

NATURAL RESOURCES COMMISSION
Meeting Minutes
March 17, 2021

Pursuant to the notice filed with the Town Clerk, a virtual public meeting of the Natural Resources Commission was held on Wednesday, March 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.

APPROVE MEETING MINUTES <ul style="list-style-type: none">February 17, 2021
DIRECTOR'S UPDATE
TO BE CONTINUED WITHOUT DISCUSSION TO APRIL 7, 2021 <ul style="list-style-type: none">WESTCHESTER COMPANY, INC, Lot 2A Keuka Road, CWB
NEW APPLICATIONS <ul style="list-style-type: none">BOSTON GAS COMPANY, 1400 Lowell Road, RDAKOKOSZKA, 367 Cambridge Turnpike, NOIPASQUINA, 675 Monument Street, RDASTORLAZZI, 23 Warner Street, NOI
CONTINUANCES <ul style="list-style-type: none">MIDDLESEX SCHOOL, 1400 Lowell Road, NOI
CLOSE & ISSUE <ul style="list-style-type: none">ALEX-SUN ENERGY SOLUTIONS, LLC, 160 Range Road
OTHER BUSINESS <ul style="list-style-type: none">Enforcement Order, Johnson, 177 Barnes Hill Road50-foot No Build Policy Discussion
ADMINISTRATIVE APPROVALS <ul style="list-style-type: none">JOHNSON, 21 River Street, Tree RemovalCALABRIA, 261 Heaths Bridge Road, Tree Removal

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

The February 17, 2021 minutes were tabled to the April 7, 2021 NRC meeting.

DIRECTOR'S UPDATE

- Land Manager Will Holden started work today, and Director Kaye is delighted to have him on board.

COMMISSIONER COMMENTS

- Chair Nardi noted that the Planning Board will be making revisions to the Tree Preservation Bylaw, as reported at the Chair Breakfast. The Agriculture Committee will not be supporting Article 14 regarding neonicotinoids.
- Chair Nardi thanked Director Kaye and the co-authors of the trail book, which will be a great resource for the community. The Commission concurred.

OTHER BUSINESS

2020 Blanding's Turtle Report and 2021 Request for Funding

Bryan Windmiller of 65 Arrowhead Road and Zoo New England's Grassroots Wildlife Conservation Director attended tonight's meeting. Dr. Windmiller said that they have been running the Great Meadow Blandings Turtle project since 2003, with the support of the NRC. Since the inception of the project they have caught 71 non-headstarted turtles at Great Meadows. They have radio tracked approximately 54 turtles and approximately 140 nests have been protected. To date, 523 headstarted turtles have been released at Great Meadows. Last year was a good year with the highest number of nests (13) recorded. Unfortunately, the pandemic prevented them from doing a lot field work and trapping. Mass. Fish and Wildlife protocols forced them to close the refuge to researchers for several months. He explained that they estimate that out of the 523 headstarted turtles that have been released back into the wild, probably 200 of them will likely live to adulthood. Females begin breeding at approximately 17-18 years of age. The first headstarted cohort turtles that were released were hatched in 2007. This year those turtles will be 14 years old and on the cusp of sexual maturity. Blanding's turtles have growth rings similar to tree growth rings. This enables them to retrospectively estimate how big non-headstarted were at various ages in their lives. They have learned that their headstarted turtles have a good head start over non-headstarted turtles of similar age.

Dr. Windmiller informed the Commission that they are still growing and planting buttonbush in the impoundments and have planted approximately 150 shrubs, with 660 more plants being grown now. Woody vegetation is critical for young turtles. They are hoping Mass Fish and Wildlife will invest further efforts in the future in order to enhance the habitat in the impoundments not only for Blanding's turtles but also for some of the rare marsh birds.

