

# Conservation Commission – Town of Spencer

## *Minutes*

Conservation Commission Meeting  
Wednesday June 14, 2023 at 6:15 p.m.  
Town Hall, McCourt Social Hall



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IN-PERSON AND REMOTE MEETING

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**PLEASE MUTE CELL PHONES AND ELECTRONIC DEVICES. IF ATTENDING REMOTELY, PLEASE REMAIN ON MUTE AT ALL TIMES, EXCEPT WHEN SPEAKING!**

**1.** The Meeting was opened at 6:15 p.m.

Commissioners Present: Charlie Bellemer, Margaret Emerson, Mary McLaughlin, Dennis Shiver & Warren Snow (remote)

Commissioners Absent: Shannon Thibault

Staff present: Lauren Vivier, Jane Green

**2. Sign:** There were no documents to sign.

**3. Public Hearings/Meetings:**

**a. 6:17 p.m. Opened the Public Meeting for the Request for Determination of Applicability for Bryan Button**

**Property: 33 Oakland Drive, Spencer, MA**

Ms. McLaughlin recused herself. Brian Button, a landscape contractor, presented the project. The proposed work is to remove an asphalt ramp, create a lawn area and create a step pathway. He proposed a sod lawn and two permeable patios. Ms. Emerson asked Mr. Button if he had a detailed plan. Mr. Button said that he could complete the plan tonight. She said that this may need a stormwater permit. Ms. Vivier said that it is a complicated project, and the Commission needs an accurate plan of what is to be done. Mr. Button discussed the work proposed by the water. Ms. Emerson said that the plan must be 100% accurate before it can be approved. She suggested the meeting be continued. Ms. Vivier said that she would like to know the slope of the land in that area. If it is 16% then a stormwater permit is required. There was a discussion about splitting the work into two different permits. The Commission suggested filing an NOI for the driveway plan.

Linn Possell, the homeowner, said that they are trying to improve the area around the lake and asked for a better explanation of the issues. Ms. Emerson said that the Commission wants to make sure the work that is done is effective. Ms. Possell asked if they could split the work so that some of it could be done. Mr. Button asked if he could update the plan and come back at the end of the meeting. Stephanie Possell, from the same address, asked if they could remove the driveway section from the plans and only do the flower beds and the lawn work.

9:07 p.m. Lynn Possell said that the plans are updated. They have no intent of doing the driveway. The blue area on the plans is what they propose to do. They request a granite step and boulders to prevent erosion. The Commission agreed to the plans.

*A motion to close the public meeting (Bellemer/Shiver) 4/0 passed.*

*All in favor: Bellemer-yes, Snow-yes, Shiver – yes, Emerson-yes*

*A motion to for a negative determination for 33 Oakland Drive within the 25-ft no touch zone (Emerson/Shiver) 4/0 passed.*

*All in favor: Bellemer-yes, Snow-yes, Shiver – yes, Emerson-yes*

**b. 7:01 p.m. Opened the Public Meeting for the Request for Determination of Applicability for Denise Marco**

**Property: 109 Clark Road, Spencer, MA**

Denise Marco would like to remove two maple trees. The roots have pulled up the patio twice. Ms. McLaughlin wanted to know what method would be used to replace the patio. Ms. Marco will use pavers. The Commission wanted to make sure that if hydraulics were used, then a boom is required. Ms. Emerson requested shade bearing trees for replacement. Mr. Bellemer said that the stumps need to remain. Ms. Marco does not plan to do this until the fall. Ms. McLaughlin read the inspection report which stated the trees had a fungal infection. The Commission agreed to the plans.

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

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

*A motion for a negative determination (Emerson/Bellemer) 5/0 passed.*

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

**c. 7:10 p.m. Opened the Public Meeting for the Request for Determination of Applicability for Matt Sicard**

**Property: 47 Lake Ave, Spencer, MA**

Brandon Harvey represented the applicant. He is the builder. The proposed work is to replace a deck using techno posts. They will put erosion control socks down if the Commission would like. Ms. Vivier wanted to know if one of the techno posts was unaligned. Mr. Harvey said that there may have been a rock in the ground when it was originally put in. He said they may have to put one Sono tube in which will be hand dug. Ms. McLaughlin read the inspection report. The Commission agreed to the plans.

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

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

*A motion for a negative determination (Emerson/Bellemer) 5/0 passed.*

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

**d.7:19 p.m. Continued the Public Hearing for the Notice of Intent for Miroslaw Swiderski**

**Property: 31 Wilson Avenue, Spencer, MA DEP#293-1056**

Ms. McLaughlin said that the DEP number was issued. They already discussed the work at the last meeting. Ms. Vivier discussed the special conditions. The Commission agreed to the plans. Mr. Shiver abstained.

