



## **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**

February 7, 2018

Sharon Kelley-Parrella, Vice Chair, called the meeting to order at 7:00 p.m. Theron Bradley, Donald Pearson, and Laurie Finne were present. Julie Flynn, Vincent Licciardi, and Michael McInnis were absent. Ryan Hale, Conservation Agent, and Catherine Pepe, Senior Clerk of Planning & Conservation were also present.

#### **PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 1 Burlington Avenue – Map 30 Parcels 13 & 18**

Documents: ALTA/ACSM Land Title Survey, dated June 19, 2007, revised/sketched by applicant  
Tree Replacement Plan, dated January 19, 2018

Present in Interest: Eugene Sullivan, Eugene T. Sullivan, Inc.

E. Sullivan stated that the Request for Determination of Applicability is an after the fact filing for three (3) mature willow trees removed in the fall of 2017, that were in floodplain. The applicant proposes to replace the removed trees with six (6) smaller willow trees.

R. Hale stated that weeping willows are not a native species and that native deciduous species are required by the Tree Removal Policy. He asked that E. Sullivan identify the kind of trees for approval before they are planted to make sure they conform to the Tree Removal Policy. R. Hale also questioned the jurisdictional status of the adjacent swale. E. Sullivan stated that he does not believe it is jurisdictional because he has photos showing it was constructed before the Wetlands Protection Act (WPA), and they are researching the history of that. R. Hale stated that an Order of Resource Area Delineation in 1999, a denied Order of Conditions in 2000, and a Superseding Order of Conditions in 2002 all say it was a jurisdictional BVW. There is also a 2007 document from a review of proposed drainage improvements stating it is jurisdictional, but there are no other decisions or documentation beyond that document in the file. The drainage improvements were not reviewed by the Commission.

E. Sullivan said they want to resolve the swale issue as the owner has plans for future work, but he would like time to investigate the jurisdiction.

R. Hale recommended a Negative (2) Determination for tree replacement and a Positive (2B) Determination which states the boundaries of the resource areas are not confirmed by this Determination, regardless of whether they are shown on the plans.

Upon motion duly made and seconded, it was unanimously

VOTED: To issue a Negative (2) Determination of Applicability for the tree replacement for 1 Burlington Avenue – Map 30 Parcels 13 & 18

VOTED: To issue a Positive (2b) Determination of Applicability for the resource area boundaries for 1 Burlington Avenue – Map 30 Parcels 13 & 18

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 4 Fernbanks Road – Map 15 Parcel 110**

Documents: Plot Plan, dated January 19, 2018, revised by applicant  
Shed Proposal, dated December 6, 2018

Present in Interest: Alan Newton, owner

A. Newton stated he was in front of the Commission in December to informally discuss a shed proposal. At that time, A. Newton indicated he wanted to remove some trees, and the Commission agreed the removal of some trees could be added to the Request for Determination for consideration along with the shed installation. A. Newton stated that the shed installation has not changed since December and that the pictures submitted with the Request for Determination of Applicability show the trees he would like to remove.

R. Hale agreed that the shed installation remained the same and suggested a Negative (3) Determination for the shed. R. Hale recommended the following for the tree removal in accordance with the Tree Removal Policy:

- 1) Tree replacement for tree #1 should be a 2:1 ratio as the existing tree is about 25" in diameter.
- 2) Tree #5 - remove portion of tree that is a hazard and leave it in the wetlands.
- 3) Tree #4 - cut about 6'-8' up, leave the trunk but remove the portion that was cut.
- 4) Trees #2 & #3 are ok to cut, remove and replace at a 1:1 ratio.

R. Hale also said that all unapproved material around the stone pad should be removed as soon as possible and that all exposed soil should be reseeded with native seed mix as soon as possible (weather permitting).

Upon motion duly made and seconded, it was unanimously

VOTED: To issue a Negative (3) Determination of Applicability for the shed installation and removal/replacement of three (3) trees at 4 Fernbanks Road – Map 15 Parcel 110

VOTED: To issue a Negative (2) Determination of Applicability for two (2) trees at 4 Fernbanks Road – Map 15 Parcel 110

**CONTINUED ABBREVIATED NOTICE OF RESOURCE OF AREA DELINEATION – 36 & 38 Upton Drive – Map R1 Parcels 18 & 18L – DEP File #344-1374**

Documents: Plan, Abbreviated Notice of Resource Area Delineation, 3 pages, dated December 21, 2017  
Test Pit Soil Logs, 3 pages, dated December 14, 2017

Present in Interest: Todd Morey, Beals Associates, Inc.  
Matt Costa, Beals Associates, Inc.

