

NATURAL RESOURCES COMMISSION
Meeting Minutes
May 5, 2021

Pursuant to the notice filed with the Town Clerk, a virtual public meeting of the Natural Resources Commission was held on Wednesday, May 5, 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, 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. Commissioner Sarah Grimwood was absent.

<p>APPROVE MEETING MINUTES</p> <ul style="list-style-type: none"> • March 17, 2021
<p>DIRECTOR'S UPDATE</p>
<p>TO BE CONTINUED WITHOUT DISCUSSION TO MAY 19, 2021</p> <ul style="list-style-type: none"> • TOWN OF CONCORD, 90Y Plainfield Road, NOI • SHAW, 43 Old Bedford Road, NOI • LAND STEWARDSHIP, INC., 299 Estabrook Road, NOI • MINER, 399 Lowell Road, Amended NOI
<p>CONTINUANCES</p> <ul style="list-style-type: none"> • NIGH, 1 Revolutionary Road, NOI
<p>NEW APPLICATIONS</p> <ul style="list-style-type: none"> • MACH, 455 Bedford Street, NOI • DAVIS, 513 Strawberry Hill Road, RDA • WOLF, 1075 Lowell Road, RDA • CONCORD CHILDREN'S CENTER, 250 Old Bedford Road, NOI • FIORI, 309 Strawberry Hill Road, NOI • YEO, 136 Barnes Hill Road, RDA
<p>EMERGENCY CERTIFICATION RATIFICATION</p> <ul style="list-style-type: none"> • TOWN OF CONCORD, Monument Street ROW (Sawmill Brook)
<p>CLOSE and ISSUE</p> <ul style="list-style-type: none"> • MIDDLESEX SCHOOL, 1400 Lowell Road
<p>CERTIFICATE OF COMPLIANCE</p> <ul style="list-style-type: none"> • Concord Property Management, Inc., 59 Walden Street
<p>OTHER BUSINESS</p> <ul style="list-style-type: none"> • Battle Road Connector Trail, Letter of Support

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 March 17, 2021 NRC meeting minutes, as amended. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

DIRECTOR'S UPDATE

- The Umbrella Arts Walk is underway. Artwork will be displayed until June 1st in five locations: Heywood Meadow, Ford Park, Chamberlin Park, and two installations at Mill Brook Way along the Reformatory Branch Trail.
- Public hearings for warrant articles are being held. Tomorrow evening the CPC projects will be reviewed. Director Kaye will be attending and she encouraged the NRC to attend to support these projects.
- Director Kaye informed the Commission that the three teak benches at Heywood Meadow have been given a facelift. Concord resident Michael Sprague has sanded and refinished the benches with a marine spar varnish. The benches will be re-installed this Friday.
- The town-wide Garlic Mustard Pull is scheduled, resuming where it left off in 2019, in a joint effort with the Concord Land Conservation Trust. The project will start in mid-May and run through the end of the month. Signs have been posted around Town. Anyone interested should contact the Natural Resources office to sign up for a route location and pick up paper yard waste bags. Bags can be brought to the landfill or residents can schedule a pickup time with Land Manager Will Holden.
- Director Kaye informed the Commission that Public Works will be holding a drop off only event on May 15th. For more information please refer to the Public Works web page.
- A pair of loons has returned for a second year to Walden Pond. Last year for the first time in a long time there was a breeding pair in southeastern Massachusetts. Peter Alden is working with the state to see if they will install some type of nesting platforms at Walden Pond. A resident at White Pond also emailed Director Kaye a video of two loons chasing each other at White Pond in a territoriality display. And, the bald eagle that nested at Fairhaven Bay last year is back in the same vicinity.

