

NATURAL RESOURCES COMMISSION
Meeting Minutes
April 20, 2022

Pursuant to the notice filed with the Town Clerk, a public meeting of the Natural Resources Commission was held on Wednesday, April 20, 2022 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. Commissioner Higgins was absent. Natural Resources Director Delia Kaye, Assistant Natural Resources Director Colleen Puzas, and Natural Resources Administrative Assistant Karen Bockoven were also present.

APPROVE MEETING MINUTES <ul style="list-style-type: none">• March 16, 2022
COMMISSIONER COMMENTS
DIRECTOR'S UPDATE
TO BE OPENED AND CONTINUED WITHOUT DISCUSSION TO May 4, 2022 <ul style="list-style-type: none">• CANTY, 1266 Monument Street, ANRAD
TO BE CONTINUED WITHOUT DISCUSSION TO MAY 4, 2022 <ul style="list-style-type: none">• LIMPAECHER, 61 Black Duck Road, NOI• KOWALOFF, 228 Park Lane, NOI
OTHER BUSINESS <ul style="list-style-type: none">• Windmiller – 2021 Blanding’s Turtle Report and Request for Funding• Rasmussen – Amendment to Nonesuch Lot
NEW APPLICATIONS <ul style="list-style-type: none">• MINUTE MAN NATIONAL HISTORIAL PARK, 5B & 34 Old Bedford Road, and 78A, 85A, 102A, 751 & 965 Lexington Road, NOI• MCINTYRE, 99 Dalton Road, NOI• SMITH, 25 Warner Street, NOI
CERTIFICATES OF COMPLIANCE <ul style="list-style-type: none">• GILLIS, 80 Alford Circle
INFORMAL DISCUSSION <ul style="list-style-type: none">• OLESON, 207 Prairie Street

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

APPROVE MEETING MINUTES

The March 16, 2022 minutes were tabled to the May 4, 2022 NRC meeting due to a lack of quorum of voting members.

DIRECTOR'S UPDATE

- The Public Land Preservation Act, intended to codify the Article 97 “No Net Loss” policy, has been passed by the House and Senate.
- Town Meeting will be held on Sunday, May 1st from 1-5 pm and will probably extend into Monday evening.
- The annual Garlic Mustard pull will be held in mid-May. Peter Alden will update the map he previously developed to show high areas of infestation. Volunteers can pick up yard waste bags at 141 Keyes Road.

TO BE OPENED AND CONTINUED TO MAY 4, 2022

Abbreviated Notice of Resource Area Delineation, Canty, 1266 Monument Street, DEP File #137-1597

Chair Nardi opened the hearing seeking confirmation of the Bordering Vegetated Wetlands delineation from the Natural Resources Commission.

At the request of the Applicant, Commissioner Grimwood moved to continue the hearing to May 4, 2022. Commissioner Kleiman seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

TO BE CONTINUED TO MAY 4, 2022

Notice of Intent, Limpaecher, 61 Black Duck Road, DEP File #137-1578

Chair Nardi reopened the hearing seeking approval to construct an addition, convert an existing deck into a sunroom, extend the rear deck, and remove failing retaining wall within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Grimwood moved to continue the hearing to May 4, 2022. Commissioner Kleiman seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

Notice of Intent, Kowaloff, 228 Park Lane, DEP File #137-1595

Chair Nardi reopened the hearing seeking approval to convert an existing breezeway to an addition; construct a porch, patio, and deck stairs; and replace an existing deck within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Grimwood moved to continue the hearing to May 4, 2022. Commissioner Kleiman seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

OTHER BUSINESS

Windmiller - 2021 Blanding's Turtle Report and Request for Funding

Bryan Windmiller of 65 Arrowhead Road and Zoo New England's Grassroots Wildlife Conservation attended tonight's meeting. He explained that since 2003, they have been working to protect the Blanding's turtle population at Great Meadows and he thanked the NRC for their previous support. Mr. Windmiller said that much of the work they do is the same from year to year. They continue to monitor the Blanding's turtle population, nests, and headstarted young turtles. They are working with Massachusetts Fish & Wildlife to manage the habitat for the turtles within the Great Meadows Wildlife Refuge. This will be the second year that they have had an opportunity to target trap younger turtles. A lot of the young turtles they trap were previously headstarted, mostly in schools, and then released over the years. The first headstarted turtles were released in 2008. They have been able to catch 26 individual juvenile Blanding's turtles, which has provided a significant amount of data.