T. Morey stated that in the past, there were discussions regarding several areas on this site. One of those areas is a former vernal pool which Natural Heritage de-certified. In a previous conversation with Winifred McGowan, the former Wilmington Conservation Agent, an intermittent stream/ditch was thought to be a non-jurisdictional area, but R. Hale & T. Morey have researched it further and discovered that it is jurisdictional because it flows from a wetland mitigation area. Beals Associates also dug four (4) test pits along a portion of the wetland line that R. Hale had questioned and all parties concluded that two (2) were wetland soils and two (2) were not wetland soils.

Separate from this submittal, T. Morey addressed the piles of landscape debris within the 100' buffer zone of the intermittent stream that he and R. Hale discussed. T. Morey would like to remove the debris as soon as possible, preferably while the ground is frozen to minimize ground disturbance. S. Kelley-Parrella asked R. Hale's opinion. R. Hale agreed with T. Morey's findings that the debris should be removed while the ground is frozen. The Commission agreed. R. Hale asked to meet before and after the debris removal and T. Morey agreed.

L. Finne asked if equipment would be needed and T. Morey stated probably a small excavator and/or bobcat as there are some large stumps and piles.

Upon motion duly made and seconded, it was unanimously

VOTED: To close the Public Hearing on the Abbreviated Notice of Resource Area Delineation for 36 & 38 Upton Drive – Map R1 Parcels 18 & 18L – DEP File #344-1374

VOTED: To accept the resource areas as Accurate for 36-38 Upton Drive – Map R1 Parcels 18 & 18L – DEP File #344-1374

**CONTINUED PUBLIC HEARING - NOTICE OF INTENT - Clifton Street – Map 16  
Parcel 40 – DEP File #344-1373**

Documents: Memorandum from William Holt & Paul Alunni, Town Engineers, dated January 3, 2018  
Subsurface Sewage Disposal Plan, revised January 30, 2018

Present in Interest: Jonathan Langone, Langone Development  
Maureen Herald, Norse Environmental Services, Inc.

M. Herald distributed colored copies of Subsurface Sewage Disposal Plans to the Commission. M. Herald stated that several changes have been made to the project since the last meeting such as:

- The house was brought forward 3'
- The house went from a four (4) bedroom to a three (3) bedroom design
- The septic system was reconfigured to reflect the change in bedrooms
- An additional recharge unit was added and moved to the other side of the house
- The deck was moved from the rear right of the house to the rear left of the house and designed to meet the 25-foot no structure setback.

- Proposing plantings of native shrubs and/or boulders were added to clearly define the no-disturb area

M. Herald requested a waiver from the 15' no disturb setback to accommodate a larger lawn. R. Hale questioned why the limit of disturbance did not shift commensurately with the shifting of the house away from the wetland, to meet the 15' no disturb setback. M. Herald stated that the lot is only 13,559 square feet and the builder wants to provide as much backyard area as possible and would like a waiver from that requirement. R. Hale stated he would defer to the Commission as to whether or not they would like to grant the waiver request, but it appears the setback can be met.

D. Pearson would like to see the 15' no-disturb setback met, and Theron Bradley, Sharon Kelley-Parrella, and Laurie Finne agreed. M. Herald stated her client was willing to meet the 15' no disturb setback. R. Hale suggested boulders and/or a post and rail fence for demarcation rather than native shrub plantings.

L. Finne stated that a portion of the retaining wall is within the 15' no-disturb setback and that she was agreeable to leaving that in the setback. The other Commission members agreed.

Upon motion duly made and seconded, it was unanimously

VOTED: To close the Public Hearing for Clifton Street – Map 16 Parcel 40 – DEP File #344-1373

VOTED: To issue an Order of Conditions for Clifton Street – Map 16 Parcel 40 – DEP File #344-1373 with the condition

**PUBLIC HEARING – ABBREVIATED NOTICE OF INTENT – 37 Arlene Avenue – Map A90 Parcel 13 – DEP File #344-1376**

Document: Plan of Lot, dated August 20, 1974, revised/sketched by applicant  
Memorandum from William Holt & Paul Alunni, Town Engineers, dated February 6, 2018

Present in Interest: Leo Garneau, Northeastern Consulting Forestry Services  
Erica Gemellaro & Michael Bastolla, owners

L. Garneau discussed the project that entails removing an existing deck and constructing a 16'x 16' addition built on diamond piers. One (1) of the piers will be in existing impervious area. A portion of the addition will take up about 8' of the existing deck.

