

**NATURAL RESOURCES COMMISSION**  
**Meeting Minutes**  
**April 17, 2019**

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, first floor conference room, Concord, MA at 7:00 p.m. on Wednesday, April 17, 2019. The following Commissioners were present: Greg Higgins, Chair, Judy Zaunbrecher, Lynn Huggins, Jeff Adams, and Ed Nardi. Delia Kaye, Natural Resources Director, and Natural Resources Administrative Assistant Karen Bockoven were also present.

Chair Higgins opened the meeting at 7:00 p.m. in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Concord Wetlands Bylaw.

<b>APPROVE MEETING MINUTES</b> <ul style="list-style-type: none"><li>• March 20, 2019 and April 9, 2019</li></ul>
<b>DIRECTOR'S REPORT</b>
<b>TO BE CONTINUED TO MAY 1, 2019</b> <ul style="list-style-type: none"><li>• <b>FABIO'S CONSTRUCTION</b>, 70 Elm Street, Amended OOC</li></ul>
<b>CONTINUANCES</b> <ul style="list-style-type: none"><li>• <b>ANTHONY</b>, 72 Walden Terrace, NOI</li></ul>
<b>NEW APPLICATIONS</b> <ul style="list-style-type: none"><li>• <b>EBERLE</b>, 15 Annursnac Hill Road / New Public Meeting, RDA</li><li>• <b>TRUDEAU</b>, 119 Bartlett Hill Road / New Public Hearing, NOI</li><li>• <b>SEIBEL &amp; CASHER</b>, 198 Southfield Road / New Public Hearing, NOI</li></ul>
<b>CLOSE and ISSUE</b> <ul style="list-style-type: none"><li>• <b>ELTON</b>, 415 Lowell Road</li></ul>
<b>CERTIFICATES OF COMPLIANCE</b> <ul style="list-style-type: none"><li>• <b>CAIN</b>, 216 Southfield Road</li><li>• <b>KEEFE</b>, 909 Lowell Road</li><li>• <b>141 WINCHESTER STREET LLC</b>, 211 Park Lane</li></ul>

**APPROVE MEETING MINUTES**

Commissioner Adams moved to approve the March 20, 2019 NRC meeting minutes, as amended. Commissioner Nardi seconded. Commissioner Huggins and Commissioner Zaunbrecher abstained. All so voted.

The April 9, 2019 minutes were tabled to the May 1, 2019 NRC Meeting.

**DIRECTOR'S REPORT**

- The MEPA Certificate has been received for the Warner's Pond Dredging Project. Town Meeting approved the CPA funding for permitting. Director Kaye said that the permitting process could take a year. However, the Army Corps of Engineer reviewer who was in attendance at the MEPA site indicated that the project may be permitted under a general permit rather than an individual permit based on the information he currently has. The MEPA reviewer requested that the Town coordinate with the MEPA office once it is known what will happen with the Gerow parcel in case a Notice of Project Change is needed.

- The Town is applying for three grants under the Municipal Vulnerability Preparedness (MVP) Action Grants. Governor Baker has assigned up to five million dollars to be awarded for climate resiliency grants, allotting up to two million dollars per community. Sustainability Director Kate Hanley will submit an application to develop a climate action plan, the next step after the MVP plan, which was completed last year. Public Works Director Rich Reine will submit an application to develop a tree farm at Peter Spring field. Director Kaye will submit an application for survey, design, and construction to improve the White Pond boat launch. The required match will come from the State Office of Fishing and Boating Access for the survey and design. Director Kaye said a basin would be installed for stormwater improvements, hopefully to handle a 100-year storm event.

Director Kaye sent the NRC a letter of support for their review. There are also letters of support from the White Pond Advisory Committee, the Friends of White Pond, and the State Office of Fishing and Boating Access. The requests for grants are due this Friday, with grant awards issued in early June. All work must be completed by May 31<sup>st</sup> of next year. Director Kaye said she anticipates design by September and then a filing with the NRC for the necessary permit, with bid documents prepared in late winter and construction beginning in mid to late April. Director Kaye said she met with the state and they said there may be money in the budget to fix the boat launch which would have to be earmarked by the legislature should the grant not get funded.

Commissioner Nardi moved that the letter of April 17, 2019 from the NRC Chair regarding the letter in support of the MVP Action Grant be sent. Commissioner Huggins seconded. All so voted.

