



TOWN OF WILMINGTON

DEPARTMENT OF PLANNING & CONSERVATION

121 GLEN ROAD, WILMINGTON, MA 01887 www.wilmingtonma.gov (978) 658-8238

CONSERVATION COMMISSION MINUTES

December 6, 2023

Donald Pearson called the meeting to order at 7:01 p.m. Theron Bradley, Michael McInnis, Jean Marie Cole, and Frank Silveira were also present. W. Wierzbicki was absent. Cameron Lynch, Conservation Agent, and Erika Speight, Conservation Senior Clerk were also present.

PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 9 Crystal Road – Map 58 Parcel 320

Documents: RDA Application & materials, received November 15, 2023
"Plot Plan of Land," dated January 31, 1998

Present in Interest: Vincent Pietropaolo, Owner & Applicant

V. Pietropaolo introduced himself and explained he received a permit to install a deck many years ago, and now he would like to have that deck replaced, using the same footprint, and add a roof onto a portion of the deck.

C. Lynch stated the only comment would be to install erosion control prior to the construction of the roof.

No comments were made by the Commission.

Upon motion duly made by T. Bradley and seconded by F. Silveira, it was unanimously

VOTED: To issue a Negative Three Determination of Applicability for 9 Crystal Road – Map 58 Parcel 320

PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 130 Glen Road – Map 55 Parcel 2

Documents: RDA Application & materials, received November 15, 2023
"Plot Plan of Land," dated November 22, 2010
"Back Right Perspective View," dated November 15, 2022

Present in Interest: David Newhouse, Newhouse & Suns Construction, Representative
Ray Lankford, Owner & Applicant

D. Newhouse introduced himself and explained that they are proposing to construct a second story closet addition to the master bedroom. It will be within the same footprint that is already there. He explained that they will be storing the materials on the paved driveway and will be installing 75' of straw waddles along their property between the house and Lubber's Brook.

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C. Lynch stated the only comment would be to install erosion control. He explained that staff wanted them to file because the house is so close to the Brook.

J. Cole asked if there would be an added roof and would it increase runoff.

C. Lynch stated they are building upwards, so there would be no addition to square footage. He explained because they are within 100' of Riverfront Area, they would be unable to expand the footprint of the house but would be able to build upwards. He explained that runoff from the roof would be the same because the closet addition would just change the angle in which runoff would fall.

Upon motion duly made by J. Cole and seconded by M. McInnis, it was unanimously

VOTED: To issue a Negative Two Determination of Applicability for 130 Glen Road – Map 55 Parcel 2

PUBLIC HEARING – ABBREV. NOTICE OF RESOURCE AREA DELINEATION – 143 Lake Street – Map 35 Parcel 3 – DEP File #344-1537

Documents: ANRAD Application & materials, received November 9, 2023
"Existing Conditions Plan," dated November 9, 2023

Present in Interest: Thomas Schomburg, Civil Design Consultants, Inc., Representative

T. Schomburg introduced himself and explained the Resource Areas consist of Bordering Vegetated Wetlands (BVWs) and the area they are looking to develop is in the northeastern corner of the lot from Ponderosa Drive.

C. Lynch stated like all ANRADs, they are going to recommend a Peer Review. He explained that he and V. Gingrich walked the site a while back and the break in elevation wasn't obvious. He mentioned that there are wetland plants growing in places they shouldn't be, so they would like a second opinion as to where that wetland line is.

T. Schomburg agreed to the Peer Review.

M. McInnis asked if Tewksbury would have purview of the filing as well.

C. Lynch stated not for the Wilmington side. He explained that they have built and are planning to build another house on the Tewksbury side, so the applicant will work with Tewksbury on their side and with Wilmington on this side.

F. Silveira asked how there would be access to the property since the parcel is so wet.

C. Lynch stated that Ponderosa Drive is a built-out roadway in Tewksbury, so access would be from that roadway through Tewksbury.

No comments were made by the public.