*A motion to close the public hearing (Emerson/Bellemer) 4/0 passed.*

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

*A motion to accept the NOI with conditions stated (Bellemer/Emerson) 4/0 passed.*

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

**e. 7:24 p.m. Continued the Public Hearing for the Notice of Intent and SW Permit for Colin Derhammer**

**Property: Charlton & Bacon Hill Road, Spencer, MA DEP#293-1040**

Calisto Bertin, the Engineer for Bertin Engineering, said that they made a few minor changes to the plans. They updated the drainage system. Adrienne Lennon, from BSC Group, met with the applicant and discussed her original comments. There are some outstanding issues. BSC would like the cart paths to be added to the plans. They would like Bertin Engineering to obtain the forest cutting plan. They would like the water quality certification performed. Ms. Lennon said that despite the outstanding issues, this project is prepared for the issuance of an Order of Conditions with recommendations for sixty conditions. She read off the conditions. Mr. Bertin said that where the proposed cart paths are, is just a small quad path. They are applying for a waiver for the 25-ft no touch zone. Ms. Emerson wanted to know about the blasting. Mr. Bertin said that in order to put in the road, there will have to be blasting. Ms. Emerson is more concerned with hydrology. She said blasting is going to make changes that you cannot predict. Mr. Bertin said that this is speculation. They will perform test borings. Ms. Vivier received an email from the abutter about his concerns. Ms. Emerson said that last fall we were told there

would be no blasting. Mr. Bertin said that to be compliant, we have to put in the road. Ms. Emerson asked him if he was applying for a permit to build a road that they have no intention of building and Mr. Bertin said yes.

TJ Recuperero, Attorney for Bertin Engineering, said that Planning Board regulations require a compliant full width roadway. In the end there will be two lots. Mr. Recuperero said that they still have to permit it first under the Planning Board, Wetlands Protection Act, local bylaw, and stormwater regs. Then they can come back to the conditions and address them and the roadway. Regarding the issue of blasting, the plans have changed since then.

Ms. McLaughlin read the email from Aaron Hutchins at 225 Charlton Road. Mr. Snow wanted to know if the applicant had seen the sixty conditions. They have not seen the proposed conditions. Frank White, 35 R Jones Road, asked if anyone in the room had any experience with blasting. The danger that Mr. White is concerned with is the aquifer, lack of water, cellars filling up with water and wells going dry. Dave Nussey, of 227 Charlton Road, said that he lives next door to Aaron. He said Aaron is spot on with the information in the letter. Jim Pervier, of 4 H.J. Perron Road, wanted to know if there was a bond so that if something happens it will cover the damage. Mr. Pervier wanted to know if the ledge could be hammered. Gary Woodbury, of 219 Charlton Road, said that the drainage down Charlton Rd has caused a lot of icing in the winter. When it was logged in 2017, it changed the waterflow of the entire street. He never had rust in his water. Now he has to have a water softener. He cannot believe there will be blasting between two houses. It got denied years ago and it should get denied again. Mr. Snow said that from a Conservation perspective they have to look at this within the jurisdiction. They have to rely on the Peer Reviewer and what they say. If the law is being met, they have to consider that. The Commission would like the items on the outstanding list to be addressed by the applicant, prior to their next meeting with us.

*At the request of the applicant, the hearing has been continued to August 9, 2023.*

**f. 8:27 p.m. Continued the Public Hearing for the Notice of Intent and SW Permit for Colin Derhammer**

**Property: R27-1 Ash Street, Spencer, MA DEP#293-1037**

Ms. Vivier received an email from Corey Brodeur from Haley Ward Inc., in reference to five test pits that were observed. She had a meeting with Matt Burne. Based on what was discovered from the test pits, they may need to re-design. Mr. Bertin was asked to look at the four vernal pools which they did, and then they submitted a project narrative. The subdivision is 480-ft from the nearest vernal pool. They moved the replication area to accommodate the snowbirds. To make the drainage work for the site, with its rolling topography, they had to raise the road and bring in fill, that way they could get the water to drain into a detention or infiltration basin. Mr. Bertin said that when the test pits were dug, they disturbed more wetlands, so they moved the road out of the wetlands. The only area that they are disturbing is the 25-ft buffer at the road crossing. It took them a while to get to the test pits. They will have to make some modifications to the basin. They will

work with the reviewer on stormwater. They intend to remove some rock at the beginning of the road, at the basin. Dave Caputo, from 39 Ash, said that when they did the test pits it was really close to his property line. He thinks it was on his property line. He said it is a wildlife corridor. He said that the road that they proposed is going to cause run-off when it rains and ends up in his yard. Mr. Bertin said that they located the test pits using GPS. They did gather information and will provide it. Frank White wanted to know if there were any statues of limitations on this property. Ms. Vivier said that she read the deed and there was not.