R. Hale confirmed that it is a simple project, but it is within 50' of the BVW which prompted the filing of the Abbreviated Notice of Intent. R. Hale asked where the septic system was and E. Gemellaro provided plans that confirm it is in the front of the property and will not be impacted by the project.

R. Hale noted that yard waste and debris have been placed in the wetlands. L. Garneau stated that the homeowner will remove it and put it out for the town to remove from now on.

Upon motion duly made and seconded, it was unanimously

VOTED: To close the Public Hearing for 37 Arlene Avenue – Map A90 Parcel 13 – DEP File #344-1376

VOTED: To issue an Order of Conditions for 37 Arlene Avenue – Map A90 Parcel 13 – DEP File #344-1376

**PUBLIC HEARING – NOTICE OF INTENT – 20 Central Street – Map 52 Parcel 5 – DEP File #344-1377**

Documents: Plot Plan, dated December 11, 2017  
Site Plan, dated January 6, 2018  
Memorandum from William Holt & Paul Alunni, Town Engineers, dated February 6, 2018

Present in Interest: Catherine & Daniel Woodbury, owners

C. Woodbury distributed a summary sheet showing the difference between the existing impervious area and the new impervious area post construction. They are proposing an addition to their home including a porch, and deck with stairs. 80-90% of the property is within the outer 100' of the Mill Brook Riverfront Area. The proposed addition will go in an area where an above ground pool and deck have recently been removed. They are only adding 283 sf of impervious area to the Riverfront area. They will mitigate that with a large infiltration system and offer more infiltration than exists compared to the current conditions. The 639 square feet addition will have a small porch with a set of stairs. The former pool area will be restored with loam and seed.

R. Hale stated that all criteria appears to be met for Redevelopment in the Riverfront Area, including improvement of existing conditions due to the increased infiltration. The pool and deck are exempt because they are at least 50' from the mean annual high water mark of Mill Brook and did not require prior approval. R. Hale recommends approval of the Order of Conditions.

Upon motion duly made and seconded, it was unanimously

VOTED: To close the Public Hearing for 20 Central Street – Map 52 Parcel 5 – DEP File #344-1377

VOTED; To issue an Order of Conditions for 20 Central Street – Map 52 Parcel 5 – DEP File #344-1377

**PUBLIC HEARING – NOTICE OF INTENT – 105 McDonald Road – Map R2 Parcel 4 – DEP File #344-1378**

Documents: Sanitary Disposal System Plan (2 pages), dated January 8, 2018

Present in Interest: S. Lawrenson, Benchmark Properties

S. Lawrenson presented the project which entails constructing a new home with an approved septic system, and approved infiltration system. A portion of the house is within the 100' buffer zone, but the septic system is not.

R. Hale stated that he met with S. Lawrenson on February 6, 2018 and all conservation-related setbacks are met. R. Hale stated the plans should have a scale for each of the two differently scaled drawings, and show and label the compost area, limit of work, erosion controls, and permanent demarcation fence, which can be conditioned in the Order of Conditions.

Upon motion duly made and seconded, it was unanimously

VOTED: To close the Public Hearing for 105 McDonald Road – Map R2 Parcel 4 – DEP File #344-1378

VOTED: To issue an Order of Conditions for 105 McDonald Road – Map R2 Parcel 4 – DEP File #344-1378

**PUBLIC HEARING – NOTICE OF INTENT – 4 Sgt. Veloza Way – Map R2 Parcel 43 – DEP File #344-**

Documents: Sanitary Disposal System Plan (2 pages), dated June 26, 2017  
Memorandum from William Holt & Paul Alunni, Town Engineers, dated February 6, 2018

Present in Interest: S. Lawrenson, Benchmark Property

S. Lawrenson presented the project which entails constructing a new home with an approved septic system, and approved infiltration system. A portion of the house is within the 100' Buffer zone, but the septic system is not.

R. Hale asked that the plans should have a scale for each of the two differently scaled drawings and show the compost area, permanent demarcation fence, limit of work, and erosion controls. He will put all of these can be conditions in the Order of Conditions. DEP has not issued a file number yet, but the Order of Conditions can be issued once the DEP file number is issued.

