



# TOWN of WILMINGTON

DEPARTMENT OF PLANNING & CONSERVATION

121 GLEN ROAD, WILMINGTON, MA 01897 [www.wilmingtonma.gov](http://www.wilmingtonma.gov) (978) 658-8238

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2022 MAY -5 PM 3:59

## CONSERVATION COMMISSION MINUTES

April 6, 2022

Donald Pearson called the meeting to order at 7:05 p.m. after stating the following:

This meeting of the Wilmington Conservation Commission is being conducted via remote participation. **No in-person attendance of members of the public will be permitted,** but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. Members of the public who would like to participate in the meeting via Zoom can do so by clicking on this link:

<https://us02web.zoom.us/j/87661196892?pwd=S3BxQTN5RTBxUVFSOXpWR083UGVwQT09>

Members of the public who would like to listen to this meeting while in progress may also do so via telephone by dialing 1-646-558-8656 and enter meeting ID 876 6119 6892 then press # and press # again at the next voice prompt. Members of the public attending this meeting virtually will be allowed to make comments if they wish to do so, during the portion of the hearing designated for public comment, by following the steps previously noted then press \*9 on their telephone keypad. This will notify the meeting host that the caller wishes to speak. In the event that despite our best efforts, we are not able to provide for real-time access, we will post a record of this meeting on the Town's website as soon as we are able.

Theron Bradley, Vincent Licciardi, Nestor Salazar, and Alexander Rittershaus were also present. Michael McInnis joined the meeting at 7:20. Valerie Gingrich, Director of Planning & Conservation, Cameron Lynch, Conservation Agent, and Jayne Wierzbicki, Conservation Senior Clerk were also present.

### PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 55 Andover Street – Map 103 Parcel 15

Documents: Request for Determination of Applicability application and supporting materials, received March 1, 2022

Present in Interest: James H. Morris, Owner/Applicant

J. Morris stated that a planting plan was provided with the Request for Determination of Applicability (RDA) application package.

C. Lynch stated that there were no comments, the applicant is proposing seven (7) plantings, where only six (6) are required. The only condition would be to confirm the locations and for the plantings to be verified. D. Pearson asked if that could be arranged with a site visit before planting. C. Lynch stated that he will add that as a condition and the applicant can call before planting.

T. Bradley asked if the plantings will be checked a year or two after they have been planted and if that can be made part of the conditions. C. Lynch stated that usually it is a condition on restoration projects, but it could be made a condition if the Commission would like. T. Bradley stated that he wanted to make sure they weren't missing any details.

J. Morris stated that more of the White Pines have died and another one or two have come down since he was previously in front of the Commission. Stated that all the White Pines in the neighborhood are suffering from White Pine Needle Disease, caused by fungi that attacks the needles of the White Pines. Alerts have gone across all New England states due to the disease attacking White Pines, and stated that a significant amount, if not all, of the White Pines will have to come down within the next three to five years. Stated that he will be filing another RDA to take down the dead/dying White Pines to snag level, leaving between 10'-20' snags.

D. Pearson asked if there are disease resistant cultivars or if they should move away from planting White Pines as replacements. J. Morris stated that he would like to re-plant something other than White Pines or Fraser Firs. Fungi spores can blow from one tree to another, infecting all the trees in the surrounding area.

Upon motion duly made by T. Bradley and seconded by V. Licciardi, it was unanimously

VOTED: To issue a Negative Three (3) Determination of Applicability for 55 Andover Street – Map 103 Parcel 15

**PUBLIC HEARING – REQUEST TO AMEND ORDER OF CONDITIONS – Shady Lane Drive – Map 79 Parcel Road ROW near Parcel 15A – DEP File #344-1461**

Documents: Request to Amend Order of Conditions application and supporting materials, received March 23, 2022  
"Proposed Site Plan, Shady Lane Sidewalk Extension, Wilmington, MA 01887"  
last revised March 22, 2022

Present in Interest: Paul Alunni, Town Engineer, Applicant

P. Alunni stated that the project is for a sidewalk extension and culvert replacement along Shady Lane Drive which was approved last year. This amendment is to make a change to the culvert replacement. They are in the middle of construction, showed the previously approved culvert, which was more of an arch type, the pipe has stopped being manufactured in the area, and could not be shipped from anywhere else. The Department of Environmental Protection (DEP) wanted them to evaluate it in the context of the stream crossing standards, the existing was a double barrel culvert, now it is proposed as a standard box culvert. It is an improvement from what the Commission previously approved, in terms of the stream crossing standards; 3' wide by 2', 1' imbedded into the natural substrate. Originally stated there would be 35 sq. ft. of permanent wetland disturbance, field conditions now indicate that being 40 sq. ft., there is a slight skew where the culvert would be, causing a bit more wetland impact. Still at 1 to 1 wetland replication but will no longer be able to provide replication along the base of the wall which was what had been previously anticipated.