TO BE CONTINUED TO MAY 19, 2021

Notice of Intent, Town of Concord, 90Y Plainfield Road, DEP File #137-1559

Chair Nardi reopened the hearing seeking approval to improve the vehicular access and boat ramp, construct ADA compliant picnic areas and walkways, and install a new stormwater management system within the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Zaunbrecher moved to continue the hearing to May 19, 2021. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: 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 Zaunbrecher moved to continue the hearing to May 19, 2021. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

Notice of Intent, Land Stewardship, Inc., 299 Estabrook Road, DEP File #137-1556

Chair Nardi reopened the hearing seeking approval to conduct invasives species removal and management in Bordering Land Subject to Flooding, Bordering Vegetated Wetland, the 200-foot Riverfront Area of Dakins Brook, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Zaunbrecher moved to continue the hearing to May 19, 2021. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

Amended Notice of Intent, Miner, 399 Lowell Road, DEP File #137-1546

Chair Nardi reopened the hearing seeking approval to remove trees and conduct invasive species removal and management within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Zaunbrecher moved to continue the hearing to May 19, 2021. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

CONTINUANCES

Notice of Intent, Nigh, 1 Revolutionary Road, DEP File #137-1560

Chair Nardi reopened the hearing seeking approval to replace the existing deck and stairs, install a sauna, hot tub, and plunge pool, and conduct vegetation removal and management within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Layout and Materials Plan prepared by Inge Daniels Design, LLC revised April 5, 2021; and
- Planting Plan prepared by Inge Daniels Design, LLC revised April 5, 2021.

Inge Daniels of Inge Daniels Design attended tonight's meeting. Ms. Daniels said they resubmitted plans to address questions that the Commission had from the last meeting. Lights will be installed on all deck steps for safety. They are downward facing low voltage/dimmable hardscape lights. They would also like to install a single dark sky compliant sconce on the back of the house.

Ms. Daniels said they have delineated where the invasive species (multi-flora rose, buckthorn, bittersweet, and burning bush) are located. A 590-s.f. area will be planted with native shrubs. Ms. Daniels said they will be protecting native species in the active construction zone by hand digging and setting aside for transplanting native shrubs and perennials that would otherwise be destroyed (protecting low bush blueberry, goldenrod wood aster, aralia, and Canada mayflower.

Director Kaye said the prior homeowner strapped lights to several trees that project onto the pond. She asked if the lights were still active. Ms. Daniels replied that she does not believe they are active

and will confirm that with the current homeowner. She will ask them to remove the lights. Director Kaye said if the NRC was ready to issue a permit tonight they should condition the removal of lighting subject to discussion with the homeowner. The NRC agreed.

There were no public comments.

Commissioner Zaunbrecher moved to close the hearing and issue an Order of Conditions for DEP File #137-1560 with Findings A and B, Standard Conditions 1-19, and Special Conditions 21-59 with the Special Condition #59 being the removal of lights from trees near pond. The homeowner will confirm approval. If not, they will come back to the NRC to remove Special Condition #59. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

NEW APPLICATIONS

Notice of Intent, Mach, 455 Bedford Street, DEP File #137-1561

Chair Nardi opened the hearing seeking approval to install a swimming pool, replace an existing patio and retaining wall, and conduct vegetation 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;
- Proposed Plot Plan prepared by Precision Land Surveying, Inc. dated November 18, 2020;
- Existing Conditions and Alternatives Study Plan prepared by Kristan First Landscape Design dated February 22, 2021;
- Stormwater Management for Patio Renovation prepared by Robial Water LTD dated March 26, 2021;
- Proposed Pool and Patio Plan prepared by Kristan First Landscape Design dated March 24, 2021; and
- Proposal for New Pool and Driveway – Alternative Study prepared by Kristan First Landscape Design dated April 23, 2021.

The homeowner, Stacy Mach, and Kristan First of Kristan First Landscape Design attended tonight's meeting. Ms. First explained that the project involves the construction of a new pool and patio. They also proposing removal of invasives near wetlands and will replace with native species. The majority of property lies within 100-foot Buffer Zone. Ms. First said that Wetland Specialist David Burke recently delineated the wetlands and reported that the wetlands are predominantly a cattail marsh. The adjacent wetland has been noted as an estimated priority habitat of rare and endangered species habitat. However, the designation stops at the property line of 455 Bedford Street. Ms. First explained that they examined other locations for the pool but they were limited by setbacks. The septic system is located in the front of the house. The location they are proposing is currently patio. The structure of the pool will be located outside the 50-foot NBZ but the patio will encroach into the 50-foot NBZ. There will be a reduction of 175 s.f. in the BZ. They are providing an extensive mitigation plan which includes removing invasives and lawn along the bank. They will plant large native shrubs and groundcovers.

