

NATURAL RESOURCES COMMISSION
Meeting Minutes
May 1, 2019

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, first floor conference room, Concord, MA at 7:00 p.m. on Wednesday, May 1, 2019. The following Commissioners were present: Greg Higgins, Chair, Judy Zaunbrecher, Lynn Huggins and Jeff Adams. Natural Resources Director Delia Kaye 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.

APPROVE MEETING MINUTES
<ul style="list-style-type: none"> • April 3, 2019 and April 9, 2019
DIRECTOR'S REPORT
TO BE CONTINUED TO MAY 15, 2019
<ul style="list-style-type: none"> • CONCORD CULINARY, 430 Old Bedford Road, NOI
CONTINUANCES
<ul style="list-style-type: none"> • FABIO'S CONSTRUCTION, 70 Elm Street, NOI • TRUDEAU, 119 Bartlett Hill Road, NOI
NEW APPLICATIONS
<ul style="list-style-type: none"> • O'NEILL, 41 Kenney Lane / New Public Hearing, NOI • CONCORD GREENE CONDOMINIUM ASSOC., 1024 Main Street / New Public Hearing, NOI
MINOR MODIFICATION
<ul style="list-style-type: none"> • CRONIN, 956 Lowell Road
CLOSE and ISSUE
<ul style="list-style-type: none"> • ANTHONY, 72 Walden Terrace
CERTIFICATES OF COMPLIANCE
<ul style="list-style-type: none"> • TIEDEMANN, 656 Barretts Mill Road
OTHER BUSINESS
<ul style="list-style-type: none"> • 68A Monument Street, Right of First Refusal
ADMINISTRATIVE APPROVALS
<ul style="list-style-type: none"> • WANG, 25 Spencer Brook Road, Tree Removal

APPROVE MEETING MINUTES

The April 3, 2019 and April 9, 2019 minutes were tabled to the May 15, 2019 NRC Meeting.

DIRECTOR'S REPORT

- Director Kaye informed the Commission that the White Pond Slope Restoration Project at Sachem's Cove will begin on Monday and is expected to be largely complete by early July. Commissioner Adams suggested scheduling a site visit for the NRC. Director Kaye agreed to do so. Commissioner Zaunbrecher asked if trails will be closed during construction. Director Kaye said that as many trails as possible will be open, provided there is safe access.

- Borings for the new bath house at Walden Pond will be done the week of May 6th.
- In the past, Bryan Windmiller was unable to access the land on the former Engelhard property which provides good habitat for Blanding's turtles. Now that Mass Audubon owns the property he would like to release some headstarted turtles into the pond owned partially by the NRC and the remainder by Mass Audubon. Mr. Windmiller has reached out to Jeff Collins at Mass Audubon and MassAudubon is very enthusiastic about this project. The NRC approved the releasing of headstarted turtles on NRC land.
- Posters for the pollinator meadows are almost complete. The garlic mustard posters are complete and will be set up in town within the next week.
- The Conservation Restriction for the Hartwell Meadow property that was purchased by the Concord Land Conservation Trust under a Chapter 61A right of first refusal is ready for Commission review. The state has provided comments. Director Kaye asked the Commission to provide her with comments.

CONTINUED TO MAY 15, 2019

Notice of Intent Application, Zur Attias, Concord Culinary, 430 Old Bedford Road, DEP File #137-1436

Chair Higgins reopened the hearing seeking approval to construct a seven-unit Planned Residential Development with associated driveway, soil absorption system, grading, utilities, and community gardens within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant Commissioner Huggins moved to continue the hearing until May 15, 2019. Commissioner Adams seconded. All so voted.

CONTINUANCES

Request for Amended Order of Conditions, Fabio Andrade, Fabio's Construction, 70 Elm Street, DEP File #137-1454

Chair Higgins recused himself and left the room because he may be involved in a future real estate transaction. Acting Chair Huggins reopened the hearing requesting an Amendment to the Order of Conditions for after-the-fact construction of a wall within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Sudbury River, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

Applicant Fabio Andrade, attended tonight's meeting. Acting Chair Huggins asked if a certified arborist had evaluated the beech tree for root compaction from equipment and if any recommendations were made. Mr. Andrade explained that he submitted a letter from Douglas Landscaping. Commissioner Adams stated that fill was placed on the root system and the area was compacted. He said that the NRC had previously informed the Applicant that they wanted a certified arborist to look at the tree and make recommendations such as removing soil and aerating it. Acting Chair Huggins explained that unless a letter from a certified arborist with recommendations is received, the NRC will not issue a permit and will recommend that a Certificate of Occupancy not be issued until this is done.

