

NATURAL RESOURCES COMMISSION
Meeting Minutes
July 1, 2020

Pursuant to the notice filed with the Town Clerk, a virtual public meeting of the Natural Resources Commission was held on July 1, 2020 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: Greg Higgins, Chair, Nick Pappas, and Judy Zaunbrecher. Commissioners Huggins and Nardi were absent. Natural Resources Director Delia Kaye, Assistant Natural Resources Director Colleen Puzas, and Natural Resources Administrative Assistant Karen Bockoven were also present.

<p>APPROVE MEETING MINUTES</p> <ul style="list-style-type: none"> • May 6, 2020 and May 11, 2020
<p>TO BE CONTINUED TO JULY 22, 2020</p> <ul style="list-style-type: none"> • CORE STATES GROUP, 1134 Main Street, NOI • SHAW, 43 Old Bedford Road, NOI • WALSH, 150 Garfield Road, NOI • TOWN OF CONCORD, 369, 38A & 40A Commonwealth Avenue, NOI
<p>CONTINUANCES</p> <ul style="list-style-type: none"> • AWALT & CONLEY, 396 Great Meadows Road, NOI • SILVER HILL ASSOCIATION, 22A & 25A Silver Hill Road, NOI • JAMESAPOLLOS, 141 Commerford Road, NOI
<p>NEW APPLICATIONS</p> <ul style="list-style-type: none"> • CONCORD LAND CONSERVATION TRUST, 68B Sudbury Road, NOI • CONCORD LAND CONSERVATION TRUST, 892 Fairhaven Hill Road, NOI • THE FENN SCHOOL, 676 Monument Street, NOI
<p>CLOSE and ISSUE</p> <ul style="list-style-type: none"> • REYNOLDS, 42 Shore Drive
<p>CERTIFICATES OF COMPLIANCE</p> <ul style="list-style-type: none"> • AHO, 721 Old Bedford Road • KALMIA WOODS, 21B The Valley Road
<p>ADMINISTRATIVE APPROVALS</p> <ul style="list-style-type: none"> • 61/73 Musketaquid Road, Tree Removal

Chair Higgins called the meeting to order at 7:00 p.m. He stated that the NRC meeting was being audio-recorded and requested that anyone from the public recording the meeting so inform the Commission.

APPROVE MEETING MINUTES

The May 6, 2020 minutes were tabled to the July 22, 2020 NRC meeting due to a lack of quorum of voting members. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

The May 11, 2020 minutes were tabled to the July 22, 2020 NRC meeting due to a lack of quorum of voting members. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

TO BE CONTINUED TO JULY 22, 2020

Notice of Intent Application, Core States Group, 1134 Main Street, DEP File #137-1536

Chair Higgins reopened the hearing seeking approval to demolish an existing structure, and construct a new structure with associated utilities, drainage, parking, and remote ATM's within Bordering Land Subject to Flooding and the 200-foot Riverfront Area to the Assabet River and an unnamed tributary to the Assabet River.

At the request of the Applicant, Commissioner Pappas moved to continue the hearing to July 22, 2020. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

Notice of Intent Application, 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 Pappas moved to continue the hearing to July 22, 2020. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

Notice Intent Application, Walsh, 150 Garfield Road, DEP File #137-1524

Chair Higgins reopened the hearing seeking approval to remove trees and regrade the backyard within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Pappas moved to continue the hearing to July 22, 2020. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

Notice of Intent Application, Town of Concord, 369, 38A & 40A Commonwealth Avenue, DEP File #137-1522

Chair Higgins reopened the hearing seeking approval to construct a municipal recreation center, associated activity center/event barn, and walking trails; remove trees, and conduct invasives species control, and install plantings within Bordering Land Subject to Flooding and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Pappas moved to continue the hearing to July 22, 2020. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

CONTINUANCES

Notice of Intent Application, Awalt & Conley, 396 Great Meadows Road, DEP File #137-1525

Chair Higgins opened the hearing seeking approval to conduct landscape improvements, realign and lower an existing driveway, replace an existing stone and pine beam driveway turnaround retaining wall, and replace existing walkways within Bordering Land Subject to Flooding and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Wetland Permitting and Turtle Protection Plan prepared by Stamski and McNary, Inc. revised June 17, 2020.

