

NATURAL RESOURCES COMMISSION
Meeting Minutes
April 15, 2020

Pursuant to the notice filed with the Town Clerk, a virtual public meeting of the Natural Resources Commission in accordance with the Commonwealth of Massachusetts Executive Order of March 12, 2020 Suspending Certain Provisions of the Open Meeting Law was held virtually on Wednesday, April 15, 2020 at 7:00 p.m. The following Commissioners were present: Greg Higgins, Chair, Lynn Huggins, Ed Nardi, 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.

Chair Higgins opened the meeting at 7:00 p.m. in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Concord Wetlands Bylaw.

<p>APPROVE MEETING MINUTES</p> <ul style="list-style-type: none"> • February 5, 2020
<p>APPLICATIONS WITHDRAWN WITHOUT PREJUDICE</p> <ul style="list-style-type: none"> • GATTI, 150 Jennie Dugan Road, RDA • NASHAWTUC COUNTRY CLUB, 1844 Sudbury Road (Lot 1), NOI • NASHAWTUC COUNTRY CLUB, 1844 Sudbury Road (Lot 1), NOI
<p>TO BE OPENED AND CONTINUED WITHOUT DISCUSSION TO MAY 6, 2020</p> <ul style="list-style-type: none"> • CONCORD COUNTRY CLUB, 246 Old Road to Nine Acre Corner, NOI
<p>TO BE CONTINUED WITHOUT DISCUSSION TO MAY 6, 2020</p> <ul style="list-style-type: none"> • SHAW, 43 Old Bedford Road, NOI • CONCORD COUNTRY CLUB, 246 Old Road to Nine Acre Corner, NOI
<p>NEW APPLICATIONS</p> <ul style="list-style-type: none"> • BUSHNELL, 1599 Lowell Road, NOI • ADLER & STERLING, 185 Elsinore Street, NOI
<p>MINOR MODIFICATION</p> <ul style="list-style-type: none"> • AWALT & CONLEY, 396 Great Meadows Road
<p>EMERGENCY CERTIFICATION RATIFICATION</p> <ul style="list-style-type: none"> • CONCORD LAND CONSERVATION TRUST, 9X Westford Road
<p>CLOSE and ISSUE</p> <ul style="list-style-type: none"> • GWIN, 296 Bedford Street
<p>CERTIFICATES OF COMPLIANCE</p> <ul style="list-style-type: none"> • FADULE, 437 Old Bedford Road • TIEDEMANN, 656 Barretts Mill Road • AHO, 721 Old Bedford Road • HENTCHEL, 192 Virginia Road
<p>OTHER BUSINESS</p> <ul style="list-style-type: none"> • Discussion – USFWS Proposed Hunt Plan, Great Meadows Wildlife Refuge

Chair Higgins stated that the NRC meeting was being recorded and requested that anyone from the public recording the meeting so inform the Commission.

APPROVE MEETING MINUTES

Commissioner Zaunbrecher moved to approve the February 5, 2020 NRC meeting minutes, as amended. Commissioner Pappas seconded. **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

APPLICATIONS WITHDRAWN WITHOUT PREJUDICE

Request for Determination of Applicability Application, Mario and Emily Gatti, 150 Jennie Dugan Road, RDA File #20-2

At the request of the Applicant, 150 Jennie Dugan Road, RDA File #20-2 was withdrawn without prejudice.

Notice of Intent Application, Nashawtuc Country Club, 1844 Sudbury Road, DEP File #137-1509 (Lot 1)

At the request of the Applicant, 1844 Sudbury Road, DEP File #137-1509 was withdrawn without prejudice.

Notice of Intent Application, Nashawtuc Country Club, 1844 Sudbury Road, DEP File #137-1510 (Lot 3)

At the request of the Applicant, 1844 Sudbury Road, DEP File #137-1510 was withdrawn without prejudice.

TO BE OPENED AND CONTINUED TO MAY 6, 2020

Notice of Intent Application, Gregory Cincotta, Concord Country Club, 246 Old Road to Nine Acre Corner, DEP File #137-1520

Chair Higgins opened the hearing seeking removal of landscaping debris and restoration planting within the 200-foot Riverfront Area of Jennie Dugan Brook and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Nardi moved to continue the hearing until May 6, 2020. Commissioner Zaunbrecher seconded. **VOTED 4-0** by Roll Call Vote: Chair Higgins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye. Commissioner Huggins abstained.

TO BE CONTINUED TO MAY 6, 2020

Notice of Intent Application, Harold and Susan Shaw, 43 Old Bedford Road, DEP File #137-1504

Chair Higgins 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 Nardi moved to continue the hearing until May 6, 2020. Commissioner Zaunbrecher seconded. **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

Notice of Intent Application, Gregory Cincotta, Concord Country Club, 246 Old Road to Nine Acre Corner, DEP File#137-1517

Chair Higgins reopened the hearing seeking after-the-fact removal of trees and earthwork disturbance associated with the construction of an irrigation pond within the 200-foot Riverfront Area of Jennie Dugan Brook.