#### **TO BE CONTINUED TO MAY 1, 2019 (NO DISCUSSION)**

#### **Request for Amended Order of Conditions, Fabio Andrade, Fabio's Construction, 70 Elm Street, DEP File #137-1454**

Chair Higgins reopened the hearing requesting an Amendment to the Order of Conditions for after-the fact construction of a wall within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Sudbury River, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Huggins moved to continue the hearing until May 1, 2019. Commissioner Adams seconded. All so voted.

#### **CONTINUANCES**

#### **Notice of Intent Application, Bryan Anthony, 72 Walden Terrace, DEP File #137-1466**

Chair Higgins reopened the hearing seeking approval to demolish and reconstruct a single-family house within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Huggins moved to continue the hearing until May 1, 2019. Commissioner Adams seconded. All so voted.

## **NEW APPLICATIONS**

### **Request for Determination of Applicability Application, Jeff Eberle, 15 Annursnac Hill Road, RDA File #19-3**

Chair Huggins opened the hearing seeking approval to replace the existing septic system 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
- Septic System Plan prepared by ABC Cesspool dated January 15, 2019.

Dick Dolan of ABC Cesspool Company attended tonight's meeting. Mr. Dolan explained that the new tank will be located in the same location as the existing tank. The leaching field currently extends towards the pond. They are proposing to move the system away from the pond and make the footprint as small as possible. Mr. Dolan said that other than the grading they are outside of the 50-foot No Build Zone (NBZ). Chair Higgins asked how they were going to access the back of the property. Mr. Dolan said they will come down the driveway. Commissioner Adams asked if straw wattles should be placed there as well. Mr. Dolan said he will install straw wattles just outside the 50-foot NBZ as suggested. Mr. Dolan said there may be a couple of trees by the house that may need to be removed. He informed the Commission that the Board of Health has approved the design and issued their permit. Mr. Dolan said the project will be done as soon as possible. All disturbed areas will be reseeded with grass.

There were no public comments.

Commissioner Huggins moved to close the hearing and issue a Negative Determination of Applicability #3 with the following conditions and with the amendment noted tonight on the plan for additional erosion controls along the 50-foot No Build Zone: 1) A preconstruction site visit shall be held to review erosion controls and the limit of work; and 2) 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 Zaunbrecher seconded. All so voted.

### **Notice of Intent Application, Matthew Trudeau, 119 Bartlett Hill Road, DEP File #137-1468**

Chair Huggins opened the hearing seeking approval to reconstruct existing retaining walls within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

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

- Notice of Intent Application; and
- Site Plan of Land prepared by Noonan & McDowell dated March 21, 2019.

Homeowner Claire Trudeau and John Noonan of Noonan & McDowell attended tonight's meeting. Mr. Noonan said the homeowners would like to reconstruct two existing retaining walls on their property. One is a timber wall with timber steps which lies partially inside the 50-foot NBZ. The other wall is also a timber wall with galvanized pipes holding it up in places. The wall is 4 feet in height. They are looking to replace this wall entirely with a stacked block wall. This wall is entirely within the 50-foot NBZ but outside the 25-foot No Disturb Zone (NDZ). Mr. Noonan explained that the erosion controls will be on lawn but will be within the 25-foot NDZ. Disturbed areas will be loamed and seeded. No alternation will be made to the grading. The site does have Bordering Land Subject to Flooding but no activities are proposed in that area.

Chair Higgins asked what type of machinery will be used. Mr. Noonan said they will use a bobcat. They will be below the wall doing the work. Commissioner Nardi asked how they will retain the dirt after they remove the timber. Mr. Noonan replied that they will pull the dirt back to make sure the area is level and then fill in with crushed stone. Filter fabric and structural fabric will be installed to hold the block wall and keep it in place. Materials will be stockpiled on the upgradient side of the wall. Mr. Noonan said that the original wall was not put in properly.

Chair Higgins inquired about the eroded area. Noonan said that was probably coming from the downspout on the right hand side of the house. Ms. Trudeau said they do not have a sump pump in the house.

The NRC asked about a pipe behind the timber wall. Mr. Noonan was not sure if that was connected to anything and what it was for. It could be draining the wall. Commissioner Zaunbrecher thought that there has been some erosion under the wall as well. Commissioner Adams asked if there was going to be any drainage behind the new wall and how will the water be addressed. Mr. Noonan said that the new wall will have six inches of crushed stone so water will be able to pass through.

There was discussion about the two pipes one in the wall and one in the back of the house. Director Kaye asked if it was possible to have a drywell at the base of the downspout rather than the discharge which is causing erosion. Mr. Noonan replied that it depends on what the soil type is. He does not know unless they do some excavation to take a look at what is there. Commissioner Nardi asked if it could be directed toward the new stone behind the wall so the water will dissipate into a much broader area through the new stone. Mr. Noonan said that could possibly create ice conditions in the winter.

