

**NATURAL RESOURCES COMMISSION**  
**Meeting Minutes**  
**February 22, 2023**

Pursuant to the notice filed with the Town Clerk, a public meeting of the Natural Resources Commission was held on Wednesday, February 22, 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 Gary Kleiman. Mr. Kemeza was absent. Natural Resources Director Delia Kaye and Natural Resources Administrative Assistant Karen Bockoven were also present.

<b>APPROVE MEETING MINUTES</b> <ul style="list-style-type: none"><li>November 16, 2022, December 7, 2022, December 21, 2022 and January 11, 2023</li></ul>
<b>COMMISSIONER COMMENTS</b>
<b>DIRECTOR'S UPDATE</b>
<b>TO BE CONTINUED WITHOUT DISCUSSION TO MARCH 15, 2023</b> <ul style="list-style-type: none"><li><b>WH WALDEN LLC</b>, 59 Walden Street, NOI</li></ul>
<b>CONTINUANCES</b> <ul style="list-style-type: none"><li><b>EMS DEVELOPMENT</b>, 96 Southfield Road, NOI</li><li><b>JAMESAPOLLOS</b>, 141 Commerford Road, Amended NOI</li></ul>
<b>NEW APPLICATIONS</b> <ul style="list-style-type: none"><li><b>McCLELLAND</b>, 50 Wright Road, NOI</li><li><b>COTY &amp; ROSENSHINE</b>, 300 Ministerial Drive, NOI</li><li><b>GALLAND &amp; IGLEHEART</b>, 33 West Circle, NOI</li><li><b>MAP HOLDINGS, LLC</b>, 794 Elm Street, NOI</li></ul>
<b>CERTIFICATES OF COMPLIANCE</b> <ul style="list-style-type: none"><li><b>DUPONT &amp; BRENON</b>, 111 Channing Road</li><li><b>FABIO'S CONSRRUCTION</b>, 11 Williams Road</li><li><b>LEMONIAS DEVELOPMENT COMPANY</b>, 331 &amp; 367 Fitchburg Turnpike</li></ul>
<b>OTHER BUSINESS</b> <ul style="list-style-type: none"><li>Harden, 7A Pond Street, Violation</li></ul>

Mr. 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**

Mr. Kleiman moved to approve the November 16, 2022 NRC meeting minutes, as written. Mr. Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

The December 7, 2022, December 21, 2022, and January 11, 2023 minutes were tabled to the March 15, 2023 NRC Meeting.

**COMMISSIONER COMMENTS**

None.

## DIRECTOR'S UPDATE

- Ms. Kaye informed the NRC that the first of two community meetings regarding Warner's Pond will be held next Thursday, March 2<sup>nd</sup> at the Town House. Postcards were mailed to Town residents informing them about the meeting and a link to a survey. The consultant will be providing a conceptual level for alternatives analysis for dam removal and limited dredging. She explained that one option is to dredge certain areas of the pond and move the sediment to either the northwestern or southwestern coves of the pond to create an emergent wetland, which is being considered because of the high costs associated with trucking the material offsite. The second alternative is to remove the dam. Ms. Kaye said her goal is to get community feedback on both approaches. The consultant will gather the community feedback to incorporate for the second meeting.

## TO BE CONTINUED TO MARCH 15, 2023

### **Notice of Intent, WH Walden LLC, 59 Walden Street, DEP File #137-1618**

Mr. Nardi reopened the hearing seeking approval to construct a second-story addition with pavement resurfacing, sidewalk reconstruction, and landscape improvements within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to Mill Brook and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Dr. Grimwood moved to continue the hearing to March 15, 2023. Mr. Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

## CONTINUANCES

### **Notice of Intent, EMS Development, 96 Southfield Road, DEP File #137-1626**

Mr. Nardi reopened the hearing seeking approval to demolish the existing dwelling and construct a new single-family house, paved driveway, deck, and walkway 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 Feb. 8, 2023.

Matt Sepe of EMS Development and Nathaniel Cataldo of Stamski and McNary attended tonight's meeting. Mr. Nardi noted that additional information about invasives has been provided. The Commission did not have any other comments.

There were no public comments.

Dr. Grimwood moved to close the hearing and issue an Order of Conditions for DEP File #137-1626 with Findings A, B, and C, Standard Conditions 1-20, and Special Conditions 21-53. Mr. Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

### **Amended Order of Conditions, Jamesapollos, 141 Commerford Road, DEP File #137-1535**

Mr. Nardi reopened 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 200-foot Riverfront Area to Baptist Brook.

