



## 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

March 1, 2023

Donald Pearson called the meeting to order at 7:03 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/87032684992?pwd=TWZ1b1c0b2pSVCSrUINkRHIUMjI4QT09> 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: 870 3268 4992 and then enter the following passcode: 582706 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, Michael McInnis, 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 MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 64 Wildwood Street – Map 61 Parcel 1**

Documents: RDA application & materials, received February 15, 2023  
 “Wildwood Cemetery Expansion Site Plan,” dated February 15, 2023

Present in Interest: Jamie Magaldi, Department of Public Works Director  
 Paul Alunni, Town Engineer

J. Magaldi introduced himself and explained they are before the Commission to permit the cemetery expansion for the new section Q of the Wildwood cemetery. Article 22 of Town meeting in 2020, the Town obtained funding to purchase the property at 64 Wildwood Street and in 2022, the Town obtained the property. In December of 2022, the existing house on the property was demolished. Since then, the Engineering Division was tasked with studying the most efficient layout of that property. He explained they came up with a plan that allows for approximately 372 grave lots with upright monument privilege similar to what is currently in section N of the cemetery. That would expand the upright two (2) grave lot burials for about another ten years. This project is a crucial part of expanding the cemetery in order to extend the existing available life with this project. They are estimating approximately 30 years total of existing life on the cemetery that includes the existing flat marker graves in the existing cemetery that don't seem to be selling as fast as the upright markers. The Cemetery Commission endorsed this plan as a preferred concept on February 1<sup>st</sup> of this year. Their plan is to permit it and begin site preparation in the Spring. He explained more extensive work will occur as part of their FY24 capital plan, such as extending some fence work along Wildwood Street and some final grading. J. Magaldi explained they do have a warrant article through Town meeting for that work.

P. Alunni shared his screen and explained the proposed project to the Commission. He explained there are two (2) resource areas on site: BVWs and 100-year flood plain, both of which have been field located. The Ipswich River runs through the adjoining parcel, and he explained he didn't have the mean annual highwater line field delineated as part of this project because it is 793' away from the wetland line when using the field dimension tool. He explained he went onsite and looked for vegetation changes as he walked the site and noted where he saw water towards the property. He explained they quantified the amount of trees per the Conservation Commission's policy and came up with a replacement number of ten (10) trees. Five (5) of the trees will be placed along the frontage of Wildwood Street and with the Commission's permission they will field locate the other five (5) trees throughout the cemetery over the course of the next few years.

C. Lynch explained the only comment is to install erosion control before the start of construction.

M. McInnis asked if this would be an area for consideration of environmentally sensitive burials.

C. Lynch explained that there is nothing in the regulations that restricts gravesites from being next to BVW's.

D. Pearson asked if overtime when the access roads need to be resurfaced, would they consider permeable pavements and perhaps there would not be drainage issues.

P. Alunni explained he considered this, but didn't like the idea of excavating too close to gravesites from the early 1900's.

S. Sullivan expressed her concerns about the five (5) tree plantings being proposed on Wildwood Street with the power lines above them and recommended planting crab apple trees that have wildlife value in the spring, fall, and winter.

J. Magaldi explained that they are considering planting thundercloud plum trees for wildlife value and have a few throughout the Town as well. He explained he isn't opposed to planting some crab apple trees.

S. Sullivan mentioned that the cemetery abuts an Atlantic White Cedar swamp, which is a rare and important habitat and expressed her concerns about leaf blowing into the swamp as well as plastic gravesite flowers blowing into the wetland.

J. Magaldi explained he agrees and one of the tasks of the summer help employees is to maintain this area and they will be more cautious of this going forward. He explained the intent isn't for anything to get into the wetland and he agrees that it is a very critical resource area. He believes the proposed post-and-rail fence will provide some barrier and they will do their best to try to mitigate that.

D. Pearson reminded them that the tree replacement policy also provides for shrubs at a higher multiplier, so there can be a mix of trees and shrubs to deal more strategically with the spots that might be troublesome in terms of drift of materials and things like that. He asked if there is an availability to limit the amount of plastic flowers that people might tend to leave there.

