owner lives in Texas. Mr. Russell said that he drove by the property and saw work being done. He talked to the tenant Heather Cooper. They were working on the septic in multiple resource areas. Based on that, he issued a Stop Work Order. The statute, as well as 3.10 CMR.10.00 states that working in the resource area requires an NOI. Mr. Cooper hired Gabriel Berthiaume from Slims Septic. He said that there was an alarm going off in the unconventional septic system. The filter sand was too coarse. Mr. Berthiaume assessed the situation. He went to the town and spoke to somebody, and they did not think a permit was required. Mr. Berthiaume brought topsoil in to cover the ground where the equipment was going. There was a discussion about the filter that is in a box on top of the ground. Inside of the box is a liner which holds all the water. Mr. Cooper said it is about 3 or 4 feet deep. The sand gets pumped into it. Ms. McLaughlin wanted to know what it looks like. Mr. Cooper said it is like a sandbox. They took old sand out and added new sand. There was no disturbance. Mr. Russell was concerned that the sand could start moving, and what happens the next time something like that takes place. Ms. McLaughlin said that an NOI should be filed without a wetland scientist. Mr. Berthiaume said that he spoke with Lisa the BOH agent. She said that it was a minor repair. Mr. Berthiaume said that it did not appear that they were close to the wetlands. But then he looked at old plans and could see that they were close to the wetlands.

A motion to require an NOI at 3 Jolicoeur (Perry/Snow) passed 5/0.

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

5.4 – 101 Clark Road – CoFC- Mr. Russell said that all is ready for the request to be granted.

*A motion to issue the Certificate of Compliance (Perry/Bellemer) passed 5/0.
A roll call vote: Bellemer-yes, Perry-yes, McLaughlin-yes, Snow-yes, Emerson-yes.*

Agent's Report:

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

New Applications: Amended OofC – 57 Oakland Drive
RDA- 98 Chickering Road
NOI – 111 Wilson Avenue

A motion to adjourn the meeting at 8:24 p.m. (Perry/Bellemer) passed 5/0.

Respectfully submitted by:

Jane Green, Senior Clerk
Development & Inspectional Services

Documents Reviewed at 10/14/20 Conservation Commission Meeting

Agent's Report 10/14/20

Minutes 9/23/20

Agenda 10/14/20

Conservation Commission Packets

Continuance form Charlton Bacon Roads

Continuance form Lots 1 and Lots 3 North Spencer Road

Continuance form 22 Norcross Road

Amended Order of Conditions 51 Lake Avenue

RDA 33 Old Farm Road

RDA Hastings Road Lot 3

Order of Conditions 16 Stiles Avenue

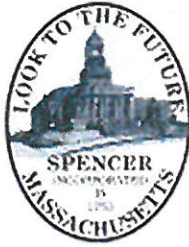
Certificate of Compliance 101 Clark Road

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
Conservation Agent



Memorial Town Hall
157 Main Street
Spencer, MA 01562

Tel: 508-885-7500 ext.
180

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

TO: Conservation Commission

FM: George Russell, AICP
Conservation Agent

RE: Agent's Report

DATE: 10/14/20

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 exceed the timeline shown by the solar array application on Ash St.

We finally received the revised plans on 9/30/20, and they have been sent to our peer reviewer. However, not all of the necessary information was forwarded and the BSC is still waiting on some information. In light of this, as well as the above, I recommend that the hearing be once again continued. I want to go on record however, that if the issues involving this proposed development are not resolved in the next few weeks, I am going to once again recommend the permit be denied due to a lack of information.

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's engineer and he sent it to the Town Administrator. I have generated two letters to the applicant requesting the peer review fee be paid but these funds have not yet been submitted.

In addition, the applicant's engineer has now submitted a request for an amendment of the NOI. 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.

Until the funds for peer review are submitted, and peer review is complete, I recommend that no action be taken on this application. However, if the peer review fee is not submitted within the next couple of weeks, I will recommend both applications be denied for lack of information. Bear in mind, that if the denial is appealed to DEP, the local wetlands by-law still must be complied with and that means the applications much be resubmitted to the Commission.

These applications were submitted in May.

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

Item 4.4. 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 4.5. 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 this is what is before the Commission tonight and is based on the decision of the Commission that an amendment is appropriate for the changes.

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.

On 9/30/20, I received a call to do an inspection since all the work was done. My inspection revealed that the septic work itself is done, but the work which is the subject of this amendment is not. There is a lot of unconsolidated soil and a large rock pile on site. Further, the vegetative debris is still on site along with a number of pieces of PVC pipe.

Item 4.6. 33 Old Farm Road, RDA: This permit is to build a garage, remove a large maple tree and plant a "replacement" maple tree. I have reviewed the application, conducted a site inspection and had correspondence with the owner and the owner's consultant. The tree is about 40' from the BVW and the garage about 50'. As long as the erosion control barriers are maintained and are placed between the tree to be removed and the BVW, I do not see any issues and would recommend a negative #3 with the condition on the placement of the erosion control barrier.

Item 4.7. 70 Hastings Road, RDA: This permit was originally submitted for an administrative approval. However, the applicant decided to move the impact closer to the resource area and I recommended an RDA be filed. The project is for a new house and septic system and it is the latter which triggers the permit. I have reviewed the application and inspected the site and would recommend a negative #3.

Item 4.8. 16 Stiles Ave. NOI: The DEP number has been issued for this permit application. I have reviewed the application and conducted a site visit. The application is to demolish the existing house and build a new one. When approved, I would recommend the following special conditions: 20, 21, 23, 24, 27, 29, 30, 34, 37-41, 44, 47, & 51.

5.0 OTHER BUSINESS:

Item 5.1 Enforcement order, 135 Smithville: In your packets you will find background information on the violation at this address. I have not heard from the owner on this issue and would request the Commission issue the enforcement order which is in the packets. (NOTE: THIS ITEM WAS PLACED ON THE AGENDA/REPORT IN ERROR.)

Item 5.2: Referral on Chapter 61A land: In your packets is information on the sale of 2 lots on Hastings Road and the town's right of first refusal. If these lots had not been created by the ANR process, I would recommend the town exercise their right to purchase, but since the lot have in fact been created, I do not see any reason why the town should own them.

Item 5.3. 3 Joicouer: In your packets you will find correspondence and background information on the site and issues. This has been on the last two agendas. The tenant of the property was sick and could not call in and thus it is on this agenda. 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 require an NOI.

Item 5.4. 101 Clark Road COC: All is ready for the release to be granted.

6.0 AGENT REPORTS:

Item 6.1. I would like to purchase a new desk since the one I have is third hand and the draws are broken; if pulled a bit too hard, they fall on one's feet, namely mine. (and this has happened) I would like to purchase this from the wetlands filing fee account and estimate the cost to be up to \$1,000. I would like the Commission's OK on this.

The current balance in the wetlands filing fee account exceeds 20K but the town administrator will be asking for 10K when the budget process begins.