List of plans and documents discussed at this meeting:

- Wetland Permitting Plan prepared by Stamski and McNary, Inc. revised January 12, 2023; and
- Mitigation Plan prepared by Stamski and McNary, Inc. revised January 12, 2023.

Applicant John Jamesapollos, Paul Kirchner of Stamski and McNary, and Art Allen of Ecotec Environmental attended tonight's meeting. Mr. Jamesapollos explained that they are proposing to shorten the driveway, which is different from what was proposed originally. The garage addition will be located where the driveway has already been approved within the original limits of the work. There will be no increase of impervious areas and no additional tree removal. Mr. Jamesapollos said tree removal work previously approved, as well as new tree work, has been noted on the plan. He said 1:1 mitigation will be provided and is shown by zone on the revised plan. The current work zone is close to the house for the garage and porch addition. Mr. Jamesapollos said the five trees within 25 feet of the working area will be protected. Three trees are noted on the plan now, the other two will be added. Ms. Kaye requested that the trees to be removed and/or protected be clearly noted on the plan.

Mr. Kirchner said Feno markers will be installed and have been noted on the plan.

Mr. Nardi asked about additional erosion controls around the retaining wall. Mr. Jamesapollos said previously erosion controls previously installed are still in good condition.

Mr. Jamesapollos informed the Commission that they would like to install three closed loop geothermal wells. The anticipated depth of drilling is 400 feet. Mr. Jamesapollos said an email from the contractor was sent to Ms. Kaye just prior to tonight's meeting. She requested that the location of where the tailings be located be shown on the plan. Mr. Jamesapollos agreed to provide. He said the final step is to deposit the tailings into the existing inground pool. He explained that holes will be drilled in the bottom of the pool to allow any remaining water to drain. The pool also has an existing 12-inch drain. He said they plan on raising the depth of the pool from 10 feet to 5 feet. Ms. Kaye requested erosion controls around the borer holes and drill rig be noted on the plan.

Dr. Grimwood asked if any trees will need to be protected near the geothermal wells. Mr. Jamesapollos said three trees will need to be protected. Mr. Kirchner said no additional trees will have to be removed to accommodate the geothermal wells.

Mr. Kleiman said he is concerned about how tailing materials will be contained. He noted there is a 10-inch oak tree which is close to the wells. He asked if that tree would be protected. Mr. Jamesapollos said they will identify on the plan all trees that will be protected. He said that the drill rig will be on the driveway and away from any trees.

Mr. Nardi asked if they will be putting loam in the sandy areas. Mr. Jamesapollos said because they had success with reseeded that area previously, they plan on using the same approach. Mr. Allen informed the Commission that he first visited the site in January of 2021. He visited the site again on June 30, 2022, after the site had been graded and seeded. The site is stable. He expects using the same approach will provide the same result. Ms. Kaye recommended bringing in 4-8 inches of topsoil as a good medium for stabilization. Mr. Jamesapollos said the disturbed area will be taken care of. He believes they have been responsible. He noted that last time they also added wildflowers and an upland meadow seed mix. Ms. Kaye requested that topsoil be used is a standard condition for projects that come before the NRC.

Jonathan Stevens of 85 Black Horse Place said he is a neighbor and fully supports the project as presented.

Mr. Jamesapollos said a comment letter was also provided from a neighbor at 127 Commerford Road. Mr. Nardi replied that it was provided to the Commission this afternoon.

The Applicant agreed to continue the hearing to March 15, 2023 to allow additional information to be provided.

### **NEW APPLICATIONS**

#### **Notice of Intent, McClelland, 50 Wright Road, DEP File #137-1629**

Mr. Nardi opened the hearing seeking approval to replace an existing septic system within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

#### **List of plans and documents discussed at this meeting:**

- Notice of Intent Application; and
- Sewage Disposal Plan prepared by Stamski and McNary, Inc. dated January 18, 2023.

Nathanial Cataldo of Stamski and McNary attended tonight's meeting. Mr. Cataldo informed the Commission that the homeowners are building an addition to add a bedroom. He explained that adding another bedroom requires a larger septic system. Mr. Cataldo said the lot is small, which limits where they can put the septic system. The new septic system will be more than 75 feet away from wetlands and within existing lawn. Erosion controls and tree protection will be provided.

There were no public comments.