Upon motion duly made by T. Bradley and seconded by M. McInnis, it was unanimously

VOTED: To continue the Public Hearing for 143 Lake Street – Map 35 Parcel 3 – DEP File #344-1537 to the January 3, 2024, Conservation Commission meeting

CONTINUED PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 110 Lowell Street – Map 49 Parcel 57D

Documents: “Emergency Retaining Wall Replacement,” dated November 2023
Norse Environmental Services letter, dated November 13, 2023
J.G MacLellan Concrete Co., Inc. letter, dated November 14, 2023

Present in Interest: Michael McCoy, Owner & Applicant
Ray Lepore, Representative

M. McCoy stated they submitted all materials that were requested at the previous meeting and would be happy to answer any questions that the Commission may have.

C. Lynch stated the only comment would be to add erosion control, which they have proposed. In the updated plan that was submitted, it showed an isolated wetland, but isolated wetlands are jurisdictional, and it doesn’t have any connection to the other wetland. He stated as long as the erosion control is installed, they are all set.

T. Bradley asked if they’d be replacing the tree that would be removed.

M. McCoy agreed to plant a replacement tree.

Upon motion duly made by T. Bradley and seconded by F. Silveira, it was unanimously

VOTED: To issue a Negative Three Determination of Applicability for 110 Lowell Street – Map 49 Parcel 57D

CONTINUED PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 409 Salem Street – Map 95-8 Parcel 17J

Documents: “Request to Continue” email, dated November 20, 2023

Present in Interest: None.

The applicant requested to continue to the January 3, 2024, Conservation Commission meeting.

Upon motion duly made by J. Cole and seconded by F. Silveira, it was unanimously

VOTED: To continue the Public Meeting for 409 Salem Street – Map 95-8 Parcel 17J to the January 3, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 2 Darby Lane – Map 10 Parcel 5 – DEP File #344-1535

Documents: “Site Plan,” revised November 2, 2023
“Response to Comments,” dated November 2, 2023
“Existing/Proposed Conditions,” dated October 29, 2023

Present in Interest: Maureen Herald, Norse Environmental Services, Representative

M. Herald handed out revised plans to the Commission and explained that they revised the plan to incorporate a block retaining wall on the property. As part of the approved subdivision, there's a 30' Buffer Zone that is part of the Open Space. There was an existing house on the lot, so as part of the subdivision, the house was razed, and part of the area was cleared, so they are now proposing to plant native tree and shrub species and the wall itself will act as permanent demarcation for the future homeowners. She explained that the original proposal showed rooftop infiltration running down into a culvert unit, and that has been revised on the plan as well. The Town Engineer hasn't had a chance to review the revisions, but she wanted to give the Commission a brief update.

C. Lynch suggested having a meeting with the applicant's engineer and the Town staff to discuss the stormwater.

M. Herald confirmed that shouldn't be a problem.

T. Bradley asked about the 30' setback.

C. Lynch explained that since it is a Conservation Subdivision, there is a 30' setback throughout the development for all the properties, even the ones outside of the 100' Buffer Zone. He stated it's a non-commission buffer, which is outside of the jurisdiction, and is discussed more with the Planning Board.

D. Pearson asked how high the wall will be.

M. Herald stated she believes 6' in some areas that will drop down to 2' in other areas. She explained that she can have that added to the plan as well.

D. Pearson asked if it will be graded so that water runs over the wall as well.

M. Herald stated there may be drainage through the wall since most walls do have that, but she mentioned that when they meet with the Town Engineer, the wall may be graded out if he believes it isn't necessary, in which they would then revise the plan again.

No comments were made by the public.

Upon motion duly made by M. McInnis and seconded by J. Cole, it was unanimously

VOTED: To continue the Public Hearing for 2 Darby Lane – Map 10 Parcel 5 – DEP File #344-1535 to the January 3, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 16 Darby Lane – Map 10 Parcel 41 – DEP File #344-1534

Documents: "Request to Continue," letter dated December 4, 2023

Present in Interest: None.

The applicant requested to continue to the January 3, 2024, Conservation Commission meeting.

Upon motion duly made by J. Cole and seconded by F. Silveira, it was unanimously

VOTED: To continue the Public Hearing for 16 Darby Lane – Map 10 Parcel 41 – DEP File #344-1534 to the January 3, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 911 Main Street – Map 25 Parcel 4 – DEP File #344-1530

Documents: "Request to Continue" letter, received December 6, 2023

Present in Interest: None.

The applicant requested to continue to the January 3, 2024, Conservation Commission meeting.