Molly Obendorf of Stamski and McNary, Miles Connors of Parterre Ecological, and Kyle Cormier of OxBow Associates attended tonight's meeting. Ms. Obendorf said that they have updated their plan to include a detail for the Corten steel edging and have also identified the stockpile locations. They have received Board of Health approval for the septic system. They have quantified the size and types of trees that will be planted for both Phase I and Phase II. Ms. Obendorf explained that a turtle barrier has been installed. Mr. Cormier said the barrier will be maintained and the gate closed at the end of each day. They have not heard back from Natural Heritage regarding the botanical survey.

Chair Higgins asked if the homeowners intended to get the invasives work done as part of Phase I. Ms. Obendorf confirmed that was correct. She said they will update the phasing plans to include invasives removal. Chair Higgins said the Commission would like larger trees planted to adequately compensate for the trees being removed.

Mr. Connors said that he has been working on a planting plan with Gail Alden of Alden Landscape Design. A big challenge is the steep slope which leads down to the wetland edge. Mr. Connors explained that they have met the Town's Tree Preservation Bylaw requirement with a 1:1 replacement. Smaller trees will replace the larger trees being removed. Chair Higgins said that the Commission does not expect them to put back the same size, but they do want trees that will eventually grow to the size of the trees that are being removed. He said the alternative would be to add a few more trees. Mr. Connors said that the existing site contains very tall trees. Currently the shrub layer along the wetland contains elderberry and blueberry. He explained that part of the reasoning behind the proposed tree species is to be more in line with the existing shrub layer to diversify the site. They could replace some dogwoods and birches with white pines and other species.

Commissioner Pappas asked if the existing site was a second growth forest. Mr. Connors replied yes. The trees are all mature. Some are past their prime and in decline.

Chair Higgins explained that information about the project phasing needs to include invasives removal, Phase 1 work, and timeframes.

Commissioner Zaunbrecher noted that Natural Heritage approval is needed.

There were no public comments.

The Applicant agreed to continue the hearing to July 22, 2020 to allow additional information to be provided and NHESP to provide feedback on the botanical survey.

Notice of Intent Application, Silver Hill Association, 22A & 25A Silver Hill Road, DEP File #137-1527

Chair Higgins reopened the hearing seeking approval for an aquatic management and maintenance program for Silver Hill Pond in Land Under Waterbodies and Waterways, and invasive species control in Bordering Vegetated Wetlands and Bordering Land Subject to Flooding.

David Roach of All Habitat Services and Paul Vancutsem, President of the Silver Hill Association attended tonight's meeting. Mr. Roach said he believes all information requested from the last meeting has been provided. An updated map has been developed via a picture taken by a drone showing the surface vegetation and the Phragmites. A description has been provided of the type of equipment that will be used. What type of equipment will be determined on what time of year they are doing the work. If they can do work by foot they will. Otherwise, they will use low ground pressure equipment such as a Marsh Master).

Director Kaye noted for the record that the Notice of Intent application has been signed and documentation of the MEPA submittal has been provided.

Chair Higgins asked if the Applicant would be providing a pre and post monitoring report. Mr. Roach confirmed. The Association has been collecting water quality data for approximately 10 years. A variety of techniques have been used.

Commissioner Zaunbrecher asked if weather conditions would impact water quality results. Would that have an effect on their monitoring program? Mr. Roach said typically a heavy rain event causes a spike in nutrients. There would be heavy algae and weed growth. A trace signature would also be seen. The plants in the pond will eventually remediate that.

Director Kaye advised the Commission that the draft Order of Conditions includes a monitoring program, a baseline assessment of the vegetation, and annual monitoring reports.

There were no public comments.

Commissioner Zaunbrecher moved to close the hearing and issue an Order of Conditions for DEP File #137-1527 with Finding A, Standard Conditions 1-19, and Special Conditions 20-43.

Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

Notice of Intent Application, John Jamesapollos, 141 Commerford Road, DEP File #137-1535

Chair Higgins opened the hearing seeking approval to repair and expand an existing driveway, repair the driveway culvert, construct a 3-season porch, extend a roof gable, construct an accessible walkway/deck, and install a gravel shoulder within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Wetland Permitting Plan prepared by Stamski and McNary, Inc. revised June 18, 2020.

