



# TOWN OF WILMINGTON

## DEPARTMENT OF PLANNING & CONSERVATION

121 GLEN ROAD, WILMINGTON, MA 01887 [www.wilmingtonma.gov](http://www.wilmingtonma.gov) (978) 658-8238

### CONSERVATION COMMISSION MINUTES

December 7, 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/82633312644?pwd=YIRSNHVqWTdTWnVlK3d6amJ2cWRGUT09> 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: 826 3331 2644 and then enter the following passcode: 705 698 if asked.

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.

Donald Pearson, Theron Bradley, Vincent Licciardi, Michael McInnis, Alexander Rittershaus, Melissa Gavegnano, and William Wierzbicki were present. Valerie Gingrich, Director of Planning & Conservation, Cameron Lynch, Conservation Agent, and Erika Speight, Conservation Senior Clerk were also present.

### **PUBLIC HEARING – NOTICE OF INTENT – 45 & 47 Boutwell Street – Map 19 Parcels 32 & 33 – DEP File #344-1518**

Documents: NOI application & materials, received November 16, 2022  
 "Proposed Subsurface Septic Disposal System," dated November 11, 2022

Present in Interest: Luke Roy, LJR Engineering Inc., Representative  
 Fred Ryan, Wildcats Realty, LLC., Applicant & Owner

L. Roy introduced himself and shared his screen. He stated that the proposed project is for the demolition of an existing dwelling and the construction of a new single-family dwelling, septic system, and associated site work. The wetlands were identified and delineated on the property and crosses the rear portion of the site, and they have identified the 15' no disturb buffer, the 25' no build, and the 100' buffer zone. He stated the new dwelling is proposed in a central location on the lot, which is 43' from wetland flag 3A at the closest point and an attached rear deck being proposed 36' at the closest point from wetland flag 8A. The new septic system is proposed at the front of the new dwelling, which essentially will be located outside of the 100' buffer zone. There is a driveway proposed with a turnaround area and they are proposing recharge measures, roof drain units to capture and infiltrate the roof runoff from the new home. In the rear, demarcation in the form of a post and rail fence will run along the 15' no disturb buffer to identify the limits of the maintained lawn area behind the house and protect the 15' no disturb from future encroachment. He continued saying there is a significant amount of debris and manmade materials in the no disturb buffer zone as well as the remains of an old shed. He explained the applicant is proposing to remove all those materials as part of the project to clean up that no disturb buffer area. He stated that they reviewed the Engineering Division's comments, and the applicant has no problem addressing the changes of the driveway runoff being directed towards

Boutwell Street to a greater extent than it currently is proposed. He stated it may require slight regrading of the driveway and possibly an infiltration trench along the outer downgrading edge of the driveway, which they can certainly incorporate.

C. Lynch stated like L. Roy touched upon, the Engineering Division issued the comment regarding the pitch of the driveway and although it isn't shown on the plan, they added it into the draft Order of Conditions that the applicant provide the Planning & Conservation department with an updated plan addressing that comment for review prior to work beginning. C. Lynch read through the draft Order of Conditions.

L. Roy stated he looked over the draft Order of Conditions and has no issues with it.

T. Bradley asked if C. Lynch is comfortable with where they designated the edge of the wetlands to be.

C. Lynch confirmed.

D. Pearson noticed on the plan that there is a comment stating that the septic system doesn't assume that there will be a garbage disposal. He asked if that is ordinarily on the plans or if it is special for this particular project.

L. Roy stated that is a standard notation that the septic system is not designed to accommodate a garbage disposal or garbage grinder. He continued saying there are provisions in title five to design for that, but it is very unusual that would be done as it requires the leach field to be increased by 50 percent from what would ordinarily be required.

No comments were made by the public.

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

VOTED: To close the Public Hearing for 45 & 47 Boutwell Street – Map 19 Parcel 32 & 33 – DEP File #344-1518

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

VOTED: To issue the Order of Conditions for 45 & 47 Boutwell Street – Map 19 Parcel 32 & 33 – DEP File #344-1518 as amended.

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – Cross Street – Map 40 Parcel 11 – DEP File #344-1504**

Documents: None.