This year they trapped some turtles on the west side of the Concord River and at October Farm Riverfront. They discovered the turtles use that wetland to go back and forth across the river. Mr. Windmiller said they have collected enough data on survival probabilities of formerly headstarted turtles, as well as the adults over time. They know all the turtles they have captured, and can determine how long it has been since they last saw them. He said because they have this data, they have been able to conclude that their program has been extremely successful. Mr. Windmiller said when he started researching the turtles in 2004, the number of adults had fallen by more than half. The number of adults has grown slightly (approximately 60 adults). To date they have released 501 headstarted turtles, and they estimate that 337 headstarted turtles are still alive. They believe the population of turtles at Great Meadows is in the high 300s. Currently, they are raising their largest cohort of headstarted turtles (83) in 32 different schools and at the New England Aquarium.

Commissioner Kleiman asked what the turtle population was at October Farm. Mr. Windmiller replied those turtles are considered part of the Great Meadows population. Commissioner Kleiman asked if there were any other locations in Concord that would be compatible for the Blanding's turtles. Mr. Windmiller said they tried Estabrook Woods, however, the turtles did not do as well there. He explained they had problems in 2016 because the wetlands are shallow and because of drought conditions that year. He thought Mink Pond could be a good possibility if they could get Harvard's permission to plant thicker shrubs. Currently, however, the area is not suitable. He noted that the state is reluctant to approve moving of rare animals from one place to another.

Mr. Windmiller said in the past they have requested funding in the amount of \$3,000 which pays for field people during nesting season. This year they are requesting \$4,000 to cover the hourly cost which has increased by a third. Mr. Windmiller also requested \$350 for radio transmitters for tracking two wood turtles which the NRC has approved in the past.

Commissioner Grimwood moved to authorize the expenditure of \$4,350 from the wetlands fund to be used for Blanding's turtle and wood turtle research and protection. Commissioner Kleiman seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye

Rasmussen - Amendment to None Such Lot

Anna Rasmussen of 393 Estabrook Road attended tonight's meeting. Ms. Rasmussen said she and her husband are the owners of a preserved 163-acre woodland property within Estabrook Woods

which was placed under a conservation restriction (CR #22) in 1977 by Raymond Emerson. Ms. Rasmussen said in 1986, the Emerson family amended the CR allowing for limited public access on the 23.8-acre woodland parcel called the "None Such Lot". She said this is the only parcel protected under CR #22 that is subject to any rights of public access and that access was conditional on specific terms of the amendment. Ms. Rasmussen said that 45 years after the amendment was written, like any older restriction, it needs to be clarified and refined. The original provisions within the 1986 amendment allow such changes to be made by the landowners, subject to concurrence of the Natural Resources Commission. They have been keeping Director Kaye updated on violations on the None Such Lot for the last six years. The violations have been documented by the landowners, Concord Police, and visitors to the property. These infractions include disposing of trash, smoking and discarding of ignited cigarettes, consumption of alcohol with bottles and cans left on the premises. She informed the Commission that people have been cutting trees to create trails, vandalizing stonewalls and gates, and trespassing on private property, off-leash dogs chasing wildlife, and mountain bike riding through vegetation and wetlands within close proximity to certified vernal pools. Ms. Rasmussen said refining and clarifying the 1986 amendment will better reflect and align with the present-day NRC rules and regulations which govern Town conservation land. She said this will facilitate the further establishment of shared proper standards of stewardship throughout the private and public parcels included with the Estabrook Woods area.

Ms. Rasmussen said that Estabrook Woods has been established as a critical core habitat by the State of Massachusetts. Changes to the amendment would clarify that public access is limited to the use of the established and designated trails and would not allow for traversing interior woodland, wetland, or vernal pool areas. Both Town land and private conservation land should post proper rules and regulations governing environmentally sound and safe access within the property. She informed the Commission that on March 16th she walked the site with Director Kaye to discuss their vision for improving protection of the area while still allowing access that the public has come to enjoy. The revisions to the amendment would include the following:

Provision A would include a clarification regarding the use of motorized vehicles stipulating a specific allowance for the use of emergency and maintenance vehicles, which was not addressed in the previous amendment.

Provision B specifies that access will be on the designed trails within the lot, which includes 2,138 feet of Estabrook trail going north and 445 feet of the Hugh Cargill trail to the west. It also refers to the paths as trails and not roads to avoid confusion with what are known as the present day Estabrook and Hugh Cargill roads.