C. Lynch stated that there were no additional comments.

D. Pearson asked if there were any comments from the public, there were none.

Upon motion duly made by A. Rittershaus and seconded by V. Licciardi, it was

VOTED: 5-0 by D. Pearson, T. Bradley, V. Licciardi, N. Salazar, and A. Rittershaus, (M. McInnis abstained), to close the Public Hearing for Shady Lane Drive – Map 79 Parcel Road ROW near Parcel 15A – DEP File #344-1461

Upon motion duly made by A. Rittershaus and seconded by V. Licciardi, it was

VOTED: 5-0 by D. Pearson, T. Bradley, V. Licciardi, N. Salazar, and A. Rittershaus, (M. McInnis abstained), to approve the Order of Conditions as amended for Shady Lane Drive – Map 79 Parcel Road ROW near Parcel 15A – DEP File #344-1461

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

Documents: Comment Letter from the Department of Environmental Protection, dated February 9, 2022  
Email from Kristen Costa, C.S. Newhouse Builders, Inc., received April 4, 2022

C. Lynch stated that the applicant has requested to continue to the May 4, 2022 meeting.

Upon motion duly made by A. Rittershaus and seconded by T. Bradley, it was unanimously

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 May 4, 2022 Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 47 Hopkins Street – Map 10 Parcel 6 – DEP File #344-1496**

Documents: None

Present in Interest: Steve Eriksen, Norse Environmental Services, Inc.

S. Eriksen stated that they have tried to figure out some changes, but they cannot go with a smaller house since it won't be marketable in the area, the property is part of a Conservation Subdivision, making the lots smaller, so somewhere along the line, compromise would need to happen. Cannot meet the setbacks that they would normally try to meet. Raising the house up would mean having a 6'-8' retaining wall in the back.

D. Pearson asked if the plans could be shown to refresh the Commission. V. Gingrich offered to pull up the plans. V. Gingrich stated that this lot was not part of the Conservation Subdivision, it was a Form A Approval Not Required (ANR) lot. It was shown on the plans that it would meet the requirements, it was not a reduced size, it was shown as a rectangle house, meeting the setbacks and without septic included, there were also comments from the Engineering Department about stormwater and the low point by the garage. S. Eriksen stated that was fixed by the grade being dropped by .2' so that the water can run off the edge of the retaining wall. V. Gingrich advised that they address that piece so that Engineering is made aware of the change. S. Eriksen stated that they can adjust the grade across as well. V. Gingrich stated that, typically, they don't see stormwater being directed towards a retaining wall but following up with a little more detail would be helpful.

V. Gingrich stated that they show a 6' no disturb zone, the deck is about 11' from the wetland at the closest point, also pointed out the 15' no disturb and 25' no build zones so the Commission was aware.

T. Bradley stated that when the project was approved, all the guidelines were met, asked why that is no longer possible. S. Eriksen stated that a rectangle was proposed at first, but now it is no longer

marketable. T. Bradley stated that is not enough detail to understand the need to encroach on the wetlands.

A. Rittershaus asked if this is an existing structure or if it is proposed. S. Eriksen stated that it is proposed. A. Rittershaus asked what was originally proposed, if the garage was an addition from the original plans. V. Gingrich stated that on the original subdivision plan, they showed just a rectangular house, it was pulled further away from the wetlands, but the septic was not designed at that point. Now this is what they are proposing, which has more detail.

M. McInnis agrees with T. Bradley that it needs more attention to what could be done to mitigate encroachment. S. Eriksen stated that he could either lift up the house and have a big wall in the back, or to go with the rectangular house they cannot market.