Present in Interest: Jonathan Main, One Cross LLC, Owner & Applicant  
Benjamin Minnix, Eaglebrook Engineering & Survey, LLC.  
Michael Juliano, Eaglebrook Engineering & Survey, LLC.  
Robert Peterson, Peterson Law, Attorney

R. Peterson introduced himself and stated they submitted a revised plan set to the Planning & Conservation department which was reviewed prior to the November meeting, and they have addressed and saw no further comments from Planning & Conservation or the Engineering Division, assuming they are fully satisfied with the comment letters that were provided back from himself and the

site Engineers. He continued saying they are back this evening with hope that they can move this project along one way or another and close the hearing this evening by issuing a vote. He believes that over the past few months in front of the Commission, they have flushed out all concerns and the revised plan set provided to the Town is the best they are able to do relative to this site. He stated they reviewed the draft Order of Conditions and are fine with it.

C. Lynch stated there are no comments.

V. Licciardi explained he thinks the Commission should approve it and not let it go to the State.

D. Pearson asked about number 47 and number 49 in the Order of Conditions regarding no rock salt and no underground fuel storage within 100' of the resource areas. He asked about the whole property being within 100' of the resource areas.

R. Peterson explained he is correct, and there will be no underground storage of any fuels and no use of rock salt on the property.

No comments were made by the public.

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

VOTED: To close the Public Hearing for Cross Street – Map 40 Parcel 11 – DEP File #344-1504

Upon motion duly made by W. Wierzbicki and seconded by V. Licciardi, it was unanimously

VOTED: To issue the Order of Conditions for Cross Street – Map 40 Parcel 11 – DEP File #344-1504

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

Request to continue to the January 4, 2023, Conservation Commission meeting.

Upon motion duly made by M. McInnis and seconded by A. Rittershaus, 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 January 4, 2023, Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 800 Salem Street – Map R1 Parcel 24 – DEP File #344-1516**

Documents: Planning & Conservation review letter, dated November 9, 2022  
Engineering review letter, dated November 18, 2022  
Division of Fisheries & Wildlife letter, dated November 10, 2022

Present in Interest: David Wilkinson, Camber Development, Owner & Applicant  
Matthew Costa, Beals Associates, Inc., Representative  
Larry Beals, Beals Associates, Inc., Representative

L. Beals introduced himself and gave a brief review of the project. He stated they are proposing to redevelop the sand and gravel site into a distribution facility warehouse. They received comments from the Planning & Conservation department as well as the Engineering Division, comments from TEC for the Peer Review on traffic, and Peer Review comments conducted by R. Kirby from LEC. He continued saying they will be walking the site with LEC and the Conservation staff early next week. He explained within all the comments they received back, none of the comments have been monumental or difficult to overcome, stating it is slight tune ups to the drawing. One of the comments from Peer Review conducted by R. Kirby was a mistake made with the filing fee multiplier, which they have then rectified and paid the additional fees. They will supply a Natural Heritage report that there is no take of rare and endangered habitat for the proposed development as designed. R. Kirby also recommended a meeting onsite to walk the areas previously disturbed but have become revegetated to determine the presence or absence of topsoil. L. Beals explained landscape recommendations were provided to add a number of plantings in order to make the shrubs and the trees a little denser and minimize the opportunity for invasive plants to encroach and establish a good natural native plant community that might be able to roar off some of the invasives. R. Kirby acknowledged and asked for more information regarding plantings in the riverfront area and rain gardens. He also had good recommendations on including plants for native pollinator mixes. He explained these are things they will be able to work through easily. He went on to say all the comments from the staff are being addressed and they are revising the plans accordingly. The Engineering Division's comment letter explained minor changes that they are working on, but it's nothing that can't be revised to the Town Engineer's satisfaction.

C. Lynch stated R. Kirby is working on the Peer Review and staff will be going out for a site visit sometime next week and will report back at the next meeting.

V. Licciardi stated when he drives by the site, the grade is about 3'-4' and the plan shows that the property regraded is 91' in elevation in the front and 89' in elevation in the back, so it appears that the property is relatively flat. He asked when he drives by, how come he doesn't see it that way.

L. Beals stated he thinks V. Licciardi might be looking at proposed grades on the site as the numbers that he stated are generally the elevation that they are trying to develop for the site. As pointed out, Salem Street is the high point, and then it drops down to the site. He explained if it was driven by today, there would be mounds all over the site with some of them quite high, one being very prominent that can be seen specifically. When the site is developed, a lot of that material will be spread across the site and the site will be leveled. He explained they need to build a footprint for the building, and then pitch it towards the back of the site away from Salem Street, that way the runoff will be going into the vegetated wetland and then passed on into infiltrators in the parking lot to recharge the groundwater. He explained by the numbers V. Licciardi read off, he believes he was looking at proposed contours.

