

**TOWN OF WILMINGTON**

DEPARTMENT OF PLANNING &amp; CONSERVATION

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

2022 DEC -8 AM 11:10

**CONSERVATION COMMISSION MINUTES**

November 2, 2022

Donald Pearson called the meeting to order at 7:07 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/87587879431?pwd=VCtXd1licXhsOHlVUDRqL2Jzb0hTUT09>

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: 875 8787 9431 and then enter the following passcode: 377 880 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, 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 MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 2 Summer Street – Map 84 Parcel 64B**

Documents: RDA application & materials, received October 19, 2022  
 "Plot Plan," dated September 15, 2022  
 "Yard Pictures," received October 19, 2022

Present in Interest: Jamie Nicolas, Owner & Applicant

J. Nicolas introduced herself and explained she recently moved into 2 Summer Street and is requesting permission from the Commission to install a fence in her backyard. She continued saying it is a pre-established yard but is within 100' of the wetland boundary. She worked with Norse Environmental Services to place the wetland flags and explained that initially they had some flags in the wrong places but were able to come back out to the property to correct those flags. She explained that the previous owners did have an Order of Conditions from a previous request when they added an addition onto the house stating they were supposed to establish a fence or a line of boulders in the backyard to serve as demarcation. They didn't fully complete that, and she stated there are a few rocks in the corner of the property, but they didn't install a fence. Her hope is to complete their Order of Conditions from the past with respect to the 15' boundary in the majority of the locations, with only a few locations within the 15' boundary. She explained they will leave 3' to maintain the buffer to protect the vegetation within the back. She explained that there is a lot of trash in the wetlands behind her property as well, and one of the things they really want to do is restore those wetlands and clean up that area.

C. Lynch explained there are no comments. He continued saying that the last time 2 Summer Street was before the Commission, it was required that demarcation be put up, but that never happened and

this will be serving that purpose by establishing that buffer. He asked J. Nicolas to confirm that the fence isn't going directly to the ground and that they will be leaving 6-inches.

J. Nicolas stated she believes the plan right now is to have it go all the way to the ground, but it will be a chain link fence, so nothing will be tied firm into the ground at those locations.

T. Bradley asked when the house was built.

J. Nicolas stated there was an addition in 2002, and there was some documentation that there was a pre-established structure in 1987, but then there was mixed information on if that was torn down and a new dwelling was built in 1998 and then an addition in 2002. She explained that she was having trouble mapping out what the previous owners actually did with the property.

T. Bradley stated he is confused as to how there was an Order of Conditions asking for there to be demarcation put in place and although that wasn't met, the house was still able to be sold.

C. Lynch explained that they received a Certificate of Compliance in the early 2000's, which he isn't sure how they got it. He continued saying demarcation was probably installed at one point and they removed it, as there are a few boulders at the bottom of the property. He said it is possible that they installed the demarcation and then removed it at some point.

J. Nicolas stated it is hard to tell and they have found pipes and such laying around in the back too, so she doesn't know if it was a previous fence that fell, but there is a lot of construction debris within the wetlands.

M. McInnis asked if this submission of the RDA is also to request permission for them to go into the wetlands and clean up the debris as well.

J. Nicolas explained she put it in the application as something they would like to do. She stated if she needs to request permission to remove the trash, she will do that.

C. Lynch stated it can be added as a condition that before installation of the fence, the homeowners can go into the wetlands and remove any trash and debris.