John Jamesapollos attended tonight's meeting. Mr. Jamesapollos stated that he has been working with Stamski and McNary to address the Commission's comments. They trimmed down the existing driveway and made some modifications to the proposed driveway. They have eliminated the

shoulder on Commerford Road that was initially proposed. This resulted in a net reduction of 26 s.f. in the Riverfront. They will be replanting some of the grassy areas.

Chair Higgins said protection measures for some of the trees is necessary. Mr. Jamesapollos replied that Note 3 on the plan does indicate tree armory. Chair Higgins requested that a detail be noted on the plan.

Chair Higgins asked where mitigation will be done. Mr. Jamesapollos said that the entire front area (13,000 s.f.) above the siltation barrier they will mechanically remove the invasives and within the siltation barrier and BVW they will remove the invasives by hand. Mr. Jamesapollos said 100 plants will be planted for the understory and an additional nine trees will be planted in the wetland area.

Chair Higgins said the planting along the driveway is considered landscaping and not mitigation. Mr. Jamesapollos said that the total required mitigation is 6,621 s.f. but they are proposing over 13,000 s.f. Commissioner Zaunbrecher thought it would be better to remove invasives that are closer to the Town's conservation land. Mr. Jamesapollos replied that in Mr. Crossman's report most of the invasives are in the front understory area. The invasives are so pervasive that they will continue to grow and spread. Commissioner Pappas said Mr. Jamesapollos' explanation seemed reasonable if that is the area where the invasives seem to be pervasive. Director Kaye said doing mitigation closer to the resource area would be more beneficial. Commissioner Zaunbrecher said the standards for invasives removal has to be met. However, she would prefer higher quality of invasives removal rather than how much square footage will be removed. Commissioner Pappas said identifying which invasives are most problematic would be helpful. Director Kaye said the majority of invasives is buckthorn with some bittersweet. Mr. Jamesapollos will discuss with Mr. Crossman.

Director Kaye noted that CPW is reviewing the culvert analysis.

The Applicant agreed to continue the hearing to July 22, 2020 to allow additional information to be provided.

NEW APPLICATIONS

Notice of Intent Application, Concord Land Conservation Trust, 68B Sudbury Road, DEP File #137-1532

Chair Higgins opened the hearing seeking approval to conduct invasives species removal and management within Bordering Land Subject to Flooding, Bordering Vegetated Wetlands, and the 200-foot Riverfront Area of the Sudbury River.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Project Plan and Resource Area prepared by Concord Land Conservation Trust dated April 1, 2020.

Joan Ferguson, Chair of the Concord Land Conservation Trust (CLCT) attended tonight's meeting. Ms. Ferguson explained that CLCT had an Order of Conditions for Phragmites removal which has expired. Previous treatment for Phragmites removal was conducted by stem injection. This was done from 2013-2018 but was not effective in eradicating the colony. The first two years went pretty well but after that they had trouble keeping up with it. They had a contractor lined up to do a

foliar treatment, but the work was not done. Ms. Ferguson said they would now like to try to do a foliar application so they can hopefully eradicate the Phragmites.

There were no public comments.

Commissioner Zaunbrecher moved to close the hearing and issue an Order of Conditions for DEP File #137-1532 with Findings A and B, Standard Conditions 1-19, and Special Conditions 20-42. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

Notice of Intent Application, Concord Land Conservation Trust, 892 Fairhaven Hill Road, DEP File #137-1533

Chair Higgins opened the hearing seeking approval to conduct invasives species removal and management within Bordering Land Subject to Flooding, Bordering Vegetated Wetlands, and the 200-foot Riverfront Area of the Sudbury River.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Project Plan prepared by Concord Land Conservation Trust dated May 30, 2020.

Joan Ferguson, Chair of the Concord Land Conservation Trust (CLCT) attended tonight's meeting. Ms. Ferguson said they would like to control the buckthorn at the wetland edge. They chose to do the work in the area where the buckthorn is most concentrated. The proposed method would be to cut and dab the buckthorn that is greater than two inches. Follow-up work will probably be necessary.