Chair Nardi commented that the driveway seems wide. Perhaps the homeowner could narrow the driveway to allow for the pool. Also, if the deck was repositioned they could keep the patio outside the 50-foot NDZ. Ms. First replied that Bedford Street is a busy street. The wider driveway allows

cars to park and turn around in the driveway without backing out onto the street. She explained that the new driveway will be 20 feet wide but shorter than the existing driveway which is approximately 16 feet wide. Ms. First said they will review to consider that option.

Commissioner Higgins asked that the plan note the current distance of the nearest structure to wetlands so the Commission can confirm that the pool is not any closer. Ms. First said the corner of the house extends into the 50-foot NBZ. The pool will be outside the 50-foot NBZ. Director Kaye noted that there is a permitted and unpermitted patio on the property. Director Kaye recommended that all patios be noted on the plan. She asked how will dewatering such as changing out the pool liner will be done outside the 50-foot NBZ. Ms. First said she spoke to the contractor who said it is recommended that gunite pools not be drained. Four to six inches is what is recommended each year when lowering the water level.

Commissioner Zaunbrecher commented that there are two patios on the property. The plan in 2007 was approved for only one patio. One of the patios is within 50-foot NBZ and did not receive approval from the NRC. Would the homeowner consider relocating the patio so it is outside the 50-foot NBZ? Ms. Mach said the patio was installed by the prior homeowners. Director Kaye felt this patio a pre-existing condition, but it should not be used as a point to establish the closest limit of encroachment. Commissioner Higgins agreed it would not be reasonable to ask the current homeowner to remove the patio. He inquired if the patio was pervious or impervious. He commented that he would like the deck to be outside the 50-foot NBZ. Ms. First asked if they were to reduce the patio in the back corner would the Commission look at that favorably. The NRC concurred.

Commissioner Higgins asked where the pool equipment was going. Mr. First asked for the Commission's opinion since the site is so tight. They could possibly put near the air-conditioning units. The pool equipment needs to be outside the setbacks.

Commissioner Zaunbrecher asked if there would be lights around the pool. She asked that the homeowner refer to the previous project that was discussed tonight which refers to the type of lighting the NRC would prefer. Ms. First replied that they will probably install path lights and lights inside the pool.

Director Kaye requested that the square footage for the mitigation be noted on the plan. Any outer Buffer Zone work requires 1:1 mitigation. She asked that the planting plan show on center spacing. Director Kaye explained that if there is a reduction of impervious surface in the 50-foot NBZ then the homeowner has accomplished mitigation.

There were no public comments.

The Applicant agreed to continue the hearing to June 2, 2021 to allow additional information to be provided.

Request for Determination of Applicability, Davis, 513 Strawberry Hill Road, RDA File #21-7
Chair Nardi opened the meeting seeking approval of an isolated wetland boundary determination from the Natural Resources Commission.

List of plans and documents discussed at this meeting:

- Request for Determination of Applicability Application; and

- Existing Conditions Plan of Land prepared by Hancock Associates dated August 9, 2018.

The homeowner, Jeffrey Davis, attended tonight's meeting. Mr. Davis said he was trying to determine if the BVW to the south of his property is jurisdictional. He informed the Commission that Hancock Associates evaluated and they determined there is no there is no connection. Director Kaye visited the site and there is an isolated basin that has wetland soils and wetland plants. The BVW is separated by an upland strip. There was no hydric connection that was observed between the two. Director Kaye confirmed that there is no connection and this is an isolated wetland.

