

# Conservation Commission – Town of Spencer



## Minutes

Conservation Commission Meeting  
Wednesday, February 24, 2021 at 7:00 PM  
Town Hall, McCourt Social Hall

RECEIVED  
SPENCER TOWN CLERK  
2021 MAR 1 AM 9:02  
*Reynold Johnson*

**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.**

Please join the meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/830164061>

**IN ORDER TO CALL IN, PLEASE CALL: 1-866-899-4679 AND USE ACCESS CODE: 830-164-061**

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

**PLEASE MUTE PHONES & TV'S AT ALL TIMES EXCEPT WHEN SPEAKING!**

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

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

Commissioners Absent:

Staff present: George Russell, Jane Green  
Staff absent:

**Minutes Approved:** *A motion to approve the minutes of February 10, 2021 as amended (Snow/Emerson) passed 5/0 with a roll call vote: McLaughlin-yes, Emerson-yes, Perry-yes, Snow-yes, Bellemer-yes.*

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

**7:07 p.m. 4.1 Continued the Public Hearing for Notice of Intent for Bertin Engineering**

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

Mr. Russell said that we have not received the funding for the peer review or the final peer review due to snow on the ground.

*At the request of the applicant, the hearing has been continued to March 10, 2021.*

**7:10 p.m. 4.2 Continued the Public Hearing for the Notice of Intent for Gordon Letour**

**Property: 10 Meadow Road, Spencer, MA DEP#293-1007**

Mr. Russell recommended to continue because peer review is not completed and there is no DEP number.

*At the request of the applicant, the hearing will be continued to March 24, 2021.*

**7:12 p.m. 4.3 Continued the Public Hearing for the Notice of Intent for Christine & Edwin Mullen**

**Property; Lot 1 North Spencer Road, Spencer, MA DEP#293-0987**

Mr. Russell said that we received a request to continue the hearing.

*At the request of the applicant, the hearing has been continued to March 10, 2021.*

**7:13 p.m. 4.4 Continued the Public Hearing for the Notice of Intent for Richard Leveille**

**Property: Hastings Road, Map 43, Parcel 16/1, Spencer, MA DEP#293-1008**

Mr. Russell said that the DEP has had several comments about this project. The applicant is in the process of preparing a stormwater report.

*At the request of the applicant, the hearing has been continued to March 24, 2021.*

**7:15 p.m. 4.5 Opened the Public Hearing for Amendments to Section 1.5 of the Wetlands Regulations**

Mr. Russell said that there are two proposed amendments recommended by Counsel. The first one is to define forest land, and the second amendment is to indicate that the no-touch zone is in conformance with the bylaw or any restrictions under section 16.4 of the bylaw. Ms. Emerson wanted to know what the definition of forest land was. The Town Attorney recommended the definition of forest land is "Any land that is used primarily for the production of timber or is dominated by the presence of trees".

*A motion to make these amendments effective March 1, 2021(Snow/Emerson) passed 5/0.  
All in favor: Snow-yes, Bellemer-yes, Perry-yes, Emerson-yes, McLaughlin-yes*

## **5.0 Other Business:**

### **5.1 63 Browning Pond Road – Extension OofC**

Mr. Russell said that he recommends the extension be granted. There is a collapsed structure on the property. Aaron Langlois joined the meeting to represent the Boy Scouts. Mr. Langlois said that the land was given to them and they have never really used it. For the last 5 years they have been working on removing all of the dilapidated buildings.

*A motion to grant the extension at 63 Browning Pond Road (Perry/Bellemer) passed 5/0.  
All in favor: Bellemer-yes, Perry-yes, Snow-yes, Emerson-yes, McLaughlin-yes.*

### **5.2 6 Condon Drive**

Mr. Russell said that while doing an inspection, he observed 3 pvc pipes extending from the Bank into a tributary of the 7-mile River. He spoke with the owner who said the pipes were there when he bought the house. They were installed sometime in the 1990's. According to DEP and Town records, there is no record of a permit for them. Mr. Russell checked with the circuit rider from DEP. They said that a violation exists, but it is up to the Commission to decide what to do. It should not be ignored because it is in two resource areas. Mr. Russell recommended the owner file an RDA. There was discussion amongst the Commission about removing the pipes versus keeping them in the ground. It would be more detrimental to remove the pipes.

