

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, August 16, 2023 at 6:15 p.m.
Town Hall, McCourt Social Hall

If remote, please join the meeting from your computer, tablet or smartphone.

<http://meet.goto.com/spencerODIS/conservation>

IN-PERSON AND REMOTE MEETING

IN ORDER TO CALL IN, PLEASE CALL: 1-571-317-3122 AND USE ACCESS
CODE: 454-205-589

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

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

Commissioners Present: Charlie Bellemer, Margaret Emerson, Mary McLaughlin,
Shannon Housh & Dennis Shiver

Commissioners Absent: Warren Snow

Staff present: Jane Green

Staff absent: Lauren Vivier

2. There were no documents to sign.

3. **Public Hearing/Meetings:**

**a. 6:25 p.m. Opened the Public Meeting for the Request for Determination of
Applicability for Charleen Mullaney**

Property: 34 Shore Drive, Spencer, MA

Mike Revelli, from New England Wall & Patio, said that a tree fell into the water. A local company came in and trimmed a few more trees. When the trees were dropped, they damaged four retaining walls. He proposed to repair the walls by hand. There will be no hydraulic equipment used. Ms. McLaughlin asked about the pipes that were coming out of the wall. Mr. Revelli said that those old school walls had drainage in them and no

longer work. The proposed walls are weeping walls. Ms. McLaughlin wanted to know if there are two sets of steps. Charleen Mullaney, the applicant, said there is only one set of stairs. The Commission agreed to the plans.

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

All in favor: Bellemer-yes, Housh-yes, Shiver-yes, Emerson-yes, McLaughlin-yes

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

All in favor: Bellemer-yes, Housh-yes, Shiver-yes, Emerson-yes, McLaughlin-yes

b. 6:34 p.m. Opened the Public Meeting for the Request for Determination of Applicability for Ethan & Diana O'Brien

Property: 109 Wilson Avenue, Spencer, MA

Brian MacEwen, from Graz Engineering, represented the applicants. He said that they propose to pave an already existing driveway to the garage, and add a paver walkway to the front door. There will be straw wattles for erosion controls. Ms. McLaughlin read the inspection report. The Commission agreed to the plans.

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

All in favor: Bellemer-yes, Housh-yes, Shiver-yes, Emerson-yes, McLaughlin-yes

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

All in favor: Bellemer-yes, Housh-yes, Shiver-yes, Emerson-yes, McLaughlin-yes

c. 6:39 p.m. Opened the Public Hearing for the Notice of Intent for Cistercian Abbey of North Spencer Lac Marie Dam

Property: R53-2 North Spencer Road near Hasting, Spencer, MA DEP#293-1057

The applicant notified the office that they were unable to make the meeting tonight.

At the request of the applicant, the hearing has been continued to August 23, 2023.

d. 6:40 p.m. Opened the Public Hearing for the Notice of Intent for Request to Amend the Order of Conditions for the Town of Spencer Board of Sewer Commissioners

Property: 69 West Main Street, Spencer, MA DEP#293-1022

Jean Christy, Senior Engineer from Tighe and Bond, said that this came about because they discovered a former burn dump on the eastern side of the treatment plant. DEP suggested keeping it on the site. Ryan Siegel, Senior Engineer from Tighe and Bond, said that their licensed site professional has put together a RAM plan (Remediation of Abatement Plan). The plan has been submitted to DEP. Ms. Christy said that they had corresponded with Oxbow Associates for rare species habitat. DEP recommended pushing the erosion control barrier back 10 feet. Mr. Siegal said the president of Oxbow Associates, Brian Butler, recommended a ditch witch because it is less invasive to the turtles. Mr. Bellemer wanted to know if the ditch witch was gas or hydraulic powered. Mr. Siegal was not sure but he said that they have spill kits on site. Jim LaPlante the Superintendent of Sewer Dept. said that the Ditch Witch has hydraulics and all safety protocols will be followed. The Commission agreed to the plans.

*A motion to close the public hearing (Emerson/Bellemer) 5/0 passed.
All in favor: Bellemer-yes, Housh-yes, Shiver-yes, Emerson-yes, McLaughlin-yes
A motion to grant the request to amend the Order of Conditions (Emerson/Bellemer 5/0 passed.
All in favor: Bellemer-yes, Housh-yes, Shiver-yes, Emerson-yes, McLaughlin-yes*

e. 6:54 p.m. Continued the Public Meeting for the Request for Determination of Applicability for Thomas Pelletier

Property: 52 Browning Pond Circle, Spencer, MA

Mr. Pelletier said that he wanted to replace the landscaping timbers that were falling apart. It will be done by hand. Mr. Bellemer recused himself because he lives nearby. The Commission agreed to the plans.