Commissioner Higgins moved to issue a Negative Determination of Applicability #1 and #6. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

Request for Determination of Applicability, Wolf, 1075 Lowell Road, RDA File #21-8

Chair Nardi opened the meeting seeking approval to install a fence within the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Request for Determination of Applicability Application; and
- Proposed Fence Plan dated April 14, 2021.

The homeowners, Farley Urmston and Karl Bandtel, and caretaker Jon Wolf attended tonight's meeting. Mr. Wolf said the homeowners would like to install a fence a portion of which would be within the 50-foot NBZ and 25-foot NDZ. Ms. Bandtel explained that they share their trails with the public. Their Scottish wolfhound likes to run onto the trail when he sees other people and their dogs. They would like to install a wire fence to keep him from jumping on other dogs and people. The fence would be six inches off the ground. The NRC did not have any concerns. The Commissioners thanked the homeowners for keeping the trails on their property open to the public.

There were no public comments.

Commissioner Higgins moved to issue a Negative Determination #2 and #3 with the following condition: 1) The fence shall be raised 6 inches off the ground to permit wildlife movement. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

Notice of Intent, Concord Children's Center, 250 Old Bedford Road, DEP File #137-1562

Chair Nardi opened the hearing seeking approval to construct a two-story building, parking lot, deck, fence, paved sidewalks, and hardscape within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application;
- Site Plan Set (Sheets 1-8) prepared by Stamski and McNary, Inc. revised March 30, 2021;
- Site Plan (Pre-Development Drainage Map) prepared by Stamski and McNary, Inc. revised March 30, 2021; and
- Site Plan (Post-Development Drainage Map) prepared by Stamski and McNary, Inc. revised March 30, 2021.

Chair Nardi asked that any public comments for this project be limited to the NRC's purview.

Pat Nelson, Executive Director of Concord Children's Center, Molly Obendorf of Stamski and McNary, and Brooke Whiting-Cash of Lemon Brooke attended tonight's meeting. Ms. Obendorf explained that the property currently consists of a single-family dwelling, walkways, driveway, shed, and lawn. The lawn extends up to the edge of the wetland. The resource area consists of a BVW which was created by an old farm drainage ditch in the back of the property. The majority of the site is within wetlands jurisdiction. The existing house is 24.3 feet away from the edge of the wetland. Ms. Obendorf said the existing dwelling will remain and will be converted into a childcare facility. The proposed project includes constructing an addition and porch which will be located outside the 50-foot No Build Zone. A portion of the exit driveway and parking lot falls within the 100-foot BZ. Currently there is no stormwater management. They have done extensive calculations and design for the increase in impervious area. Roof and parking lot runoff will be captured and infiltrated in subsurface chambers which will mitigate the increase in impervious area. The chambers are outside the BZ. Ms. Obendorf said the remaining open space (front and back) will be used as a play space for the children. The site will be handicap accessible. The ramp in the back is proposed within the 50-foot NBZ and will be constructed on sonotubes. Ms. Obendorf said that Lemon Brooke spent a considerable amount of time preparing a plan to restore the area between the wetland and the 25-foot NDZ. They are proposing to make that area a natural meadow with a small path.

Ms. Whiting-Cash explained that they have planting setbacks required by zoning. She said the play area will be outside the 25-foot NDZ except for a paved path immediately outside the building which is the emergency egress. All other play space areas are pervious (engineered wood chips or sand). The area under the deck will also be pervious. Ms. Whiting-Cash said the lawn encroaches into the wetland. She presented a plan which indicated which trees on site will be removed. All trees indicated by a red dot are Norway maples. Some other trees are in bad condition and hazardous. They will not be removing any of the trees marked in green which include an elm and an apple tree. They are also proposing woody plantings in the meadow area to provide additional habitat resources. The meadow would be planted with native species from New England Wildflower and only mowed once or twice a year. They would like to have a mown path so supervised children can walk through to look at the different plant shapes, berries, etc. Ms. Whiting-Cash said they need to put a fence outside the play area which is a childcare requirement. They are proposing split rail with coated wire mesh. They may want to add a detailed gate. She said having the fence six inches off the ground may be an entrapment issue for young children. Childcare licensing requirements state that a fence cannot have any openings. Commissioner Higgins asked what would be allowed. Ms. Whiting-Cash said that the playground opening has to be smaller than 3 ½ inches. Licensing review requirements are extremely strict. Commissioner Pappas commented that he did not see the need for fencing around the playground given the fact that the site is a corner lot. There is no wildlife passage or corridor. Ms. Whiting-Cash said the fence will not prohibit any wildlife from traveling around the edge. It would prohibit them from going into the play area. Ms. Whiting-Cash said the school would also like to offer some gardening programs (raised garden beds).