Upon motion duly made by F. Silveira and seconded by M. McInnis, it was unanimously

VOTED: To continue the Public Hearing for 911 Main Street – Map 25 Parcel 4 – DEP File #344-1530 to the January 3, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 79 Nichols Street – Map 35 Parcel 29 – DEP File #344-1527

Documents: "Request to Continue" letter dated December 1, 2023

Present in Interest: None.

The applicant requested to continue to the January 3, 2024, Conservation Commission meeting.

Upon motion duly made by J. Cole and seconded by F. Silveira, it was unanimously

VOTED: To continue the Public Hearing for 79 Nichols Street – Map 35 Parcel 29 – DEP File #344-1527 to the January 3, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – Marion Street, Eagleview Subdivision – Map 5 Parcels 2J, 3, 3A, 3C, 3D, 3E – DEP File #344-1494

Documents: "Request to Continue" email received December 1, 2023

Present in Interest: None.

The applicant requested to continue to the January 3, 2024, Conservation Commission meeting.

Upon motion duly made by M. McInnis and seconded by F. Silveira, it was four (4) in favor (D. Pearson, T. Bradley, M. McInnis, and F. Silveira), and one (1) abstention (J. Cole)

VOTED: To continue the Public Hearing for Marion Street, Eagleview Subdivision – Map 5 Parcels 2J, 3, 3A, 3C, 3D, 3E – DEP File #344-1494 to the January 3, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – Lee Avenue – Map 58 Parcel 25 – DEP File #344-1536

Documents: "Roadway Improvement Plan," revised November 30, 2023
REC Peer Review letter, dated December 5, 2023

Present in Interest: Luke Roy, LJR Engineering, Representative

Joseph Shamon, Owner & Applicant

L. Roy explained that they were before the Commission last month, and there was discussion that a Peer Review be conducted to confirm the wetland line. He explained that the Peer Review was completed last week, and they moved one (1) flag, flag 6A, up 10' from the original location where it was delineated. They revised the plan since it didn't involve much change, they updated the Buffer Zone lines, and adjusted the demarcation line as well.

C. Lynch handed out the draft Order of Conditions (OOC) for the applicant to review.

D. Pearson asked where they'd put a compost area and if there would need to be replacement trees planted.

L. Roy stated they haven't looked into a compost area just yet, but it would most likely be within the demarcation line in the back corner or front portion of the lot. He stated the lot is currently wooded, so a bunch of trees would be taken down to construct the dwelling, septic system, and driveway, but the trees along the demarcation line may be able to be retained.

No comments were made by the public.

Upon motion duly made by J. Cole and seconded by M. McInnis, it was unanimously

VOTED: To close the Public Hearing for Lee Avenue – Map 58 Parcel 25 – DEP File #344-1536

Upon motion duly made by J. Cole and seconded by T. Bradley, it was unanimously

VOTED: To issue the Order of Conditions for Lee Avenue – Map 58 Parcel 25 – DEP File #344-1536

CONTINUED PUBLIC HEARING – ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION – Birch Street, Fir Street, Alder Street, Hall Street, March Road – Map 49 Parcels 4, 4A, 5, 6, 7, 8, 9, 11 – DEP File #344-1524

Documents: "Request to Continue" letter, dated December 4, 2023

Present in Interest: None.

The applicant requested to continue to the January 3, 2024, Conservation Commission meeting.

Upon motion duly made by F. Silveira and seconded by J. Cole, it was unanimously

VOTED: To continue the Public Hearing for Birch Street, Fir Street, Alder Street, Hall Street, March Road – Map 49 Parcels 4, 4A, 5, 6, 7, 8, 9, 11 – DEP File #344-1524 to the January 3, 2024, Conservation Commission meeting

REQUEST FOR CERTIFICATE OF COMPLIANCE – 99 Fordham Road – Map 99 Parcel 135 – DEP File #344-1489

Documents: None.

C. Lynch explained that the Commission tabled the request at the last meeting because the Engineering Division didn't have a chance to go out prior to the meeting. He explained they have since gone out and it is ready to issue.

Upon motion duly made by T. Bradley and seconded by J. Cole, it was unanimously

VOTED: To issue the Certificate of Compliance for 99 Fordham Road – Map 99 Parcel 135 – DEP File #344-1489

REQUEST FOR CERTIFICATE OF COMPLIANCE – 18 New Hampshire Road – Map 35 Parcel 56E – DEP File #344-833

Documents: Request for Certificate of Compliance, received November 3, 2023

C. Lynch stated the request was for an old project that never started, and the house was built under a different Order. He explained that this would be closing out an Order that never started.