Upon motion duly made and seconded, it was unanimously

VOTED: To continue the Public Hearing for 4 Sgt. Veloza Way – Map R2 Parcel 43 – due to lack of DEP File number until March 7, 2018

**PUBLIC HEARING – NOTICE OF INTENT – 6 Sgt. Veloza Way – Map R2 Parcel 42 – DEP File #344-**

Documents: Sanitary Disposal System Plan (2 pages), dated June 26, 2017  
Memorandum from William Holt & Paul Alunni, Town of Wilmington Engineers, dated February 6, 2018

Present in Interest: S. Lawrenson, Benchmark Properties

S. Lawrenson presented the project which entails constructing a new home with an approved septic System, and approved infiltration system. A portion of the house is within the 100' Buffer zone, but the septic system is not.

R. Hale asked that the plans should have a scale for each of the two differently scaled drawings and show the compost area, permanent demarcation, limit of work, and erosion controls. R. Hale will put all of these can be conditions in the Order of Conditions. DEP has not issued a file number yet, but the Order of Conditions can be issued once the DEP file number is issued.

Upon motion duly made and seconded, it was unanimously

VOTED: To continue the Public Hearing for 6 Sgt. Veloza Way – Map R2 Parcel 42 – due to lack of DEP File Number until March 7, 2018

**PUBLIC HEARING – NOTICE OF INTENT – 44 Shawsheen Avenue – Map 32 Parcel 3A – DEP File #344-**

Documents: Letter from Marquis Tree Service, dated January 18, 2018  
Letter from Norse Environmental Services, Inc., dated January 22, 2018  
Subsurface Sewage Disposal System Design Plan (Upgrade), revised January 22, 2018

Present in Interest: Jon Jay, Lake Realty Trust  
Mike Girouard, Lake Realty Trust

J. Jay stated the project is to replace the existing failed septic system, construct a deck to the rear of the house, remove a hazardous willow tree, and remove an area with dead limbs and branches and replace with native shrubs. All elements of the project fall within the 100' buffer zone to BVWs. The septic system will be placed under the driveway to keep it as far away from the wetlands as possible. The soil from the excavation of the septic system will also be stored on the opposite side of the house as far away from the wetlands as possible.

R. Hale stated that he has worked closely with the applicants and that he felt the project would be a net benefit to both the developed portion of the property and the adjacent wetlands. R. Hale asked J. Jay how many shrubs they are planning to plant. J. Jay said he would defer to R. Hale who suggested three (3) or four (4) native species bushes, which could be conditioned in the Order of Conditions.

Upon motion duly made and seconded, it was unanimously

VOTED: To close the Public Hearing for 44 Shawsheen Avenue – Map 32 Parcel 3A

VOTED: To issue the Order of Conditions for 44 Shawsheen Avenue – Map 32 Parcel 3A

VOTED: To rescind the Order of Conditions for 44 Shawsheen Avenue – Map 32 Parcel 3A – due to lack of DEP File Number

VOTED: To continue the Public Hearing for 44 Shawsheen Avenue – Map 32 Parcel 3A due to lack of DEP File Number until March 7, 2018

**PUBLIC HEARING – NOTICE OF INTENT – 900 Salem Street – Map R1 Parcels 27A & 24 – DEP File #344-1379**

Documents: Stormwater Pollution Prevention Plan, dated November 2016  
Benevento Sand & Stone Process Discharge Relocation (7 pages), dated December 2017  
Letter from Ryan Hale, Town of Wilmington Conservation Agent, dated January 26, 2018  
Memorandum from Paul Alunni, Town of Wilmington Engineer, dated February 6, 2018  
Email from Frank Postma, EA Engineering, Science, & Technology, Inc., dated February 7, 2018

Frank Postma sent an email requesting to continue the hearing until March 7, 2018

Upon motion duly made and seconded, it was unanimously

VOTED: To continue the Public Hearing for 900 Salem Street – Map R1 Parcels 27A & 24 – DEP File #344-1359 until March 7, 2018

**DISCUSSION – 219 Andover Street Notice of Violation Restoration Plan – Map R1 Parcel 19A–** The Notice of Violation was issued for filling of BVWs, possibly Riverfront Area, and extensive filling of the 100' buffer zone to BVWs including damage to a number of trees. EA Engineering was not able to attend due to weather. They provided a preliminary plan that R. Hale has several questions about, which was included in a memo. There are two (2) additional areas on the site that were not addressed in the preliminary restoration plans. The stockpile encroached on land owned by Mass DOT and the Town of Wilmington. R. Hale summarized some of his questions and comments, including what controls will be implemented if they continue to use the stockpiles and how they will minimize impacts during removal of the boulders. The plan mentioned terracing to provide an access road, but the original idea was to avoid creating a road through the area to avoid impacts. They also need to inventory the damaged trees and submit a wetland mitigation plan. EA Engineering will be present at the next public hearing to discuss the restoration plan.

