

**NATURAL RESOURCES COMMISSION**  
**Meeting Minutes**  
**February 17, 2021**

Pursuant to the notice filed with the Town Clerk, a virtual public meeting of the Natural Resources Commission was held on Wednesday, February 17, 2021 at 7:00 p.m, in accordance with the Commonwealth of Massachusetts Executive Order of March 12, 2020 Suspending Certain Provisions of the Open Meeting Law. The following Commissioners were present: Ed Nardi, Chair, Sarah Grimwood, Greg Higgins, Nick Pappas, and Judy Zaunbrecher. Natural Resources Director Delia Kaye, Assistant Natural Resources Director Colleen Puzas, and Natural Resources Administrative Assistant Karen Bockoven were also present.

<b>APPROVE MEETING MINUTES</b> <ul style="list-style-type: none"><li>January 20, 2021</li></ul>
<b>DIRECTOR'S UPDATE</b>
<b>TO BE CONTINUED WITHOUT DISCUSSION TO MARCH 3, 2021</b> <ul style="list-style-type: none"><li><b>ALEX-SUN ENERGY SOLUTIONS, LLC</b>, 160 Range Road, NOI</li><li><b>SHAW</b>, 43 Old Bedford Road, NOI</li><li><b>MIDDLESEX SCHOOL</b>, 1400 Lowell Road, NOI</li><li><b>WESTCHESTER COMPANY, INC.</b>, Lot 2A Keuka Road, CWB</li></ul>
<b>NEW APPLICATION</b> <ul style="list-style-type: none"><li><b>TOWN OF CONCORD</b>, 10X, 45, and 47 Old Bedford Road, NOI</li></ul>
<b>CERTIFICATE OF COMPLIANCE</b> <ul style="list-style-type: none"><li><b>KRUG</b>, 169 Commonwealth Avenue</li></ul>
<b>OTHER BUSINESS</b> <ul style="list-style-type: none"><li>50-foot No Build Policy Discussion</li></ul>
<b>ADMINISTRATIVE APPROVAL</b> <ul style="list-style-type: none"><li><b>YOSHIDA</b>, 78 Elm Street, Tree Removal</li></ul>

Chair Nardi called the meeting to order at 7:00 p.m. He stated that the NRC meeting was being audio-recorded and requested that anyone from the public recording the meeting so inform the Commission.

**APPROVE MEETING MINUTES**

Commissioner Higgins moved to approve the January 20, 2021 NRC meeting minutes, as amended. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

**DIRECTOR'S UPDATE**

- Director Kaye informed the Commission that the Concord Conservation Land Trust (CLCT) Executive Director observed the invasive and devastating emerald ash borer in the upper Spencer Brook Valley, and the sightings were confirmed by the state. Indication that they are present include D-shaped exit holes, die back on the top of the ash, and missing bark. Middlesex School responded to Ms. Wilder's social media posting with observations there for a few years, and Director Kaye noted concern of their effect in the Estabrook Woods..

She said that federal and state agencies having been releasing different species of parasitoid wasps to attempt keep the population under control. An additional 169 communities in the state have reported findings, including all surrounding towns except Bedford. She asked anyone who observes them to contact the Natural Resources Office and the state, and recommended that people do not move any ash firewood or any ash products.

- DEP issued a Superseding Determination of Applicability upholding the NRC's decision to the MBTA regarding mechanical removal of invasives. Any mechanical removal of vegetation in the MBTA right-of-way will require a Notice of Intent filing.
- The Emerson Umbrella is planning a public art installation and walk instead of the annual parade, because of the pandemic. Up to seven installations will be considered, including five on Town conservation land. Two installations will be at Heywood Meadow, one at Chamberlin Park, one at Millbrook Tarry, and two at Millbrook Way. The Land Trust is also interested in hosting.
- Director Kaye *Ecology Along Concord Trails* has been sent to the printer and should be ready within the next few weeks, to be sold at the Visitor Center and Town offices once they reopen to the public.

### **TO BE CONTINUED TO MARCH 3, 2021**

#### **Notice of Intent, Alex-Sun Energy Solutions, LLC, 160 Range Road, DEP File #137-1551**

Chair Nardi reopened the hearing seeking approval to construct an in-ground swimming pool, pool house, and patio within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Higgins moved to continue the hearing to March 3, 2021. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

#### **Notice of Intent, Shaw, 43 Old Bedford Road, DEP File #137-1504**

Chair Nardi reopened the hearing seeking approval to construct a garage within the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Higgins moved to continue the hearing to March 3, 2021. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

#### **Notice of Intent, Middlesex School, 1400 Lowell Road, DEP File #137-1545**

Chair Nardi reopened the hearing seeking approval to improve existing playing fields including reorientation of the baseball infield; conversion of the relocated infield to an all-weather artificial surface; relocation of the grass football field; and conversion of two existing multi-purpose grass fields into an all-weather sports surface within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Higgins moved to continue the hearing to March 3, 2021. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

**Notice of Intent, Westchester Company, Inc., Lot 2A Keuka Road, CWB File #20-1**

Chair Nardi reopened the hearing seeking approval to construct a single-family home with garage, patio, driveway and associated grading within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Higgins moved to continue the hearing to March 3, 2021. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

**NEW APPLICATIONS**

**Notice of Intent, Town of Concord, 11A, 47, and 45 Old Bedford Road, DEP File #137-1554**

Chair Nardi opened the hearing seeking approval to conduct invasives species removal and management within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Invasives Species Area Plan prepared by Town of Concord, Natural Resources Division, dated February 9, 2021.