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 2 Summer Street – Map 84 Parcel 64B

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 24 Boutwell Street – Map 18 Parcel 6**

Documents: RDA application & materials, received October 18, 2022  
"Proposed Subsurface Septic Disposal System Plan," dated October 10, 2022

Present in Interest: Jason McGuire, Owner & Applicant  
Luke Roy, LJR Engineering LLC., Representative

L. Roy introduced himself and explained that the applicant is currently working on a project to construct a new home, septic system, and associated site work on their property. He continued saying there is a wetland resource area, BVW, at the rear of the property. Most of the work including the home, the

septic system, driveway, and all impervious surfaces are located entirely outside of the 100' buffer. There is a portion of grading around the rear yard and there is a proposed roof drain system to the back of the new home which will extend somewhat within the 100' buffer; proposed 80' from the wetland boundary at its closest point. There are two (2) trees that fall within the buffer and within the limit of work, a 12-inch pine and a 16-inch oak. He stated they are asking the Commission to consider a Negative Determination of Applicability given that even though some work is proposed within the 100' buffer, the cleanup of the site, grading, stormwater controls where there are currently none, and infiltration with the roof drain system, overall, there will not be an impact to the wetland resource area with this project.

C. Lynch explained the only comment that would've been given is installing erosion controls, but that is already proposed so there are no comments.

W. Wierzbicki asked if the trees are being removed and if the roof drain system can be turned so that it is outside of the 100' buffer zone, so that it'll be 90 degrees.

L. Roy answered by saying the two (2) trees identified within the highlighted area are coming down. He continued saying the roof drain can be turned as there is some flexibility with that if the Commission would prefer it not be within the 100' buffer. He explained it has to be 10' from the structure and 10' from the property line, so turning that 90 degrees would not be an issue.

M. McInnis asked C. Lynch if the removal of the two (2) trees triggers the tree replacement policy.

C. Lynch explained for every three (3) trees taken down less than 24-inches in diameter, it would be one (1) replacement, so it doesn't quite meet that policy. It is up to the Commission if they would want to see a replacement.

M. McInnis stated the grading difference looks minimal and asked if there is a reason for the trees to come down.

L. Roy stated there isn't a big grade change there certainly right at the erosion control line like the 12-inch pine that's there. That is just the limit of work and the extent he went over with his client. He believes the oak tree will have to be removed given the proximity to the house and that part of the hill on the right side will be cut down a bit.

M. McInnis stated he advocates for leaving the trees in place as he doesn't see a reason for it to come down.

L. Roy stated that it is within the limit of work that they're asking permission to do and remove those two (2) trees. He explained he would like the option to provide the replacement tree planting if his clients weren't open to having the trees remain.

D. Pearson stated he prefers they leave the more mature trees in place if that is possible, rather than a replacement or two (2).

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

VOTED: To issue a Negative Three (3) Determination of Applicability for 24 Boutwell Street – Map 18 Parcel 6 with the condition that the applicant consider leaving the two (2) trees in place and if not, replace them.

**PUBLIC HEARING – NOTICE OF INTENT – 16 Kenwood Avenue – Map 59 Parcel 17-22 – DEP File #344-1517**

Documents: NOI application & materials, received October 19, 2022  
"Site Plan," dated October 18, 2022

Present in Interest: Roberto & Rachel Grieco, Owners & Applicants

R. Grieco explained they are asking permission to be able to put an inground pool in a similar area that their above ground pool was previously in. She continued saying they tried to work with the pool company to stay outside of the 50' buffer zone, but when they tried to fit the pool, it was coming really close to the house or really close to the 20' setback and they were worried about grading it properly and not grading it too close to the neighbor's yard on the left side. She explained they came before the Commission asking permission to put the pool within the 50' buffer zone.

C. Lynch stated there are no comments. He reviewed the draft Order of Conditions with the Commission.

No comments were made from the Commission.

No comments were made by the public.

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

VOTED: To close the Public Hearing for 16 Kenwood Avenue – Map 59 Parcel 17-22 – DEP File #344-1517

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

VOTED: To approve the Order of Conditions for 16 Kenwood Avenue – Map 59 Parcel 17-22 – DEP File #344-1517

**PUBLIC HEARING – NOTICE OF INTENT – 5 Sgt. Veloza Way – Map R2 Parcel 41 – DEP File #344-1512**

Documents: NOI applications & materials, received October 5, 2022  
"Plan to Accompany NOI," dated September 1, 2022