Commissioner Adams said that the existing pipes may be helping to reduce water pressure that is building up. If it is determined when the wall is removed that they are downspout drains, he suggested that the Applicant divert the water into an infiltration basin. Mr. Noonan suggested putting down trap rock so the water has a place to go through and dissipate out rather than remaining in a little channel. Currently it is a steep point and it is creating a channel. Commissioner Nardi asked if that can be done in the 50-foot NDZ. Mr. Noonan said they could also dig deeper and put crushed stone below so there is some absorption to allow for some recharge before the water discharges out.

Commissioner Adams said that another approach would be to install an infiltration basin on the other side of the wall closer to the front of the lot. Mr. Noonan replied that he would be concerned that it would be too close to the foundation. He explained that they could lower the elevation and add crushed stone. This would allow the water to dissipate over a larger area changing the flow of water.

Chair Higgins said it would be good to see on a plan where the pipes would be located so the NRC can review. Director Kaye suggested putting down an erosion control blanket. Mr. Noonan explained that the intrusion that they will be in doing in front of the wall is minimal compared to what will be happening behind the wall. Director Kaye asked if they were going to have equipment on the bottom side of the wall. Mr. Noonan said just to carry the materials. Mr. Noonan said that they will be dropping materials off one pallet at a time. Commissioner Nardi said that the bobcat machine will damage the mossy area. Chair Higgins agreed that an erosion control blanket would prevent washouts. Mr. Noonan said they will have to look out for the weather once they are

finishing using the bobcat, and then hydroseed as soon as possible. Chair Higgins said lime will be needed where the mossy area is located. He said matting should be installed because the hydroseeding will be on a slope.

Jessica Pino of 121 Bartlett Hill Road said there are many children in the neighborhood and the existing wall is dangerous and needs to be replaced.

The Applicant agreed to continue the hearing until May 1, 2019 to submit revised plans to address the area of erosion.

**Notice of Intent Application, David Seibel and Amy Casher, 198 Southfield Road, DEP File #137-1469**

Chair Huggins opened the hearing seeking approval to replace the existing pool, patio and retaining wall, and construct new walkways, fence, shed, and install new plantings within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Sudbury 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;
- Wetland Permitting Plan prepared by Stamski and McNary, Inc. dated March 28, 2019;
- Wall Details Plan prepared by Sudbury Design Group dated July 11, 2018; and
- Planting Plan prepared by Sudbury Design Group dated March 29, 2019.

Homeowners David Seibel and Amy Casher and Daniel Carr from Stamski and McNary attended tonight's meeting. Mr. Carr explained that the site has an existing single-family dwelling, driveway, in-ground pool, and wooden retaining wall behind the pool. The wall behind the pool is not in great shape. The homeowners want to replace the wooden retaining wall with a stone retaining wall. They also want to replace the concrete apron around pool with pavers. They would like to convert a portion of the lawn to native plantings to mitigate for the wall extension needed to alleviate a safety concerns to access around the pool. Pool code dictates that if there is a wall around a pool it needs to have a 4-foot reveal. To accomplish that they will be cutting back the grade behind the wall. The wall will be filling a little of the floodplain which will be compensated. Mr. Carr said they are proposing plantings around the house and they would like to construct a new walkway. Mr. Carr explained that they will be cutting out a portion of the existing driveway and replacing with plantings. In addition, they would like to remove a small patio and put in a shed.

Commissioner Adams asked if just below the wall they are removing fill. Mr. Carr confirmed that was correct. Commissioner Adams asked what the curved area was where they are adding wall. Mr. Carr replied it was a planting area.

Mr. Seibel said they would like to remove the concrete apron around the pool and replace with loose stone. They are trying to maintain a 3 to 1 grade and not a big drop.

Mr. Carr informed the Commission that the shed they are proposing to install will be outside the 100-foot Buffer Zone but within 200-foot Riverfront area.

Chair Higgins asked if a structural engineer has looked at the wall. Mr. Carr replied no. He said that a structural engineer only needs to review if the wall will be over 4 feet tall. Commissioner Adams said it would be a good idea to have a structural engineer review. Director Kaye said that the

Building Department will not issue a permit without a structural stamp because it is greater than 4 feet to the foundation.

Commissioner Zaunbrecher asked if the trees near the deep end of swimming pool will remain. Mr. Seibel said that the trees are not native and too formal and they would like to remove them. Commissioner Zaunbrecher asked that be noted on the plan.

