

**NATURAL RESOURCES COMMISSION**  
**Meeting Minutes**  
**June 7, 2023**

Pursuant to the notice filed with the Town Clerk, a public meeting of the Natural Resources Commission was held on Wednesday, June 7, 2023 at 7:00 p.m., at 141 Keyes Road, First Floor Conference Room. The following Commissioners were present: Ed Nardi, Chair, Sarah Grimwood, Nick Pappas, and Bill Kemeza. Commissioner Kleiman was absent. Natural Resources Director Delia Kaye, Assistant Natural Resources Director Bert Comins, and Natural Resources Administrative Assistant Karen Bockoven were also present.

<b>APPROVE MEETING MINUTES</b> <ul style="list-style-type: none"><li>• March 15, 2023 (Regular and Executive Session)</li></ul>
<b>COMMISSIONER COMMENTS</b>
<b>DIRECTOR'S UPDATE</b>
<b>TO BE CONTINUED WITHOUT DISCUSSION TO JUNE 28, 2023</b> <ul style="list-style-type: none"><li>• <b>THE DARTMOUTH GROUP</b>, 1024 Main Street, NOI</li></ul>
<b>CONTINUANCES</b> <ul style="list-style-type: none"><li>• <b>MASSACHUSETTS AUDUBON SOCIETY</b>, 221, 203 &amp; 20X Balls Hill Road, NOI</li></ul>
<b>NEW APPLICATIONS</b> <ul style="list-style-type: none"><li>• <b>NATALIE &amp; OLSEN</b>, 54 Laws Brook Road, NOI</li><li>• <b>LABADINI</b>, 154 Southfield Road, NOI</li><li>• <b>WHITNEY</b>, 178 Heaths Bridge Road, NOI</li></ul>
<b>CLOSE and ISSUE</b> <ul style="list-style-type: none"><li>• <b>SYMES DEVELOPMENT &amp; PERMITTING, LLC</b>, 53A Annursnac Hill Road</li><li>• <b>AWMW, LLC</b>, 461 Old Bedford Road</li><li>• <b>BAKER POND LLC</b>, 1075 Lowell Road</li></ul>
<b>CERTIFICATES OF COMPLIANCE</b> <ul style="list-style-type: none"><li>• <b>CONCORD GREENE</b>, 1024 Main Street</li><li>• <b>MOSS</b>, 557 Sudbury Road</li></ul>
<b>MINOR MODIFICATION</b> <ul style="list-style-type: none"><li>• <b>MORSE</b>, 11 Williams Road</li></ul>
<b>ADMINISTRATIVE APPROVALS</b> <ul style="list-style-type: none"><li>• <b>LOVATO</b>, 315 Harrington Avenue, Tree Removal</li><li>• <b>TOWN OF CONCORD</b>, Old Rifle Range, Reroute Trail</li></ul>

Mr. Nardi called the meeting to order at 7:00 p.m.

**APPROVE MEETING MINUTES**

The March 15, 2023 (Regular and Executive Session) minutes were tabled to the June 28, 2023 NRC meeting.

**COMMISSIONER COMMENTS**

Director Kaye said the Warner's Pond Community Meeting on May 23<sup>rd</sup> was well-attended with approximately 140 people attending both via Zoom and in person. Ms. Kaye is preparing requests for

proposals for preliminary design and modeling for dam removal, with the RFP to also include responses to public feedback and continued public outreach. The goal is to have a consultant on board by September in time for information to be generated to support a dam removal article at next year's Town Meeting.

Ms. Kaye said Commissioner Kleiman asked her to forward information to the NRC since he was unable to attend tonight's meeting. Mr. Kleiman wants to make sure the NRC is looking broadly to address the questions that the Commission is hearing from the community. Some people have asked about a modified dam removal approach where a larger pond could be created through engineering, berming, and redirecting the stream. Mr. Kleiman believes it would be valuable to incorporate components from Envision Concord by looking at history, character, mobility, accessibility, environmental sustainability, etc. Mr. Kemeza asked if the consultants will review the suggestion of damming the residual pond at Warner's Pond that is there. Ms. Kaye replied yes.

Director Kaye will meet with the Public Works Commission next Wednesday to provide them with information on the background and Alternatives Analysis Report. She will also meet with the Recreation Commission later this summer.