Upon motion duly made by M. McInnis and seconded by J. Cole, it was unanimously

VOTED: To issue the Certificate of Compliance for 18 New Hampshire Road – Map 35 Parcel 56E – DEP File #344-833

REQUEST FOR CERTIFICATE OF COMPLIANCE – 200 Jefferson Road – Map 89 Parcel 8 – DEP File #344-235

Documents: Request for Certificate of Compliance, received November 30, 2023

Present in Interest: David Cowell, Hancock Associates, Representative

D. Cowell stated they filed a request for Certificate of Compliance (COC) for an office building on Jefferson Road, based on the information that they had at the time. He explained that there were two (2) discrepancies that he has noted, the first being the fence that was installed along the railroad bed, and second being that he didn't have enough information to professionally and reliably say that a wetland replication area had been constructed and mandated back in 1994. The plans that he had submitted didn't show the wetland replication area. He stated after he submitted the documents for the COC, V. Gingrich found in the records that there were several other files that demonstrated the wetland replication area and she asked him to revise the submittal because she feared that the original submittal may have caused confusion and that there wasn't enough evidence. He stated that he wasn't sure why she asked him to submit revised materials when the Commission already had the information that they needed.

C. Lynch stated that he believes V. Gingrich needed more information because based on what was submitted, it can't be approved.

D. Cowell stated he disagreed. He explained that the required materials needed to approve the COC would be the WPA Request for COC application, the as-built plan, and a letter from a Professional Surveyor stating that the work was completed per the Order of Conditions (OOC), which would be everything needed to approve the COC. The only thing that would hold anything up would be if the Commission didn't believe that the wetland replication was completed. He stated V. Gingrich wanted him to revise the cover letter, since she felt that it was misleading.

D. Pearson asked if he rewrote the cover letter.

D. Cowell explained that he did not.

D. Pearson asked if it would be unreasonable to ask him to come back on January 3, 2024, with a revised cover letter.

D. Cowell stated that it would postpone things longer than necessary.

C. Lynch stated the Commission wouldn't be able to approve the COC with an incorrect cover letter. After looking back at V. Gingrich's email, the plan submitted with the COC wasn't the plan referenced in the Order, so the plan and cover letter are incorrect.

D. Pearson stated with all that's going on, it is his recommendation to wait to approve this until the January 3rd meeting, so that he can be synchronized with the Town staff.

Upon motion duly made by T. Bradley and seconded by M. McInnis, it was unanimously

VOTED: To table the Certificate of Compliance for 200 Jefferson Road – Map 89 Parcel 8 – DEP File #344-235 to the January 3, 2024, Conservation Commission meeting

ENFORCEMENT ORDER

4 Wilton Drive – Map 21 Parcel 3M

C. Lynch stated that he drafted a Return to Compliance letter and included it in the Commissioner's packets for review. The homeowner completed all restoration work, and the site looks good. He explained if the Commission has no comments, the Enforcement Order (EO) is all set to close out.

No comments were made by the Commission.

10 Pond Street – Map 34 Parcel 146 – DEP File #344-1067

M. Herald handed out revised plans to the Commission and gave a brief overview. She explained that at the last meeting, C. Lynch provided some suggestions, and the Commission mentioned some revisions that should be made to the plan. The requests were to show contours and spot grades within the Bordering Vegetated Wetlands (BVWs), show restoration within the 15' no disturb, submit a wetland and Buffer Zone restoration report to provide additional details, which she incorporated in the submittal. They also suggested to apply a New England wetland seed mix and a Conservation wildlife mix to the wetland and the 15' no disturb, show additional tree and shrub plantings which they have since doubled the amount from the original proposal, and incorporate plantings along the intermittent stream and along the drainage area within that 15' no disturb. She explained that the drainage area has since been reconfigured on the plan and moved out of the 15' Buffer Zone. Lastly, the Commission requested that the post-and-rail fence be extended along the 15' no disturb, which is shown on the plan, as well as extended Buffer Zones.