*At the request of the applicant, the hearing has been continued to August 9, 2023.*

#### **4. Other Business:**

- a. **113 Ash Street – Enforcement Order:** Ms. Vivier said that she received a letter from EcoTec Inc. about restoration in the wetlands. It has since been restored. The vegetation has regrown. Everything is resolved.

*A motion to approve the restoration plan at 113 Ash Street (Bellemer/Emerson) 5/0 passed.*

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

- b. **7 Debbie Drive – Request for CofC:** Ms. Vivier said that the request was for a septic. When they went out to the site visit, there was a shed and play area that were not on the plans. Ms. Vivier let the applicant know that they need to file on RDA for an after the fact permit.

- c. **2 Overlook Drive – Request for CofC:** Ms. Vivier said that the request was for landscaping and retaining walls. Most of the work was on the plan except for a set of stairs.

*A motion to issue the CofC at 2 Overlook Drive (Bellemer/Emerson) 5/0 passed.*

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

- d. **35 Thompson Pond Rd – Request for CofC:** Ms. Vivier said that the request was for a sand beach and a gazebo. The gazebo was not there. The sand beach was just grass.

*A motion to issue a CofC for 35 Thompson Pond Rd (Emerson/Bellemer) 5/0 passed.*

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

- e. **6 Overlook Drive - Request for CofC:** The request was for the stone retaining wall and paver patio. Everything grew in and looked great.

*A motion to issue the CofC for 6 Overlook Drive (Bellemere/Emerson) 5/0 passed.  
All in favor: Bellemere-yes, Emerson-yes, Shiver-yes, Snow-yes, McLaughlin-yes*

## **5. Agent's Update:**

### **a. Violations & Complaints:**

- 33 Browning Pond – submitted an RDA.
- Westland Drive – Ms. Vivier saw a no trespassing sign; a chain was up and a for sale sign.
- Hastings Road -Ms. Vivier said that there has been more development. The Contractor cleaned up the ditch and wants the detention basin deeper. The detention pond is complete. They filed for a building permit.
- Briarcliff Lane – Ms. Vivier received a complaint from an agent from a different town. The silt fence is failing and needs to be repaired.

### **b. Other discussion items:**

- Ms. Vivier will be taking a class on Environmental Impact Assessment Manager.

## **6. Minutes: 5/24/23**

*A motion to approve the minutes as amended (Emerson/Bellemer) 4/0 passed.  
All in favor: Bellemer-yes, Snow-yes, Emerson-yes, McLaughlin - yes*

## **7. New Applications:**

- 33 Browning Pond Road – RDA – Fill & grading (after the fact)**
- 53 Lake Ave – RDA – Driveway improvements**

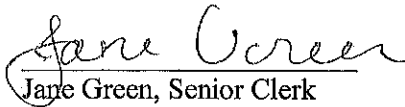
## **8. Continuances:**

- 10 Meadow Road – NOI – 6/28/23**
- U24-17 Meadow Road – NOI – 6/28/23**

**9. Adjournment:**

*A motion to adjourn the meeting at 9:35 p.m. (Emerson/Bellemer) 5/0 passed.  
All in favor: Bellemer-yes, Emerson-yes, Shiver-yes, Snow-yes, McLaughlin-yes*

Respectfully submitted by:



Jane Green, Senior Clerk  
Development & Inspectional Services

**DOCUMENTS REVIEWED AT 6/14/23 CONSERVATION COMMISSION MEETING**

AGENDA 6/14/23

MINUTES 5/24/23

DOA – 33 OAKLAND DRIVE

DOA – 109 CLARK ROAD

DOA – 47 LAKE AVE

ORDER OF CONDITIONS – 31 WILSON AVENUE

CONTINUANCE – CHARLTON & BACON HILL ROADS

CONTINUANCE – R27-1 ASH STREET

RESTORATION PLAN – 113 ASH STREET

COFC – 2 OVERLOOK DRIVE

COFC – 35 THOMPSON POND ROAD

COFC – 6 OVERLOOK DRIVE