#### **DIRECTOR'S UPDATE**

- The design workshop for the Assabet River All Persons Trail is scheduled for next Tuesday, June 13th at 7:00 pm at the Harvey Wheeler Community Center. Jennifer Brooke of Lemon Brooke Landscape Design will have drawings to show some of the amenities, etc. Dr. Grimwood requested the meeting be recorded.
- Director Kaye informed the Commission that two Eagle Scout projects were recently completed. One project involved a scout working with OARS to develop educational signage regarding water chestnuts. One of the signs has been installed at the Old Calf Pasture boat launch. Land Manager Will Holden teamed up with another Eagle Scout to install water bars at Punkatasset. Director Kaye said that five water bars were replaced over the weekend.
- Beaver activity at Heywood Meadow caused a blocked culvert. The blockage was approximately seven feet into the culvert. CPW has been working to resolve this blockage over the past week.
- Jon Higgins of Higgins Environmental Associates is under contract again this year to install A-Pods at White Pond, which are currently collecting mostly pollen. He is also looking at Walden Pond as a comparison. Ms. Kaye said that water quality sampling was to be conducted by UNH, but the arrangement fell through at the last minute and sampling and analysis will be done by the Town. Mr. Nardi asked if the A-Pods were working as well as predicted. Ms. Kaye said information is still being gathered, but was cautiously optimistic.

#### **TO BE CONTINUED TO JUNE 28, 2023**

#### **Notice of Intent, The Dartmouth Group, 1024 Main Street, DEP File #137-1634**

At the request of the Applicant, Dr. Grimwood moved to continue the hearing to June 28, 2023. Mr. Kemeza seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

## CONTINUANCES

### **Notice of Intent, Massachusetts Audubon Society, 221, 203 & 20X Balls Hill Road, DEP File #137-1635**

Renata Pomponi, Senior Director, Strategic Initiatives, Sanctuary Director for Brewster's Woods, Liz Stetson, Senior Director of Capital Assets and Planning, Flavio Sutti, Senior Conservation Ecologist, and Steven Ventresca of Nitsch Engineering attended tonight's meeting. Mr. Ventresca informed the Commission that an erosion control plan comprising of compost socks has been submitted. He said erosion controls will be placed on each trail as the trail is being worked on. No work will be done if it is raining. Construction access and stockpiling locations have been noted on the plan. The stockpiling locations were coordinated with Natural Heritage. Mr. Ventresca said the kayak stand has been relocated outside the 25-foot NDZ. Signage regarding the season for kayaking is proposed, and the existing pipe near the shore's edge will be removed. An invasives species management plan has been submitted. They have revised the note regarding Japanese knotweed to indicate no foliar spray will be used. They will cut and dab to apply the herbicide. A botanical study was provided to Natural Heritage. Natural Heritage also requested a turtle mitigation plan which they have provided.

Mr. Nardi asked what type of equipment will be used. Ms. Stetson replied that AMC will be using trail scale equipment which includes a mini skid steer, mud buggy, and a mini excavator.

There were no public comments.

Mr. Kemeza moved to close the hearing and issue an Order of Conditions for DEP File #137-1635 with Findings A, B, C, D and E, Standard Conditions 1-20, and Special Conditions 21-59. Dr. Grimwood seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

## NEW APPLICATIONS

### **Notice of Intent, Natalie & Olsen, 54 Laws Brook Road, DEP File #137-1640**

Dan Wells of LEC Environmental attended tonight's meeting. There is fencing on either side of the house running down towards the brook. Their proposal for mitigation will include high blueberry bushes to supplement the existing. A small portion of the existing roof is being removed as well as the impervious stone patio. The Applicants would like to construct an addition, landing, deck, terrace, and stairs. All work will be outside the 50-foot NBZ. Work within the 25-foot NDZ includes removal of fencing and plantings. The patio will be replaced with a deck. The walkway will be pervious. The porch and terrace will be located on existing lawn outside the 50-foot NBZ. The net change in footprint within the Riverfront is 223 sf. The area of temporary disturbance is 2,665 sf. which will be restored to lawn. There will be a slight net increase of impervious. Calculations included the roof overhang (97 sf). Mitigation for that includes filling up to the river's edge with new highbush blueberry and reducing the amount of lawn area. They will alter less than 10% of the existing Riverfront.