Acting Chair Huggins asked about the fill in the floodplain. Director Kaye replied that it appeared fill had been placed within the floodplain as part of the reconstruction and recommended that a special condition be added to the Order that a survey plan confirm that final grades match the original approved plan, to be provided before a Certificate of Occupancy is issued.

There were no public comments.

The Applicant agreed to continue the hearing until May 15, 2019.

Notice of Intent Application, Matthew Trudeau, 119 Bartlett Hill Road, DEP File #137-1468

Chair Higgins reopened the hearing seeking approval to reconstruct existing retaining walls within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Site Plan of Land prepared by Noonan & McDowell revised on April 18, 2019.

John Noonan of Noonan & McDowell attended tonight's meeting. Mr Noonan said that at the last meeting there were some concerns about the drain pipes. Mr. Noonan was not able to confirm where the pipe through the wall was draining from but has angled the pipes so they are parallel to the slope.

There were no public comments.

Commissioner Adams moved to approve the Order of Conditions for Matthew Trudeau, 119 Bartlett Hill Road, DEP File #137-1468 with Findings A, B and C, Standard Conditions 1-19 and Special Conditions 20-45. Commissioner Zaunbrecher seconded. All so voted.

NEW APPLICATIONS

Notice of Intent Application, John O'Neill, 41 Kenney Lane, DEP File #137-1471

Chair Higgins opened the hearing seeking approval to construct an addition and porch within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Wetland Permitting Plan prepared by Stamski and McNary, Inc. revised on April 29, 2019.

Paul Kirchner of Stamski and McNary attended tonight's meeting. Mr. Kirchner stated that the homeowner would like to construct an addition as an extension to the garage for a mudroom and construct a porch. For mitigation they will plant 12 winterberry shrubs and plant a conservation seed mix. They will install downspouts from the roof in the front to be directed towards small infiltrating splash pads. Chair Higgins said that there has been dumping of lawn debris in the wetland. In July or August this should be taken out by hand. Commissioner Huggins said it is important to educate the homeowner about not dumping into the wetlands.

There were no public comments.

Commissioner Huggins moved to close the hearing and issue an Order of Conditions for John O'Neill, 41 Kenney Lane, DEP File #137-1471 with Finding A, Standard Conditions 1-19 and Special Conditions 20-50, as amended. Commissioner Adams seconded. All so voted.

Notice of Intent Application, Concord Greene Condominium Association, 1024 Main Street, DEP File #137-1475

Chair Higgins opened the hearing seeking approval to remove dead and dying trees and replant trees and shrubs within Bordering Land Subject to Flooding, the 200-foot Riverfront Area of a tributary 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;
- Tree Removal Plan prepared by Shoplick Associates dated March 14, 2019;
- Planting Plan prepared by Shoplick Associates dated March 14, 2019; and
- Details and Notes Plan prepared by Shoplick Associates dated March 14, 2019.

David Burke, Wetlands Resource Specialist, Lynn Tetrault, Property Manager for Concord Greene Condominium Association, Jane Shoplick, Landscape Architect of Shoplick Associates, Conor Gleeson, Parkhurst Tree, and Mary Hartman, Board of Directors for Concord Greene Condominium Association, attended tonight's meeting. Mr. Burke said he flagged the resource areas for the 25-acre site. The condominium complex was constructed about 40 years ago. Man-made ponds run through the site originating from a stream at the base of Route 2. Mr. Burke did not see a culvert under Route 2 but there may have been one at some point. With Natural Resources Director Kaye, they performed a flow test to show which parts of the water course were perennial, and found only a few areas of riverine conditions, as shown on the plan.

Onsite trees were likely planted following construction of the condominiums. Davey Tree has evaluated the trees over the last few years because of concern about potential danger hazards. Mr. Burke said that safety is a big concern for buildings and people walking around the complex. The majority of the trees are white pines approximately 60 feet in height. They would like to remove 64 trees in poor condition and will do a 1:1 replacement for trees or two shrubs to replace one tree. Most stumps will be ground. They will reseed or replant and then mulch. All new plantings will be native.

Chair Higgins asked why the trees were dying. Ms. Shoplick said the white pines to be removed have needle cast and they were planted too close together. Commissioner Zaunbrecher asked if the traffic caused by Route 2 had an impact on vegetation. Ms. Shoplick replied that it does. Mr. Burke said that salt is a big factor.

