

**NATURAL RESOURCES COMMISSION**  
**Meeting Minutes**  
**September 20, 2023**

Pursuant to the notice filed with the Town Clerk, a public meeting of the Natural Resources Commission was held on Wednesday, September 20, 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>PUBLIC COMMENT</b>
<b>APPROVE MEETING MINUTES</b> <ul style="list-style-type: none"> <li>• June 28, 2023 and July 19, 2023</li> </ul>
<b>COMMISSIONER COMMENTS</b>
<b>DIRECTOR'S UPDATE</b>
<b>TO BE CONTINUED WITHOUT DISCUSSION TO OCTOBER 11, 2023</b> <ul style="list-style-type: none"> <li>• <b>THE DARTMOUTH GROUP</b>, 1024 Main Street, NOI</li> <li>• <b>CROSSPOINT ASSOCIATES, INC.</b>, 768 Elm Street, NOI</li> </ul>
<b>CONTINUANCES</b> <ul style="list-style-type: none"> <li>• <b>WARD</b>, 103 Pilgrim Road, NOI</li> </ul>
<b>NEW APPLICATIONS</b> <ul style="list-style-type: none"> <li>• <b>PRESSMAN</b>, 256 Bedford Street, NOI</li> <li>• <b>SOS RESCUE RESTORATION CO.</b>, 475 Monument Street, RDA</li> </ul>
<b>ENFORCEMENT ORDER</b> <ul style="list-style-type: none"> <li>• <b>MILTARRY OFFICES REGISTERED LLP</b>, 91 &amp; 97 Lowell Road</li> </ul>
<b>CLOSE and ISSUE</b> <ul style="list-style-type: none"> <li>• <b>BAILEY</b>, 460 Garfield Road</li> </ul>
<b>CERTIFICATES OF COMPLIANCE</b> <ul style="list-style-type: none"> <li>• <b>BECKMAN</b>, 24, 38, 41 &amp; 55 McCallar Lane</li> </ul>
<b>OTHER BUSINESS</b> <ul style="list-style-type: none"> <li>• Concord 250 Permanent Memorials Subcommittee – CPA Letter of Support</li> </ul>

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

**PUBLIC COMMENTS**

None.

**APPROVE MEETING MINUTES**

Mr. Kemeza moved to approve the June 28, 2023 NRC meeting minutes, as written. Mr. Pappas seconded. Dr. Grimwood abstained. **VOTE 3-0** by Roll Call Vote: Pappas, Aye, Kemeza, Aye, Nardi, Aye.

Mr. Kemeza moved to approve the July 19, 2023 NRC meeting minutes, as written. Mr. Pappas seconded. Dr. Grimwood abstained. **VOTE 3-0** by Roll Call Vote: Pappas, Aye, Kemeza, Aye, Nardi, Aye

## COMMISSIONER COMMENTS

None.