Mr. Pappas moved to close the hearing and issue an Order of Conditions for DEP File #137-1629 with Finding A, Standard Conditions 1-20, and Special Conditions 21-51. Mr. Kleiman seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

#### **Notice of Intent, Coty & Rosenshine, 300 Ministerial Drive, DEP File #137-1628**

Mr. Nardi opened the hearing seeking approval to remove an existing deck and driveway, construct an addition, granite walkway, deck, and new driveway 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:**

- Notice of Intent Application;
- Wetland Permitting Plan prepared by Stamski and McNary, Inc. dated January 30, 2023;
- Site Preparation Plan prepared by Fisher Design Group dated January 20, 2023; and
- Site Plan prepared by Fisher Design Group dated January 20, 2023.

Nathanial Cataldo of Stamski and McNary attended tonight's meeting. Mr. Cataldo reminded the NRC that an ANRAD for this property was issued about a month ago. He explained that the adjacent vacant lot was recently joined with 300 Ministerial Drive with an approved ANR plan. Mr. Cataldo said that the project involves constructing an attached garage addition, and replacing an existing driveway and deck. The new addition will be outside the 50-foot NBZ. The new deck will be further away from wetlands but still slightly within 50-foot NBZ. A waiver for this work has been provided. Mr. Cataldo noted that part of the addition is within the floodplain (elevation of 127) and compensatory storage will be provided. Mr. Cataldo said that David Fisher has provided a landscape plan which notes trees to be removed. The trees are mostly invasive (Norway maples). A mitigation plan has also been submitted. Ms. Kaye said the 10-inch twin Norway maple should be included in the invasives removal plan. Mr. Cataldo agreed.

Ms. Kaye said the ANRAD previously issued did not confirm whether the stream was intermittent or perennial. She said the Commission is evaluating that now. Ms. Kaye said that CPW will review the revised floodplain calculations when they are provided.

There were no public comments.

The Applicant agreed to continue the hearing to March 15, 2023 to allow additional information to be provided.

**Notice of Intent, Galland & Igleheart, 33 West Circle, DEP File #137-1632**

Mr. Nardi opened the hearing seeking approval to remove an existing shed and deck and construct a roofed porch within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Proposed Plot Plan prepared by Perley Engineering LLC dated November 28, 2022.

Homeowners Millan Galland and Elizabeth Igleheart, and Brian Butler of Oxbow Associates attended tonight's meeting. Mr. Butler said he reflagged the wetlands in November of last year. The plan is to construct a roofed porch on top of the shed and within the area of where the deck was located. The shed underneath will remain for storage. The project will provide an 87 sf. reduction of impervious surface in the 50-foot NBZ. Mr. Butler asked if they could install six-inch or nine-inch straw wattles if they are not able to get 12-inch straw wattles because of stock supply problems. A waiver request for work within the 50-foot NBZ has been submitted.

Mr. Kleiman asked if the distance of the overhang of the new structure to the wetland was still 19 feet. Mr. Galland said it will project further than the house elevation. Ms. Kaye said the closest limits of existing structure are noted on the plan. However, the closest limit of the proposed structure needs to be indicated. She said they will have to make a choice to eliminate the overhang or make the addition 1.5 feet smaller so the closest point remains at 19 feet from the wetlands.

Ms. Igleheart informed the Commission that they will move an existing shed from the 25-foot NDZ and will keep it out of the 50-foot NBZ. She said they may end up removing the shed. Mr. Butler said he will provide a revised plan.

There were no public comments.

The Applicant agreed to continue the hearing to March 15, 2023 to allow additional information to be provided.

**Notice of Intent, MAP Holdings, LLC, 794 Elm Street, DEP File #137-1630**

Mr. Nardi opened the hearing seeking approval to rehabilitate an existing building, replace and reconfigure existing parking, relocate dumpsters, addition of a porch, remove storage outbuilding, improvements to the existing fire escape stairway, repair or replace the perimeter fencing, and landscape improvements within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Assabet River, and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application;
- Stormwater Report prepared by Bohler Engineering dated January 26, 2023; and
- Proposed Site Plan Set prepared by Bohler Engineering revised January 30, 2023.

The Applicants, Mark and Megan Pesce, Brian Butler of Oxbow Associates, Brian Levey of Beveridge & Diamond, PC, Eric Dubrule of Bohler Engineering attended tonight's meeting. Mr. Levey said the Applicants own several Dunkin Donuts franchises in Concord and the MetroWest area. Mr. Butler explained that a new Dunkin Donuts will replace the Sushi House restaurant. The new restaurant will be using the same building and much of the same infrastructure. He noted that any impacts to the resource areas are minimal. The proposed renovation project will consist of some work within approximately 192 feet of the 200-foot Riverfront Area. Currently the parking lot drains into the wetlands because of a few breaks in the curbing. Mr. Butler said the curbing around the perimeter of parking lot will be replaced and the two existing leaching basins will remain. The basins will be cleaned and covered with mesh during construction. Mr. Nardi asked if the pitching in the parking lot will be adequate for water to drain into the storm basins. Mr. Butler explained that the pitch of the parking lot will provide good drainage. Ms. Kaye said that CPW Engineering was reviewing the stormwater report.