J. Magaldi explained that is a sensitive battle that they've been fighting for decades. There are rules and regulations that allow people to decorate. They don't have any restriction on plastic flowers, and it has been very difficult to limit that as it is a way for people to honor their loved ones.

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

VOTED: To issue a Negative Three (3) Determination of Applicability for 64 Wildwood Street – Map 61 Parcel 1

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 37 Arlene Avenue – Map A90 Parcel 13**

Documents: RDA application & materials, received February 7, 2023  
"Plot Plan of Land," dated March 12, 2018

Present in Interest: Peter de Bernardo, Gibraltar Pools Corporation, Representative

P. de Bernardo introduced himself and explained they are proposing an above ground pool which will be outside of the 25' buffer zone, but will be within the 50' buffer zone.

C. Lynch explained the only comment is prior to the start of construction, to install erosion control between the pool area and the wetland.

P. de Bernardo asked if a silt fence with stakes would be okay.

C. Lynch confirmed.

M. McInnis asked if there are stipulations as far as backwashing.

P. de Bernardo stated they are using a green system so there will be no backwashing, it is strictly a cartridge system, and all the water will stay within the pool.

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

VOTED: To issue a Negative Three (3) Determination of Applicability for 37 Arlene Avenue – Map A90 Parcel 13

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 50 Agostino Drive – Map 53 Parcel 141**

Documents: RDA application & materials, received February 15, 2023  
"Plan of Land," dated February 8, 2023

Present in Interest: Robert Cwieka, Owner & Applicant

R. Cwieka introduced himself and stated he is seeking approval for his replacement shed. He continued saying he submitted photos of the previous shed that he replaced, and it is within the 100' buffer zone. The new shed is on the same footprint as the previous shed, so there is no new earth disturbance.

C. Lynch stated there are no comments, but the plan that was submitted shows the wetlands 90' away based off the GIS maps, however the shed itself is in the mid forty's away from the wetlands. He explained it's not a big discrepancy, but if the Commission is okay with the plan that was submitted with the wetland line closer than 90' away, they can make a note saying that the wetland line shown on the plan shouldn't be used for any future projects and that the homeowner may have to come in front of the Commission, unless the Commission rather a real delineation of the wetlands.

D. Pearson asked if the applicant were to annotate the plan and bring it to staff to be initialed, would that make a difference.

C. Lynch answered saying he isn't sure that can be done right now because if it is approved tonight, it would be for the plan that was submitted. He stated it's not like a Notice of Intent (NOI) where they can condition revised plans at a later date, but it can be noted that the wetland line on the plan shouldn't be used in the future, and it isn't accurate based off the GIS maps.

M. McInnis asked what the common practice is for an after the fact RDA.

C. Lynch stated for something like this where the shed is already built and not going anywhere, there isn't much to do in this situation like cutting down trees or something that can be removed and moved back. If he came in before the shed was built, it seemed like it would be a straightforward project that would be approved.

T. Bradley asked which is correct, the GIS map distance or the previous filing distance.

C. Lynch stated GIS is not correct and that it isn't 90' away, the 40' delineation is from the early 2000's and it may have moved a foot or two here and there, but it is most likely around the same. There is a decent sized berm between the shed and the wetland, so it is obvious where that line is.

D. Pearson stated it would make sense to call the distance incorrect and shouldn't be used for future projects.

R. Cwieka stated the drawing was from an Engineer at Merrimack Valley Engineering and expressed he is a little concerned as to why it's being noted as inaccurate.

C. Lynch stated he spoke with the Engineer, and he took the distance from the GIS maps and superimposed it onto the plan. He explained GIS maps aren't 100% accurate, it's more so to give an idea to homeowners where they are. He stated the plan itself isn't inaccurate.

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

VOTED: To issue a Negative Three (3) Determination of Applicability for 50 Agostino Drive – Map 53 Parcel 141

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 30 Kilmarnock Street – Map 74 Parcel 6**

Documents: RDA application & materials, received January 12, 2023  
"Plan for Request for Determination of Applicability," dated January 5, 2023

Present in Interest: Stacey Allard, Owner & Applicant  
Mark Allard, Owner & Applicant

S. Allard introduced herself and stated they are before the Commission for an after the fact RDA of an above ground pool. They have installed it; it is movable, and no land was disturbed in the process.