Commissioner Zaunbrecher asked whether any consideration been given to collaborating with the neighboring property owners to conduct further research. Dr. Windmiller replied that has been considered since they know that some of the turtles swim back and forth across the river and do use the October Farm Riverfront wetlands. They have trapped turtles there in the past. This year, for the first time, they are proposing to release some of their headstarted Blanding's turtles in the large wetland area near the parking lot at the end of Ball's Hill Road. That area is a good environment for the Blanding's turtles. They plan on releasing eight headstarted turtles this year with radio transmitters. Dr. Windmiller explained that the transmitters are attached with waterproof epoxy to the turtle's back. The transmitters can be easily removed if necessary without harm to the turtles.

The Commission thanked Dr. Windmiller for his informative report.

Dr. Windmiller said he is requesting the usual amount of \$3,000 from the NRC. The money will be used for field conservation work at Great Meadows. Most of that will pay for the nest protection effort and surveying nests for hatchlings. Mr. Windmiller said they are also asking for \$350 for the replacement of two radio transmitters for tracking wood turtles near Hanscom Field.

There were no public comments.

Commissioner Higgins moved to authorize the expenditure of \$3,350 from the conservation account to be used for Blanding's turtle and wood turtle research and protection. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Grimwood, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

TO BE CONTINUED TO APRIL 7, 2021

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

Chair Nardi reopened the meeting 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 April 7, 2021. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

NEW APPLICATIONS

Request for Determination of Applicability, Boston Gas Company, 1400 Lowell Road, RDA File #21-2

Chair Nardi opened the meeting seeking approval to install a gas service line within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Request for Determination of Applicability Application; and
- Site Plan prepared by Tighe & Bond dated March 16, 2021.

Dana Vesti of Tighe and Bond attended tonight's meeting. Ms. Vesti explained that the project involves installing a gas service line from the existing line within the Middlesex School facility. The gas service line is needed to connect a generator. The service line will be approximately 700 linear feet and will involve excavating a 2-foot wide by 4-foot wide by 3-foot deep trench. After the gas line is installed they will backfill. All disturbed areas will be restored in kind. Erosion controls will be installed at edge of roadway and by the cell tower to protect resource areas.

Commissioner Zaunbrecher asked for confirmation that no trees will be disturbed for this project. Ms. Vesti confirmed that was correct; they will be only working within existing disturbed areas.

Commissioner Higgins asked if the generator was for emergency use and if it will run only intermittently. Ms. Vesti replied yes. Commissioner Higgins asked if the generator will make a lot of noise. Ms. Vesti said she was not sure how frequently the generator will run. The function of the

generator is to make sure the cell tower has continuous power. Commissioner Higgins commented that the generator, when in use, will make noise. Commissioner Pappas asked if the generator was within the NRC's jurisdiction. Commissioner Higgins replied that noise can affect the wetlands and wildlife. Ms. Vesti said the generator was permitted for the cell tower project (DEP File #137-1364).

There were no public comments.

Commissioner Zaunbrecher moved to issue a Negative Determination of Applicability #3 with the following conditions 1) A pre-construction site visit shall be held with DNR staff and the Contractor to review erosion controls and limits of work; 2) Stockpiling shall occur outside the 100-foot Buffer Zone; 3) After the project has been completed, the Applicant shall submit a letter to the NRC stating that all work has been conducted in accordance with all conditions of this Determination of Applicability. Any changes from the RDA shall be described. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

Notice of Intent, Kokoszka, 367 Cambridge Turnpike, DEP File #137-1555

Chair Nardi opened the hearing seeking approval to convert existing 3-season porch to an addition and enlarge an existing deck within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Construction and Erosion Control Plan prepared by LandTech Consultants, Inc. dated February 17, 2021.

Homeowner Todd Kokoszka, Kyle Cormier of Oxbow Associates, and Matthew Waterman of LandTech Consultants attended tonight's meeting. Mr. Cormier said the site consists of an existing single-family house, driveway, with a forested periphery. There is an unnamed pond to northeast which is at least 100 feet away from the project. Mr. Cormier explained that Oxbow Associates flagged the BVW on the western side of the site (A1-A9). Mr. Cormier said that he met with Assistant Director Puzas on site and subsequently relocated flags A4, A5, and A6. Flag A3 was removed. The new deck will not adversely affect the wetlands resource area since they are reducing the total amount of structure within the 50-foot NBZ. The new proposed work will not be closer than the existing structure. They have submitted a waiver for work within the 50-foot NBZ.