V. Licciardi asked if fill will be taken offsite to accomplish this.

L. Beals stated his understanding is that most of the fill will remain onsite to balance it. They are fortunate that there is enough material there so that they don't have to import or export that fill to and from the site.

M. Costa explained the Earthwork calculations will be provided to the town requested by the Town Engineer.

W. Wierzbicki suggested adding a fuel storage containment portion into the Order of Conditions to protect when the fire pump is installed.

C. Lynch confirmed that can be added.

D. Pearson stated when he's driven past the site over the years on days when it is windy, the whole area is like a whirling dust cloud. He explained the neighbors are going to have a lot of exposed materials and asked if they are prepared to see a lot of debris blowing from their property to this site.

L. Beals stated it is a manageable concern. The only thing they can control is their site, and none of the dust will be originating from the proposed site. He explained they're more focused on making sure that trash, plastic, and things like that don't blow from their site. He explained the site will be stable, they have a trash management plan, and he thinks they will just have to deal with whatever blows onto the site from the other sites as it happens.

D. Pearson stated it might affect the Operation and Maintenance (O&M) plan, he can't say it will for sure, but just something to consider.

L. Beals stated they may have to clean the catch basins more frequently and he stated they will do the best they can, but there is not much they can do about that.

No comments were made by the public.

L. Beals is hopeful that they will be able to satisfy the Planning & Conservation comments, Engineering Division comments, and R. Kirby's Peer Review comments prior to the January 4<sup>th</sup> meeting and if all are satisfied, he would request a draft Order of Conditions be provided at the next meeting with hopes to close out the hearing and move forward to an Order of Conditions.

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

**VOTED:** To continue the Public Hearing for 800 Salem Street – Map R1 Parcel 24 – DEP File #344-1516 to the January 4, 2023, Conservation Commission meeting

**REQUEST TO EXTEND ORDER OF CONDITIONS – 45, 47 Hopkins Street, Sarafinas Way, 8 Sarafinas Way, Reading, Peabody, & Lynn Avenues – Map 10 Parcels 5, 5A, 6, 36-42, 49-51, 52A & 53 – DEP File #344-1435**

**Documents:** Extension Request letter from Maureen Herald, dated November 1, 2022

**Present in Interest:** James Castellano, Owner & Applicant

C. Lynch explained this request is for the subdivision on Darby Lane and they are requesting a 3-year extension to finish installing the curbing, sidewalks, and the final topcoat, but that can't be done until all the houses on the street have been completed. He stated it is the Commission's decision to decide if three (3) years is okay or not. They do have an automatic extension until March 16, 2024, due to the Covid-19 pandemic.

D. Pearson asked if extending it two (2) years would provide somewhat of an incentive to keep the work moving.

C. Lynch explained he believes they are making progress at a decent pace and stated they have three (3) or four (4) houses halfway completed if not finished already.

J. Castellano stated they are moving as fast as they can. He explained he doesn't want this to take three (3) more years, as the benefit of time for him is crucial. He continued stating M. Herald recommended applying for three (3) years with hope that he'll finish as quick as he can, but having the

three (3) year window will allow him enough time where he won't have to come back and request an additional extension if work isn't completed. He explained they aren't slowing down at all; they are going as fast and as strong as they can.

T. Bradley asked how the three-year limit for an Order of Conditions is decided on.

V. Gingrich explained it is automatic and every Order of Conditions is allowed three years for completion.

T. Bradley asked when an Order of Conditions is extended, is it typically extended for three years.

V. Gingrich stated subdivisions take some time and the roadway can't be completed until everything else is done, so extensions are very common with subdivisions.

T. Bradley asked if the three-year extension being considered will be added to the original date as voted on or the Covid extension date.

V. Gingrich stated that is something the staff will need to confirm, but she believes it is added to the original. She reiterated that will need to be confirmed.

M. McInnis asked if there is anything in the Order of Conditions that would need to be addressed sooner.

C. Lynch stated he doesn't believe so. It is a standard Order of Conditions for a subdivision.

V. Gingrich stated the stormwater and the items that are closer to the wetlands have already been completed, since those are typically completed at the beginning of the project. The roadway, binder coat, and those things are currently in place. The Order has to stay open because the roadway can't be finished until all the homes are built.