**DISCUSSION – 375 Ballardvale Street – Map R3 Parcel 50A – DEP File #344-1363 Notice of Violation –** A Notice of Violation for starting work without completing any of the pre-construction conditions in the Order of Conditions. R. Hale then met with the applicant and contractor to conduct the pre-construction meeting, and confirm the recording the Order of Conditions and installation of the DEP sign. Everything seems to be on track now and work is scheduled to begin in about a month.

**DISCUSSION – DPW Culverts Wetland Mitigation – Canal Street Culvert – DEP File #344-1000, Woburn Street Culvert – DEP File #344-1177, & Clark Street Culvert –**



**DEP File #344-1181-** The Order of Conditions on all three (3) culvert projects have expired. The Town's Engineering Division of DPW submitted Requests for Certificates of Compliance for all three (3), but the Conservation Commission tabled them all as they all required mitigation which was either not compliant or did not fully occur. The Town's Engineering Division asked if the Conservation Commission would like to issue Enforcement Orders or require Notices of Intent to complete the required mitigation, which will allow Engineering to start the mitigation instead of filing a Notice of Intent for each one. R. Hale stated the culverts themselves were complete and in compliance. D. Pearson asked how many Enforcement Orders and R. Hale stated three (3). The Commission agreed that Enforcement Orders should be issued.

**DISCUSSION – National Grid (New England Power Company) 339 Line Utility Maintenance –** National Grid sent a letter dated January 2, 2018 advising that New England Power Company will conduct utility maintenance work on the 339 line in Wilmington. This work is exempt from the Wetlands Protection Act. R. Hale stated he spoke with a representative from New England Power Company and confirmed the work will only take one day despite the January 5 to June 1 timeframe indicated in the letter. That timeframe is for the entire larger project, of which this maintenance is only a portion. The work entails minor repairs to the footings of one structure, which requires minimal excavation and work. R. Hale stated he has seen this work performed previously on similar structures and it is relatively minor in scope.

**DISCUSSION – 2017 Annual Report Silver Lake Aquatic Management Program**  
On December 13, 2017 Solitude Lake Management submitted their Annual Report on Silver Lake, summarizing the steps taken in 2017 to maintain aquatic vegetation health. R. Hale asked for comments from the Commissioners that he can bring to DPW's attention. None were given. Solitude Lake Management will submit a maintenance plan for 2018 in the upcoming months.

**DISCUSSION – DPW 2018 Vegetation Management Yearly Operations Plan –**  
DPW emailed the Notice from Massachusetts Department of Agricultural Resources, received on January 17, 2018. R. Hale asked the Commissioners for any comments/questions for him to send to DPW. None were given.

**DISCUSSION – Ipswich River Watershed Association Kiosk at Ipswich River, Woburn Street –** R. Hale advised that Michael Woods, DPW Director, wrote a letter of approval for an IRWA grant proposal for a kiosk to be placed along the Ipswich River at Woburn Street. This location is the only canoe/kayak put-in on the Ipswich River in Wilmington. The Commission was not able to provide a letter of support because the grant application deadline has passed and we were not notified until too late. It is not clear where the kiosk would be placed - on Conservation land or the road right-of-way. It is also unclear if the kiosk can be placed on Conservation Land because of potential conservation deed restrictions, but that will be reviewed if and when placement is determined. A website was given for an overview of the proposed project.

**DISCUSSION – Public Lands Protection Act –** R. Hale received an email from the Massachusetts Society of Municipal Conservation Professionals (MSMCP) regarding proposed legislation and drafting a letter(s) of support. The MSMCP asks that the Commissioners look at the proposed legislation online and then write or call their State Senator asking for support. R. Hale stated he would draft a letter from the Conservation Commission to send in if requested. No action was taken at the meeting.

**DISCUSSION – Massachusetts Association of Conservation Commissions Annual Environmental Conference, March 3, 2018** – R. Hale suggested that the Commissioners try to go as it is an informative conference and on the weekend so people who work full time can attend.

**DISCUSSION** – L. Finne suggested working with the Board of Appeals regarding any properties that have wetlands on them. Commission agreed that this would be helpful. R. Hale will put that on his “to do” list.