Lastly, they will add the reference to the 1925 book and plan which specifically depicts the None Such Lot. This lot was formerly tax parcel 1523 but was merged into a group of 11 parcels in the mid-1990s to form a single current parcel (1442-1).

Provision C would remain without change.

Provision D will provide for the posting of rules and regulations that will be consistent with their neighbors, the Harvard field station, and consistent with responsible rules for passive recreational use within a protected Massachusetts critical core habitat.

Ms. Rasmussen thanked the NRC for their partnership in preserving irreplaceable woodland resources and asked for their consideration with the proposed amendment updates.

Chair Nardi said Provision A makes perfect sense and clarifying Provision B would be a good idea. He said with regard to Provision D when signage is proposed it should be reviewed and approved by the NRC. Ms. Rasmussen said she believed that signage is a reserved right of the owners and the Town itself has the express right to determine the posting on their land. It is a reserved right in the conservation restriction and by putting it in the amendment it would be an express right as far as they understand it. Ms. Rasmussen said that everyone tries to harmonize the rules within the woods between the public and private parcels, but they believe their conservation restriction should be treated like the Town's conservation restriction with TTOR. Director Kaye noted that all conservation restrictions are different. Some conservation restrictions expressly allow signage with no review. She suggested language in the amendment that signage is approved by the NRC or their designee. Ms. Rasmussen replied that it is a reserved right of the owner. The owner of the land is only subjected to the holder of the conservation restriction and making sure regulations are enforced. Ms. Rasmussen said because of increased use of trails more signage is needed to understand the parameters. She said they have worked with Harvard, the Town, and private landowners to try to standardize appropriate signage.

Commissioner Kleiman agreed that as trail use increases more signage is necessary. However, what is the mechanism by which signage can be harmonized. Ms. Rasmussen explained that the Estabrook Council was established in 2005 to address that issue. Harvard University, who owns the lion's share of the property, will not sign anything where they are subject to any approval of the Town or the NRC. The Estabrook Woods Council tried to get on the same page with the Town and the private homeowners to harmonize the signage.

Chair Nardi asked if there was signage now showing which parcels are private and public. Ms. Rasmussen said there is signage for dogs being leashed, cutting vegetation, motor vehicles, etc. The private entities, including Harvard, put together signs that stipulated some of the rules and regulations, and Director Kaye installed similar signage at Punkatasset. Commissioner Kleiman said in theory, different property owners could put up different signs. Ms. Rasmussen confirmed that was correct. She said when private parcels don't have conservation restrictions, people do what they wish to do. She said that Director Kaye made great headway with various homeowners, and has been great to work with. Ms. Rasmussen said she would be happy to work with the NRC. Harvard relies on the Town and private homeowners to keep them apprised of information. Chair Nardi asked if the Estabrook Woods Council was meeting on this now. Ms. Rasmussen replied that the last time the Council met was to discuss the increased use of mountain bikes and to discuss appropriate signage. They are trying to work together to make sure that proper signage is put in appropriate places. They are amenable to always working with the NRC to try and build more enthusiasm around the Council so they can pull in some of the private landowners and keep Harvard up to date with what is happening. The Council has been working well since 2005 and it continues to get better. Ms. Rasmussen said there are some additional concerns now because of increased use of mountain bikes that the Council will have to discuss.

Chair Nardi asked how the NRC felt about the amendment. Commissioner Kleiman asked if the NRC disagrees with signage. He asked if signage was going towards protection of passive recreation and protecting core habitat. Ms. Rasmussen said there will not be an enormous number of signs. She stated it would be the NRC's role to enforce the amendment and the conservation restriction. If

there was something antithetical to that, that would be the point when the NRC would communicate with the landowner. Chair Nardi said the amendment would be subject to review and approval by Town Counsel. Director Kaye said the older conservation restrictions can be vague and do not necessarily state a reserved right for signage. She will review the language.

NEW APPLICATIONS

Notice of Intent, Minute Man National Historical Park, 5B & 34 Old Bedford Road, and 78A, 85A, 102A, 751 & 965 Lexington Road, DEP File #137-1598

Chair Nardi opened the hearing seeking approval to replace the existing Battle Road boardwalks within Bordering Vegetated Wetland, the 200-foot Riverfront Area to Mill Brook, 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; and
- Boardwalk Repairs Plan prepared by United States Department of the Interior dated March 23, 2022.