Present in Interest: Elizabeth Wallis, Hayes Engineering Inc., Representative  
Jacquelyne & William Robichaux, Owners & Applicants

E. Wallis explained the applicants are proposing to regrade their backyard, which is somewhat level currently at the house, but descends steeply toward the existing post and rail fence. She continued saying what they would like to do is construct a 2' block wall against the post and rail fence that's there now and level the yard so that it is safer to walk over there so nobody slips down that slope. They would also like to install a vinyl fence along the entire backyard just to enclose that area for privacy and safety purposes. She explained this will be within the 30'-50' buffer zone and explained it's a project where they are going to bring in material from offsite and will be grading along the backside of the house. She displayed photographs to the Commission.

C. Lynch stated there are no comments. A draft Order of Conditions was provided.

T. Bradley asked about the area of work and how far beyond the wall they want to build will they need to be working.

C. Lynch stated there is a no disturb fence in place and that is a Conservation subdivision, so they can't touch on the other side of the fence regardless.

T. Bradley asked if work will only be performed on the house side of that fence.

E. Wallis confirmed.

M. McInnis asked about the Conservation subdivision wooden fence and if it is going to remain.

C. Lynch explained that it is a long post and rail fence that travels around the subdivision from when it was created and is the demarcation for the whole subdivision, so it has to stay in place.

D. Pearson asked if the wall will be holding back roughly 2' of new fill and if so, is it going to be excavated with the base of the wall below current ground level.

E. Wallis confirmed it is going to be a block wall using the paver type blocks, which will have a footing.

D. Pearson stated he's concerned that it would fail and there would be some fill drifting off site past the fence, but clarified there will be a footing.

E. Wallis showed the plan and explained that it's a concrete block that will lock together. She mentioned she can draw a detail and submit it to the Commission.

No comments were made by the public.

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

VOTED: To close the Public Hearing for 5 Sgt. Veloza Way – Map R2 Parcel 41 – DEP File #344-1512

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

VOTED: To approve the Order of Conditions for 5 Sgt. Veloza Way – Map R2 Parcel 41 – DEP File #344-1512

**PUBLIC HEARING – NOTICE OF INTENT – 17 Cedar Street – Map 30 Parcel 68 – DEP File #344-1515**

Documents: NOI application & materials, received October 19, 2022  
"Plot Plan of Land," revised October 13, 2022

Present in Interest: Danielle Lynch, Owner & Applicant  
Maureen Herald, Norse Environmental Services, Inc., Representative

M. Herald introduced herself and proposed that the applicant would like to raze a sunroom and deck, to construct an addition, deck, rooftop infiltration, associated utilities and grading. The closest proposed work is 59' away from wetland flag 2A and erosion controls are proposed.

C. Lynch stated there are no comments. A draft Order of Conditions was provided.

V. Licciardi asked if the shed that is shown on the plan is going to stay in place.

M. Herald stated there are no intentions on removing or relocating the shed.

V. Licciardi asked if the shed is located on this property or on the neighbor's property.

D. Lynch stated it is her shed and two thirds of it is located on the neighbor's lot. She explained it was there when they purchased the home and there are currently no intentions to move or remove it at this time.

V. Licciardi asked if the neighbor is okay with the shed staying there.

D. Lynch stated there must have been an arrangement with the previous homeowners as the neighbor hasn't asked any questions about the shed. They have been living in the home for eleven (11) years and there has been no issue since they moved in.

No comments were made by the public.