Chair Higgins asked if they will be stockpiling the invasives that are being pulled. Ms. Ferguson said they will probably cut the bigger pieces into lengths and then stockpile. They will do a brush pile for the rest of the vegetation. They will make sure to put the brush outside of the Buffer Zone. Chair Higgins asked how the deer exclusion project was working. Ms. Ferguson said they did not expect to see anything for five years. She explained that periodically they take a look to see if the fence is still intact. They will not be doing any invasives removal in that controlled area.

There were no public comments.

Commissioner Pappas moved to close the hearing and issue an Order of Conditions for DEP File #137-1533 with Findings A-D, Standard Conditions 1-19, and Special Conditions 20-44. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

Notice of Intent Application, The Fenn School, 676 Monument Street, DEP File #137-1534

Chair Higgins opened the hearing seeking approval to install a seasonal floating dock within Bordering Land Subject to Flooding, the 200-foot Riverfront Area of the Concord 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;
- Site Preparation, Erosion Control and Detail Plan prepared by Samiotes Consultants, Inc. dated June 17, 2020; and

- Public Comment Letter submitted by Susanna Bedell dated June 26, 2020.
- Proposed Site Layout and Grading Plan prepared by Samiotes Consultants, Inc. dated June 17, 2020.

David Platt of the Fenn School and Dwight Dunk of Epsilon Associates attended tonight's meeting. Mr. Dunk explained that the Fenn School has a few canoes that they currently store on a permanent rack near the river's edge. Their proposed project involves installing a seasonal floating dock to launch and land canoes. A gangway will be installed to provide access to the dock.

Chair Higgins asked how many canoes are currently being used. Mr. Dunk said the school has six canoes. Mr. Dunk explained that the dock will be installed in the spring and removed for the winter months. Erosion controls will be installed to protect the site when the sonotubes are installed. They will also protect the trees on site. The dock consists of three 6-foot by 8-foot segments. The gangway is 5-foot by 25-foot from the shore to the dock. They will need to install four posts that will be augured into the riverbed to keep the dock in place. Mr. Dunk explained that the dock will be approximately 18-24 inches above the water surface. He also informed the Commission that access to the river from the school would be via a 10-foot wide mowed path through the field. Mitigation will consist of establishing a pollinator meadow which will cover approximately one acre.

Chair Higgins requested that the wetland buffer delineations be noted on the plan. Mr. Dunk replied that they will provide that information.

Chair Higgins thought the dock seemed overly sophisticated. Mr. Dunk said in order to have two canoes launch or land simultaneously that length is needed. Mr. Dunk said that the gangway is 5-feet wide to provide enough space to get the canoes down to the dock. Chair Higgins asked if six canoes would be the limit. Mr. Dunk said that is how many canoes the school owns now. Chair Higgins said he was trying to assess the impact if more than six canoes are used. Mr. Dunk replied that a satisfactory restriction would be to limit to only canoes owned by the school. They would like to offer students the opportunity to enjoy and learn about the river. Chair Higgins said the NRC may want to limit the number of canoes. The school may want to offer rowing or sculling, which may have different impacts than what the Commission is envisioning now. Chair Higgins commented that it may be good to have parameters for what usage would be allowed.

Chair Higgins asked for the location of the canoe rack. Mr. Dunk replied in the southeast corner near the water's edge, outside the 25-foot NBZ. They would prefer not to have to carry the canoes a long distance. Chair Higgins wanted to confirm that canoe usage was seasonal. Mr. Dunk confirmed that was correct. Chair Zaunbrecher asked what the purpose was of the boxes next to the canoe rack and whether they are permanent structures. Mr. Platt replied that is where the paddles and other equipment will be put and that storage would be seasonal. Commissioner Pappas asked where at the end of the season would the dock, canoe rack, and storage bins be stored. Mr. Dunk replied probably on the main campus. Chair Higgins said that needs to be specified on plan.

Commissioner Zaunbrecher asked how the dock and gangplank will be removed and transported to the main campus at the end of season. Mr. Dunk explained that because the dock is segmented (each piece is about 200 lbs.) it can be removed in pieces. The intent for the gangway would be to pull the dock out of the river onto the shore. A piece of school equipment, similar to a heavy-duty golf cart, would pick up the sections and trailer them away. Commissioner Pappas asked if that should be noted on the plan. Chair Higgins asked if the pieces would be carried by hand and then

put on a cart. It would be wise to indicate that the removal is by hand to the upland area then put on a cart and hauled away. Also note on the plan where the equipment will be stored. Chair Higgins said the school needs to identify how many canoes they intend to use. If more canoes are needed they would need to get approval from the NRC. Commissioner Pappas said he was concerned about the type of equipment that will be used and how close to the river.