Mr. Kemeza asked why they were only proposing to plant highbush blueberry. Mr. Wells said they felt it was a good option since the existing highbush blueberry grow so well and is good for wildlife. They are agreeable to planting other native species. Mr. Kemeza recommended discussing with staff. Mr. Nardi agreed. He requested that a maintenance plan be submitted for the permeable pavers. Mr. Wells agreed. Ms. Kaye requested consideration to remove fencing from the 25-foot NDZ. Mr. Wells said he will discuss with the homeowners.

There were no public comments.

The Applicant agreed to continue the hearing to June 28, 2023 to allow additional information to be provided.

**Notice of Intent, Labadini, 154 Southfield Road, DEP File #137-1641**

Homeowners Kevin and Tina Labadini and Seth Donohue of Dillis & Roy Civil Design Group attended tonight's meeting. Mr. Donohue said in 2007 an Order of Conditions was issued to the property additions on the site. During the design work for the current project, it was discovered that a patio that was installed and a portion of the addition did not comply with the setbacks of the previously approved Order. A portion of the existing addition (previously approved) will be removed so they will be in compliance with the original Order of Conditions. A portion of the previously approved deck which is encroaching will be removed. Mr. Donohue noted that a patio (575 sf.) was installed without NRC approval. As mitigation they will remove 575 sf. of lawn and replace with conservation wildlife seed mix. He explained that currently the lawn extends right up to the wetland. He believes what the homeowners are proposing will be an improvement.

Mr. Nardi said the proposal for the additions seem good in size and setbacks. He said he has a problem with the patio that was constructed without approval. He noted that the patio is not small and was put in 50-foot NBZ. In addition to the patio, a retaining wall and fireplace were also constructed. If the homeowners had included this hardscaping in the original Notice of Intent application in 2007, it would not have been approved. He asked why the patio was installed without permission from the NRC. Ms. Labadini said it was a mistake. Her husband, Kevin, is a landscaper and did the work when he had time. Mr. Nardi said it was clearly explained in 2007 that no structures are allowed in the 50-foot NBZ. He said allowing the patio, retaining wall, and fireplace to remain because they were installed by mistake sets an uncomfortable position for the NRC. Mr. Donohue said the homeowners are willing to remove a portion of their house. Director Kaye that the addition was not built to compliance. Mr. Donohue said the lot is small and the homeowners would be giving up their yard as mitigation. Mr. Nardi said the mitigation being proposed is not the correct mitigation ratio. He explained that within the 50-foot NBZ mitigation is 10:1. Mitigation within 25-foot NDZ is 5:1. Mr. Nardi said removing some of the patio would reduce the amount of mitigation that would need to be provided. He said the Commission always tries to work with the homeowners to get them to where they want to be. Mr. Donohue said they are open to discussing a resolution. He asked if they could include removal invasives in the back of the property as mitigation. Mr. Nardi said plantings are already proposed. Invasives removal in that area is still the same square footage.

Mr. Kemeza asked what the patio was made of. Mr. Labadini replied that it was open bluestone.

Mr. Nardi said the homeowners need to consider removing some of the patio. Director Kaye said they need to calculate what is also in the outer BZ. The patio and new work is 1:1 mitigation. The fire pit and retaining wall is also something that would not have been allowed if the Applicants had submitted it in their prior NOI application.

Mr. Pappas was unclear what the NRC was asking for regarding work that was done without approval and is in violation. He asked if the Commission would allow leaving what is there and removing a portion of the patio if the mitigation numbers work out. Mr. Nardi responded it is up to the applicants to review the issues and revise their proposal. Director Kaye requested a table noting square footage needed to mitigate for the proposed garage and additional patio in the outer BZ. Mr. Donohue will provide.

There were no public comments.

The Applicant agreed to continue the hearing to June 28, 2023 to allow additional information to be provided.

**Notice of Intent, Whitney, 178 Heaths Bridge Road, DEP File #137-1642**

Homeowner Eric Whitney and Ted Doucette of Doucette Engineering attended tonight's meeting. Mr. Doucette said the project is to replace the existing septic system. They are trying to keep the new system outside the 25-foot NDZ. He said they will be installing a Presby system which works well because of the slope and provides better treatment. He said there is an existing path that they can use to bring in the equipment. They have received Board of Health approval. Mr. Nardi requested the location for the construction access be noted on the plan. He said the new tank and pump chamber are right up against the 25-foot NBZ. He asked if they could move slightly so when they go to excavate, they are not in the 25-foot NDZ. Mr. Nardi noted that mitigation is needed even though they are improving the site. He said one tank in the 25-foot NDZ is being removed but two new tanks are being installed. Director Kaye explained that mitigation for work within the 50-foot NBZ is 10:1. Also, mitigation for work within the 25-foot NDZ is 5:1. The Applicant can propose planting native trees and shrubs, and invasives removal as mitigation. Mr. Nardi requested a table noting by zone what is existing versus what is new and the square footage. He suggested discussing mitigation strategies with staff.