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

**VOTED:** To approve the 3-year extension for the Order of Conditions for 45, 47 Hopkins Street, Sarafinas Way, 8 Sarafinas Way, Reading, Peabody, & Lynn Avenues – Map 10 Parcels 5, 5A, 6, 36-42, 49-51, 52A & 53 – DEP File #344-1435

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 30 Kilmarnock Street – Map 74 Parcel 6 – DEP File #344-215**

Documents: None.

C. Lynch explained that a pool was installed, and the Commission required the homeowners to submit an after the fact Request for Determination of Applicability (RDA). He explained nothing has been submitted yet and if nothing is received for the next meeting, the Commission can consider issuing a Notice of Violation (NOV), since the pool was installed without approval.

**REQUEST FOR CERTIFICATE OF COMPLIANCE – Garden of Eden Subdivision – Green Meadow Drive – Maps 2 & 3 Parcels 201-206, 207-222, 223-225 – DEP File #344-1322**

Documents: Request for Certificate of Compliance, received November 14, 2022  
"As-built Plan," dated October 31, 2022

C. Lynch stated this is a Certificate of Compliance request for a subdivision. He stated there are a few comments that were not addressed. Demarcation needs to be added to the as-built plan and there is a swale running along the rear of the houses on the west side of the street that contains a riprap ending to the swale about 40' away from the wetlands that wasn't approved by the Commission. He stated staff would like the applicants Engineer to explain the reasoning for that and when it comes before the Commission again, the Commission can decide whether they believe the Order of Conditions should be amended to include that or not.

D. Pearson asked if it makes more sense to deny the request or to table it, as it sounds like some time may go by before the Commission can vote to approve it. He asked if there is an administrative advantage one way or the other.

V. Gingrich stated it may be helpful to table the request rather than deny it, to give the applicant a chance to get back to the Commission with the information, that way the Commission doesn't need to deny it and then the applicant need to reapply.

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

VOTED: To table the Certificate of Compliance for Garden of Eden Subdivision – Green Meadow Drive – Maps 2 & 3 Parcels 201-206, 207-222, 223-225 – DEP File #344-1322

## **ENFORCEMENT ORDER**

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

C. Lynch stated as a refresher the property owners cut down trees on Conservation land and Town owned land and after months of back and forth, they finally planted the replacement trees that were required, and it is ready to close out.

### **55A & 65 Chestnut Street – Map 16 Parcels 2A & 1A**

C. Lynch stated to remind the Commissioners, the homeowner of 55A Chestnut Street went onto 65 Chestnut Street's property and cut down an unknown number of trees. At the previous meetings, the Commission had been discussing the appropriate number of trees which would be appropriate for replacement. C. Lynch explained he met M. Herald from Norse Environmental Services onsite, and they came up with a total of ten (10) replacement trees or bushes. He continued saying there was a lot of understory and shrubs in that area as well, and M. Herald indicated that the homeowner at 55A Chestnut Street is willing to plant more replacements if necessary to close this out. It's the Commission's decision if they believe the number of plantings is sufficient or if they think he should plant more.

D. Pearson asked if there was a sketch provided that showed how many replacement plantings were proposed and where they will be planted.

C. Lynch stated a plan was provided. He stated nine (9) replacement plantings were proposed, however, the homeowner went ahead and planted fourteen (14) and is willing to plant a few more if the Commission decides more is necessary.

D. Pearson asked if C. Lynch did the math on the maturity and size of the trees.

C. Lynch stated the trees currently planted onsite are 5' in height and above already, and they planted shrubs as well.

D. Pearson said given the ten (10) mature trees found in the representative's sample, what would that dictate in terms of replacements.

C. Lynch explained the number of plantings is equivalent to the removal of 24-48 trees in terms of the replacement policy depending on the size.

M. McInnis asked if the homeowner that planted the trees is responsible for maintaining the trees to make sure they grow properly.

C. Lynch stated he believes the Commission usually does include a monitoring requirement, like what is done for wetland restoration. He continued saying when he went onsite, it was difficult to find where the shrubs were because it was starting to grow back so well, and it was hard to tell which ones were planted and which ones were growing naturally. It is slowly but surely vegetating.