C. Lynch explained that the pool is 22' away from BVW's and the Commission has a policy of a 25' no structure setback. He explained the pool is in Bordering Land Subject to Flooding and presenting it

through an RDA may be difficult. He stated they may want to take an extra look at it and talk with their wetland scientist for guidance on the best way to go about this filing.

M. Allard asked if it would be easier if they moved the pool 20' to 30' away from the area where it is located now.

C. Lynch stated referring to the GIS maps, it seems like their property and whole neighborhood is located within the flood zone. He explained by talking with the wetland scientist, she will be able to provide more insight and may be able to come up with something that can accommodate the pool in its location.

V. Gingrich stated the flood plain goes by elevation, and depending on where that lands, maybe the pool could be shifted outside of it. If they can't, they can try to figure out a way to compensate for the pool. She explained by working with the wetland scientist and a surveyor, they'd be able to help come up with that depending on the elevations and the grading. It is hard for the Commission to give direction without more information from the consultants. She explained when impacting a flood plain, it would require a Notice of Intent (NOI) filing.

C. Lynch explained a positive determination can be issued or the homeowners can withdraw their application.

Upon motion duly made by D. Pearson and seconded by W. Wierzbicki, it was unanimously

VOTED: To accept the withdrawal of the Determination of Applicability for 30 Kilmarnock Street – Map 74 Parcel 6

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 377 Ballardvale Street – Map R3 Parcel 50B**

Documents: RDA application & materials, received January 10, 2023  
"DISH Wireless LLC., Plan to Accompany," revised January 30, 2023

Present in Interest: Michael Dolan, Brown Rudnick LLP, Representative

M. Dolan introduced himself and explained DISH Wireless is proposing to install an antenna installation at an existing tower and an existing fenced compound at the property. Proposing to install a new 4' x 6' equipment platform raised on legs to support DISH's electronic equipment. He continued saying there is a very small fiber vault being proposed outside the equipment compound which is 20" x 20" x 9". They believe all these improvements are outside of the wetland buffer zone and wanted to obtain confirmation of that with a negative determination of applicability.

C. Lynch stated the only comment is to install erosion control between the work and the BVWs prior to the start of work.

D. Pearson asked for clarification on what a fiber vault is.

M. Dolan stated it is a small box approximately one foot below the surface.

Upon motion duly made by M. McInnis and seconded by W. Wierzbicki, it was unanimously

VOTED: To issue a Negative Three (3) Determination of Applicability for 377 Ballardvale Street – Map R3 Parcel 50B

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 26 Upton Drive – Map R1 Parcel 18G**

Documents: RDA application & materials, received January 10, 2023  
“DISH Wireless LLC., Plan to Accompany,” received January 10, 2023  
Present in Interest: Michael Dolan, Brown Rudnick LLP, Representative

M. Dolan introduced himself and explained this is a site in Wilmington that his client is proposing to attach antennas to an existing telecommunications tower. He explained they will be putting in an equipment platform on four (4) legs with a very small fiber vault. They believe they are outside of the wetland buffer zone.

C. Lynch stated the only comment is to install erosion control between the work and the BVWs prior to the start of work.

T. Bradley asked for an explanation of what an ice bridge and a fiber vault are.

M. Dolan explained an ice bridge is an elevated metal graded platform which protects wiring underneath it from falling ice and other things. He explained the fiber vault is the point where fiber coming to the property will connect into fiber coming to the vault and connect power to the equipment.