There were no public comments.

The Applicant agreed to continue the hearing to June 28, 2023 to allow additional information to be provided.

**CLOSE AND ISSUE PERMITS**

**Symes Development & Permitting, LLC, 53A Annursnac Hill Road, DEP File #137-1633**

Mr. Kemeza moved to close the hearing and issue an Order of Conditions for DEP File #137-1633 with Finding A, Standard Conditions 1-20, and Special Conditions 21-52. Dr. Grimwood seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

**AWMW, LLC, 461 Old Bedford Road, DEP File #137-1636**

Dr. Grimwood Sarah moved to close the hearing and issue an Order of Conditions for DEP File #137-1636 with Finding A, Standard Conditions 1-20, and Special Conditions 21-54. Mr. Kemeza seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

**Baker Pond LLC, 1075 Lowell Road, DEP File #137-1639**

Dr. Grimwood Sarah moved to close the hearing and issue an Order of Conditions for DEP File #137-1639 with Finding A, Standard Conditions 1-20, and Special Conditions 21-51. Mr. Kemeza seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

## CERTIFICATES OF COMPLIANCE

### **Concord Greene, 1024 Main Street, DEP File #137-1316**

Mr. Kemeza moved to issue a Certificate of Compliance for DEP File #137-1316. Dr. Grimwood seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

### **Moss, 557 Sudbury Road, DEP File #137-1210**

Mr. Kemeza moved to issue a Certificate of Compliance for DEP File #137-1210. Dr. Grimwood seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

## MINOR MODIFICATION

### **Morse, 11 Williams Road, DEP File #137-1582, Unauthorized Tree Removal**

Brian Petrone, on behalf of the homeowners, attended tonight's meeting. Mr. Petrone said three trees were removed within 100-foot BZ which consisted of a 14-inch maple tree, 24-inch pine tree, and an offshoot of a 14-inch maple tree. He said the homeowners are agreeable to mitigation. Director Kaye noted that mitigation is 2:1 with planting native trees. She informed the NRC that a partial COC was issued before new homeowner purchased the property since there were some outstanding issues that needed to be addressed. She said Feno markers were installed but they were not engraved. Also, there was some construction debris at the edge of the lawn that needs to be removed. The site needs to be stabilized with a native seed mix. The type of seed mix they are proposing needs to be submitted. She recommended a timeframe for mitigation (August 7<sup>th</sup>) with the exception of seeding which can happen later. Assistant Director Comins said he is meeting with Mr. Petrone on Monday on site to review everything and see a good location for mitigation.

Mr. Kemeza moved to issue a Minor Modification for DEP File #137-1582. Staff recommends 2:1 mitigation of native trees, 2-inch caliper. Replacement tree locations should be noted on the plan and be within the 100-foot Buffer Zone. The homeowner should commit to hand removal of construction debris and replacement of the FENO markers by August 7, 2023. The disturbed area to be reseeded by the fall. Dr. Grimwood seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

## OTHER BUSINESS

### **Administrative Approvals:**

- **Lovato, 315 Harrington Avenue, Tree Removal**  
Director Kaye said the homeowner is concerned about a tree that could possibly fall in her yard. The tree is in the outer BZ. The homeowner has agreed to leave a 10–12-foot snag. Approval was granted.
  
- **Town of Concord, Old Rifle Range, Reroute Trail**  
Director Kaye informed the NRC that the Trails Committee voted at their meeting last month to re-route the trail because of an intersection that is very entrenched, narrow, and wet. Unfortunately, the new trail will re-route people away from the historic trail near Target 4. Approval was granted.

At 8:18 pm, with no further presentations or public comment, the Chair adjourned the meeting.

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=FgL7BitXKzM&list=PL1TTzrWEKOOmVv84OJSDa6rdv9\\_Uu7NrN&index=2](https://www.youtube.com/watch?v=FgL7BitXKzM&list=PL1TTzrWEKOOmVv84OJSDa6rdv9_Uu7NrN&index=2)