V. Gingrich shared her screen and stated the restoration area shall achieve at least 75 percent coverage of native species after one (1) full growing season. A monitoring report shall be submitted to the Commission by October 31, 2023, and any subsequent years needed to meet this requirement. She continued saying 55A Chestnut Street or the property owner at 65 Chestnut Street would need to submit the report to the Commission.

D. Pearson asked whose responsibility it would be to take photos of the replacement plantings and show that next year's photos are substantially vegetating, and that nothing has died out.

V. Gingrich stated typically the staff takes the photos for reference.

#### **4 Wilton Drive – Map 21 Parcel 3M**

C. Lynch stated the homeowner took down some trees and vegetation close to the wetlands. He explained the homeowner recently installed a post and rail fence, installed plantings, and stated the homeowner will provide a sketch of their placements and the post and rail fence in reference to the wetlands and submit it at the next meeting for the Commission's review.

D. Pearson stated presumably since there are plantings involved, he will need to go into the monitoring phase as well.

C. Lynch confirmed.

#### **6 Hanson Road – Map 57 Parcel 47Q**

T. Brady introduced himself and spoke on behalf of the homeowner, J. Fitzpatrick. He stated J. Fitzpatrick purchased the property in January of 2019 and after reviewing the documents and aerial photography, there was alteration in the buffer zone right up to the edge of Bordering Vegetated Wetlands (BVWs) that happened sometime between 2015 and 2019. He stated he believes based on aerial photography, most of the work was done in 2018 consisting of trees being removed, stumps being removed, and regrading. He continued saying when J. Fitzpatrick took ownership of the property it was in rough grade condition, so J. Fitzpatrick brought in loam and seed and spread it within the area. T. Brady met onsite with C. Lynch and looked at the site. Given what happened on the site and the changes, the tree overlay, the saplings, and the canopy are still in good shape. Herbaceous layer is still



there, but has had some heavy impact, assuming because those trees were removed. They are proposing to install erosion controls at the top of the bank and plant a wetland seed mix to get the transition growing back into the BVWs and into the wetland resource area that surrounds roughly 60 percent of the property that's out there. He stated he reviewed the Enforcement Order and the conditions within and explained the requirement for a surveyor is going to be the most significant challenge in terms of timing. He suggested for consideration, if the Commission would allow, to provide a sketch rather than a survey for the sake of time. T. Brady will provide a narrative and ideally would like to plant the wetland seed mix between March 15<sup>th</sup> and March 30<sup>th</sup> to have a strong growing season. He explained if the Commission wishes, he is proposing four (4) granite bounds at the demarcation point, the newly restored area, and reflect that at the takeoffs off the house itself so they will be there permanently and recorded.

D. Pearson asked for clarification on if they won't be able have a surveyor come out before the January 4<sup>th</sup> meeting or before planting the restoration in March.

T. Brady stated since it is a recent purchase, J. Fitzpatrick has a plot plan from 2019. Given the scope and scale of what they are proposing, he would be asking the Commission's consideration in annotating that for the record rather than going with a full-blown survey.

D. Pearson stated there is a presumption that whatever happened prior to J. Fitzpatrick owning the property, the restoration would only be from what was disturbed from 2019 forward.

C. Lynch stated if they caught it back then, the Commission would've been able to do something, but once the property changes hands there is not much that can happen.

D. Pearson clarified that on the 2019 plot plan, they will identify the 280 yards of lawn to be restored.

T. Brady confirmed.

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

C. Lynch explained an Enforcement Order was provided to the Commission for review and is ready to issue.

Upon motion duly made by T. Bradley and seconded by W. Wierzbicki, it was unanimously

VOTED: To issue the Enforcement Order for 10 Pond Street – Map 34 Parcel 146 – DEP File #344-1067

#### **DISCUSSION**

#### **635 Main Street – Map 40 Parcel 1 – DEP File #344-1432**

J. Tilton introduced himself and explained this is a modification request for 635 Main Street for the installation of a generator and concrete pad. The project is 99 percent complete, and the requirement since its residential was to have a generator and generator pad. It was never shown on the existing site plan, it is within the 100' buffer zone, but outside the 15' no disturb with no impact to the wetlands. This location was chosen as it's near the gas line, close to the utility room, and away from the residential building in the rear. They are asking for this modification as it has insignificant impact to the wetlands.