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

VOTED: To close the Public Hearing for 17 Cedar Street – Map 30 Parcel 68 – DEP File #344-1515

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

VOTED: To approve the Order of Conditions for 17 Cedar Street – Map 30 Parcel 68 – DEP File #344-1515

**PUBLIC HEARING – NOTICE OF INTENT – 318 Main Street – Map 42 Parcel 26 – DEP File #344-1514**

Documents: NOI application & materials, received October 19, 2022  
"Existing Conditions Plan," revised October 15, 2022

Present in Interest: Kevin Fonseca, Owner & Applicant  
Maureen Herald, Norse Environmental Services, Inc., Representative  
Suzanne Sullivan, Public Comment

M. Herald introduced herself and explained the applicant filed a Notice of Intent (NOI) on behalf of KE Engineering. They are proposing to remove two (2) underground storage tanks as well as a gas line and then backfill the areas with clean sand and patch the asphalt. She explained it is within the riverfront area of Mill Brook and that this is a Department of Environmental Protection (DEP) directive to remove the storage tanks. As part of the directive to remove these tanks, DEP requested that they file with the Conservation Commission. Once the tanks and the gas line are removed, and clean sand installed, the asphalt will be patched in place. They did provide the erosion controls on the plan, and she explained the applicant would like to complete it this year and comply with the directive.

C. Lynch explained there are no comments. A draft Order of Conditions was provided.

T. Bradley asked if there is currently asphalt paving over the underground tanks and if so, will it be replaced with no increase in impervious area.

M. Herald confirmed.

W. Wierzbicki asked if the sand in the ground will be tested to see if anything leaked into the soils.

M. Herald explained that a Licensed Site Professional (LSP) has already been engaged and is working with the applicant on this. In terms of the procedures, she's unsure of the details of that, but given the fact that an LSP is involved, she imagines that they'd do some testing. Her understanding is that these tanks have been out of use for five (5) years, and therefore DEP would like them to be removed. She believes there was some rot around the seal, but they don't suspect that the tanks had leaked or anything of that nature.

M. McInnis asked if the Order of Conditions includes the oversight by an LSP.

C. Lynch stated it does not, but it can be added.

M. Herald mentioned she will send the LSP's contact information to C. Lynch.

D. Pearson asked if there were any comments from the public.

S. Sullivan expressed her concerns about the proximity to the river.

M. Herald stated DEP is already involved in this project and the hazardous waste program in which they are providing the directive to have these tanks removed. They are requiring an LSP to oversee these tanks to be removed and as another step in the process, they requested working with the Commission on this for their purview as well.

S. Sullivan stated she just wanted to make the Commission aware that it is adjacent to the river and to give that some consideration moving forward.

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

VOTED: To close the Public Hearing for 318 Main Street – Map 42 Parcel 26 – DEP File #344-1514

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

VOTED: To approve the Order of Conditions as amended for 318 Main Street – Map 42 Parcel 26 – DEP File #344-1514

**PUBLIC HEARING – NOTICE OF INTENT – 48 Aldrich Road – Map 19 Parcel 4 – DEP File #344-1513**

Documents: NOI application & materials, received October 19, 2022  
"Proposed Subsurface Sewage Disposal System, dated October 12, 2022

Present in Interest: Dion DeJesus, Three D Builders, LLC., Owner & Applicant  
Greg Saab, ESS, Representative

G. Saab introduced himself and shared his screen. He explained they are proposing to remove the existing dwelling and construct a new dwelling with a septic system in the front of the lot for a 3-bedroom dwelling. They are also proposing to install a paved driveway with a stone trench for infiltration in place of the gravel driveway that is there currently. He went on saying a roof drain is proposed for infiltration and erosion controls are proposed at the 15' no disturb and at the lot lines as shown on the plan. A demarcation fence will be placed along the 15' no disturb zone.

C. Lynch stated there are no comments. A draft Order of Conditions was provided.

T. Bradley asked for clarification about the driveway and if it's being changed from gravel to paved.

G. Saab confirmed it will be a paved driveway with a turnaround area closer to the dwelling with the stone trench for infiltration.

No comments were made by the public.