## DIRECTOR'S UPDATE

- Ms. Kaye said Land Manager Will Holden and several trail stewards have been cleaning up tree debris from Town conservation properties caused by the storm last Friday. There were approximately 40 trees including 10 trees at Fairyland. The debris included limbs and branches, however, some of the trees that fell were between 30-40 dbh (diameter at breast height). Mr. Holden also coordinated an invasives removal effort at Punkatasset to remove bittersweet and other invasives climbing up trees in the potato patch.
- The kickoff meeting for the Warner's Pond Dam Removal Preliminary Design was held today. The meeting was attended by EA Engineering, Ms. Kaye, Mr. Nardi, Mr. Comins, Recreation Director Anna McKeown, and CPW Engineer Salomon Ybarra. Ms. Kaye informed the Commission that a separate meeting was held with the Friends of Warners Pond community group and was attended by Deputy Town Manager Megan Zammuto, Ms. Kaye, Mr. Nardi, Mr. Kleiman, Mr. Comins, and NRC Select Board Liaison Mark Howell. Members of the Friends of Warners Pond group in attendance included Anna Feldweg, John Colman, Matt Kaiser, and Greg Theriault. Ms. Kaye said the meeting was very productive. The neighbors have a lot of questions and Ms. Zammuto took notes to populate questions. The neighbors were asked to identify what additional alternatives they would like the Town to evaluate. Some neighbors believe that the Army Corps will come in and dredge the pond at a 35-65 match from the Town. Ms. Kaye said this is true when there is a federal interest and has spoken to Byron Rupp from the Army Corp. of Engineers who said the Army Corp. can conduct a study to evaluate whether there is a federal interest. Ms. Kaye said a letter was submitted today requesting that the Army Corps do an initial study and incorporate necessary funding in their FY24 budget. Dr. Grimwood asked if the NRC should put on the Town Warrant for 2024 Town Meeting.
- Ms. Kaye informed the NRC that several CPA applications have been submitted. The first application is for survey and design to replace the steps at the Hillcrest conservation property. A second application is for the wall at Heywood Meadow located by Mill Brook. Ms. Kaye did not file an application for the Barrett House. She said using funding from ARPA (American Rescue Plan Act) will be the funding request venue. A third application was submitted for the A-Pod program at White Pond where Higgins Environmental has been conducting a pilot program for the last few years. She said the A-Pod program appears to be successful and that decades of cyanobacteria has been removed from the pond. She said the plan is to deploy sentinel A-Pods as needed at a cost of \$18,000 each. The annual service contract is \$24,000. Mr. Higgins is recommending the Town use two A-Pods for a total cost of \$60,000. Mr. Kemeza asked if there were any cyanobacteria at Warner's Pond. Ms. Kaye replied that cyanobacteria is found in all water bodies at low levels. She will discuss this with Mr. Higgins at the next monthly meeting.
- Ms. Kaye said she met with Eagle Scout Grady Flinn to discuss his project for the signage at the Town Forest in recognition of black Concordians. She asked Mr. Flinn if he would consider a bronze plaque if funding was not an issue. Mr. Flinn said funding was an issue and explained that another reason for not wanting to do a bronze plaque is because the QR code may need to be revised over time. Ms. Kaye said she will work with Mr. Flinn on the design.

- Ms. Kaye said that MBTA Community Zoning review is underway.
- Ms. Kaye said she is considering submitting a Garden Club grant to put together some new pollinator kits. The kits were successful on Earth Day last year.

**TO BE CONTINUED TO OCTOBER 11, 2023**

**Notice of Intent, The Dartmouth Group, 1024 Main Street, DEP File #137-16344**

Mr. Nardi reopened the hearing seeking approval to implement an Aquatic Management Program consisting of herbicide and algaecide treatment at Concord Greene Ponds to control nuisance and non-native plant and algae growth within Land Under Waterbodies and Waterways, the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands and the 200-foot Riverfront Area of an unnamed tributary to the Assabet River.

At the request of the Applicant, Dr. Grimwood moved to continue the hearing to October 11, 2023. Mr. Kemeza seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

**Notice of Intent, Crosspoint Associates, Inc., 768 Elm Street, DEP File #137-1650**

Mr. Nardi reopened the hearing seeking approval to demolish the existing commercial building, construct a new four-unit commercial building, reconstruct the existing parking lot, and install stormwater management improvements within the 200-foot Riverfront Area of the Assabet River and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Dr. Grimwood moved to continue the hearing to October 11, 2023. Mr. Kemeza seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

**CONTINUANCES**

**Notice of Intent, Ward, 103 Pilgrim Road, DEP File #137-1653**

Mr. Nardi reopened the hearing seeking approval to demolish an existing porch and construct an addition within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Homeowner Eric Ward attended tonight’s meeting. Mr. Nardi asked if staff was satisfied with the plan detail demonstrating that the cantilevered addition would remain outside the floodplain. Ms. Kaye confirmed.

There were no public comments.