C. Lynch stated it is the Commission's decision whether they would like the applicant to file a formal

Request to Amend the Order of Conditions or if they are okay with seeing it on the final as built when they return for the Certificate of Compliance.

T. Bradley asked C. Lynch if the concrete pad is a no impact change from the original plan.

C. Lynch stated no impact is impossible for a concrete pad, but insignificant, it is not huge.

M. McInnis asked what the fuel source of the generator is.

J. Tilton answered saying it is natural gas and was gas lined from the building with gas meters in the corner of the facility. There are no deliveries, it is a natural feed from the building which is the safest way to refuel it. Mass DOT made them reduce the entrance so there is less impervious area onsite than originally proposed, so this concrete pad is 67 sq. ft., but the overall reduction in impervious area is over 300'.

D. Pearson asked J. Tilton how this was able to be done without having a conversation with the staff prior.

J. Tilton stated it was going to be installed in a different spot and he believes there was lack of communication. He was unaware of it and then it got installed and was brought to his attention when they did the as-builts, they spoke to them about it and explained they had to get it in there and the applicant thought this was the best location. He explained they didn't try to hide it and wanted to bring it to the Commission's attention by providing this letter. He stated it was overlooked at the time.

D. Pearson stated it sounds as if it's not a significant modification and that the Commission will not request any paperwork to be filed. He explained the Commission would like to see it shown on the as built and not require any additional paperwork.

#### **911 Main Street – Map 25 Parcel 4 – DEP File #344-1400**

B. Autenzio stated the area in the back had binder coat and asphalt coat that was completed. The report was sent in by Thad Berry the site Engineer. He is currently working on calculations to see if they can do a small modification and they are just waiting to get the drainage calculations back to see if it's possible and feasible. He stated a meeting was held with P. Alunni, C. Lynch, and V. Gingrich and they discussed trying to utilize the cultec infiltrators to try to get more storage space for the stormwater runoff from the parking lot.

D. Pearson asked when he will be expecting the calculations.

B. Autenzio stated he was expecting them a month ago, but it isn't going as fast as he thought it would and the Engineer promised to have them by the end of the week.

C. Lynch stated it is progressing slowly and the deadline to have everything completed on site is in March and it doesn't look like it'll be anywhere near done by that time especially with winter approaching. At that time the Commission can decide if they think an Enforcement Order should be issued.

D. Pearson asked if having the calculations is a minor subtask of things needing to be done.

V. Gingrich explained there was work done at the site that did not receive approval so there was an

Enforcement Order (EO) issued in 2018 or so. She continued saying B. Autenzio had his consultant draw up plans and came in to receive an Order of Conditions to restore the property to make it meet the regulations and that Order expires in March. There was a 4-year period with the Covid extension for him to get the work done. Part of that work was to fix a stormwater basin on the property that was filled in partially, consisting of taking out the fill, reshaping it, and making it function. She continued saying he is now looking at instead of doing that basin, doing underground infiltration, and changing the stormwater design completely. Those are the calculations that they're currently working on to make a change to the plans. It was an Order that came out of Enforcement where the Commission likes to see the work done early on and the Order is now going to expire in March, with no progress seen with this site.

D. Pearson asked if it would be helpful to have a Request for Determination of Applicability (RDA) or a Notice of Intent (NOI) filed given that there's going to be a change in the way that the stormwater is going to be handled from the original come March.

V. Gingrich stated that is one way to do it, but DEP has cautioned previously with an Order of Conditions, the Commission isn't necessarily setting a deadline, they are authorizing work, not requiring work to be done so that is why they kind of look at the Commission funny when they say that the local bylaw tells folks to file an NOI to get out of a violation. It is a way to do it, but that's how 911 Main Street got into this situation. She continued saying if they want to do changes to the design and need to get a new approval, they would need to file an NOI.

D. Pearson asked what in the Enforcement process would give the Engineer attention to the new design. He explained he can see the advantage of providing a deadline for Enforcement, but would it also provide the oversight of whether the new solution makes sense or not.

V. Gingrich stated she isn't sure and would have to see as it's not very clear how they would do that, but Enforcement would likely be more geared towards fulfilling that plan that was previously approved by a certain time frame. If they want to redesign and get a new approval, they could do it after they've fixed the site. She explained there is still time before this Order expires and will be able to talk through those options.