Chair Higgins wanted to make sure that this project is not exceeding what is allowed. Mr. Carr said they did some research from back before 1996 which is when Riverfront regulations went into effect. They estimated from Google Earth that there was approximately 4,100 s.f. of impervious surface on the lot in 1996. The current total proposed alteration is 7,151 s.f. making it a net alteration of approximately 3,000 s.f. Chair Higgins explained that they are supposed to take into account the entire amount of work and not just the new work. Mr. Carr said that it was their understanding that anything before 1996 was grandfathered and that only structures after that date should count towards the 5,000 square feet. Mr. Carr said that the pool was originally constructed in 1973. Director Kaye said the Commission interprets the Riverfront performance standard to include all existing alteration. She suggested that the stone paved area be made a pervious surface so those numbers are not included in the Riverfront numbers, similar to what was done for the house reconstruction on the corner of Commonwealth Avenue and Lawsbrook Road. That project did a combination of porous pavement and pavers so they could fall within the 5,000 s.f. threshold. Director Kaye believes that could be done for this project. Director Kaye said that porous pavement could be used in place of asphalt. Mr. Seibel said they are open to using environmentally friendly materials.

Director Kaye said that the closest point of structure to the river is 60.3 feet, and that the proposal extends beyond that, which does not meet the Riverfront Area performance standard. Commissioner Adams asked that if during the design process the applicants considered not increasing the non-conformity. An approach could be to create a slight curve that would maintain the same separation and require less removal of soil. Going closer to the Riverfront Area is not permissible. Mr. Seibel asked at what point in the wall should they make the bend. Mr. Seibel said they will look at the recommendations Commissioner Adams suggested. Commissioner Adams said the Commission wants to see a net improvement to the resource area at the end of any project.

Director Kaye said the mitigation plantings need to be identified on the plan. Mr. Seibel stated plants would be native. Director Kaye said a condition can be added that if a particular species of plant is not available that staff be notified of any change. Director Kaye said that restoration work should be commensurate with the scope of project. She said that although there are not a lot of invasives on site, for mitigation they could provide plantings along river's edge. Mr. Seibel said they want to restore as much as possible to attract wildlife. He explained on the side of the house where there an existing flower bed they are turning that into a vegetable garden. Commissioner Huggins asked the homeowners to identify any existing shrubs they want to remove. Director Kaye said that as part of the mitigation the Commission would like to see replanting from where the invasives will be removed.

Chair Higgins said it would be beneficial to have a more detailed plan. Director Kaye suggested a professional go to the site to identify what invasives there are and what needs to be removed and to continue the hearing until May 15<sup>th</sup>, after the Planning Board hearing.

Mr. Carr said they will hire a structural engineer to review the wall. They will keep the wall 60.3 feet from the river. They will identify what will be planted along the river's edge. They will also identify the non-native plants to be removed and list the new species of plants.

There were no public comments.

The Applicant agreed to continue the hearing until May 15, 2019.

### **CLOSE AND ISSUE PERMITS**

#### **Elton, 415 Lowell Road, DEP #137-1161**

Chair Higgins reopened the hearing seeking approval to remove unauthorized fill from Bordering Land Subject to Flooding (BLSF) and to return the area to pre-disturbance condition including restoration and naturalization of disturbed areas within BLSF and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Commissioner Zaunbrecher moved to close the hearing issue an Amended Order of Condition for Elton, 415 Lowell Road, DEP #137-1161 with Findings A-D, Standard Conditions 1-19 and Special Conditions 20-48. Commissioner Nardi seconded. All so voted.

### **CERTIFICATES OF COMPLIANCE**

#### **Cain, 216 Southfield Road, DEP File #137-1244**

Commissioner Huggins moved to issue a Certificate of Compliance for Cain, 216 Southfield Road, DEP File #137-1244. Commissioner Adams seconded. All so voted.

#### **Keefe, 909 Lowell Road, DEP File #137-1407**

Commissioner Huggins moved to issue a Certificate of Compliance for Keefe, 909 Lowell Road, DEP File #137-1407. Commissioner Adams seconded. All so voted.

#### **141 Winchester Street LLC, 211 Park Lane, DEP File #137-1317**

Commissioner Huggins moved to issue a Certificate of Compliance for 141 Winchester Street LLC, 211 Park Lane, DEP File #137-1317. Commissioner Adams seconded. All so voted.

Commissioner Adams moved to adjourn. Commissioner Zaunbrecher seconded. All so voted. This meeting adjourned at 8:27 p.m.

Respectfully submitted,

Karen Bockoven  
Administrative Assistant