Commissioner Pappas said he was concerned about the amount of impervious surfaces on the site. He explained that there is a history of flooding in that area. Ms. Obendorf replied that there will not be any increase in existing groundwater problems. All runoff water from the existing house and the new structures will infiltrate into chambers. However, approximately 100 feet of the existing

dwelling could not go into the chamber because of sloping and grading so it will go into a small splash pad at the downspout area. Ms. Obendorf said they are complying with regulations and mitigating the increased impervious areas. She informed the NRC that they received an email from the Town's Engineering Department and they will resolve any concerns raised. Ms. Obendorf said the addition will be put on a slab with no basement. She explained that the water table is about four feet down. The parking area will be raised to offset groundwater. Chair Nardi asked what amount of separation is needed between the drainage chamber and the groundwater. Ms. Obendorf replied two feet. Commissioner Higgins asked where the water would go when there is a large rainfall in a short amount of time. Ms. Obendorf said an outfall and water overflow will discharge into a level spreader. There will be significant treatment for runoff of the parking lot. An infiltration bed will provide additional drainage.

Ms. Whiting-Cash said the lighting is proposed in the parking lot for vehicular circulation and for safety going to and from buildings and cars. Minimum lighting will be provided for emergency egress as required. Soffit lighting will be provided for porches. They will have to set the lighting for after hours maintenance for safety egress. The lighting will not be on all night. Chair Nardi suggested the lights be on a timer. Ms. Whiting-Cash said timed lighting has not been designed yet.

Commissioner Zaunbrecher asked for the basis of sizing the building and the parking lot. Ms. Obendorf said they are working with the Planning Board to reduce the size of the parking lot as it pertains to this type of facility. She said that Ms. Nelson has done extensive analysis for parking. The proposed parking is what is needed. Ms. Obendorf said the size of the addition is based on the size of classrooms and the space that would be required. The size of the building has been reduced from the original proposal.

Director Kaye asked how the proposed building relates to existing programming at the Concord Children's Center. Ms. Whiting-Cash said the program is currently at the Ripley School. The school decided they needed the space and will no longer lease to Concord Children's Center. Director Kaye said currently there are 72 students. Will they be increasing the programming from what already exists? Ms. Nelson said they are taking three classrooms that are at Emerson (infants and toddler) and three classrooms at Ripley School and moving all six classrooms to the new facility. Ms. Nelson explained that since COVID the square footage for each student has changed. Previously 35 s.f. was required now it is 42 s.f. per child. Best practice is considered between 45 and 50 square feet. They are not expanding their program, but combining two locations into one. The square footage is roughly the same. Ms. Nelson said 7,000 s.f. is the size of the addition which will be for classrooms and for the director's office. The existing house will be for administrative staff. They will ask the architects to review the size of the addition to see if it can be reduced, but they are guided by the Department of Early Education and Care. They probably won't know for another year depending on how long COVID lasts if the department is going to go back to 35 s.f. per child requirement. However, best practice would be for a larger space.