*A motion to require the owner to file an RDA for the drainage pipes (Bellemer/Perry) passed 5/0.  
All in favor: Bellemer-yes, Snow-yes, Perry-yes, Emerson-yes, McLaughlin-yes.*

### **5.3 Brooks Pond – Extension OofC**

Mr. Russell said that based on the year-end report, he recommends extending the OofC.

*A motion to extend the Order of Conditions to 3 years (Perry/Snow) passed 5/0.  
All in favor: Snow-yes, Perry-yes, Bellemer-yes, Emerson-yes, McLaughlin-yes.*

### **5.4 8 Valley View Drive – Release of Bond**

Mr. Russell recommend releasing the bond.

*A motion to release the bond at 8 Valley View Drive (Bellemer/Perry) passed 5/0.  
All in favor: Perry-yes, Bellemer-yes, Snow-yes, Emerson-yes, McLaughlin-yes.*

**5.5 43 GH Wilson Road – Extension OofC**

Mr. Russell said there has been a family issue. He recommends the extension be granted.

*A motion to extend the Order of Conditions at 43 GH Wilson Road (Perry/ Emerson)  
passed 5/0.*

*All in favor: Emerson-yes, Perry-yes, Bellemer-yes, Snow-yes, McLaughlin-yes.*

**Agent's Report:**

Mr. Russell said that the office has heard back from the court, and there is a remote magistrate's hearing on 4/1/21 at 9:30 a.m. for the unpaid citations given to Mr. Witt and Mr. Moore.

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

New Applications: 135 Smithville Road - RDA

*A motion to adjourn the meeting at 7:43 p.m. (Perry/Bellemer) passed 5/0.*

Respectfully submitted by:

  
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Jane Green, Senior Clerk  
Development & Inspectional Services

DOCUMENTS REVIEWED AT THE 2/24/21 CONSERVATION COMMISSION MEETING

Continuance for Charlton Bacon Hill Roads

Continuance for 10 Meadow Road

Continuance for Lot 1 North Spencer Road

Continuance for Hastings Road, Map 43, Parcel 16/1

Extension Permit OofC 63 Browning Pond Road

Extension Permit OofC Brooks Pond

Extension Permit OofC 43 GH Wilson Road

Agenda 2/24/21

Minutes 2/10/21

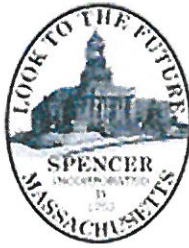
# Town of Spencer, Massachusetts

## 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  
Conservation Agent



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: 2/24/21

**2.0 Minutes:** Under item 4.2., fifth line, Grove St. should be Wilson St. This was my error.

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

**Item 4.1** Charlton & Bacon Hill Solar Project NOI: This application has still not been approved/acted upon by the Planning Board nor the ZBA. Peer review is on-going, revised plans have been submitted to BSC. The review has been put on hold pending snow melt.

BSC cannot accurately determine the wetlands line on portions of the site due to the "winter conditions". This determination was in your last packet. Therefore, the hearing needs to be continued and I would again recommend to at least the 3/24/21 meeting.

Also included in your packets is a copy of any correspondence concerning this application. This is being included since it has been alleged that there has been a lack of timely correspondence by my office as well as what was "said".

I would like to note that at every meeting the applicant informs the Commission of why they are not ready and every meeting we spend time, sometimes up to 20-30 minutes deciding if the hearing should be continued one meeting or pushed forward a month or

more. For the last few meetings, nothing has changed. Also, we have yet to receive the required additional peer review funds.

**Item 4.2. 10 Meadow Road, NOI:** This NOI is for a 4,000 ft<sup>2</sup> building addition with associated parking addition. I have recommended to the applicant that this needs to go to BSC for peer review; especially given that the Commission will be the storm water authority and the applicant is working in a riverfront. (See information in your packets on DEP's comments.) As of this report, as well as the one for the last meeting, it has not been submitted to them. Therefore, given the lack of action for peer review and the fact we do not have a DEP number, I would recommend this hearing be continued to 3/24/21.

**Item 4.3.: Public Hearing for the Notice of Intent for North Spencer Road, DEP#293-0987:** We are still awaiting the final peer review for this project and the hearing should be continued.