Margie Coffin Brown of Minute Man National Historical Park and Brian Butler of Oxbow Associates attended tonight's meeting. Mr. Butler said their project involves repairing or replacing boardwalks in Lincoln and Concord. Five boardwalks are in Lincoln and four are in Concord. He explained that the Merriam boardwalk needs decking replacement and new guardrails. The Oak boardwalk needs decking replacement. The Perry Field and Olive Stow boardwalks, need full, in-kind replacement. The Perry Field boardwalk originates near the parking area across from Palumbo Farm on Lexington Road and bisects an intermittent agricultural ditch. He explained that 75% of the boardwalk will have to be replaced. They will install diamond mounts which are hammered into the ground at 45-degree angles. Mr. Butler said the Oak boardwalk is very short, about 25 feet long, and also crosses a small agricultural ditch which doesn't show evidence of recent flow. This deck will be replaced in-kind.

The Olive Stow boardwalk meanders through an emergent and scrub-shrub community. It is the largest boardwalk that will need full replacement, including 123 supports. Temporary matting will be needed especially for the Olive Stow boardwalk. They will use 5/8-inch plywood or synthetic mats. The mats would be brought in using skid steers. If there is any scarification that does not heal immediately, they will reseed with a native wildflower/wetland mix.

Director Kaye asked how they were going to remove the old posts. Ms. Brown replied that most posts have already pushed out of the ground and should be easy to remove. If they can't remove, they will probably cut them, but that is not their preference. They don't want to bring in any equipment to extract the posts. The existing posts are made from recycled plastic. The posts were not initially installed deep enough and therefore frost has been getting under them. They do not want plastic shavings going into the wetlands. They probably can rock the posts back and forth to loosen them up and pull out. Chair Nardi said if the posts must be cut how does the NRC ensure that microplastics and particles do not go in the wetlands. The NRC will have to make that a special condition.

Chair Nardi asked why the Diamond Pier Foundation System was better than helical piers. Mr. Butler replied that the Diamond Pier Foundation System is installed using an air-hammer device rather than a bobcat.

Mr. Butler said they would like to do the work during the dry season. Ms. Brown said they will have to partially close park areas when the work is being done. Chair Nardi said June 1st through October 15th would be the preferred time of year to do the work. Ms. Brown explained that it is written into the contract that contractors are responsible for adhering to all permits and conditions. Chair Nardi said the time of year for the work should be put in the bid specifications.

Commissioner Kleiman asked if any trees need to be removed as part of the project. He also asked if any tree protection is being installed for the work areas. Ms. Brown replied that they do not have any specific plans to remove any trees. She said there have been quite a few trees that have failed near the Merriam boardwalk. In fact, one ash tree fell yesterday. Mr. Butler said the NRC could have a condition for them to wrap any trees necessary. Director Kaye said something more substantial than wrapping is needed. She suggested welded wire fencing, but acknowledged in some places strapping or some other protection may all that can be used. Director Kaye said a detail on the plan needs to be submitted for how they will be moving the matting from area to area and how the matting will be cleaned before it is moved.

Ms. Brown said they will provide a detail on the plan noting the stockpiling locations, type of matting, tree protection detail, and construction access routes. She explained that construction access will be on existing trail paths. Director Kaye requested that information regarding the type of matting that will be used be provided so the NRC and staff can review.

There were no public comments.

The Applicant agreed to continue the hearing until May 4, 2022 to allow additional information to be provided.

Notice of Intent, McIntyre, 99 Dalton Road, DEP File #137-1594

Chair Nardi opened the hearing seeking approval to construct an attached garage, covered porch, and screened porches; and install a subsurface infiltration chamber within 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 Hancock Associates dated March 15, 2022;
- Notice of Intent Plan Set prepared by Hancock Associates revised April 15, 2022.

David Cowell of Hancock Associates and Resa Gray of HoneyComb Design attended tonight's meeting. Mr. Cowell explained the BVW is primarily dominated by silky dogwood, but the extent of hydric soils was delineated using a soil auger. The proposed garage will be constructed at the front of the house which is within the 100-foot BZ and primarily will be located over the existing driveway. Another part of the project involves constructing a covered porch at the front of the house. They also plan to replace an existing deck and construct a screened porch within the same footprint. The project also includes a second screened porch on the side of the house. Mr. Cowell noted that there is discharge from an existing sump pump on the site. They will capture roof runoff and put that into infiltration trenches and basins. The screened porches will be constructed with helical piers and not on concrete slabs. Mr. Cowell asked whether a waiver for the structure in the 50-foot NBZ would be possible. Chair Nardi suggested shifting the deck so that it is outside the 50-foot NBZ. Mr. Cowell said they can re-evaluate that possibility. Director Kaye said it would also

be helpful to note on the plan the closest point of encroachment of the existing deck and for the proposed deck. Mr. Cowell will note on the plan.