At the request of the Applicant, Commissioner Nardi moved to continue the hearing until May 6, 2020. Commissioner Zaunbrecher seconded. **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye. Commissioner Huggins abstained.

NEW APPLICATIONS

Notice of Intent Application, Mike Bushnell, 1599 Lowell Road, DEP File #137-1519

Chair Higgins opened the hearing seeking approval to remove existing buildings and fencing, and conduct grading associated with a proposed leaching field within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Plot Plan of Land prepared by R. Wilson and Associates revised April 10, 2020.

Wetland Scientist David Burke and Mike Bushnell of Bushnell Construction attended tonight's meeting. Mr. Burke explained that there several outbuildings on the property that are proposed for removal. Approximately one-third of the western portion of the property is a wet meadow. The western portion of the site borders on an intermittent stream. Proposed work will be an overall improvement to the site. No construction is proposed within the 100-foot Buffer Zone except for minor grading for the new septic system. A barn, a shed, and an existing wood fence will be removed from the Buffer Zone and the area restored with a New England seed mix. Feno stakes will be installed at wetland boundary to demarcate the mowing area. Mr. Bushnell would like to maintain the openness of the meadow by mowing it three times a year, which is currently done in concert with two houses nearby. Chair Higgins said it is unusual that the NRC would approve mowing three times a year, normally one is permitted to keep the area open, though a trail would be permitted. Chair Higgins asked Mr. Bushnell if he would agree to mowing just once a year. Mr. Bushnell agreed.

There were no public comments.

The Applicant agreed to continue the meeting until May 6, 2020 for DEP to issue a file number.

Notice of Intent Application, Nicholas Adler and Elizabeth Sterling, 185 Elsinore Street, DEP File #137-1521

Chair Higgins opened the hearing seeking approval to construct a new porch and mudroom, replace an existing driveway, and remove an existing dog fence and deck within the 200-foot Riverfront Area to the Assabet River and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application;
- Existing Conditions & Proposed Hardscaping Plan prepared by Foresite Engineering Associates, Inc. dated March 27, 2020; and
- Landscape Plan prepared by Minglewood, LLC dated March 31, 2020.

Homeowners Elizabeth Sterling and Nicholas Adler and Angela Kearney of Minglewood attended tonight's meeting. Ms. Kearney explained that there is an existing single-family house on the property. The entire property is within the Riverfront Area of the Sudbury River and most of the property is also within 100-foot Buffer Zone. They are proposing to replace the existing deck and paved landing with a new porch and mudroom. The square footage will remain the same (114 s.f.). A stone drip edge to infiltrate water will be installed. They will narrow the driveway and add a pullout area. All previous impervious surfaces such as walkways and driveway will now be porous pavers. Maintenance for the porous pavers will consist of salt only for de-icing and vacuuming to remove sediment and debris. The deck on the side of the house will be removed as well as an existing dog fence. Ms. Kearney said the project also involves removing a significant amount of lawn (5,000 s.f.) and converting to plant beds and a pollinator meadow. The homeowners will do that work by hand over a period of time. They are planning to remove the dog fence by hand as well.

Chair Higgins suggested removing the Japanese knotweed where the drainage pipe is located.

Director Kaye requested calculations of the existing amount of impervious areas to understand the overall site improvements.

There were no public comments.

The Applicant agreed to continue the meeting until May 6, 2020 to allow additional information to be submitted and for DEP to issue a file number.

MINOR MODIFICATION

Awalt and Conley, 396 Great Meadows Road, DEP File #137-1497

Homeowners Elizabeth Awalt and John Conley and Molly Obendorf from Stamski and McNary attended tonight's meeting. The homeowners would like to replace the existing brick patio behind the rear of the dwelling with wood decking and a hot tub. Erosion controls and stockpiling will be within existing lawn area. All work will remain within existing patio footprint.

Chair Higgins said he is concerned about this project morphing into something bigger. Should the NRC grant this minor modification they want to make sure there is no further expansion. The Applicants said that is consistent with their intent.

There were no public comments.

Commissioner Zaunbrecher moved to approve a Minor Modification for DEP File #137-1497, with the following conditions: 1) The Applicant shall schedule a pre-construction site visit to review erosion controls and limits of work, 2) the Applicant shall provide the NHESP approved Blanding's Turtle Protection Plan prior to or at the pre-construction site visit, and 3) approval of this Minor Modification is not intended to permit future conversion of this appurtenant structure to an enclosed space. Commissioner Pappas seconded. **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

Ms. Obendorf believed that NHESP wasn't requiring the Blanding's Turtle Protection Plan for this project. Director Kaye stated that the most recent NHESP letter required the plan for this work.