Director Kaye said they are encroaching into the 50-foot NBZ because of the small accessible entryway, and asked if there any way to reduce that so nothing is within the 50-foot NBZ. Commissioner Higgins said the NRC would like to see an alternative analysis. Ms. Whiting-Cash explained that the size of the ramp is not related to how many people are in the building. It is related to how much grade change they have to make up and how long the ramp will be in order to meet ADA requirements. Commissioner Higgins said if the structure was smaller there would be less ramp encroaching into the 50-foot NDZ. Chair Nardi said this could also allow the ramp to be

reconfigured in the back to be outside the 50-foot NDZ. Ms. Obendorf said there is a square footage requirement for play space per child. She said they are pretty much at the minimum for the size of building per need. Ms. Whiting-Cash said they will provide alternatives.

Commissioner Zaunbrecher asked if it was possible to move the fence out of the 25-foot NDZ. Ms. Whiting-Cash said the blue section of fence is outside the 25-foot NDZ. She said the section fence labeled A1 could be installed as a split-rail fence. She explained that fencing is needed because of the busy road and they want to prevent the children from going near the ditch. Director Kaye suggested flipping the location of the fence to move it out of the 25-foot NDZ. Ms. Whiting-Cash said as an alternative they could plant a screen rather than fencing in the 25-foot NBZ.

Director Kaye noted that 1:1 mitigation is needed for any work in the 100-foot BZ and 10:1 mitigation is required for the proposed structure in the 50-foot NBZ. Mitigation information needs to be shown on a plan and quantified per zone. The Commission needs to be able to see that the mitigation provided is adequate. Ms. Obendorf said she will provide that information.

Commissioner Zaunbrecher asked that the Applicant provide justification for tree removal within BZ and what mitigation will be provided. Ms. Whiting-Cash explained that this information is noted in the plant schedule. The trees they want to remove in the 100-foot BZ are Norway maples and they are within the building footprint. Also, the pear tree they want to remove is where the level spreader will be located. Director Kaye requested that information be put in writing for the record.

Michelle Beck of 26 Philip Farm Road said she is the direct abutter behind 250 Old Bedford Road. She wanted to provide the NRC with some comments regarding the scope of the project, the large percentage of impervious surface, and the distribution of space types with the existing home compared to the addition. The existing home is being used for administrative purposes. She asked if that was consistent with how it is done with the current location, and whether the addition could be smaller. Ms. Whiting-Cash explained there are egress and access requirements that make it difficult to use the existing building space for programming, which is why majority of the classroom space is in the new addition. Ms. Nelson said initially they wanted to provide after-school programs on the first floor of the existing house. However, because of COVID they may not be able to provide an after-school program depending on whether or not public schools will still transport children to non-profit programs. Ms. Beck said where the flowering pear tree is being removed is where overflow water always goes onto her property. Every year during the spring they have large puddles of water in their backyard. Ms. Obendorf said there is a natural channel along the property line. They will not be increasing the grade in that area enough to affect the abutting properties. There will not be any continuous discharge. The discharge for the level spreader is for extremely high-volume storms. Water will be controlled so it does not go onto other properties. Director Kaye asked if there were any low impact development stormwater management features they can incorporate that would address the abutters' concerns, such as a rain garden or bioswale. Chair Nardi suggested having more holding capacity. Ms. Whiting-Cash said the level spreader is for the overflow of the subsurface chambers. The subsurface chambers provide more volume than a surface low impact feature. Typically ponding depth on surface landscape features is about six inches. The storage volume they have below grade far exceeds anything they can provide on the surface. Anything they do on the surface is also recharging into the ground which is the same thing that the cistern is doing. Ms. Obendorf said the Engineering Department wanted to see the sizing of the level spreader. They will look at the possibility of using a lower impact design. A rain garden would be good to use in this area.

Mark Gailus of 62 Prescott Road asked if a maintenance schedule was provided. He wanted to know if there were any similar size systems in this area of Town and if so, are those systems are working. Ms. Obendorf said she cannot speak to any other systems in the area. An operations and maintenance plan for this project has been provided. Director Kaye said that the Engineering Department is reviewing the drainage report and the associated operations and maintenance plan. She said inspections will have to be done in accordance with the plan. That will be included as one of the conditions in the Order of Conditions.

The Applicant agreed to continue the hearing to June 2, 2021 to allow additional information to be provided.