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

VOTED: To issue a Negative Three (3) Determination of Applicability for 26 Upton Drive – Map R1 Parcel 18G

**PUBLIC HEARING – NOTICE OF INTENT – 230, 234, 240 Ballardvale Street – Map R2 Parcels 23E, 23F, 23G – DEP File #344-1520**

Documents: NOI application & materials, received January 12, 2023  
“Non-residential Site Plan,” dated January 12, 2023  
“Stormwater Management Report,” dated January 12, 2023  
“Wetland Report,” dated December 19, 2022  
Operation & Maintenance manual, received January 12, 2023

Present in Interest: Michael Lambert, Granite Engineering LLC, Representative

M. Lambert introduced himself and shared his screen. He explained they are proposing to combine all three (3) properties into a single lot and construct an auxiliary storage lot for parking tractor trailers and fleet storage in the middle of the site. There are two (2) swales on the northern side that run along each parking lot and a swale down to the rear of site leading into an existing pond in the back. On the southern property line, there's a swale that goes along the property between their property and 220 Ballardvale Street. He explained there is a driveway connection with a culvert and the swale continues down into the pond. These swales were manmade when the property was developed back in the 1980's. As part of this project, they will be removing the onsite septic system. He explained there are comments from Planning and Conservation, the Engineering Division, and the Department of Environmental Protection that they are working to respond to and should have the responses ready for the next meeting.

C. Lynch commented to add demarcation along the 15' no disturb, snow storage signage along the 15' buffer zone, and to revise the lighting plan so minimal light is affecting the wetlands.

D. Pearson asked if they are going to address the vegetation taken out of the area since it'll be more pavement now.

M. Lambert stated a lot of the vegetation are weeds and native trees that aren't sufficient growing there as if it was a native area. He will talk with his team to add more trees and shrubs within that 50' buffer zone area.

S. Sullivan expressed her concerns about the vegetation surrounding the pond in the back of the site and explained a lot of times there is trash in the pond. She explained there is no buffer to that pond and nothing stops debris from getting in there.

M. Lambert stated he will bring it to the applicant's attention, and they will see how they can address it and help clean it up.

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

VOTED: To continue the Public Hearing for 230, 234, 240 Ballardvale Street – Map R2 Parcels 23E, 23F, 23G – DEP File #344-1520 to the April 5, 2023, Conservation Commission meeting

**PUBLIC HEARING – NOTICE OF INTENT – 700 Main Street – Map 48 Parcel 73A – DEP File #344-1521**

To be presented at the April 5, 2023, Conservation Commission meeting.

**PUBLIC HEARING – REQUEST TO AMEND ORDER OF CONDITIONS – 30 Upton Drive – Map R1 Parcel 18H – DEP File #344-1500**

Documents: NOI Amendment application & materials, dated January 18, 2023  
"Plans to Accompany Permit Docs," revised January 12, 2023  
Stormwater Management Permit, revised January 12, 2023

Present in Interest: Devin Howe, Beals Associates, Representative

D. Howe introduced himself and shared his screen. He explained they are requesting an amendment to the Order of Conditions. They previously designed the project to accommodate two (2) tenants with a shared loading dock between the existing building and the proposed building. Those spaces have been moved to the corner of the building to accommodate one (1) tenant and they expanded the pavement from 86' to 110' to reduce the building size to about 38,000 square feet, a total reduction of about 7,700 square feet. He explained there will be no change to the overall stormwater management system. They are okay with the draft Order of Conditions provided and have no comments.

T. Bradley asked if these changes would decrease the overall impact.

C. Lynch explained that is correct. The building is getting smaller overall, and they haven't moved closer to the wetlands. He explained the only thing getting bigger is the drive aisle between the proposed building and the existing building.

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

VOTED: To issue the Amended Order of Conditions for 30 Upton Drive – Map R1 Parcel 18H – DEP File #344-1500

**PUBLIC HEARING – REQUEST TO AMEND ORDER OF CONDITIONS – 226 Burlington Avenue – Map 17 Parcel 54 – DEP File #344-1495**

Documents: NOI Amendment request letter, dated February 14, 2023  
“As-built Site Plan,” dated December 12, 2022

Present in Interest: Stephen Lawrenson, Benchmark Property Associates LLC, Owner & Applicant

S. Lawrenson introduced himself and explained that the original filing was made from the base of the septic system plan, but there was no deck shown on it. He brought it to the site engineer’s attention and the changes were made, but the new plan was never shared with the Commission. He is here tonight to show that new plan and hoping to amend the Order of Conditions (OOC).