V. Gingrich asked if S. Eriksen could explain why the rectangular house would not be marketable. S. Eriksen stated that it was just a rectangle, a conceptual plan of a house, which is not what people want and need, given the housing and construction costs these days. M. McInnis asked if there was anything that could be done to reconfigure the septic system. S. Eriksen stated that he must maintain the 50' wetland setback with the septic tank, pushing the house too far forward would not meet the zoning setbacks.

T. Bradley asked about all the other lots that are yet to be built on. S. Eriksen stated that he does not foresee any difficulties.

N. Salazar asked if the retaining wall is existing or proposed, S. Eriksen stated that it is proposed. N. Salazar pointed out that it says it will be "designed by others", asked if the retaining wall is at its set location or if it could be moved further into the wetlands and away from the house. M. McInnis stated that the Commission is approving the location of the wall, the design is up to others, but must be placed at the location indicated on the plans. S. Eriksen stated that the wall must be designed by a structural engineer, but they only have a civil engineer. N. Salazar stated that if they approve the project, the structural engineer could start building but find out that the wall needs a larger footprint, impacting the wetlands more, leading to another filing with the Commission.

D. Pearson stated that he was not in favor of the proposal. Asked S. Eriksen if they will be continuing to the next meeting. S. Eriksen stated that the applicant requested to close the hearing. D. Pearson asked the Commission if they would agree to deny the Order, the Commission members agreed.

Upon motion duly made by V. Licciardi and seconded by A. Rittershaus, it was unanimously

VOTED: To close the Public Hearing for 47 Hopkins Street – Map 10 Parcel 6 – DEP File #344-1496

Upon motion duly made by A. Rittershaus and seconded by V. Licciardi, it was unanimously

VOTED: To deny the Order of Conditions for 47 Hopkins Street – Map 10 Parcel 6 – DEP File #344-1496

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 116 Burlington Avenue – Map 17 Parcel 13 – DEP File #344-1497**

Documents: Peer Review Letter from Richard Kirby, LEC, dated March 14, 2022  
Revised information from Luke Roy, LJR Engineering, received March 16, 2022

“Subsurface Septic Disposal System Replacement” Plan, last revised March 15, 2022

Present in Interest: Luke Roy, LJR Engineering, Inc.  
Richard Kirby, LEC Environmental Consultants, Inc.

L. Roy stated that they have revised some documents and coordinated with LEC with the peer review being done focusing on the riverfront area, also wanted to provide a greater level of detail. Overall design has not changed as far as replacement of the home, there has been some notations regarding riverfront that will be preserved, cleanup and ongoing maintenance, demarcation and placards to be installed, erosion control, and implemented items that the peer reviewer has suggested.

R. Kirby gave an overview on the recommendations that were provided in the peer review.

C. Lynch stated that a draft Order was sent to L. Roy and asked if he had questions. L. Roy stated that the demarcation is shown as a post and rail fence, but the applicant asked if boulders can be there instead. D. Pearson asked if boulders are typically 3'-5' apart. L. Roy stated that it is around that spacing. V. Licciardi stated that he is okay with the boulders, T. Bradley agreed.

D. Pearson asked about the owner wanting to carpet over the ledge and plant lawn there.

L. Roy stated that he would go back to the improvement over the existing condition, the areas they are proposing to remain as lawn around the new home are already existing, maintained lawn, associated with the existing home. Not proposing a change in the qualities of those areas as far as vegetation, proposing a wide swath of that area that is currently maintained lawn to be pulled back and preserved as an improvement of the existing condition. D. Pearson asked on the exposed ledge if that makes sense to convert that to lawn.

L. Roy stated that it was lacking topsoil, which may improve the condition if added, whereas there is exposed bedrock in some areas. D. Pearson asked if L. Roy had noticed any erosion around the ledge or the bedrock exposed. L. Roy stated that it is not that steep of an area that would be prone to erosion once a lawn is established there. D. Pearson asked if the plan states this. L. Roy stated that it does not.