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

VOTED: To close the Public Hearing for 48 Aldrich Road – Map 19 Parcel 4 – DEP File #344-1513

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

VOTED: To approve the Order of Conditions for 48 Aldrich Road – Map 19 Parcel 26 – DEP File #344-1513

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

Documents: NOI application & materials, received October 19, 2022  
Operation & Maintenance Plan, dated October 6, 2022  
“Plans to Accompany,” issued October 6, 2022  
Stormwater Management Report, received October 19, 2022

Present in Interest: David Wilkinson, Camber Development, Owner & Applicant  
Matthew Costa, Beals Associates, Inc., Representative  
Brandon Nelson, Camber Development  
Larry Beals, Beals Associates, Inc., Representative  
Tucker Tilton, Camber Development  
Wayne Castonguay, Ipswich River Watershed Association, Executive Director  
Suzanne Sullivan, Public Comment

L. Beals introduced himself and his team and gave an overview of the site at 800 Salem Street. He mentioned that there is a design build firm working with them as they want to make sure whatever the Commission decides to permit is feasible and buildable. There is a traffic consultant involved and given the highly disturbed nature of this site and the degraded nature of it, they've employed Geotechnical Engineers with a number of test pits throughout the site, as the site has been worked and reworked several times. He explained there is graphical representation of the flood plain on the site that was drawn and not actually correlated with an elevation, so they have submitted a plan to FEMA asking them to highlight the boundary based on real information. He continued saying FEMA responded stating they agreed with the map they provided and asked for a few minor revisions. Currently, the site



Lynch Materials where material is being brought to the site, processed, and then sold and distributed. Across the street located to the south of the site is Shea Concrete and to the east of the site is Benevento Companies. He explained that he started working on this site in February 2022. He continued to say that they conducted a peer review site walk with R. Kirby in June 2022, where he suggested minor adjustments of some wetland flags to be moved. The up-to-date plan provided to the Commission reflects the changes. As a consequence of that, there is a 15' no disturb on the property, a 50' no build buffer, and a 100' jurisdictional resource buffer in where there is jurisdiction, and they are before the Commission tonight.

M. Costa explained the proposed site plan stating it is a warehouse building that is approximately 237,880 square feet, 900' long, and about 260' wide. The applicant is proposing 322 parking spaces in total, with six (6) parking stations for electric vehicles that was provided in order to meet the regulation per the zoning bylaw for warehouse and office space. M. Costa explained that about 12,000 square feet of office space is provided, which accounts for about 5% of that overall building footprint. Approximately forty-nine (49) loading docks along the backside of the building and thirty-three (33) trailer spaces adjacent to that. They are working with a Fire Protection Engineer as well as the town to size the fire protection tank and make sure that the fire protection system proposed is adequate as the existing waterline ends just before the site, so making sure enough water is provided to handle any issues that may occur. He explained there is a large amount of landscaping provided on this site and a large amount of green space proposed. Landscaping and seeding will be erosion control and wetland mixes so no proposed lawns, no manicured lawns, no irrigation proposed on the site at the moment, in order to protect that ground water and reduce the water usage on the site. Water quality swales will feed the three (3) rain gardens. In certain areas, there is no curbing so that water will flow off the edge of the roadway, get treated by the water quality swales and then flow into the rain garden. He mentioned they pulled the roadway outside of the buffer to stay outside of the previously disturbed vegetated area, so there is a great effort made to stay outside of those buffers. They are within the 200' riverfront area, but were able to keep the building outside of that boundary, with just some pavement included in there. He explained the site currently sits about 79' in elevation throughout the majority of the flat spot with the rest of the site being very large stockpiles about 80' high; highest point being about 105' in elevation and as low as 78' elevation in others. The site is designed for possibly two (2) tenants with the main entrance on the western side and if needed, a secondary entrance on the eastern side. Large, constructed wetland in the back with runoff captured through catch basins and directed into water quality swales or rain gardens, which are functioned by biofiltration media that treat the stormwater and any chemicals that are in it. He continued saying they are not proposing hydrodynamic separators, instead providing an open-air system so that in the event of something not functioning properly, everything is open so it can be noticed and addressed right away. Proposing an onsite septic system located roughly 200' from the resource areas. Landscaping will be very dense in total with about 108 deciduous trees, 70 evergreen trees and approximately 214 shrubs. Rain gardens and the constructed wetlands will all be getting certain types of shrubs as well as seed mixtures to thrive in those wetland areas to provide infiltration as well as provide a better habitat for any animals in the area; a big improvement from what is out there now. Providing the same Operation and Maintenance (O&M) manual that they've used on their past projects, most recently in front of the Commission with 36 & 38 Upton Drive and matched that O&M manual with no snow dumping signs placed along the whole perimeter of the site so no snow, salt, or trash get dumped along the back working its way toward the resource areas. Proposing six (6) different areas throughout the site for snow storage.