**Item 4.4. Lot R43-16-1 NOI:** This lot is not jurisdictional. However, work taking place on site caused significant erosion issues with sediment being transported into Turkey Brook. Once this happened, the work on this lot became jurisdictional and a SWO/NOI was issued. The instant permit is a result of that SWO/NOI. Information on the work is included in your packets.

The town's stormwater regulations state:

Section 3 A of the stormwater regulations state:

- A. Projects Requiring a Wetland Application from the Conservation Commission: All projects requiring a Stormwater Permit that also require a wetland permit application with the Conservation Commission shall be processed and reviewed concurrently with the wetland permit application and the Stormwater Permit Decision may be incorporated into the Conservation Commission's written Decision/Order of Conditions. The procedural requirements, including plan submittal requirements, deadlines, plan distribution, fees, and notification requirements shall follow the requirements for wetland permits, except for Minor Applications (see Section 5, below) or where specified otherwise in these regulations.

It is my opinion, that this regulation delegates the storm water permitting to the ConCom when any major development requires a permit from Conservation. All minor development projects go to the Planning Board. Therefore, the applicant must submit a storm water report which should be reviewed by BSC and the hearing should be continued.

It is recommended that the applicant also engage a wetlands scientist at this time in anticipation of special condition #3 below. This report should also be reviewed by BSC.

When approved, I would recommend the following special conditions: 20, 23, 24, 27-30, 33-35, 37-41, 43, 44, 47, 50, & 52 as well as the following:

1. All sediment from the site, that has settled in the drainage ditch between the site and #54 Hastings Road must be removed. Prior to beginning clean up coordinate equipment, means, methods and timing with Spencer Highway Foreman to confirm safety, protection of the road and to avoid conflicts with other ongoing work.
2. When this work is completed, the project engineer must certify, over his/her signature and stamp, as to its completion and any problems encountered. This may be part of the engineer's certification required as part of the request for a release from conditions.
3. The applicant shall retain the services of a wetlands scientist to evaluate the erosion from the site and into Turkey Brook and report back to the Commission on any impacts or damage by the erosion and any corrective actions required. This shall be completed by August 2021.

**Item 4.5.** Amendment to section 1.5 of the regulations: This amendment was discussed at the last meeting as was recommend by our attorney after an issue was raised on section 16.4 of the Wetlands By-law. This amendment, which is outlined in your packets, is to bring the regulations and by-law into conformance with each other and the statutory references in the by-law.

## **5.0 OTHER BUSINESS:**

**Item 5.1** Permit extension 63 Browning Pond Rd.: This permit is for the removal of a collapsed structure, part of which is on the bank of the pond. Extreme care is going to be needed during this removal to prevent degradation to the bank and the LUWB. I would recommend the permit be extended since the removal of the structure's "remains" will benefit the area.

**Item 5.2:** Discussion 6 Condon Dr.: In your packets, please find correspondence on photos of the "issue" namely drainage pipes into the riverfront and thru the bank. The current owner has indicated that these pipes were there when he bought the house and were installed sometime in the 1990's. We have no record of a permit for this address for these pipes. I have checked with our circuit rider from DEP who has informed me that a violation exists, but it is up to the Commission to push or not to push this issue.

Although this issue could be up to 25+ years old, I do not believe it should be ignored, since the Commission would be setting precedent. However, going thru the expense of an NOI does not seem justified. I would therefore recommend that the Commission require an RDA given that no additional work needs to be undertaken. Should, however, the current owner decide to remove the pipes, or do any additional work in the resource areas, an NOI should be required.

**Item 5.3:** Brooks Pond Extension of OOC: In your packet you will find portions of the year-end report for this water body. Based on the information in the report, I would recommend the OOC be extended for an additional three years.

Item 5.4.: 8 Valley View Dr. Release of Bond: The Orders have been released and the applicant has now requested the release of the bond.

**Item 5.5:** 43 G.H. Wilson Road, Extension of OOC: The applicant has indicated that due to family illness the work has not been started but will begin this fall. Therefore, I recommend the extension be granted.

## **6.0 AGENT REPORTS:**

**Item 6.1.** I have finally heard back from the court and we have a remote magistrate's hearing on 4/1/21 at 0930 for the unpaid citations given to Mr. Witt and Mr. Moore.