**DISCUSSION** – R. Hale stated that some wording changes were made to the Special Conditions for the Order of Conditions and asked the Commission to review the changes; in particular, the Post-Construction Conditions for new construction or sale of a house. The thought behind the wording changes is to inform the buyer of the responsibilities associated with the Order of Conditions and that the applicant is responsible for obtaining the Certificate of Compliance unless the buyer agrees to assume that responsibility in writing.

The Commissioners reviewed the changes and agreed to them.

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 5 Hopkins Street – Map 22  
Parcel 10D – DEP File #344-1315**

R. Hale state that the homeowners are no longer mowing the area behind the demarcation fence and that all other conditions have been met.

Upon motion duly made and seconded, it was unanimously

VOTED: To issue the Certificate of Compliance for 5 Hopkins Street – Map 22  
Parcel 10D – DEP File #344-1315

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 5 Green Meadow Road – Map 2  
Parcel 203 – DEP File #344-1358**

Documents: As-Built Plan, dated December 27, 2017

R. Hale stated that the homeowner cleaned up the trash that had blown behind the demarcation fence and that all other conditions have been met.

Upon motion duly made and seconded, it was unanimously

VOTED: To issue the Certificate of Compliance for 5 Green Meadow Road – Map  
2 Parcel 203 – DEP File #344-1358

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 7 Green Meadow Road – Map 2  
Parcel 203 – DEP File #344-1357**

Documents: As-Built Plan, dated December 27, 2017

R. Hale stated the grass still needs time to grow in and recommended tabling the Request for Certificate of Compliance.

Upon motion duly made and seconded, it was unanimously

VOTED: To table the Request for Certificate of Compliance for 7 Green Meadow Road – Map 2 Parcel 203 – DEP File #344-1357

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 40 Lake Street – Map 34 Parcel 158C – DEP File #344-1306**

Documents: As-Built Plan, dated January 19, 2018

R. Hale stated that all required plantings have been installed. There is a small area of exposed soil where the grass still needs to grow in that is about 90' from Silver Lake. R. Hale stated it was loamed, seeded, stabilized with straw, and is in a flat area with essentially no chance of causing erosion into Silver Lake. R. Hale recommended issuing the Certificate of Compliance.

Upon motion duly made and seconded, it was unanimously

VOTED: To issue the Certificate of Compliance for 40 Lake Street – Map 34 Parcel 158C – DEP File #344-1306

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 66 Adams Street – Map 50 Parcel 9 – DEP File #344-1015**

Documents: Letter from Norse Environmental Services, Inc., dated January 25, 2018

R. Hale stated that the only remaining item is a small wetland restoration area that has historically been highly disturbed and whether the area previously contained even 50% wetland vegetation is questionable. This is because in disturbed areas, soils and hydrology alone can be used to delineate a wetland boundary. It will probably never meet the 75% native wetland vegetation requirement because of the marginal hydrology. R. Hale suggests planting some native wetland shrubs that are suitable for areas with marginal hydrology, and if they survive through the summer then issue the Certificate of Compliance could be issued assuming the 75% native wetland vegetation requirement is fulfilled.

Upon motion duly made and seconded, it was unanimously

VOTED: To table the Request for Certificate of Compliance for 66 Adams Street – Map 50 Parcel 9 – DEP File #344-1015

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 9 Factory Street – Map 27 Parcel 4A – DEP File #344-1375**

Documents: As-Built Plan, revised October 17, 2017  
Interim As-Built Floodplain Volume Calculation Plan, dated January 9, 2015

R. Hale stated that all conditions have been met and the Certificate of Compliance is ready to issue.

Upon motion duly made and seconded, it was unanimously

VOTED: To issue the Certificate of Compliance for 9 Factory Street – Map 27,  
Parcel 4A – DEP File #344-1375

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 20 Fairview Avenue – Map 51  
Parcel 76 – DEP File #344-1197**

Documents: Proposed Plot Plan, dated March 8, 2017

R. Hale stated the remaining item for this Request was a wetland restoration area where the homeowner had worked out a course of action with Winifred McGowan, the former Town of Wilmington Conservation Agent, as well as installation of a post and rail fence. R. Hale stated that all conditions were met and the Certificate of Compliance is ready to issue.

Upon motion duly made and seconded, it was unanimously

VOTED: To issue the Certificate of Compliance for 20 Fairview Avenue – Map 51  
Parcel 76 – DEP File #344-1197

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 11 Rhode Island Road – Map 36  
Parcel 186A – DEP File #344-1114**

Documents: Existing Conditions Plan, dated January 15, 2018

R. Hale stated that there is still a fair amount of soil that needs to be stabilized, silt fence needs to be fixed until the soil is stabilized, permanent demarcation needs to be installed, the stone trench needs to be repaired, and trash behind the silt fence needs to be cleaned.