Dr. Grimwood moved to close the hearing and issue an Order of Conditions for DEP File #137-1653 with Finding A, Standard Conditions 1-20, and Special Conditions 21-52. Mr. Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

**NEW APPLICATIONS**

**Notice of Intent, Pressman, 256 Bedford Street, DEP File #137-1652**

Mr. Nardi opened the hearing seeking approval to construct an addition, replace a deck, and replace a failed septic system within the 200-foot Riverfront Area to an unnamed perennial stream and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

The Applicant's son-in-law, C.J. Coy, Kyle Cormier of Oxbow Associates, Peter Daus-Haberle of Daus-Haberle Design, and Kevin Quetti, Quetti Design Group, attended tonight's meeting. Mr. Cormier said the homeowner would like to construct an addition at the rear of the house and replace the failed septic system. The project also includes the installation of an infiltration system which will capture stormwater runoff from the existing house, garage, and proposed addition. Mr. Cormier said that work for the new septic system, addition, and driveway repaving is within the 100-foot BZ but outside the 50-foot NBZ. Proposed work within the 50-foot NBZ includes removal and repaving of existing pavement and infiltration galley next to the existing garage. Currently there is 4,699 sf. of impervious areas which is approximately 26% of the Riverfront area. The existing deck with gravel underneath (392 sf.) will be redeveloped. A total of 1,245 sf. of existing and proposed structures will have stormwater infiltrated, currently there is none. Mr. Cormier said that 300 sf. of the existing driveway will be removed and replaced with plantings. He said they are proposing to plant a wildflower seed mix and five mountain laurels or other native species depending on nursery availability. Reports will be provided after the first growing season for two years.

Mr. Daus-Haberle explained that Ms. Pressman would like a first-floor bedroom addition so she can remain in the home long term. He said the homeowner is very interested in protecting the wetlands and is willing to remove some of the existing driveway and plant appropriate wetland species.

Mr. Nardi asked if this was a redevelopment project. Ms. Kaye said initially it was submitted as new development in accordance with the WPA Regulations Mitigation needs to be in accordance with section (f) or (g) of the regulations. A table (by zone) showing the existing conditions, proposed conditions, and mitigation to be provided is needed.

Mr. Nardi asked if the new cul-tec chamber system would be extending beyond the existing pavement near the garage. Mr. Quetti said they may be able to shorten and raise the grade while still providing the same amount of storage. Mr. Nardi requested that they remain in the area that is already impacted.

There were no public comments.

The Applicant agreed to continue the hearing to October 11, 2023 to allow additional information to be provided.

**Request for Determination of Applicability, SOS Rescue Restoration Co., 475 Monument Street, RDA File #23-11**

Mr. Nardi opened the hearing seeking approval to demolish and replace an existing addition in the same footprint within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Joe Cataldo of SOS Rescue Restoration Co. attended tonight's meeting. Mr. Cataldo informed the Commission that the house was struck by a car and was shifted off the foundation by about two feet. The project involves removing the structure and rebuilding the foundation within the existing footprint. All work will have to be brought up to code and Historic District regulations. Ms. Kaye said the existing patio will also be replaced in kind using the existing bricks.

There were no public comments.

Dr. Grimwood moved to issue a Negative Determination of Applicability #3 with the following conditions: 1) All work shall be completed within the existing footprint of the house and no closer to the

wetlands than existing conditions. 2) Erosion controls shall remain in place until work is completed and the site is fully stabilized. 3) Following work, an as-built plan shall be submitted the Natural Resources Commission and Building Department demonstrating compliance with the reconstructed addition and patio within the existing footprint. Mr. Kemeza seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