Chair Nardi thanked Mr. Cormier for his overview of the project. However, the NRC will not take questions until the recent revised plan has been properly submitted and the Commission has time to review more closely. Mr. Kokoszka asked if the NRC could provide any preliminary feedback. Chair Nardi said the Commission cannot comment until they have had an opportunity to review the plan.

The Applicant agreed to continue the hearing to April 7, 2021 to allow additional information to be provided.

Request for Determination of Applicability, Pasquina, 675 Monument Street, RDA File #21-3

Chair Nardi opened the meeting seeking approval for temporary construction access within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Request for Determination of Applicability Application; and

- Wetland Permitting Plan prepared by Stamski and McNary, Inc. dated February 23, 2021.

Homeowner Megan Pasquina and Richard Kirby from LEC Environmental attended tonight's meeting. Mr. Kirby explained that the homeowner would like to replace an existing garage and addition and construct a deck off the back of the house. They would like to use 12-inch compost filter tubes as their erosion controls. As part of this project they are seeking approval for a temporary construction access road which falls within the outer portion of the 100-foot Buffer Zone. The temporary construction access road will be located within existing lawn and landscaped areas. All disturbed areas will be replaced in kind.

There were no public comments.

Commissioner Zaunbrecher moved to issue a Negative Determination of Applicability #3 with the following conditions: 1) A pre-construction site visit shall be held with DNR staff and the Contractor to review erosion controls and limits of work; 2) Stockpiling shall occur outside the 100-foot Buffer Zone; 4) After the project has been completed, the Applicant shall submit a letter to the NRC stating that all work has been conducted in accordance with all conditions of this Determination of Applicability. Any changes from the RDA shall be described. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

Notice of Intent, Storlazzi, 23 Warner Street, DEP File #137-1550

Chair Nardi opened the hearing seeking approval to demolish an existing deck and construct an addition within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Existing Conditions Plan of Land prepared by A.S. Elliot & Associates revised March 4, 2021.

Dave Crossman of B&C Associates attended tonight's meeting. Mr. Crossman explained that the homeowner would like to construct a two-story addition in the back on his side of the duplex. The deck on the Applicant's side of the house will be removed and replaced with the addition. The addition will be constructed on a slab. The work will be outside the 100-year floodplain which is noted on the plan. A corner of the proposed addition falls within the Floodplain Conservancy District. Mr. Crossman said they can remove knotweed in the back of the Applicant's property. Unfortunately, a lot of the knotweed is on the neighbor's property. They propose replanting with some upland shrubs. Chair Nardi said proposed mitigation needs to be noted on the plan. Director Kaye said the graphically depicted Floodplain Conservancy District line needs to be removed from the plan because it conflicts with the elevation of the 100-year floodplain line. Director Kaye recommended that the erosion controls be survey located so there is no encroachment into the floodplain. The Order of Conditions will include that as a special condition.

There were no public comments.

The Applicant agreed to continue the hearing to April 7, 2021 to allow additional information to be provided.

CONTINUANCES

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.

List of plans and documents discussed at this meeting:

- Alternative Infills Evaluation for Synthetic Turf Field prepared by Gail Associates, Inc. dated February 5, 2021;
- Site Demolition and Preparation Plan prepared by Weston & Sampson Engineers, Inc. revised February 5, 2021; and
- Planting Plan prepared by Weston & Sampson Engineers, Inc. revised February 5, 2021.