Upon motion duly made and seconded, it was unanimously

VOTED: To table the Request for Certificate of Compliance for 11 Rhode Island  
Road – Map 36 Parcel 186A – DEP File #344-1114

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 14 Kansas Road – Map 36  
Parcel 186 – DEP File #344-1116**

Documents: Existing Conditions Plan, dated January 15, 2018

R. Hale stated that the circumstances were similar to those found at 11 Rhode Island with the exception of the exposed soil and demarcation is not required, which could be corrected prior to the March 7, 2018 Conservation Commission meeting.

Upon motion duly made and seconded, it was unanimously

VOTED: To table the Request for Certificate of Compliance for 14 Kansas Road –  
Map 36 Parcel 186 – DEP File #344-1116

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 15 Dadant Drive – Map 86 Parcel 30B – DEP File #1361**

Documents: As-Built Plan, dated January 8, 2018

R. Hale visited the site and advised that all the conditions were met.

Upon motion duly made and seconded, it was unanimously

VOTED: To issue the Certificate of Compliance – 15 Dadant Drive – Map 86  
Parcel 30B – DEP File #1361

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 14 Jewel Drive – Map 24 Parcel 209A – DEP File #344-1087**

Documents: As-Built Plan, dated December 14, 2017

R. Hale stated that an infiltration basin was designed to hold 2' of water, but they apparently installed a pipe while creating the basin and never removed it. This causes the water to drain into the wetlands from the bottom of the basin when it is supposed to pool and infiltrate. In addition, a gabion wall was supposed to be replaced with a concrete wall a fence was never installed, and the basin was enlarged on the side closest to the BVW. Basically, the approved plans were not followed when building the basin.

The engineer asked for time to research how this occurred and asked that the Commission not issue an Enforcement Order. D. Pearson asked about issuing a Notice of Violation. R. Hale stated he issued a Notice of Violation verbally but that a formal notification had not yet been sent. R. Hale stated that a Notice of Violation is not legally binding, just a notification of a violation and if they don't comply with the requirements of the notification a timely manner, then an Enforcement Order would be issued. S. Kelly-Parrella asked for R. Hale's opinion on issuing an Enforcement Order. R. Hale stated that a Notice of Violation had been verbally given and that a Notice of Intent would need to be submitted for any work that would have to be done to bring the project into compliance. If this isn't done in a timely manner, an Enforcement Order would be issued. R. Hale stated that he will email the Notice of Violation to the Engineer.

S. Kelly-Parrella suggested giving the engineer time to submit the proper paperwork for the March 7, 2018 Conservation Commission meeting.

Upon motion duly made and seconded, it was unanimously

VOTED: To table the Request for Certificate of Compliance – 14 Jewel Drive –  
Map 24 Parcel 209A – DEP File #344-1087

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 350 Fordham Road – Map 99 Parcel 142 – DEP File #344-1352**

Documents: As-Built Plan, dated January 10, 2018

R. Hale stated that all conditions were met and the Certificate of Compliance is ready to

issue.

Upon motion duly made and seconded, it was unanimously

VOTED: To issue the Certificate of Compliance for 350 Fordham Road – Map 99  
Parcel 142 – DEP File #344-1352

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 5 Mary Street – Map 6 Parcel  
148B – DEP File #344-1280**

Documents: Roadway As-Built Plan & Profile, dated December 1, 2017

R. Hale stated that trash needs to be removed from wetlands, the rear patio appears to be larger than shown on the as-built and the remaining silt fence needs to be removed.

Upon motion duly made and seconded, it was unanimously

VOTED: To table the Certificate of Compliance for 5 Mary Street – Map 6 Parcel  
148B – DEP File #344-1280

**REQUEST FOR CERTIFICATE OF COMPLIANCE – Baker Street Roadway – Map 45  
– DEP File #344-0651**

Documents: As-Built Profile & Final Grading Plan, dated February 1, 2001

R. Hale stated that the street was accepted by the Town in 2001 and the Town Engineering Division agrees the conditions substantially match the approved plans.

Upon motion duly made and seconded, it was unanimously

VOTED: To issue the Certificate of Compliance for Baker Street Roadway – Map  
45 – DEP File #344-0651

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 33 West Street – Map 59 Parcel  
1A – DEP File #344-1273**

R. Hale stated the land was cleared in the 100' buffer zone then the project stopped. He recommends issuing a Notice of Violation and asking the applicant to submit an after the fact Notice of Intent to either restore the previous conditions or propose another project.