C. Lynch stated the only comment is the staff recommendation for a peer review with R. Kirby on the NOI application, since the ANRAD was never completed and an ORAD was never issued.

T. Bradley asked when the peer review is completed, will it assess the amount of disturbance on the site.

C. Lynch confirmed R. Kirby will be reviewing everything within the NOI, from the wetland boundaries to everything in between.

V. Licciardi stated that the snow storage locations don't seem to be adequate and asked if they can elaborate.

L. Beals stated what they identify are the areas that could be used for snow removal and once those areas become full, it would demonstrate that perhaps they aren't adequate for the amount of snow and then it would be removed off site. The snow will get removed rather quickly as it has to be available for trucks to move around the site.

W. Wierzbicki asked when the regrading begins, what happens to the ponds filled with water. He asked if a pump will be associated with the fire protection tank. He also asked about the trailer parking along the backside of the building and if it will be pitched back into the parking lot or pitched back into the wetlands.

L. Beals stated those ponds were used to settle out silt so there is a lot of silt in them, and they certainly don't want that type of material below the footprint of the building as its not suitable to build on. The first step would be to clear away the unsuitable material. He explained that's not a water contact pond, so that means the water in the pond is not ground water and it's water that's sitting on the silt within the pond that's used for wash water. The pond will be dewatered, the silt will be removed, and then it will be backfilled with suitable material to have under the slab of the building. He continued saying the fire protection tank will have a pump and there will be sufficient capacity in that tank to fight a fire in the building.

M. Costa explained currently, they are proposing a diesel pump so it wouldn't be a separate tank within it. The parking lot will be curbed around it and pitched back towards the loading dock and captured within the catch basins.

M. McInnis asked if there will be any other fuel storage on site.

M. Costa confirmed just fuel storage for the fire protection pump.

V. Licciardi asked why they can't tie into the town sewerage.

M. Costa answered that it would be more than a couple hundred feet away and explained the biggest issue is crossing that culvert, which doesn't have a lot of headspace above the culvert to run the sewer line through, gravity wise or with an overall pumping system.

D. Pearson asked if the culvert becomes essentially a dam in future storms that deliver a lot more rain and in a case with a lot more water, what happens with the design if there is a lot more water backing up from the culvert.

L. Beals stated the first-floor elevation of the building is about 90' and he believes that the 100-year flood elevation right now is 79'. He explained they're 10' above the 100-year flood elevation, so that would account for some resilience, but the building would be substantially above that.

M. Costa explained the roadway on Salem Street would be the first to flood before flooding began on the site. He believes the town actively monitors that culvert to remove anything including the dams and he thinks anything operation wise, the ownership group could notify the town of a beaver dam or anything like that.

D. Pearson stated presumably on the dry side there's really no concern if there's a drier summer which is unfortunate, but there's nothing in the design that would take water out of the watershed.

L. Beals stated their goal is to put any water that lands on the site back into the ground and on a very small scale they're bringing water in to use within the building for domestic purposes and the advantage of using a septic system is to push it back into the ground, so there is a very tiny net increase in the infiltration water back into the ground.