Steve McKeown of Middlesex School, Ryan Chmielewski and Marie Rudiman of Weston and Sampson attended tonight's meeting. Mr. McKeown said minor revisions have been made to the planting plan and stormwater management plan. Also, based on staff comments, they will note on the plan the additional stakes and size of plants (bare root plants). Mr. Chmielewski said a question was raised as to why 4 inches of mulch was being put down before any planting. He explained that there are approximately 3,200 plants and it would be better to put the mulch down first. It will be less disruptive to the plants. Director Kaye said that 4 inches of wood chips was proposed, and she was concerned about impacts to nitrogen leaching from the soil, and felt that composted mulch would be better. Mr. Chmielewski replied that the recommendation came from Bartlett Tree. They were trying to get mulch coverage on top of bare soil to keep weeds down and provide moisture. He asked if there was a particular compost mulch the Commission would recommend. Director Kaye said they could propose something that is a composted mulch versus a wood chip mulch. Mr. Chmielewski agreed and explained that periodic inspections will be needed as well. He said there was also a question about cutting invasives and painting the ends with glyphosate. The use of a wand is very effective. Bartlett Tree did not specify glyphosate. Director Kaye said the Commission has approved stem swipe method and cut stem applications.

Mark Myles of 298 Heaths Bridge Road asked why the Applicant is proposing the use of glyphosate and how will it be applied. He asked if there were any other suitable alternatives. Mr. Chmielewski replied that glyphosate is a non-selective herbicide. Glyphosate has been a proven effective way to get rid of aggressive invasives. Pulling out invasives is not always an environmentally sensitive approach to mitigating the invasives in large infestations. The cut and paint application is the preferred approach.

Sharon McGregor of 70 Williams Road said she is not sure if it has ever been clarified what the total volume of topsoil to be excavated is going to be. Mr. Chmielewski said he does not believe they have done a full earthwork analysis yet. Ms. McGregor said she is working with an organization in Concord called Grass Fields for Safe Sports. Ms. McGregor feels that the Applicant has not taken thoughtful alternative analyses that explores the options to minimize environmental impacts overall. Plastic carpet and plastic bead fill will be replacing a high volume of soil and grass with the goal of having the fields that can be played on while wet and providing a more predictable sports schedule for teams and coaches. Ms. McGregor said the advantages gained are not worth the

negative impacts. All applicants should consider impacts to local climate which is contributing to the general climate crisis. Removing grass and soil destroys the ecosystem which performs carbon water nutrient in energy cycling. The proposed project will affect small water cycles in the area. She urged the Applicant, on behalf of her organization, to better minimize the impacts and to look at alternatives such as organically managed grass. This approach is working in other places. Collectively all projects add up to an enormous impact and this is the only decade we have to address climate change as a planet and we have to start locally. Ms. McGregor is very concerned that if people do not make an effort in this decade to address climate change then it may be too late. Every effort, small and large can make a difference.

Janet Miller of 1647 Main Street said the compound 6PPD-quinone, which is used as an antiozonant, and contained both plastics and rubber. 6PPD-quinone degrades in the environment to a quinone which has caused major fish die-offs of cold water salmon. She said if the Applicant is allowed to put down a plastic artificial turf can they assure the public that they are not poisoning the environment by some of the plastic getting into the wetlands. Ms. Rudiman replied that the 6PPD-quinone is a product of crumb rubber breakdown. She has read studies regarding the salmon die-off in Washington State. The researchers at the University of Washington in Tacoma and Washington State University Puglia have been investigating the annual die-off of Coho salmon, native to the Pacific Northwest, in urban waterways. The annual die-off appeared to be tied to stormwater runoff. A team of researchers found that a component of rubber within tire dust, 6PPD when exposed to ground level ozone oxidizes into the 6PPD-quinone. 6PPD-quinone has been found to be acutely toxic to coho salmon causing death in juvenile salmon. Ms. Rudiman noted that they are using a different infill. Ms. Miller said she looked up the compound and it said that it is also used in plastics. She asked if this same chemical was put into any of the plastics that the Applicant is proposing to put down. Ms. Rudiman replied that she believes it is not in the plastics. It is in rubber products. Ms. Rudiman said they could check to see if the manufacturer has any chemical lab data. 6PPD-quinone has been found to be acutely toxic to Coho salmon but it does not appear to have the same effect on other salmon species or on other types of fish. Quinone could be toxic to other fish but in the Northeast there has not been the same die-off issue.