C. Lynch explained that a draft amended OOC was sent to S. Lawrenson. He continued saying there are no special conditions, and it is straight forward referencing the amended site plan.

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

VOTED: To issue the Amended Order of Conditions for 226 Burlington Avenue – Map 17 Parcel 54 – DEP File #344-1495

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 364R Middlesex Avenue – Map 89 Parcel 7A – DEP File #344-1519**

Documents: Engineering review letter, dated January 23, 2023

Present in Interest: None.

Request to continue to the April 5, 2023, Conservation Commission meeting.

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

VOTED: To continue the Public Hearing for 364R Middlesex Avenue – Map 89 Parcel 7A – DEP File #344-1519 to the April 5, 2023, 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: Stormwater Management Report, revised December 14, 2022  
“Definitive Subdivision Plan Eagleview Subdivision,” dated December 8, 2021  
Norse Response letter, dated January 18, 2023  
Engineering review letter, dated January 23, 2023  
REC Peer review letter, dated January 30, 2023

Present in Interest: Maureen Herald, Norse Environmental Services, Representative  
Kristen Costa, Newhouse Builders



M. Herald introduced herself and explained she wanted to provide the Commission with an update and status on the project. She shared her screen and gave a refresher stating this filing is for a seven (7) lot subdivision and the lots themselves will be coming in for approval individually. Rimmer Environmental was contracted to review the project, which Norse Environmental Services submitted a response to that on January 18, 2023. The project is currently in front of both the Conservation Commission and the Planning Board. She explained they have formally requested a number of waivers in front of the Planning Board. These waivers include reducing the roadway pavement width from 28' to 26' which will reduce wetland impact and impervious area as well as the buffer zone region. Part of the Planning Board requirements is that sidewalks be 5' wide and provided on both sides of the roadway. This waiver would ultimately reduce the wetland alteration, required wetland replication, and the buffer zone. She explained they are in front of the Commission requesting the support and encouragement of these waivers by either writing an email or showing their support in some way so that the waivers can be received, and they can essentially avoid impact to the Resource Area.

V. Gingrich stated she was in touch with the applicant today and wanted to bring it to the Commission's attention as well, because of the recent resignations from the Commission and being down a few members, it has been discussed in the past that the requirements for participating in each public hearing, Commission members are able to miss one meeting and review the minutes to be able to be included in the final vote. She continued saying it appears that there are only three (3) members that can vote on this project when four are needed.

D. Pearson asked if there is a remedy to the fact that only three (3) members can vote.

V. Gingrich explained that her understanding is that there would need to be a quorum of members. It may be needed that the applicant restart a public hearing process so that the current members can vote on the project.

K. Costa stated they started to look into it and started to do some research and they are finding that there may be some differing information and legal obligations that may make some peace to it. They are requesting to have this meeting, request the support of waivers, and then prior to the next meeting get some legal input on the voting and quorum piece. She explained they would like to leave things as they are currently since they need a little more time.

D. Pearson asked if all the comments have been satisfied.

M. Herald explained that since they are in front of both Conservation Commission and Planning Board, she suggested they request the formal waivers to ask for the roadway width reduction as well as eliminating one side of the sidewalk so that they can prove that they're avoiding, minimizing, and mitigating for the alteration of the Resource Area. They are hopeful the Planning Board will consider these waivers and allow these waivers, but would appreciate the support of the Commission encouraging these waivers.

V. Gingrich explained the Commission doesn't have to provide any input or comment to the Planning Board if wouldn't like to. She explained it should be discussed whether they are going to provide support of the waivers to the Planning Board within the public hearing rather than after the meeting.

M. McInnis asked if the applicant could advocate in their own interest for the Planning Board regarding the Conservation issues.

V. Gingrich stated she believes they will.

T. Bradley explained he isn't familiar with the rationale behind road widths, number of sidewalks, and widths of sidewalks, so he would be very uncomfortable recommending that those guidelines be changed in this case. He explained he isn't in a position to weigh a few less feet paved of wetlands versus whatever the negative impact of only a single sidewalk with more limited width, so he has a preference to not express an opinion on this to the Planning Board.