Chair Higgins questioned the location of the pollinator meadows and whether another mitigation technique might work better. Mr. Dunk replied that he met with Director Kaye around the holidays and discussed mitigation. The impact is limited to the impact caused by the posts. Mr. Dunk said he has contacted an ecological restoration landscape firm to get input from them.

Chair Higgins asked who currently mows and hays the field. Mr. Dunk said that he has been informed by the school that a farmer mows for hay purposes. Ecologically some species do better if cut in early spring and others do better when cut in late fall. Mr. Dunk said they can identify when the pollinator meadow areas are cut. Field markers could be installed to identify the hayfield versus the pollinator meadow. Mr. Platt said the property has been in Chapter 61A for a decade and the school is maintaining what has been done historically. Director Kaye said the field could be used as a good opportunity for the students to learn about bobolinks habitat, as they were observed nesting here prior to the field being recently mowed. Chair Higgins said the school should consider mowing later in the season to allow for successful bobolink nesting.

Commissioner Zaunbrecher asked if any thought was given to people who may use the dock to come off the river and picnic, which could affect the resource areas. Mr. Dunk said he did not think about that. They could make the posts taller and post signs that the dock is school use only. There are posted signs already indicating private property. Mr. Platt said that before Fenn School owned the property, people would access it. They would prefer not to have too many signs. Commissioner Zaunbrecher asked if there was anything that could be done to prevent students from going down the bank to the river. Would plantings help? Mr. Platt said it would probably be difficult to plant because of the fluctuation of the water.

Richard Chazen, 131 Carr Road, read a letter that he and Susanna Bedell submitted into the record. He thanked the Commission for allowing him to read his letter. He said that since listening to the testimony this evening he has additional questions. A lot of debris floats downstream. He believes that based on the configuration of the dock debris will collect there, and asked what the plan would be to collect and dispose of the debris. He has a canoe and a kayak on his property that they have used for 20 years. They have never had any issues launching the canoe or kayak into the river. Their topography at the river's edge is similar to the Fenn School. He does not know why a dock of this substance needs to be constructed to accommodate six canoes. He asked whether the dock would be used by the school's summer camp as well, and whether the gangway would also be removed, and where it would be stored. Mr. Chazen said their property is surrounded by the Fenn School campus and they do not want to have to look at a dock six months out of the year. He emphasized the need for a master plan, and asked how the NRC can review this project strictly in the context of a dock. There have been rumors that the Fenn School will be developing their property for athletic fields and other uses. Therefore, it is critical to assess the impacts of the dock within the context of future uses of the property, and not in a segmented way.

Chair Higgins asked if the Applicant would like to respond to Mr. Chazen's comments tonight or take the time to review and come back to discuss at a later date. Mr. Dunk replied that he would like to address comments at the next meeting.

Mr. Dunk said while he was working with the engineers that is when it was determined that the length of the dock should be 24 feet. Mr. Dunk said they will provide waivers for work in the 25-foot NDZ and 50-foot NBZ.

The Applicant agreed to continue the hearing to July 22, 2020.

CERTIFICATES OF COMPLIANCE

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

Commissioner Zaunbrecher moved to issue a Certificate of Compliance for DEP File #137-1477. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

Kalmia Woods, 21B The Valley Road, DEP File #137-1380

Commissioner Pappas moved to issue a Certificate of Compliance for DEP File #137-1380. Commissioner Zaunbrecher seconded. It was **UNANIMOUSLY VOTED** by Roll Call Vote: Higgins, Aye, Pappas, Aye, Zaunbrecher, Aye.

Administrative Approvals:

- **61/73 Musketaquid Road, Tree Removal**

Director Kaye said that the homeowner had a previous Order of Conditions to remove invasives. The homeowners would like to remove four Norway maples that are on the property line. The new neighbor gave their approval to remove. Approval was granted.

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

This meeting adjourned at 8:47 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=7PS0IKbYiMk&list=PL1TTzrWEK00lmahd64BNDrCmG6lzsnihS&index=4&t=0s>