Mr. Myles asked if plastic is in both the infill and carpet and what has Ms. Rudiman learned when doing the alternative analysis regarding the content of this product of phthalates, plasticizers, and in particular polybrominated and polyfluorinated flame retardants, and their impact on human health. He said that a study he learned about just this week indicates that very low doses of polybrominated and polyfluorinated flame retardants have an adverse impact as an endocrine disruptor in girls. It can lead to an early onset of puberty and mammary development which exposes girls to a higher potential for breast cancer later in life. Ms. Rudiman explained that polyfluorinated alkyl substances and polybrominated alkyl substances are sometimes added to carpets as a stain and water resistant coating. Weston and Sampson has inquired with all their manufacturers to make sure that their carpets do not contain PFAS. They do not want to install any carpets that contain PFAS. The data from the manufacturers show that both the carpet and infill are non-detect. Director Kaye said the impact on human health is not within the NRC's purview. They do not regulate human health. She suggested they contact the Board of Health.

Chair Nardi asked if there was any additional alternative analysis information regarding turf fields from what was discussed at the last meeting. Mr. Chmielewski said a memo from Gale Associates dated February 5, 2021 outlined the pros and cons of organically maintained grass field versus an artificial surface. They noted that grass fields are limited in their time of year use. The Sports Turf

Managers Association states that a single use of a field in a saturated condition could ruin the soil structure for an entire season. Mr. Chmielewski said while organically maintained fields do provide a good stand of grass they are very limited in nature because they hold water. Grass fields require more maintenance. Organic fields are newer technology. A lot of the organic infills that are on the market today are new in technology and have not been proven. Middlesex School wants to use tried and true methods. Commissioner Grimwood said she was reassured that a thorough analysis had been done. It was helpful to read the pros and cons. Commissioner Higgins said the benefit of time usability is important to the school, however, the public is questioning whether that's being weighted too much versus the other impacts that would come about. Commissioner Higgins said he is personally against an artificial field but that is not within his purview in his position as a member of the NRC. He asked the petitioner that if any point in the future the EPA or DEP outlawed the use of the proposed materials would the school be willing to change materials within two years of the ruling. Would the school be willing to remove the turf if it got put into that category. Mr. McKeown replied that is why the school wants to use a proven product. Director Kaye said that could be included as a special condition. Chair Nardi asked if the Fenn School had a similar condition when their permit was issued.

Director Kaye said there was a condition in the Fenn School Order of Conditions to the effect that if the fields were determined to be ecologically problematic that they would have to go through the process of receiving approval from the NRC to remove the fields. Ms. McGregor said consultants write their alternatives analysis based on the support of the Applicant. She is not convinced what they write is really balanced in terms of the overall benefits versus the negatives of using artificial turf. Ms. McGregor requested that the NRC conduct an independent assessment by reaching out to the towns who are being successful using the natural sustainable turf which clearly would meet the Town's sustainability principles. Every project should be evaluated through that screen. Chair Nardi said he is not sure what the precedent for that is and he is not sure if the Town's staff would be available to do that. Director Kaye said the Town would probably like to be able to collect that information but they do not have the resources and would have to rely on outside sources.

Commissioner Pappas said if one of the school's requirements is the amount of days the field is needed for use and the Applicant is required to use natural fields, more fields may be needed which is not a net benefit either. Not enough has been discussed about the required use of pesticides, herbicides, chemicals, and fertilizers in order to maintain natural grass fields.

Chair Nardi reminded the Applicant to follow-up on some of the stormwater issues – clarification on the invasives/mulch.

The Applicant agreed to continue the hearing to April 7, 2021 to allow additional information to be provided.