W. Wierzbicki stated he doesn't have enough information on this project to provide an opinion.

M. McInnis agreed with T. Bradley, and recommended the applicant advocate for themselves.

D. Pearson agreed.

Upon motion duly made by T. Bradley and seconded by M. McInnis, 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 April 5, 2023,  
Conservation Commission meeting

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

Documents: LEC Peer Review, dated January 4, 2023  
Planning & Conservation review letter, dated January 10, 2023  
Engineering review letter, dated January 12, 2023  
Planting plan letter, dated January 18, 2023  
Response to TEC review letter, dated January 20, 2023  
Response to Planning & Conservation review letter, dated January 20, 2023  
Operation & Maintenance Control Plan, revised January 20, 2023  
Response to LEC review letter, dated January 20, 2023  
Response to Engineering review letter, dated January 26, 2023  
“Plans to Accompany Permit Doc,” revised January 20, 2023

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

M. Costa introduced himself and explained the proposed project stating that they've been in front of the Commission since October of 2022, and worked closely with R. Kirby who conducted the Peer Review and closed all comments with the Engineering Division, the Planning and Conservation department, as well as LEC.

C. Lynch stated there are no comments and a draft Order of Conditions was provided. The only condition they added was to send in the revised plan in condition number 22.

D. Pearson asked if S. Sullivan's suggestions for some of the plants were factored into the planting plan.

M. Costa explained she had recommended crab apple trees, and they did include some crab apple trees in the overall development as well as using some other trees that were recommended, American

holly and American sycamore. He explained they were able to add those in there as well as a dense screen of trees and shrubs along the perimeter of the site to separate the industrial development from the Riverfront Area.

S. Sullivan wanted to recognize the developers and the proponent of this project on how they were so willing to listen to the Headwater Stream team and the Ipswich River Watershed Association. She continued saying they appreciate it and want to be the voice of the Headwater's.

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

VOTED: To close the Public Hearing for 800 Salem Street – Map R1 Parcel 24 – DEP File #344-1516

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

VOTED: To issue the Order of Conditions for 800 Salem Street – Map R1 Parcel 24 – DEP File #344-1516

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

Documents: None.

C. Lynch explained that the Certificate of Compliance can't be issued until the homeowners get the pool situation resolved. He explained that it may be a few meetings from now before it is able to be closed out.

Upon motion duly made by M. McInnis and seconded by W. Wierzbicki, it was unanimously

VOTED: To table the Certificate of Compliance for 30 Kilbuck Street – Map 74 Parcel 6 – DEP File #344-215

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

Documents: Email Update, received December 12, 2022  
"As-built Plan," revised December 20, 2022

C. Lynch explained the Notice of Violation (NOV) has been resolved and the Certificate of Compliance is ready to issue.

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

VOTED: To issue the Certificate of Compliance for 55A Chestnut Street– Map 16 Parcel 2A – DEP File #344-1443

**ENFORCEMENT ORDER**

**4 Wilton Drive – Map 21 Parcel 3M**

C. Lynch stated they are waiting for a sketch from the homeowner. He explained that T. Broman is

waiting on the surveyors to get him that plan with demarcation shown on it. C. Lynch explained it is taking a while, but he still has a little time to get it done.

D. Pearson stated he is approaching planting season and the Commission would like to see him move on this.

C. Lynch explained by the next meeting, he should have something to submit and if he doesn't, the Commission can discuss another form of action.

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

C. Lynch stated they are waiting for a sketch or plan from the homeowner. They have a start date for the work as of April 1, 2023, so they have a little bit of time, but the deadline is soon to provide the sketch.

D. Pearson suggested giving them a phone call telling them the Commission wants them to have their plans in place for the April meeting.

C. Lynch confirmed.

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

C. Lynch explained that the Enforcement Order was sent out via Certified Mail after the last meeting, and it was never picked up by the homeowner. He explained that he and V. Gingrich will be having a meeting with Town Counsel later in the week to discuss what the next step should be.