Mr. Butler said the panels for the existing fence need to be replaced but he believes the posts are in good condition and can remain. He also informed the Commission that a set of pressure treated stairs on the west side of building need to be replaced because they are a safety issue. They will add a roof over the stairs as well. He said an existing shed will be removed and the dumpsters will be relocated to that area. Additional work outside the 50-foot NBZ consists of constructing a farmer's porch for outdoor tables and seating.

Dr. Grimwood asked what type of light bulbs were going to be installed. Mr. Kleiman requested that any outside lighting, especially in the back of the building, be wildlife friendly.

Mr. Nardi requested that stockpiling be noted on the plan. Mr. Butler will provide.

There were no public comments.

The Applicant agreed to continue the hearing to March 15, 2023 to allow additional information to be provided.

### **CERTIFICATES OF COMPLIANCE**

#### **Dupont & Brenon, 111 Channing Road, DEP File #137-315**

Mr. Kleiman moved to issue a Certificate of Compliance (partial) for DEP File #137-315. Mr. Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

#### **Fabio's Construction, 11 Williams Road, DEP File #137-1582**

Mr. Kleiman moved to issue a Certificate of Compliance (partial) for DEP File #137-1582. Mr. Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

#### **Lemonias Development Company, 331 & 367 Fitchburg Turnpike, DEP File #137-1442**

Mr. Kleiman moved to issue a Certificate of Compliance (partial) for DEP File #137-1442. Mr. Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

## OTHER BUSINESS

### **Harden, 7A Pond Street, Violation**

Ms. Kaye informed the Commission that staff observed that vegetation was cleared on 7A Pond Street and the debris was put on Town property. She said that staff also noticed that the property had been cleared and an existing footpath was more formalized. She said that wood logs were also placed along the edges of the path. Ms. Kaye explained that after the water main line for the new homes on Sunnyside Lane was installed, Contractor Mark White had the area loamed and seeded. She informed the NRC that she sent a violation letter to the property owner. Ms. Kaye spoke to Scott Harden, the property owner, who said he thought the work he did was exempt. She informed Mr. Harden that planting native species would be exempt, however, clearing of vegetation and enhancing the path needed prior approval. Mr. Harden said the debris on Town property has been removed. He also explained that the footpath was not enlarged only that wood logs were put along the edges of the footpath. He explained that the trail existed when he purchased the property. He said there is an 18-foot easement that the neighbors enjoy. He said someone right now is storing a boat. He explained that after the water line work was completed, the soil was loose. He said that mud and debris were flowing onto the trail on both sides after a rainstorm. Mr. Harden said he put down additional grass seed to help with the erosion but did not remove any trees. He noted that on the south side of the property they cleared invasives (mostly bittersweet) that was crushing smaller trees. Mr. Harden presented a landscape plan. He informed the Commission that on the property there are some pine, elm, oak, and maple trees. He believes the maple trees are probably invasive. He said to the west of the site there are some nice ferns which are growing because they are not overgrown with invasives. He would like to plant more ferns and some blueberry bushes. Mr. Nardi explained that if the invasives are not professionally managed and treated, they will come back and affect the new plantings. He recommended that Mr. Harden hire a professional so the new plants will survive. Mr. Kleiman said he is okay with Mr. Harden doing the work himself but would like to see an invasives management plan. Ms. Kaye said that Mr. Harden's landscape plan looks good but requested that the areas and square footage of where the buckthorn and bittersweet will be treated and/or removed be noted on the plan. The plan should also include the location, number of plants, species, and planting schedule. Ms. Kaye requested that the firepit and bench in the 25-foot NDZ be removed. Mr. Harden said he will remove. Ms. Kaye requested that materials be submitted by April 19<sup>th</sup>.

There were no public comments.

At 8:59 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=rdzICJ\\_iJO0&list=PL1TTzrWEKOOmVv84OJSDa6rdv9\\_Uu7NrN&index=1](https://www.youtube.com/watch?v=rdzICJ_iJO0&list=PL1TTzrWEKOOmVv84OJSDa6rdv9_Uu7NrN&index=1)