D. Pearson asked if there were any comments from the public. There were none.

Upon motion duly made by M. McInnis and seconded by V. Licciardi, it was unanimously

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VOTED: To close the Public Hearing for 116 Burlington Avenue – Map 17 Parcel 13 – DEP File #344-1497

Upon motion duly made by V. Licciardi and seconded by T. Bradley, it was unanimously

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VOTED: To approve the Order of Conditions, as amended, for 116 Burlington Avenue – Map 17 Parcel 13 – DEP File #344-1497

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 30 Upton Drive – Map R1 Parcel 18H – DEP File #344-1500**

Documents: Continuance request from Devin Howe, Beals Associates, Inc., received April 1, 2022

C. Lynch stated that the applicant has requested to continue to the May 4, 2022 meeting.

Upon motion duly made by A. Rittershaus and seconded by V. Licciardi, it was unanimously

VOTED: To continue the Public Hearing for 30 Upton Drive – Map R1 Parcel 18H – DEP File #344-1500 to the May 4, 2022, Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 18 Kenwood Avenue – Map 59 Parcel 23 – DEP FILE #344-1501**

Documents: Revision letter from Maureen Herald, Norse Environmental Services, Inc., received March 23, 2022  
“Site Plan” last revised March 21, 2022

Present in Interest: Cristina Elena Marchis, Applicant/Owner  
Miron Marchis, 18 Kenwood Avenue  
Steve Eriksen, Norse Environmental Services, Inc.

C. Lynch read off the amendments to the filing. There were no comments, a draft Order has been prepared, but is not sure if Maureen Herald, Norse Environmental Services, Inc. has gotten the chance to review them.

D. Pearson asked if the Willow trees will continue to sprout how they cut them down. C.E. Marchis stated that they are very old, C. Lynch stated that they are dead.

S. Eriksen stated that they are in bad shape, and they can grind the stumps down. D. Pearson asked if that is the plan to grind the stumps down. C. Lynch stated that it is up to the Commission. S. Eriksen stated that they can also treat the stumps if they don't grind the stumps. C.E. Marchis stated that she does not believe they would sprout since the roots look destroyed and dead. S. Eriksen stated that the draft Order is acceptable.

D. Pearson asked if there were any public comments, there were none.

Upon motion duly made by A. Rittershaus and seconded by V. Licciardi, it was unanimously

VOTED: To close the Public Hearing for 18 Kenwood Avenue – Map 59 Parcel 23 – DEP File #344-1501

Upon motion duly made by A. Rittershaus and seconded by T. Bradley, it was unanimously

VOTED: To approve the Order of Conditions for 18 Kenwood Avenue – Map 59 Parcel 23 – DEP File #344-1501

**CONTINUED PUBLIC HEARING – ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION – 708R Woburn Street – Map 57 Parcel 54E – DEP File #344-1499**

Documents: Peer Review Letter from Mary Rimmer, Rimmer Environmental Consulting, LLC, dated March 21, 2022

Present in Interest: Mary Rimmer, Rimmer Environmental Consulting, LLC  
Steve Eriksen, Norse Environmental Services, Inc.

S. Eriksen stated that M. Rimmer peer reviewed and seemed like she was in agreement.

C. Lynch stated that they had no additional comments, M. Rimmer is attending for any questions or comments.

M. Rimmer stated that she was in agreement with the wetland boundary. The only other comment was the potential vernal pool offsite of the property, this being the time of year to look at it, in case of future filings for the property.

D. Pearson asked if there were any public comments, there were none.

Upon motion duly made by V. Licciardi and seconded T. Bradley, it was unanimously

VOTED: To close the Public Hearing for 708R Woburn Street – Map 57 Parcel 54E – DEP File #344-1499

Upon motion duly made by M. McInnis and seconded by A. Rittershaus, it was unanimously

VOTED: To approve the Order of Resource Area Delineation for 708R Woburn Street – Map 57 Parcel 54E – DEP File #344-1499

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 55A Chestnut Street – Map 16 Parcel 2A – DEP File #344-1443**

Documents: Request for Certificate of Compliance application and supporting materials, received, February 24, 2022  
“As-Built Plan” date February 17 2022

C. Lynch stated that the applicant needs to submit a monitoring report of the wetland restoration area.

Upon motion duly made by V. Licciardi and seconded by T. Bradley, it was unanimously

VOTED: To table the Certificate of Compliance for 55A Andover Street – Map 24 Parcel 33A – DEP File #344-1443 to the May 4, 2022 Conservation Commission meeting

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 639 Woburn Street – Map 58 Parcel 4 – DEP File #344-370**

Documents: Request for Certificate of Compliance application and supporting materials, received March 28, 2022

C. Lynch stated that he did a site visit, and everything looks good.

Upon motion duly made by V. Licciardi and seconded by T. Bradley, it was unanimously