### **ENFORCEMENT ORDER**

#### **Milltarry Offices Registered LLP, 91 & 97 Lowell Road and 105 & 13B Keyes Road, DEP File #137-1315**

Jim White of Milltarry Offices and Attorney Dan Bailey attended tonight's meeting. Mr. Nardi said under the Order of Conditions permit that was issued, a certain number of plantings were required for mitigation. He commented that when initially preparing the landscape plan, the landscape architect may not have taken existing native plants on site into account. However, additional plantings are still needed. Mr. Nardi said documentation of compensatory storage also needs to be provided. Mr. White said he has been discussing this situation with Ms. Kaye for a long time. He said he is not trying to be difficult or save money. He cares about how the property looks and is constantly removing invasives and trash not only on his property but also on the Town's property. Mr. White has a letter from his engineer stating there is twice as much compensatory storage on the site than before the project began, and any remaining compensatory storage which needs to be provided is de minimis. Mr. White believes that additional compensatory storage would cause damage to the brook and does not accomplish anything. He said he will provide a better copy of the plan so staff can review. Mr. White presented pre- and post-construction landscaping pictures. He strongly believes that the site serves the Town well as it is and there is no need for additional plantings but will provide if necessary. Mr. Nardi said he appreciates Mr. White's perspective; however, it is important to adhere to the Order of Conditions permit and provide the number of plantings required. Mr. White said the area where he was required to provide drainage has filled in with cattail plants. Mr. Nardi said it would be helpful to know what plants are on site now. If there are some native species growing that were not necessarily planted, perhaps this would reduce how many new plantings are still needed. Mr. Pappas reiterated that there was an original approved plan per the Order of Conditions permit. He said the situation may be different now from what was anticipated, and the implementation of the original plan may not make sense. He said at this point, the NRC needs written documentation outlining what was required per the permit, the conditions now, and what is now being proposed. Mr. Nardi clarified that all information needs to be put on a plan and tabled. He suggested using the existing plan and doing an overlay. Mr. White will provide the requested information.

Ms. Kaye said the Order of Conditions permit expired in 2019 and that she has had multiple conversations over the past number of years about flood storage and mitigation plantings. She explained that she offered Mr. White the opportunity to avoid enforcement by requesting a Notice of Intent be filed with a revised mitigation plan. Mr. White chose to file an application proposing nothing. She said time is running out this season to put in plantings and recommended that the NRC issue an Enforcement Order so outstanding items can be addressed and resolved. Mr. Bailey said he is concerned that Mr. White will have a difficult time hiring a qualified professional in time to prepare a plan by October 4<sup>th</sup>. Ms. Kaye said an extension can be requested. Mr. Nardi said this should come as no surprise given the number of discussions over the past several years.

Dr. Grimwood moved to issue an Enforcement Order for Milltarry Offices Registered LLP, 91 & 97 Lowell Road and 105 & 13B Keyes Road. Mr. Kemeza seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

### **CLOSE AND ISSUE PERMITS**

#### **Bailey, 460 Garfield Road, DEP File #137-1654**

Dr. Grimwood moved to close the hearing and issue an Order of Conditions for DEP File #137-1654 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.

### **CERTIFICATE OF COMPLIANCE**

#### **Beckman, 24, 38, 41 & 55 McCallar Lane, DEP File #137-1419 (partial)**

The Applicant, Hope Beckman, and Rachel Watsky of Watsky Law attended tonight's meeting.

Ms. Kaye explained that an Order of Conditions was issued for this project and then appealed by a neighborhood group. She said subsequently DEP issued a Superseding Order of Conditions that upheld the NRC's decision. The Superseding Order is under the DEP's purview. Staff is recommending a Partial Certificate of Compliance under the Town's wetlands bylaw to allow the required invasives removal and mitigation plant monitoring to be provided). Ms. Kaye said Mr. Crossman provided a report noting that the mitigation plants were put in, but a monitoring report has not been provided.

Ms. Watsky informed the Commission that they have retained another wetland consultant to do the monitoring and prepare the reports. They will provide reports for 2023 and 2024 as soon as the reports are received. Ms. Kaye said they also need to submit a report for 2022.

Mr. Pappas moved to issue a Partial Certificate of Compliance for DEP File #137-1419. Dr. Grimwood seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kemeza, Aye, Nardi, Aye.

### **OTHER BUSINESS**

#### **Concord 250 Permanent Memorials Subcommittee – CPA Letter of Support**

Ms. Kaye said that the Concord 250 Permanent Memorials Subcommittee has submitted an application requesting CPC approval to purchase trees for planting as part of the 250 commemorations. Ms. Kaye will draft a letter of support on behalf of the NRC for their approval at the next NRC meeting.

At 8:05 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=Y7cm8fImO3o&list=PL1TTzrWEKOOmVv84OJSDa6rdv9\\_Uu7NrN&index=1](https://www.youtube.com/watch?v=Y7cm8fImO3o&list=PL1TTzrWEKOOmVv84OJSDa6rdv9_Uu7NrN&index=1)