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

C. Lynch explained this is a property that has noticeable fill in the wetlands. The house was permitted in 2014, and the plot plan shows where the demarcation fence had been moved back onto Town owned land and into wetlands. They brought in fill for the expansion of the yard and the majority of the work is on Town owned property. He sent the homeowner a Notice of Violation (NOV) letter prior to the last meeting. The homeowner called the office to inquire about the NOV but didn't seem like he was going to be very cooperative with restoration. An Enforcement Order (EO) was sent out shortly after as well. He explained they may have to go to Town Counsel eventually if there is no action taken. He explained they have a deadline of March 29<sup>th</sup> to submit documents to the Commission, so there is still time.

#### **55 Adams Street – Map 50 Parcel 1A**

C. Lynch explained that the homeowner tried to sell the property, and quickly realized that over the years there's been several violations. He explained the homeowner needed to get a Certificate of Compliance (COC) in order to sell the house, so an Enforcement Order (EO) was sent out with a list of items that need to be resolved, as well as some wetland replication and restoration in the back and installation of a post-and-rail fence that was taken down. Once that is completed, they will be in front of the Commission for a COC.

### **DISCUSSION**

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

C. Lynch stated that the applicant has until March 13<sup>th</sup> to complete the work, but it doesn't look like

any work has been completed other than a catch basin, so it may not be possible.

D. Pearson stated they will wait and see.

C. Lynch confirmed.

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

C. Lynch explained that at the previous meeting, the Commission discussed a sketch be provided, and a deadline date be set. Once a date is set, the Commission can issue a new EO with that deadline if the Commission believes the date provided was okay. He stated there was no specific deadline set, but they did say sometime in the month of March.

J. McKenna stated he spoke with the site developer with regards to the property infrastructure and the loam and topsoil will be spread at the end of March. All the plantings have been ordered and are ready as soon as the weather gets a little warmer. He believes the final grading and things will be done at the beginning of March and all the plantings will be in by the end of March or very early April. He stated they asked the Engineer for a date but were not given one. J. McKenna stated a date he would suggest would be sometime in mid-April.

D. Pearson asked if all that is left to be done is topsoil and the plantings.

J. McKenna stated there might be some paving by the front of the building. He stated he would imagine the whole project to be completed by the end of April.

D. Pearson stated he would like the Engineer to come up with a completion date. It has been a long time and the Commission would like the closure. He continued saying if a date isn't specified, the Commission doesn't have anything to stand on. He asked the Commission if they'd be okay with giving them the month to come up with a final date.

M. McInnis asked who the owner of the property is.

J. McKenna stated the owner is U-Haul.

T. Bradley stated the Commission has been strung along for quite a while now and needs to be more adamant.

W. Wierzbicki agreed.

S. Sullivan stated there is a salt pile that's been in the back of the parking lot which is very close to Maple Meadow Brook and not properly covered.

C. Lynch explained she is correct; they aren't allowed to have that within that area and asked J. McKenna if he can relay that to the owner to have that salt pile in the back removed.

J. McKenna stated he will bring it to the owner's attention and make sure it is brought back to compliance.

D. Pearson stated the Commission has expressed their concerns and the patience is running thin and they're going to consider fining the applicant at the next meeting if there is no schedule provided.

J. McKenna stated he will make sure they have a definitive date of completion prior to the next meeting.

**38 Upton Drive – Map R1 Parcel 18 – DEP File #344-1492**

M. Costa shared his screen and stated during the construction portion of the project, they discovered that the boulder slope wall looks like it's holding up the existing road and in order to construct that retaining wall, they'd need to take out the big boulders in order to install the modular blocks. When removing those, there is a big risk of compromising the existing road and utilities. They are requesting to see if they can expand upon that boulder slope wall and move it slightly into that buffer zone about 4' into the no disturb, that way the existing road can be protected and not worry about compromising it or taking apart the road to build the modular block wall. They believe it will be far less invasive and very small square footage wise that'll be impacting that 15' buffer zone.