Commissioner Zaunbrecher moved to amend the Minor Modification for DEP File #137-1497, that condition #2 is pending confirmation from NHESP. If a filing is not required from NHESP then it will not be required by the NRC. Commissioner Pappas seconded. **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

EMERGENCY CERTIFICATION RATIFICATION

Concord Land Conservation Trust, 9X Westford Road, Beaver Dam Removal

Director Kaye issued an Emergency Certification to Beaver Solutions to remove a beaver dam upstream of boardwalk over Spencer Brook because the boardwalk and portions of the trail are under water, and the water levels are approaching the driveway elevation. She explained that last year a beaver diversion dam was installed, but the beavers went downstream of the diversion dam this year.

There were no public comments.

Commissioner Zaunbrecher moved to ratify the Emergency Certification for the beaver dam removal. Commissioner Nardi seconded. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

CLOSE AND ISSUE DECISION

Gwin, 296 Bedford Street, DEP File #137-1516

Chair Higgins reopened the hearing seeking approval to construct a new garage within the 100foot Buffer Zone to Bordering Vegetated Wetlands.

Commissioner Huggins moved to close the hearing and issue an Order of Conditions for DEP File #137-1516 with Findings A, B, and C, Standard Conditions 1-19, and Special Conditions 20-52. Commissioner Pappas seconded. **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

CERTIFICATES OF COMPLIANCE

Fadule, 437 Old Bedford Road, DEP File #137-1457 (Partial)

Commissioner Huggins moved to issue a Partial Certificate of Compliance for DEP File #137-1457. The house demolition and rebuild is complete. Remaining work to be completed prior to a full COC is invasives removal and monitoring. Commissioner Nardi seconded. **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

Tiedemann, 656 Barretts Mill Road, DEP File #137-1362

Commissioner Huggins moved to issue a Certificate of Compliance for DEP File #137-1362. Commissioner Nardi seconded. **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

Aho, 721 Old Bedford Road, DEP File #137-1477 (Partial)

Commissioner Nardi moved to issue a Partial Certificate of Compliance for DEP File #137-1477. Commissioner Huggins seconded. The house demolition and rebuild is complete. Remaining work

to be completed prior to the issuance of a full COC is removal of debris and restoration with a native seed mix. **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

Hentchel, 192 Virginia Road, DEP File #137-1097

Commissioner Nardi moved to issue a Certificate of Compliance for DEP File #137-1097. Commissioner Zaunbrecher seconded. **UNANIMOUSLY VOTED** by Roll Call Vote: Chair Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

OTHER BUSINESS

Discussion – USFWS Proposed Hunt Plan, Great Meadows Wildlife Refuge

Director Kaye said that she recently received notice of an expansion of hunting at the Eastern Massachusetts National Wildlife Refuge complex, which includes the Assabet River National Wildlife Refuge, Great Meadows NWR, and Oxbow NWR. The US Fish & Wildlife Service (USFWS) is proposing to open these refuges to new forms of recreational archery hunting of bear, fox, and coyote and to expand the current proposals for deer, water fowl, and shore birds. The Concord Impoundments are exempt from the rule change; no hunting is permitted here. Changes in Concord would be minimal, in the area of GMNWR south of Route 225, which is currently not open to deer hunting but is proposed to be under this rule change. They would also open up the area south of Route 225 to coyote and turkey bow hunting. Director Kaye was unable to find any scientific justification to expand hunting geographically or to introduce new species such as bear and fox in other eastern Refuges. In 2005, USFWS prepared a comprehensive conservation plan and they list in that plan a number of goals and objectives and studies that they will perform in order to understand conditions that would guide future management. Many of those studies have not been completed. Director Kaye said that it seems premature to be opening up areas to expand hunting.

Jane Hotchkiss (Select Board) stated that the Select Board would want to discuss this matter. Ms. Hotchkiss can discuss with Director Kaye next steps with the Select Board. Ms. Hotchkiss said information needs to be provided and extended to citizens. Commissioner Zaunbrecher suggested posting on Facebook.

Chair Higgins said a request should be made to the federal government to work with the local/state level to customize the proposal. They need to be flexible and local input is essential.

Commissioner Pappas commented that local management may not have any say or flexibility in implementing federal plans.

Commissioner Zaunbrecher said that from what she has read she believes there is a desire on the part of the Fish & Wildlife Service to get local assessment of what is going on. Chair Higgins replied that is different than asking them to hold local meetings to get input from the local citizens. Commissioner Zaunbrecher said that is why responding to the register is important.

Chair Higgins suggested that the Commissioners send Director Kaye any thoughts and comments for her to draft a letter for Select Board and NRC submittal.

Director Kaye updated the Commission on the conservation land = signage that was discussed at their April 10th meeting. She worked with Public Information Officer Erin Stevens to memorialize

the points that were discussed. Signage will be placed at trail entrances to Town conservation lands.

Commissioner Nardi moved to adjourn. Commissioner Huggins seconded. **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Huggins, Aye, Nardi, Aye, Pappas, Aye, Zaunbrecher, Aye.

The meeting adjourned at 8:23 pm.

Respectfully submitted,

Karen Bockoven
Administrative Assistant