*A motion to close the public meeting (Emerson/Housh) 4/0 passed.
All in favor: Housh-yes, Emerson-yes, Shiver-yes, McLaughlin-yes
A motion for a negative determination (Emerson/Housh) 4/0 passed.
All in favor: Housh-yes, Emerson-yes, Shiver-yes, McLaughlin-yes*

f. 6:59 p.m. Continued the Public Meeting for the Request for Determination of Applicability for Sam & Maryna Alkhamees

Property: 33 Browning Pond Road, Spencer, MA

Mr. Alkhamees said that he wanted a lawn. The Commission wanted to know where the fill came from. Mr. Alkhamees was not sure, he will let the office know. He said he bought it from a company. Mr. Bellemer said the erosion controls are in. He recommended to Mr. Alkhamees to get the work done real soon.

*A motion to close the public meeting (Emerson/Bellemer) 5/0 passed.
All in favor: Bellemer-yes, Housh-yes, Shiver-yes, Emerson-yes, McLaughlin-yes
A motion for a negative determination with conditions (Emerson/Bellemer) 5/0 passed.
All in favor: Bellemer-yes, Housh-yes, Shiver-yes, Emerson-yes, McLaughlin-yes*

g. 7:09 p.m. Continued the Public Hearing for the Notice of Intent for Gordon Letour

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

The applicant did not attend the hearing.

At the request from the Commission, the hearing has been continued to August 23, 2023

h. 7:11 p.m. Continued the Public Hearing for the Notice of Intent for Gordon Letour

Property: U24-17 Meadow Road, Spencer, MA DEP#293-1052

The applicant did not attend the hearing.

At the request from the Commission, the hearing has been continued to August 23, 2023

i. 7:14 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

T. J. Recupero, Attorney for Bertin Engineering, said that they accepted the 68 conditions from the Peer Review from BSC Group. Ms. McLaughlin asked about the outstanding items that needed to be. She asked about the cart paths, the forest cutting plan and the water quality certification. Calisto Bertin, President of Bertin Engineering, said that they plotted the path for the tree harvesting and it was submitted. The water quality certification was filed to DEP and the legal notice was in the papers this week. Mr. Bertin discussed the paths and photos while everyone looked at the plans. There was an outstanding balance for peer review. Mr. Recupero said that BSC Group has charged way beyond the scope of what they proposed.

Jan Parke, from Greenville Street, wanted to know what the Commission was supposed to approve for this project. Mr. Bellemer told her the plans are for a subdivision. Ms. Parke wanted to know if the ledge problem has been addressed and assessed. Mr. Bellemer said that they are proposing to blast. Ms. McLaughlin said blasting could make changes to the hydrology of the land. Ms. Parke wanted to know who pays for the environmental monitor and how do they approve the certification of that professional. The Commission would have to agree to approve that professional. Ms. Parke wanted to make a statement. "I am very much concerned about the cumulative loss of the acreage of the wetlands and cutting of trees on the proposed site. It's a large, proposed area". Francis White, a resident, handed Ms. McLaughlin a letter from Paul Paradise about blasting. Ms. McLaughlin read it to the public. Matt Burne said that blasting is not included in the Wetlands Protection Act. Gary Woodbury, from 219 Charlton Road, said that the paths are wrong. In 2017 when it was forested, the iron content in his well had spiked and had produced rust. He also said that there is a lot of Mountain Laurel on that land which is illegal to cut.

Aaron Hutchins, from 225 Charlton Road, said that they are going to be blasting near his home. It is less than 20-feet from his well. He said his home and septic are going to be damaged. He said that the replication of the wetlands has been neglected. The current wetlands are in a basin lower than his property. He questioned how the wetlands can be replicated up hill when water flows down hill. He said his house is in the line of fire. He cannot understand how Adrienne Lennon, from BSC Group, recommended approval of the plan. He is concerned about his children's safety. He cannot understand how the landowner, Todd Vitkos, chose that piece of property. He would like to have Adrienne Lennon come out to his property. Ms. McLaughlin would like the office to contact Ms. Lennon to see if she will attend the next hearing for this project.

At the request of the applicant, the hearing has been continued to September 13, 2023.

j. 8:00 p.m. Continued the Public Hearing for the Notice of Intent and SW Permit for Colin Derhammer

j. 8:00 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

Calisto Bertin, President of Bertin Engineering, said that they raised the detention basin and built a wall around the basin. This was to alleviate what could end up in the neighbors' yards. This was updated on the plans on July 18, 2023. They submitted the water quality certification to the state, and it was publicized in the paper. Matt Byrne, from BSC Group Inc., said that he sent a comment letter about the stormwater basin. He did a brief overview of what was in the letter. One of the most important changes was the wetlands alteration has been reduced from 8000 sq-ft to 4000 sq-ft. They were not asked to review the wetland lines. The flags were reviewed by LEC in 2019. Ecotec provided a springtime letter about the vernal pool habitat on the site. They are concerned with the cumulative impact of the wetlands. The applicant can not exceed 5000 sq-ft. Mr. Byrne recommended a third-party reviewer for wetland replication. Mr. Bertin said that he has no objections to those comments. Mr. Byrne said they need to request a waiver under the bylaw.