Mr. Gleeson said needle cast jumps from tree to tree. As far as he knows, needle cast only affects white pines. Water and salt also impact trees. Mr. Burke said that 50% of the trees being taken out are white pines. Chair Higgins asked what percentage trees will remain. Ms. Shoplick said out of 742 trees, 600 trees will remain. The 132 trees that will be removed are either dead or in poor condition. A number of trees were categorized as fair. Chair Higgins asked if Concord Greene will be coming back in five years to remove more trees. Ms. Shoplick said there are many trees in fair condition that will need to be removed. She explained that it will be a two year process to remove and replant. Mr. Gleeson said that Davey Tree would like to remove the dead trees before the needle cast affects the other pines.

Fran Detweiler, Concord Greene, said that she moved to Concord Greene because it is dog friendly, and asked if there will be any chemical treatment to the trees and if any of the new plantings will be toxic to dogs. Ms. Shoplick does not believe that any chemicals will be used. Mr. Shoplick explained that many plants contain toxins but a lot would have to be consumed.

Gary Kleiman, 57 Center Street, said the Town has adopted a tree preservation bylaw and asked if calculations for this project been done according to this bylaw. Chair Higgins said that the tree preservation bylaw pertains to new construction and does not apply to this project.

Commissioner Huggins noted that the Applicant submitted a waiver for work in the 25-foot NDZ but it was not in the format required by the Commission and asked that the Applicant work with staff to revise the waiver.

John O'Neill, 41 Kenney Lane, asked if there would be any invasives removal. Many trees have invasives growing on them. Chair Higgins replied that invasives growing on trees to be removed will also be removed, however, this project is not an invasives removal project.

The Applicant agreed to continue the hearing until May 15, 2019 to allow the waiver to be resubmitted and DEP to issue a file number.

MINOR MODIFICATION

Cronin, 956 Lowell Road, RDA File #18-23: Relocate Septic Pipe

Director Kaye said that the Applicant has requested a Minor Modification to relocate the septic pipe because of ledge which makes the original design difficult and expensive to construct. The septic pipe will need to pass through the 50-foot NBZ but there are no reasonable alternatives.

There were no public comments.

Commissioner Zaunbrecher moved to approve the Minor Modification for Cronin, 956 Lowell Road, RDA File #18-23. Commissioner Adams seconded. All so voted.

CLOSE AND ISSUE PERMITS

Anthony, 72 Walden Terrace, DEP File #137-1466

Chair Higgins reopened the hearing seeking approval to demolish and reconstruct a single-family house within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Commissioner Adams moved to close the hearing and issue an Order of Conditions for Anthony, 72 Walden Terrace, DEP File #137-1466 with findings A and B, Standard Conditions 1-19 and Special Conditions 20-49. Commissioner Zaunbrecher seconded. All so voted.

CERTIFICATES OF COMPLIANCE

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

Director Kaye said that the project involved reconstructing a culvert. The homeowner did a good job removing invasives. She explained that the approved plan states that invasives are to be removed and 50 red-osier planted but that wasn't done because it wasn't on the homeowner's plan, which only referenced invasives removal.

The NRC expressed concern that the homeowner did not have the approved plan and noted that replanting areas of invasives removal was important to ensuring the invasives didn't reestablish. The NRC determined that planting the required natives would be necessary before a Certificate is issued.

OTHER BUSINESS

68A Monument Street, Right of First Refusal

Homeowner Beth Fishman intends to sell a 2-acre portion of the 4-acre parcel and has received an offer. Director Kaye said the NRC has 120 days to offer an opinion to the Select Board as to whether or not the Town should purchase the land, but it does not appear that this is a bona fide offer. The 4-acre parcel was conditioned as part of a 1990 residential subdivision to not allow for further subdivision. Director Kaye said that an amendment to the special permit may be needed and that Town Counsel is reviewing. Commissioner Huggins said the NRC should wait to hear from Town Counsel.

Administrative Approvals:

- **Wang, 25 Spencer Brook Road, Tree Removal**

Director Kaye explained that there are three trees near a fence that an arborist has evaluated and determined that it would be prudent to remove. Approval was granted.

Commissioner Adams moved to adjourn. Commissioner Zaunbrecher seconded. All so voted. This meeting adjourned at 8:22 p.m.

Respectfully submitted,

Karen Bockoven
Administrative Assistant