D. Pearson stated the applicant must be aware that there's exposure to fines and things through the Enforcement process for not complying. If the Commission asked for the work to be done as stated in the EO, and if that isn't done in time, the recommendation of a fine is an option as well.

B. Autenzio stated they did do significant improvements and did what they were asked to do while the Covid pandemic impacted his business tremendously. He made efforts to get items submitted, dealing with contractors and material shortages and supplies. He explained it's not like it's been sitting on the backburner with nothing being done and reiterated that work has been done.

D. Pearson stated he's not hearing that all the items in the EO have been completed. He doesn't believe that an EO gives him the latitude to say let's do something other than what the EO says and maybe it'll be better. He stated that doesn't seem to be working in the spirit of the EO. He explained B. Autenzio is putting himself at risk by doing that.

B. Autenzio stated he believes it will improve the stormwater conditions that are there and that it's better now than what it was when he developed the property.

All Commissioner's agreed that four years is too long and are unsure of what the advantages would be with a plan change as they have yet to hear it.

M. McInnis asked if the applicant could take two (2) courses at the same time as long as something is done by March.

V. Gingrich stated he currently has a valid Order to get his property back into compliance which was issued over four years ago. As a result of the Commission issuing an EO saying that he modified the site, came in with a plan stating he was going to restore it to meet the regulations as there is Riverfront as well as Bordering Vegetated Wetlands (BVWs), he needed to pull up some pavement and reshape the stormwater basin. She explained that he did install the catch basin in the center of the parking lot and paved the parking lot. He came in with that plan to restore it and meet the requirements. Four years later now, he has a valid Order to do that work which expires in March. She continued to say he could do that work prior to expiration in March, or once it expires, he will again be in violation of the site not meeting regulations. The Commission would have to issue an EO of some kind to get his site back to compliance. She said there is also the option of speaking with legal counsel as well which was done previously with this property.

D. Pearson stated in his opinion he would pursue whatever they can on the EO and expect to be judged by that. He continued saying the Commission will review the plans next time, and what is being done with the calculations is at his own risk as there is a directive to do something else and if its not done by that time, the Commission can consider a penalty.

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

S. Dresser introduced himself and stated he was representing Attorney McKenna who couldn't attend the meeting. He stated there were some reports Attorney McKenna couldn't get to due to his job change. The project is started, the pavement has been removed and there is excavation in one of the chambers in the wetlands. He stated he is unsure what the Commission would like to hear, other than they are moving forward, but it won't be completed by the end of the year as there were some setbacks.

D. Pearson asked if this Order of Conditions is extended by the pandemic.

C. Lynch answered saying the deadline is December 31, 2022.

V. Gingrich stated the Order itself is still valid and did receive the Covid pandemic extension. In that Order, there is a condition they agreed upon that all work will be completed by the end of the calendar year, so that is the condition they won't be able to meet.

D. Pearson stated the Commission is going to consider an Enforcement Order (EO) in January.

S. Dresser stated they are hoping, weather pending, to have everything constructed and graded, other than the plantings, by the end of the year. He suggested to the Commission to stay in communication with the applicant and continue to request updates rather than an EO.

D. Pearson suggested S. Dresser have someone provide a schedule that they believe they can meet throughout the month of December.

S. Dresser stated he will do his best to pass that along. He stated it is hard for him to commit to what somebody else will do, but he believes that request is very reasonable. He stated they did have a preconstruction meeting, but he is unsure that the contractor doing the job contacted the town about inspections. He believes the contractor is currently on site and welcomed the staff to visit and talk with him about the progress of the project.

D. Pearson stated if all this time has gone by with unsatisfactory performance, he believes it's not the staff's responsibility to visit the site with hopes someone will explain something. It should be somebody coming to the staff saying here is what has been done. He continued saying each time an invitation is issued and no one shows up, it certainly isn't doing their case any good. He appreciates him attending the meeting tonight and hopes the information will be passed along.