Notice of Intent, Fiori, 309 Strawberry Hill Road, DEP File #137-1563

Chair Nardi opened the hearing seeking approval to demolish and reconstruct a barn within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Plan of Land prepared by Winter GEC, LLC dated January 25, 2021.

The homeowner, Dennis Fiori, and Tom Hughes of Hughes Environmental Consulting attended tonight's meeting. Mr. Hughes said that the homeowner would like to replace the barn that is deteriorating. There are several trees growing up right against barn. Approval to remove trees was approved in 2015 but the work was never done. Mr. Hughes said there is a BVW associated with pond. He noted that the slope down from the barn is densely wooded. As requested by staff, Mr. Hughes will identify the trees which are proposed for removal and provide mitigation. There is one deciduous tree that is leaning towards the existing barn that they will try to save by just cutting off a few branches. If they can't save the tree, they will provide mitigation for that as well. Mr. Hughes said that the new barn will be slightly larger than the existing barn but it will be entirely outside the 50-foot NBZ.

There were no public comments.

The Applicant agreed to continue the hearing to May 19, 2021 to allow additional information to be provided.

Request for Determination of Applicability, Yeo, 136 Barnes Hill Road, RDA File #21-9

Chair Nardi opened the meeting seeking permission to remove trees and construct additions 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
- Topographic Plan of Land prepared by Stamski and McNary, Inc. dated January 29, 2021.

The homeowners, Terence Yeo and Elizabeth Johnson, attended tonight's meeting. Mr. Yeo said their property is approximately 3.9 acres and borders Macone Pond. He explained that they are trying to navigate through the wetland process and determine what they want to do with the property long term. The wetlands have been delineated. Mr. Yeo said currently they are looking to remove two pine trees that have been inspected by an arborist who determined they were hazardous. He explained that they are concerned about many other pine trees on his property. They

are fearful the trees will fall on their two young children. They realize that wetlands have to be protected but asked how a homeowner should manage potential falling trees. Commissioner Higgins replied that it is the function of a wetland professional to analyze, recommend, and inform homeowners what projects can be done and what type of mitigation would be required, and not appropriate for the NRC to make any recommendations. Mr. Yeo said he is trying to understand the rules and how they will be implemented. Commissioner

Director Kaye informed the Commission that the proposed additions are outside wetlands jurisdiction.

Mr. Yeo thanked Director Kaye for her assistance through the process.

There were no public comments.

Commissioner Higgins moved to issue a Negative Determination of Applicability #3 with the following conditions: 1) A staked straw wattle shall be placed at the limits of disturbance; 2) A pre-construction site visit shall be held with DNR staff and the Contractor to review the erosion controls and limits of work; and 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 Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

EMERGENCY CERTIFICATION RATIFICATION

Town of Concord, Monument Street ROW (Sawmill Brook), Clear Culvert

Director Kaye explained that at the last meeting she had asked the Commission to ratify an emergency certification to remove the beaver dam blockage at Sawmill Brook and install a beaver deceiver. The beaver dam blockage is in front of an approximately 150-year old 5x7 foot stone box culvert that conveys Sawmill Brook under Monument Street. The beaver dam is impounding about 20 acres with a maximum approximate depth of 10 feet. The water has been slowly rising since last fall, and this spring has come up significantly. While trying to gently remove the beaver dam, water flowing over the top of the dam began to undermine the roadway shoulder, and gravel bags were placed in front of the dam to stop the flow. There was a major concern of a catastrophic failure of Monument Street, the water main that services about 150 homes, and National Grid lines, and overhead utilities. A temporary bypass (24-inch HDP) pipe was installed in a road cut, and water is being pumped through the road trench and discharging via a plastic pipe onto a tarp on the downstream side. No erosion or sedimentation is occurring. This Emergency Certification approves the placement of the gravel-filled bags, roadway trenching to install pumps to dewater the impoundment, installing coffer dams for future culvert replacement, temporary placement of an energy dissipator for pumped water, dam removal, and beaver deceiver installation. The pumping will take at least 10 days to get the water level down. CPW will file a Notice of Intent for the culvert replacement. The final goal is to install a beaver deceiver once the blockage has been removed.