Director Kaye said this project is a joint effort between Sudbury Valley Trustees (SVT), Richard Mandel (abutter), and the Natural Resources Division. Laura Mattei of SVT identified an enormous infestation of porcelain berry while she was managing buckthorn at Gowing's Swamp. Land Stewardship, Inc. will cut and treat the porcelain berry as well as bittersweet over the next two years. The total project area is approximately 25,423 s.f., with 15,193 s.f. of work in the 100-foot Buffer Zone. After Land Stewardship completes their work, the Applicants will continue to monitor and control the invasives. This will be one of the projects the new Land Manager will be working on, which will include coordinating and working with volunteers to hand pull and remove both the bittersweet and porcelain berry. The project goal is to protect the ecological integrity and rare species habit of Gowing's Swamp. The project has been submitted to NHESP for their review and approval and a reponse is expected before the NRC meeting on March 3<sup>rd</sup>.

Commissioner Grimwood asked if the invasives removal project in 2016 was successful. Director Kaye replied that the buckthorn bagging approach was not as successful as they had hoped. Some Japanese knotweed was treated and controlled but it is an ongoing effort.

Joan Deely of Land Stewardship, Inc. said that porcelain berry was first introduced as an ornamental plant because the berries were very attractive. Director Kaye believes that seeds are carried and dropped by birds.

Chair Nardi commented that the project seems worthwhile. Director Kaye said the Town received a \$2,500 grant through CISMA. CISMA usually receives about \$6,000 annually from the River Stewardship Council for small grant proposals. Commissioner Higgins asked when work would start. Ms. Deely said they can start doing work at the end of March.

There were no public comments.

The Applicant agreed to continue the hearing to March 3, 2021 to allow time for Natural Heritage to review and comment.

### **CERTIFICATE OF COMPLIANCE**

#### **Krug, 169 Commonwealth Avenue, DEP File #137-1297**

Commissioner Higgins moved to issue a Certificate of Compliance for DEP File #137-1297.

Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

### **OTHER BUSINESS**

#### **50-foot No Build Policy Discussion**

Director Kaye provided the Commission with some suggested edits for the policy. Chair Nardi said the edits highlighted in yellow are good. He noted that before the word “previously” which will be deleted, the word “existed” should change to “exists”. Commissioner Higgins recommended using the words “primary structure” rather than “dwelling” which would eliminate commercial buildings and detached garages. Chair Nardi said he spoke to a zoning attorney who suggested using the word “principle” because it is more in keeping with legal and real estate language. Director Kaye said it was discussed at the last meeting about putting in similar language as the Wetlands Protection Act. This would allow someone with a large incursion to have a larger encroachment, and the Commission agreed that this did not meet their intent. Chair Nardi commented that it should not be because of metrics but rather permission be granted on a case-by-case basis. Commissioner Pappas said without limit, an applicant with a lot of land could request a large incursion. Commissioner Higgins said approvals are discretionary. Commissioner Higgins asked how the Commission defines and allows people that are already in the 50-foot NBZ to do small fill-in projects. Some sort of language is needed to indicate that encroaching into the 50-foot NBZ is an exception. A substantial benefit for the wetlands has to be made elsewhere on the site. Chair Nardi commented that language is already included in the 50-foot NBZ policy and a high hurdle has to be met. Director Kaye noted that the policy already states that you can’t increase the encroachment distance.

Director Kaye explained that mitigation is intended to be within the 50-foot NBZ, and this should be clarified in the policy. The Commission may also want to consider mitigation in the 25-foot NDZ versus the 50-foot NBZ by reducing the amount of mitigation required. She thought the mitigation ratio could be less as you get closer to the wetland resource area because it is more beneficial. The Commission agreed. Director Kaye said that outside the 50-foot NBZ applicants are still expected to mitigate at a 1:1 ratio. Commissioner Higgins said the Commission would want to encourage people to mitigate in the 25-foot or a combination thereof. Chair Nardi asked if the Commission was agreeable to making mitigation in the 25-foot NDZ at a 5:1 ratio. The NRC agreed. The Commission could modify this requirement if necessary.

Director Kaye said that staff has been keeping track of projects that have been permitted within the 50-foot NBZ. If the Commission would like, staff can review this list and draw up a table of what the incursions were versus existing structures. Commissioner Pappas offered to wordsmith the policy. Chair Nardi asked if the NRC wanted to think about moving the policy into a regulation. Director Kaye said that it would fold into the Town’s current bylaw which would have to be approved at Town Meeting. Commissioner Higgins said that was a high hurdle and might not pass.

There were no public comments.

**Administrative Approval:**

- **Yoshida, 78 Elm Street, Tree Removal**

Director Kaye said the homeowner would like to remove three Norway maples (5-inch, 2.5-inch, and 2-inch dbh) within BVW and the inner riparian zone. Three replacement inkberry hollies and one witch hazel will be planted. The homeowner would also like to remove buckthorn from the site, and will be filing a RDA in the near future for that work. Approval was granted.

Commissioner Higgins moved to adjourn. Commissioner Grimwood seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

This meeting adjourned at 7:39 p.m.

Respectfully submitted,

Karen Bockoven  
Administrative Assistant

A video of the meeting can be seen by clicking this link or entering it into a web browser:

<https://www.youtube.com/watch?v=ozHPxgBDerU&list=PL1TTzrWEKOOlmahd64BNDrCmG6lzsnlhS&index=37>