CLOSE AND ISSUE PERMITS

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.

Commissioner Zaunbrecher moved to close the hearing and issue an Order of Conditions for DEP File #137-1551 with Finding A, Standard Conditions 1-19, and Special Conditions 20-55.

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

OTHER BUSINESS – continued

Enforcement Order, Johnson, 177 Barnes Hill Road

Scott Smyers of Oxbow Associates attended tonight's meeting. Mr. Smyers said Mr. Johnson's was advised by his attorney not to attend tonight's meeting. Mr. Smyers said Mr. Johnson would like to withdraw his Notice of Intent application. Mr. Johnson agrees generally with the terms of the enforcement order and would like to proceed as soon as possible. They would like the NRC to consider substituting the enforcement order with a memorial letter with the same conditions.

Mr. Smyers summarized what the first steps would be to get the site back into compliance. The first step would be to go out in the field and dig a couple more holes through the stone to really determine where the edge of the wetlands are located. Then they will confirm the restoration area with NRC staff. Oxbow Associates will work with a contractor to remove the stone. The disturbed area will be restored with native seed mix suitable for the pasture. They will photo document the entire process and provide a report to staff. Oxbow Associates will conduct additional field evaluations and monitoring if necessary. They are not proposing to keep the stone and create a new wetlands on the other side of the field which had previously been discussed.

Chair Nardi asked Director Kaye if she was agreeable to substituting the enforcement order with a letter memorialized the steps. Director Kaye said not at this point. She explained that this matter has been ongoing since April of 2020 and an enforcement order at this time is the appropriate approach. It puts this matter on notice with DEP as well as Natural Heritage and gives clear guidance to the Applicant on what steps need to be taken. She recommended that the Commission issue an enforcement order. Commissioner Zaunbrecher agreed. She was disappointed that Mr. Johnson has not taken the NRC's comments seriously and the gravity of the situation. She is skeptical that without an enforcement order that this matter would not be resolved.

Director Kaye said if Mr. Johnson wants to remove fill in the wetlands and floodplain, then no survey plan will be necessary, though the wetlands need to be shown on a plan and the limits of gravel identified. Another option is that he can proceed under a process where the gravel remains in place by mitigating for the wetland and/or floodplain alteration. This work would have to be shown on a survey plan. Mr. Smyers said the homeowner's preference is to remove the stone from the wetland area.

Commissioner Higgins asked Mr. Smyers to communicate to Mr. Johnson that the Commission has tried working with him. Chair Nardi agreed.

There were no public comments.

Commissioner Zaunbrecher moved to issue an Enforcement Order for 177 Barnes Hill Road as described to remove the gravel. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Grimwood, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

50-foot No Build Policy Discussion

Commissioner Pappas said he reviewed the original bylaw from 2009 and the regulations that were subsequently adopted at Town Meeting. There is no mention about the 50-foot NBZ. The policy, as written, seems like it grants somebody a by-right opportunity to build something within the 50-foot NBZ if they already had something there. Commissioner Pappas said he changed the language from “strongly urge” to say “should be prohibited unless circumstances are exceptional.” He said the policy says that someone must prove they have an exceptional set of circumstances. This sentence should be emphasized. Commissioner Zaunbrecher asked if the NRC can prohibit. Commissioner Pappas responded that the Commission can prohibit but the policy also says that there are circumstances to get around that. Commissioner Higgins said he does not think the NRC can use language such as “prohibit” without getting Town Meeting approval. He thought the 50-foot No Build Policy was to determine what was a structure. Commissioner Pappas suggested using the language “does not generally approve new structures.” Commissioner Higgins said there should be a criteria that has to be met by the Applicant. Commissioner Pappas said once you provide an outline Applicants will be able to respond to the criteria required. Commissioner Zaunbrecher said if a policy is made into a bylaw then the NRC will probably have to review every few years. Commissioner Pappas explained that he clarified the points that mentioned the hurdles someone would have to overcome.