Director Kaye thanked CPW, CMLP, and the Police Department for their collaborative efforts. The NRC expressed their appreciation for the good teamwork.

Commissioner Higgins moved to ratify the Emergency Certification for the emergency work that was done and will continue for the next several weeks at Sawmill Brook. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

CLOSE AND ISSUE PERMITS

Middlesex School, 1400 Lowell Road, DEP File #137-137-1545

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.

Steve McKeown of the Middlesex School and Marie Rudiman of Weston & Sampson attended tonight's meeting. Commissioner Zaunbrecher thanked Ms. Rudiman for responding to her questions. She asked if the EPA method that is being done for the VOC analysis for the six different phthalates also provided a total phthalate such as polyaromatic hydrocarbons, and whether the EPA method provide totals. Ms. Rudiman said it does not provide totals. It provides the concentrations detected of each of the individual phthalates and PHs and aromatic amines that are in the test. Commissioner Zaunbrecher was concerned that the EPA method does not detect individual phthalates. She said if they are all slightly below the non-detect level they could still have a higher compounded level, which is something that the Commission would want to know. Ms. Rudiman replied that when she evaluates phthalates she does not evaluate as a total concentration. She takes the concentrations of the individual phthalates that are detected and evaluates that way. At the end she does a sum for potential risks for anything that is detected, not just phthalates. She explained that DEP and EPA recommend this method. Individual phthalates have different toxicities and individual PHs have different toxicities. The EPA detection limits are very low. Commissioner Zaunbrecher said the NRC is concerned about human safety and maintaining ecological integrity of the wetlands as best as possible. She wanted confirmation that the total phthalate level did not affect the wetland and the wildlife around the wetland. She said even low levels could be a concern. Ms. Rudiman said generally if the labs detect anything they will report it. If it is not detected it usually is not there. Commissioner Zaunbrecher asked how they assess the risk for that. Ms. Rudiman said she can still assess the risk on a very low concentration.

There were no public comments.

Commissioner Higgins moved to close the hearing and issue an Order of Conditions for DEP File #137-1545 with Findings A, B, C, and D, Standard Conditions 1-20, and Special Conditions 21-66. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

CERTIFICATES OF COMPLIANCE

Concord Property Management, 59 Walden Street, DEP File #137-884

Commissioner Higgins moved to issue a Certificate of Compliance for DEP File #137-884. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye, Nardi, Aye.

OTHER BUSINESS

Battle Road Connector Trail, Letter of Support

Director Kaye informed the Commission that since 2013 the Thoreau Farm Trust has been discussing the possibility of providing a trail connection from Miriam's Corner to the Thoreau Birth House through the Elm Brook watershed. Director Kaye explained that the trail would cross private property with a CR allowing the trail, Select Board land, conservation land, and National Park land. The trail would bring good visitorship to the Thoreau Birth House. The Trust is asking the NRC to provide a letter of support. Director Kaye informed the Commission that they will need to issue a permit for a boardwalk and trail which travels four-fifths of a mile through wetlands. The Trails Committee has issued a letter of support, and they will also be requesting one from the Select Board. Commissioner Pappas felt the NRC could support the goals of what the Thoreau Farm Trust would like to do because it is within the Commission's values, but it would be subject to regulatory review. Chair Nardi agreed that the trail could be generally supported by the NRC but they cannot provide a letter of support until the NRC sees the plan and specifics. Commissioner Pappas asked if there was any funding. Director Kaye said they are looking for support before they ask for funding. She will draft a letter stating that the NRC is not able to provide a letter of support given the conflict of interest with the permit the Commission has to issue. The NRC does support the goals as proposed.

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

This meeting was adjourned at 9:52 pm.

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=FM9AmONswvo&list=PL1TTzrWEK00lmahd64BNDrCmG6lzsnlhS&index=46>