D. Pearson asked for clarification regarding the pavement.

M. Herald stated originally approved was the driveway with a slight bump out that extended along the side of the dwelling. After the Certificate of Compliance was issued, the homeowner then extended the driveway, altering some BVWs, as well as the 15' no disturb. As part of the proposal, they will be

restoring the wetland and 15' no disturb and removing the asphalt driveway. However, they have since built a garage underneath that portion of the home, and in exchange are proposing pervious pavement for that area of the driveway, so that the homeowner can still have access to the garage. She mentioned that the Commission recommended filing an after-the-fact Notice of Intent (NOI) for the dock and the concrete patio that was installed without approval, and they are proposing to remove the pervious pavers that are within the 15' Buffer Zone. She explained that they are essentially trying to put back what was filled in. The original basin was filled with stone, then loamed, seeded, and is now lawn. They would like to recreate that area back to what was originally approved.

D. Pearson asked if the pervious pavement they are proposing will have some kind of grid that will permit vegetation to grow through it.

M. Herald stated her understanding is that it will need to be constructed a certain way so that the water flows through the pervious pavement. She explained that L. Roy is the Professional Engineer for the project, so the Commission may want to condition that he be there while it's installed to ensure it's constructed the appropriate way, or something along those lines if the Commission were to allow it.

C. Lynch stated there are no comments at this time since the revised plan was just received.

52 Adams Street – Map 51 Parcel 99 – DEP File #344-1300

M. Herald gave a brief overview and stated the homeowner contracted herself as well as Luke Roy from LJR Engineering to restore the violation. She explained that she went out to the site and looked at the violation, and the homeowner stated there wasn't any wetland fill to the area. She wasn't sure, so Luke Roy went out and he surveyed the wetland flags that she couldn't locate from the original delineation as well as staked the post-and-rail fence. She explained that essentially what happened was the post-and-rail fence was removed, and she believes the 15' no disturb was originally lawn area. The parcel itself had an existing dwelling on it that received a permit to be torn down to build a new dwelling, but as part of that permit, the 15' no disturb was supposed to be restored. She's not sure if it was ever restored with plantings, or if they were installed and then removed, but currently it is lawn.

D. Pearson asked if they looked at any soils.

M. Herald explained that she did, but she wasn't sure if it was fill from the original house that was there or if it was put in recently. She stated that's why she wanted L. Roy to do spot grades and topography and compare it to the original as-built plan conditions and go from there in terms of restoration.

L. Roy stated they did the field work yesterday and remarked where the demarcation line was supposed to be on the as-built plan and marked out the property line as well, since it abuts Town property. He explained that they reset the original wetland flag locations according to the original plan and they did spot grades in that area, but it doesn't appear to him that it was filled in at all and just appeared that the demarcation fence was moved out; he doesn't believe that the grade was changed.

M. Herald stated they'd like to come back next month with a restoration plan and make any edits that the Commission would like to see.

773 Salem Street – Map R1 Parcel 23

C. Lynch stated that he drafted a Return to Compliance letter and included it in the Commissioner's packets for review. The owner completed all restoration work, and the site looks good. He explained if the Commission has no comments, the Enforcement Order (EO) is all set to close out.

No comments were made by the Commission.

687 Main Street – Map 39 Parcel 11A – DEP File #344-1473

C. Lynch stated he spoke to the contractor and the site is 95% complete, they just need to do the final paving in the back. They were supposed to do it between the last meeting and this meeting, but the contractor stated their machine broke down, but they are hoping to get it done before the weather gets too cold. C. Lynch stated he spoke to the attorney earlier and they are working on an as-built plan for the basins, so that the Engineering Division can go out to inspect them.

No comments were made by the Commission.

MINUTES – November 1, 2023

Upon motion duly made by F. Silveira and seconded by J. Cole,

D. Pearson, T. Bradley, J. Cole, and F. Silveira voted 4-0 to accept the minutes for the November 1, 2023, Conservation Commission meeting. M. McInnis abstained.

NEXT MEETING – January 3, 2024

ADJOURN

There being no additional business to come before the Conservation Commission, T. Bradley motioned and J. Cole seconded, it was

VOTED: By D. Pearson, T. Bradley, M. McInnis, J. Cole, and F. Silveira to adjourn the meeting at 8:20 p.m.

Respectfully submitted,



Erika Speight
Senior Clerk