Commissioner Higgins commented that several years ago a homeowner on Barretts Mill Road made the argument that his structure (a deck) would not be detrimental to the wetlands. He did compromise and agreed to the NRC’s decision.

Director Kaye said the paragraph that talks about existing structures is a good preamble to the waiver. It is good to say at outset that the NRC does not want structures in the 50-foot NBZ. It does not matter if the NRC says “strongly discourages” or “prohibit”. Until the NRC goes through Town Meeting approval, it is just a policy.

Commissioner Higgins said there may be times when homeowners may want to expand a garage or barn into the 50-foot NBZ and the NRC will have to consider allowing an expansion. Commissioner Zaunbrecher asked if a garage attached to a house was considered part of the primary structure. The Commission agreed.

Director Kaye asked about porches and decks that are being presented as part of the principle structure. Patios are not really structures. What about walkways, steps, stairs or something that may be closer. She said something that would need a building permit should be tied into the equation, especially as NR staff signs off on every building permit.

Commissioner Higgins asked if an existing shed 8 feet away from the wetlands would be considered a structure. Commissioner Pappas said a shed under a certain size does not require a permit from the Building Department. Chair Nardi asked if the NRC was talking about habitable principle structures. Director Kaye noted that the Commission worked hard to keep decks outside of the 50-foot NBZ and the purpose was to keep decks from becoming three or four season structures in the future. If someone had an old existing deck they could consider that a habitable structure and it could be included in an alternatives analysis. Director Kaye said there was a prior project where someone wanted to put in ramp in the 50-foot NBZ so they could age in place. What will happen with a future owner who wants to consider the ramp an existing structure? Zaunbrecher asked if

that could be noted in an Order of Conditions. Director Kaye replied that it would be difficult to track once a Certificate of Compliance is issued.

Chair Higgins said it is how a structure is defined for the petitioner. He asked if the NRC would want to include any part of a principle structure that would have required a permit. That may provide some good definition. Director Kaye agreed. It seems like a logical capture of information and clear for any applicants.

Commissioner Pappas said the Town's zoning bylaws changed last year which allows more than one residence on a lot. The Commission said that each structure needs to stand on its own. Chair Nardi commented that you could not allow an incursion from an existing structure to be transferred to another structure. Commissioner Higgins noted that currently that could happen. Director Kaye said that would need to be clarified. She will draft some language to address that and make the edits to the policy as discussed tonight.

The NRC agreed with Director Kaye's recommendation that mitigation in 50-foot NBZ should be a 10:1 ratio, in the 25-foot NDZ the ratio should be 5:1, and in the wetland itself the ratio should be 2:1. Director Kaye informed the Commission that the Wetlands Protection Act requires a 1:1 replacement but the industry recommends 2:1 replacement.

Commissioner Pappas said he has reviewed the MACC spreadsheet which shows what other towns are doing. He was surprised to learn that a lot more towns than he expected have setbacks. He believes that if NRC is going to try to implement a bylaw it is probably a multi-year effort. Chair Nardi agreed that it would take time to research. Commissioner Pappas will outline what other towns are doing based on the MACC spreadsheet. Commissioners Zaunbrecher said this issue also ties into the Town's sustainability goals.

Administrative Approvals:

- Johnson, 21 River Street, Tree Removal
Assistant Director Puzas said two leaders are coming out of a hemlock tree on the property. The leader that fell onto a fence has been removed. The homeowner would also like to remove the other leader. Approval was granted.
- Calabria, 261 Heaths Bridge Road, Tree Removal
Director Kaye said the homeowner would like to remove a large red maple and large white pine both within the 25-foot No Disturb one, inner riverfront, and close to the house. The trees will be flush cut. The homeowner will replace with four native shrubs. Approval was granted.

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

This meeting adjourned at 9:37 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=L9p11a8nBvY&list=PL1TTzrWEK00lmahd64BNDrCmG6lzsnlhS&index=42>