Mr. Bellemer asked if anybody looked at the dam. It may be a regulated dam. Mr. Bertin said they are not going to go anywhere near the dam for the work proposed. Mr. Byrne is not sure whether the applicant should reach out to the Office of Dam Safety to make sure the work is out of jurisdiction. Mr. Recuperero wants to know why, because it is not within jurisdiction. Mr. Byrne said because it is on the property and it is a regulated dam. Jan Parke wanted to know if the road that they are proposing is within the 25-ft no touch zone. Mr. Bertin said that it was. Ms. Parke's concern is with the cutting of mature trees. Mr. Bertin said that some trees would be cut down, but they moved the road closer to the pond so there is not as much clearing as intended. Ms. Parke said, "I have a strong concern that there will be too much cumulative loss of wetlands in this project, and it is beyond the amount that is allowed in the Commonwealth bylaws and the Spencer bylaws." Jim Pervier, from 4 H.J. Perron Road, was concerned with how the water is going to be redirected when this project begins. The project is going to impact wildlife. The water will cascade out of this property onto Ash Street. Mr. Bertin said that they are not redirecting the water. It will continue to flow into the pond. Mr. Pervier would like someone to go there after a rain event to observe the land. He hopes all measures are taken to safeguard those that live in that area. Ms. Emerson suggested we should request a hydrology report for Ash Street as well.

At the request of the applicant, the hearing has been continued to September 13, 2023.

4. Other Business:

- a. **37 & 39 Oakland Drive – Request for CofC** – Ms. Emerson read the inspection report. The applicant was asked by the commission to stabilize the bank. The Commission said it looked good. Ms. McLaughlin recused herself.

*A motion to issue the certificate of compliance (Bellemere/Housh) 4/0 passed.
All in favor: (Housh-yes, Shiver-yes, Bellemere-yes, Emerson-yes) 4/0 passed.*

b. Chickering Road – Request for CofC on Enforcement Orders- Ms.

McLaughlin read the Enforcement Orders. The Commission would like to inspect the property.

c. 4 Wildwood Lane – Request to Extend OOC-

Peter Rourke said that he has been trying to address the issues. Ms. McLaughlin said that he filled wetlands on the upper section across from the road. Mr. Rourke said that the logger did that without his knowledge. Ms. Emerson said that he needs an engineered plan to address the issues. There was a discussion about tree removal. The Commission said the trees were not on the plans. Mr. Rourke said that the previous agent, George Russell, agreed to the tree removal. The trees had to be removed to do the septic. The Commission recommended an Enforcement Order to get the work done instead of another NOI with added fees. Ms. McLaughlin recommended that the wetlands be flagged again and show how the drainage will work. The Commission would like a new engineered plan to fix all the water problems.

Gordon Clogston, from 6 Wildwood Lane, said that the contractor messed up the property. Contractors do stuff when you are not there. Mr. Clogston had talked to the town for years about the drainage issues. Mr. Clogston suggested an emergency fix for the pipe near the road. The Commission would like Mr. Rourke to attend the next meeting to see where he is with the plan.

Bixby Rd/Depot Trail – dumping.

There has been dumping on the trails again. There was discussion about this in the past, and Ms. Vivier was going to look into getting a trail camera from the police department to place somewhere along the trail. The Commission will follow up with this when Ms. Vivier gets back to work.

5. Agent's Update: Agent is on leave.

a. Violations & Complaints:

- **21 Jolicoeur Ave:** The office received a complaint that someone dug out the shoreline to make a beach.

6. Minutes: 6/28/23 & 7/12/23

A motion to approve the minutes for 6-28-23 as amended (Bellemere/Emerson) 5/0 passed.

A motion to approve the minutes for 7-12-23 as amended (Emerson/Bellemer) 5/0 passed.


7. New Applications:

- a. **111 Wilson Avenue – Request for CofC – 8/23/23**
- b. **12 Wilson Avenue – NOI – 8/23/23**
- c. **168 Ash Street – NOI – 8/23/23**
- d. **61 Wilson Avenue – NOI – 8/23/23**

9. Adjournment:

A motion to adjourn the meeting at 9:39 p.m. (Emerson/Bellemer) passed 5/0.

Respectfully submitted by:


Jane Green, Senior Clerk
Development & Inspectional Services

Documents Reviewed at 8/16/23 Conservation Commission Meeting

Agenda 8/16/23

Minutes 6/28/23

Minutes 7/12/23

37 & 39 Oakland Drive – Certificate of Compliance

Chickering Road – Enforcement Orders

34 Shore Drive – Determination of Applicability

109 Wilson Avenue – Determination of Applicability

R53-2 North Spencer Road – NOI

69 West Main Street – Amended Order of Conditions

52 Browning Pond Circle – Determination of Applicability

33 Browning Pond Road – Determination of Applicability

10 Meadow Road – Continuance

U24-17 Meadow Road – Continuance

Charlton & Bacon Hill Roads – Continuance

R27-1 Ash Street – Continuance

4 Wildwood Lane – File Folder