VOTED: To issue the Certificate of Compliance for 639 Woburn Street – Map 58 Parcel 4 – DEP File #344-370

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 9 Stonehedge Drive – Map 107 Parcel 15 – DEP File #344-442**

Documents: Request for Certificate of Compliance received March 30, 2022  
"As-Built Plan of Land" dated December 8, 2009

C. Lynch stated that everything looked good, it will be a partial certificate due to it being part of a subdivision.

Upon motion duly made by V. Licciardi and seconded by M. McInnis, it was unanimously

VOTED: To issue the Certificate of Compliance for 9 Stonehedge Drive – Map 107 Parcel 15  
DEP File #344-442

## **NOTICE OF VIOLATION**

### **34 Birchwood Road – Map 81 Parcel 28 – Update**

C. Lynch stated that March 23 was the deadline to submit, but they have made progress in getting the wetlands delineated and a surveyor to put everything on a plan, visiting the site on Friday, April 8, but the homeowner should be filing for next meeting.

### **Lord's Tree Service – Update**

C. Lynch stated that he is still working with DEP on how to proceed without an address.

## **ENFORCEMENT ORDER**

### **702 Sandy Lane – Map 106 Parcel 124 – Update**

The homeowner has not reached out after the Notice of Violation or the Enforcement Order had been issued, nor had they responded to KP Law. KP Law has been authorized by the Town Manager to file a complaint in Superior Court, seeking injunctive relief, requiring the removal of materials from town owned land.

D. Pearson asked about the issuance of a fine. C. Lynch stated that there are fines but is unsure about the specifics. V. Gingrich stated that when there are cases of non-compliance with the Wetland Regulations, an example being 911 Main Street, a fine was issued which led to the filing of a Notice of Intent. With the town owned property being involved in this case, the goal is for the removal of those materials.

D. Pearson stated that even after the Superior Court appearance, when those materials are removed, there will still be other issues with the Commission. V. Gingrich stated that is a potential, there could have been things that have been altered, but the thing that is certain is the vegetation clearing and materials being stored, both on town owned land.

M. McInnis asked if both an Enforcement Order and a fine could be issued. V. Gingrich stated that it could be done, no response came from the result of the Enforcement Order, but with the Superior Court, a monetary penalty would already be put in place.

Upon motion duly made by V. Licciardi and seconded by T. Bradley, it was unanimously

VOTED: To ratify the Enforcement Order for 702 Sandy Lane – Map 106 Parcel 124



## **ADMINISTRATIVE TREE or SHRUB REMOVAL**

### **125 Salem Street – Map Parcel**

C. Lynch stated there were three (3) trees, one was leaning towards the back neighbors house, the other two were leaning towards the home, one tree fell during a windstorm and damaged the three trees.

## **DISCUSSION**

### **Earth Day Town Clean Up with the Wilmington Memorial Library**

C. Lynch stated that a few businesses in town are focusing on certain areas, the Environmental Club from the High School is gathering students, and a local pizza shop will be giving out free slices when it is proved that trash has been picked up. The date is April 23<sup>rd</sup> at 10:00am-12:00pm.

## **ELECTION OF CHAIR AND VICE-CHAIR**

V. Gingrich stated that a new member will be joining the Commission, Melissa Gavegano.

V. Gingrich stated that there may be other possibilities. D. Pearson asked if there was a possibility to have a rotating chair. V. Gingrich stated that could be an option. D. Pearson asked the Commission if they would be open to a rotating Chair.

## **MINUTES – March 2, 2022**

Upon motion duly made by V. Licciardi and seconded by T. Bradley,

D. Pearson, T. Bradley, V. Licciardi, N. Salazar, A. Rittershaus, and M. McInnis voted 6-0 to accept the minutes for the March 2, 2022, Conservation Commission meeting.

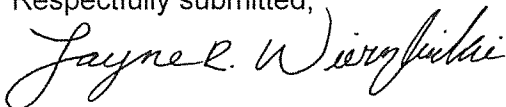
## **NEXT MEETING – May 4, 2022**

## **ADJOURN**

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

VOTED: By D. Pearson, T. Bradley, N. Salazar, V. Licciardi, M. McInnis, and A. Rittershaus to adjourn the meeting at 8:52 pm.

Respectfully submitted,



Jayne Wierzbicki  
Senior Clerk