Upon motion duly made and seconded, it was unanimously

VOTED: To deny the Request for Certificate of Compliance – 33 West Street –  
Map 59 Parcel 1A – DEP File #344-1273

VOTED: To issue a Notice of Violation for 33 West Street – Map 59 Parcel 1A –  
DEP File #344-1273

**ENFORCEMENT ORDERS/VIOLATION UPDATES**

**911 Main Street – Map 25 Parcel 4 – R. Hale stated that this started as a noise**

Complaint in September 2017. The site was permitted for work within the Riverfront Area and 100' buffer zone of BVWs. Then the owners paved a portion of the parking and access area that was supposed to be pervious, added landscape bins, stored heavy equipment in an unapproved area, partially filled a stormwater basin, and other miscellaneous work which was done without approval. The owners were given extensions on the submittal deadline to give their consultants time to gather the necessary information to submit an after the fact Notice of Intent. They now have all the necessary information ready to submit, but when they were told that the work may now trigger site plan review and possibly a storm water permit, they refused to submit the Notice of Intent and said they would seek legal advice. R. Hale recommended issuing an Enforcement Order and the Commission agreed.

**58 Chestnut Street – Map 29 Parcel 19C** – Neighbors called in early October 2017 to advise that the owner was bringing in dump truck loads of fill to level the front yard, and removing trees within the 100' buffer zone. A Notice of Violation was issued and R. Hale met with the homeowner and advised them to stop work until the wetland resource areas were identified and delineated by a wetland scientist. The homeowner continued to fill and grade where they thought the 100' buffer line was without verification from a wetland scientist. Neighbors called again and R. Hale went back out to the site to stop the work. The heavy equipment operator refused to stop and R. Hale and Valerie Gingrich, Director of Planning & Conservation, went back out to the site with a police escort. Work finally stopped and the homeowner was advised that the disturbed area needed to be stabilized and erosion controls need to be installed while the wetland resources are assessed and surveyed. It was determined that a jurisdictional intermittent stream was disturbed along with the 100' buffer zone. R. Hale stated the Notice of Intent submittal deadline has been extended to allow the applicant's consultants to gather information. However, as of mid-January the homeowner had not yet contracted a wetland scientist or surveyor despite indications otherwise, and has not been giving monthly updates as requested. S. Kelly-Parrella asked why an Enforcement Order has not already been issued given what has occurred. R. Hale stated he told the homeowner he was going to recommend issuing the Enforcement Order to the Commission, but he has since been in touch with the wetland scientist and a surveyor and confirmed they are beginning work. D. Pearson stated the homeowner should be providing weekly updates. R. Hale agreed on weekly updates and suggested requiring the homeowner to file a Notice of Intent in time for the April meeting. The Commission agreed to wait for an update at the March meeting before issuing an Enforcement Order.

**Fordham Road – Map 99 Parcel 1** – R. Hale gave an update on the trail that was cut through BVWs and BLSF to access a monitoring well. R. Hale discussed the issue with Pam Merrill of Mass DEP and agreed it is likely a violation. The owner and engineer stopped responding to emails and requests to submit an application or at least attend a meeting to discuss with the Commission. R. Hale told the owner and engineer he was going to recommend issuing an Enforcement Order and they reached out to Richard O'Connell of RJ O'Connell, the engineering firm the owners have used for a previous Notice of Intent at the site. R. O'Connell contacted R. Hale and said he would like to come to the next hearing to find a resolution. If RJ O'Connell and/or another representative does not come to the next hearing the Commission agreed to then issue an Enforcement Order.

R. Hale then offered to draft some guidelines for the Commission regarding the time frame for issuing an Enforcement Order.

**Riverfront Area Alteration Thresholds** – R. Hale advised the Commission that based on conversations with Mass DEP, the Riverfront Area regulations do not state how many times you can impact 10% or 5,000 square feet of the Outer Riparian Area, the outer 100 feet, of the Riverfront Area. The regulations do not indicate the impacts are not cumulative, such as with the wildlife habitat alteration thresholds for other resource areas, so every time there is a submittal it could impact 10% or 5,000 square feet each time.

**MINUTES** – January 3, 2018 could not vote as not a quorum from the January meeting was not present at this meeting.

**ADJOURN**

There being no additional business to come before the Conservation Commission, it was

VOTED:           To adjourn the meeting at 9:53 pm.

Respectfully submitted,

Catherine A. Pepe  
Senior Clerk