Chair Nardi noted that the stormwater management system is within the 50-foot NDZ. Mr. Cowell replied they perc tested the area to make sure it would not intersect the water table. Commissioner Kleiman asked if stormwater management could be achieved outside the 50-foot NBZ. He asked if an alternative analysis was done. Mr. Cowell replied that he will check with the engineer. Director Kaye said CPW Engineering will need to review the responses to their comments.

Chair Nardi asked what steps are being taken to protect the tree near the driveway where grading will occur. Mr. Cowell said they will review and have a response at the next hearing.

Director Kaye explained that the Applicant needs to provide 1:1 mitigation for work within the 100-foot BZ and 10:1 mitigation for work within the 50-foot NBZ. Commissioner Pappas said staff has noted there is lawn within the 25-foot NDZ which could be replaced with native plantings.

Commissioner Grimwood asked if they would be replacing the existing helical piers for the new structure. Ms. Gray said the existing helical piers are not sized to code. They will be installing new concrete footings. Chair Nardi requested that this detail be noted on the plan.

There were no public comments.

The Applicant agreed to continue the hearing until May 18, 2022 to allow additional information to be provided.

Notice of Intent, Smith, 25 Warner Street, DEP File #137-1599

Chair Nardi opened the hearing seeking approval to demolish an existing deck and construct an addition within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Existing Conditions Plan of Land Showing Proposed Improvements prepared by A.S. Elliott Associates dated March 17, 2022.

David Crossman of B & C Associates attended tonight's meeting. Mr. Crossman explained that the house is a duplex and that the owner at 23 Warner Street (left-hand side of the duplex) had previously applied for a permit to construct an addition. Mr. Smith lives on the right-hand side and he would like to also construct an addition which would almost mirror the other project. Mr. Crossman said for this project, because of the 100-year floodplain, they will angle the slab to keep the addition outside of the floodplain. The building itself will cantilever over the floodplain by about a foot-and-a-half. The addition will be outside the 50-foot NBZ. Mr. Crossman explained currently there is a deck and lawn where the proposed addition will be built. No changes to the grade are being proposed. Chair Nardi recommended that the previous project for 23 Warner Street should not be on the current plan. Only proposed work for 25 Warner Street should be on plan. He should also note existing conditions on the plan. Director Kaye said if they note "approved addition" for 23 Warner Street they could keep it on the plan. Mr. Crossman said the 100-year floodplain was surveyed but not staked. Chair Nardi asked what type of mitigation is being proposed. Mr. Crossman explained that mitigation for the project at 23 Warner Street was to remove all the invasives. Director Kaye said she will review that filing because she thought the invasives removal

was for a certain area not site-wide. Chair Nardi said there may be a possibility to remove additional invasives on the site. He asked that a mitigation plan be submitted.

There were no public comments.

The Applicant agreed to continue the hearing until May 18, 2022 to allow additional information to be provided.

CERTIFICATES OF COMPLIANCE

Gillis, 80 Alford Circle, DEP File #137-255

Commissioner Kleiman moved to issue a Certificate of Compliance for DEP File #137-255. Commissioner Grimwood seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

INFORMAL DISCUSSION

Oleson, 207 Prairie Street

The homeowner, Eric Oleson, attended tonight's meeting. Mr. Oleson would like to build a deck off the first floor of his house for better backyard access. They would like to build a deck over the existing stone patio with steps to provide access to the backyard. The deck would be accessible from the main level of the house. Chair Nardi explained that the house was built right up to the 50-foot NBZ which they always caution builders not to do, since it proves challenging to future homeowners. He explained that a deck is considered a structure whereas a patio is not. Commissioner Kleiman said the setbacks on either side of the house would also prevent the homeowner from building anything. Chair Nardi said having discussions with homeowners about these types of situations is difficult for the Commission. Mr. Oleson said he understands the considerations.

At 9:16 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=MIdR4IqorxQ>