**168 Lowell Street – Map 58 Parcel 1 – DEP File #344-1452**

S. Wright explained that during the construction phase of this project when they finished backfilling behind the second building, they noticed that what had been done wasn't quite what the proposed plan had shown. They installed a DOT approved riprap slope to contain it until they could come up with a better plan. He called town staff and C. Lynch went onsite to look at the work. He explained that there is not much more that can be done to keep that slope safe from eroding. He explained there are 5' x 8' patios that come off the back of each unit and from a builder standpoint, he'd like to keep an egress in case of a fire, residents would be able to exit out the back without being hurt. The roof drains are collecting the runoff and he stated there shouldn't be any erosion back there, however he was unsure on what to do with that slope. He explained he was not part of the initial permitting of this project, but they needed to make a field change and they thought that this might be the best solution. One thing they did was take some of the trees projected to go into that area and they scattered them amongst the property due to the fact that the canopy over that area allows minimal sun, and he believes if anything of size was put in that area, it would die off.

V. Gingrich explained this project is a multifamily development of townhomes with a wetland edge along the right side of the property. The back of the townhomes back up to the wetland edge and it was agreed upon with the Commission at the time that the structures could be closer than 50' to the wetlands and as a tradeoff, the designer moved the no disturb to the 25' line. The homes are closer than 50' but the no disturb got pulled out to 25'. The plan that was approved showed a vegetated slope on that back end and it slopes down from those patios to the wetland. She explained according to the as built, some of the boulders would need to be pulled up to the 25' line. It is up to the Commission on what they would like to see done with the slope.

S. Wright stated when a foundation is put in and they need to go from one elevation to another in the field, there isn't a ton of options they can do to make it look decent but also control the slope. He explained this was the only thing they could come up with. He stated he agrees that some of the boulders should come up to the 25' no disturb which isn't a problem. He is unsure of what else can be done to a slope like this one.

T. Bradley stated a fence where the boulders are located could help with the delineation.

V. Gingrich stated the riprap itself makes the demarcation pointless and the Commission wants to see a vegetated area that isn't disturbed. She asked S. Wright if he would be able to work with his Engineer to evaluate the slope so that it can be seen in a technical way that isn't just her and him commenting on it.

D. Pearson stated in a previous project the Commission has seen this year, the applicant was proposing a rigid plastic with structures that would provide support as well as the ability to pack them with earth so that stuff could grow on them and the fact that plants could take root and grow and further reinforce the slope similar to this one. He stated he doesn't believe riprap is the only way this can be done.

S. Wright stated he will talk with his Engineer and seek an alternative.

**47 Hopkins Street – Map 10 Parcel 6 – DEP File #344-1496**

V. Gingrich stated this was included in the packets as an FYI that there was a Superseding Order issued for 47 Hopkins Street just recently for the single-family home. She explained it was included in case the Commission had questions. DEP approved it with the same setbacks as what the Commission saw and may have shifted the retaining wall and the driveway slightly and did a different stormwater design. There were some changes but are still within 10' from the wetlands with their demarcation.

**MINUTES – November 2, 2022**

D. Pearson pointed out a few errors. On page five (5) at the top of the page where it stated array of work, he recommended it read area of work. On page seven (7) at the top of the page it stated T. Bradley asked if there was currently asphalt paving on the surface of the tanks and recommended it read over the tanks rather than on the surface of. On page eight (8) at the bottom of the page where it stated there was a graphical representation drawn and not actually correlated, he recommended it read correlated with an elevation to clarify what was not correlated. On page nine (9) where it stated M. Costa explained a list of things, D. Pearson mentioned they weren't complete sentences, he recommended it be preceded as a bullet list or a numbered list. On page ten (10) where it stated a logistic site, he was unsure of the meaning behind that and recommended removal of that term. On page thirteen (13) where it stated D. Pearson answered saying, he went on to say there was a bunch of he's and recommended one of the he's be changed to R. Peterson as he was referring to him. On page sixteen (16) where it stated M. McInnis stated and read the word imply, he recommended that it be apply. All the corrections were made.

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

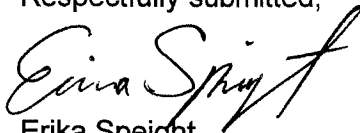
D. Pearson, T. Bradley, V. Licciardi, M. Gavegnano, and W. Wierzbicki voted 6-0 to accept the minutes for the November 2, 2022, Conservation Commission meeting as amended. A. Rittershaus abstained.

**NEXT MEETING – January 4, 2023****ADJOURN**

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

VOTED: By D. Pearson, T. Bradley, V. Licciardi, M. McInnis, A. Rittershaus, M. Gavegnano, and W. Wierzbicki to adjourn the meeting at 9:36 p.m.

Respectfully submitted,

  
Erika Speight  
Senior Clerk