C. Lynch explained it is up to the Commission whether they want them to file a Request to Amend the Order of Conditions or if the Commission would be okay with just seeing it on the as-built plan.

B. Masselink stated what they are trying to avoid is if they have to build it the way they originally designed it, they're anxious of undermining that road and having to take apart more of that road and rebuild it, it may impact that connection between the detention pond to the North and the intermittent stream to the South. They believe this is a better condition in its final state than as originally designed and currently there.

T. Bradley asked C. Lynch what his take on this would be from a Conservation perspective.

C. Lynch stated there are pros and cons to both. He explained like M. Costa said, the boulder wall isn't a straight vertical wall, it has the ability for animals to climb it and vegetation to grow. It is the Commission's decision if they think the original design is better or if this one will be better for wildlife and what not.

M. Costa stated he believes the order of magnitude they're looking for is very small with nothing being expanded. They're just asking to allow a little more, that is a safer overall construction method.

M. McInnis stated he is okay with what the applicant is proposing, but he thinks they'll need to resubmit something.

W. Wierzbicki asked if the road was getting closer, or just the wall.

M. Costa answered stating just the support of the wall since it is going from vertical to a slope.

W. Wierzbicki stated he is okay with it, as long as an amendment is made.

D. Pearson asked if they're willing to do some plantings.

M. Costa stated currently on the plan, they're saying to restore with a wetland conservation wildlife mix and are happy to add any additional shrubs or trees or whatever the Commission would like to see. He stated schedule wise, they are hoping to get this approved without having to go through the Notice of Intent (NOI) process. He stated they'd be happy to do any additional plantings or some restoration elsewhere on the site.

C. Lynch explained the first option would be to Amend the Order of Conditions with the new plan and

the second would be the Commission giving the approval tonight and then the applicant will show it on the as-built when they come in for a Certificate of Compliance.

All Commission members agreed that the minor modification is okay to be shown on the final as built plan. The applicant has generously volunteered to plant eight (8) shrubs and clean up the bottom of the slope.

### **Shea Concrete**

V. Gingrich explained that Town staff was alerted to violations occurring on town property by Shea Concrete. The Commission may remember back in 2019, there was a violation of the way they do their snow piling operations. She explained they push the snow and pick up a lot of sediment and vegetation and shove it towards the wetlands. They have concrete materials stacked up along the way and can notice that their forklifts are running sediment around right next to the wetland. She explained it's been an ongoing issue and in the file, there are letters dating back to the 2000's. Town staff had a discussion with Town Counsel, and they are looking at drafting an Enforcement Order (EO) because the area they are using to store those products is Town Owned land that is increasing overtime and there is more disruption in vegetation. In the EO, staff will be requiring that they delineate the Resource Areas and restore them, and remove their concrete products from Town property.

D. Pearson asked if it would include some kind of obstacle so that this won't be repeated in the future.

V. Gingrich stated that will have to be figured out. They can't necessarily block access to this roadway since DPW uses it and the Town of North Reading uses this roadway. She explained DPW placed boulders in the front of the property and they are going to do their best to figure out how this can be corrected and prevent it from happening again in the future.

S. Sullivan stated on their property where they store material, there is a storm drain that can't be seen anymore, which is a huge concern because if there was a spill or something, it would go directly into Martin's Brook and into the public water supply. She believes there needs to be some type of demarcation to separate the Town-Owned land from their property.

### **MINUTES – February 1, 2023**

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

D. Pearson, T. Bradley, and W. Wierzbicki voted 3-0 to accept the minutes for the February 1, 2023, Conservation Commission meeting. M. McInnis abstained.

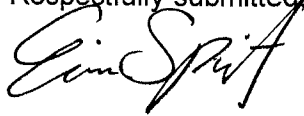
### **NEXT MEETING – April 5, 2023**

### **ADJOURN**

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

VOTED: By D. Pearson, T. Bradley, M. McInnis, and W. Wierzbicki to adjourn the meeting at 10:15 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Erika Speight". The signature is written in a cursive, flowing style with a large initial "E" and a prominent "S".

Erika Speight  
Senior Clerk