D. Pearson asked if there was any comment from the public.

W. Castonguay, the Executive Director of the Ipswich River Watershed Association, stated they were before the Commission for 800 Salem Street when the ANRAD was filed and expressed a concern specifically with regard to the riverfront area delineation and the mean annual highwater line. He continued saying he is pleased to report that the proponents have reached out to them and have had several productive meetings and as a result, came to an agreement and concur with the mean highwater delineation proposed and would like to commend the applicant for working with them to come to an agreement with that regard. They endorse the resource area delineation and believe the project overall is a net improvement of the site and are happy to see that. He continued to say they submitted an official amended comment letter and respectfully ask the Commission to ensure that the additional conditions be reflected in the Order of Conditions ultimately.

S. Sullivan stated the Headwater Stream Team met with the applicants and are pleased with the actions that they've taken and are comfortable with the mean annual highwater delineation. She continued saying with regard to the septic system, they don't want to dewater the water supply, stating it is better to have a septic system rather than having the proposed warehouse on town sewer. She explained in ground water and human-made water there are constant human-made droughts on Martin's Brook, so any water that can be infiltrated back into the ground, the better. She asked if crab apple trees could be included to provide a food source for birds in addition to the native plants. She stated they are pleased that the applicant reached out to them, and they look forward to the next hearings.

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

VOTED: To continue the Public Hearing for 800 Salem Street – Map R1 Parcel 24 – DEP File #344-1516 to the December 7, 2022, Conservation Commission meeting

**CONTINUED PUBLIC HEARING – ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION  
– 800 Salem Street – Map R1 Parcel 24 – DEP File #344-????**

Documents: None.

Present in Interest: Jamie Lynch, Believe-Wilmington, LLC., Owner  
Larry Beals, Beals Associates Inc., Applicant & Representative

L. Beals stated they believe that the Notice of Intent (NOI) supersedes all the information noted in the Abbreviated Notice of Resource Area Delineation (ANRAD) and had information contrary to what was presented above within the NOI. He continued saying if the Commission agreed, they would like to withdraw the ANRAD and proceed with the NOI.

D. Pearson explained that since they are continuing with a peer review and the same peer reviewer, that'll cover all bases.

C. Lynch stated there are no comments.

No comments were made from the Commission.

No comments were made by the public.

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

VOTED: To accept the withdrawal of the ANRAD Public Hearing for 800 Salem Street – Map R1  
Parcel 24 – DEP File #344-????

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

Documents: Engineering Review Letter No. 3, dated October 31, 2022

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 explained since the last meeting, they have submitted revised site plans and submitted responses to all comments. They are at the meeting tonight with hope that the Commission had a chance to review the volumes of material that was submitted by the applicant in response to Planning and Conservation and the Engineering Division comments and letters.

B. Minnix shared his screen and explained the changes from the previous site plan submitted. The parking lot is a proposed total of thirty-six (36) parking spaces and a retaining wall is proposed at the rear of the parking lot and 14' at its closest point from BVWs behind the dumpster pad. The proposed three-story residential building is approximately 30' at its closest point to the wetland line and at the intersection of Main Street and Cross Street. Mass DOT is going to perform realignment of the intersection. One (1) of the Engineering comments was to further highlight the work that Mass DOT is completing and what the applicant is proposing. The pavement will be done by Mass DOT as well as a signal intersection. The applicant is proposing to meet the new DOT sidewalk for Main Street, and then they'll pick up the work going down Cross Street. He explained snow storage will be further north on the plan and at the front along Cross Street and any additional snow storage will be trucked off site if these areas are maxed out. Addressing another Engineering comment was the location of the crosswalk to the Yentile Farm Recreational Facility, which they moved further down. As far as stormwater controls, they are proposing to collect the roof runoff, driveway, and parking lot runoff in a stormwater system in the parking lot which is located outside of the 50' buffer zone. There will be drainage swales along the front of the building and parking lot along Cross Street. Another comment from Engineering was to provide mitigation for the runoff from Cross Street, so they are proposing two (2) catch basins on Cross Street instead of previously an overflow to the back of the retaining wall, now proposing to bring it across the front and discharge into one (1) location.

R. Peterson mentioned that most of the Engineering comments talk about approval through the Planning Board phase of this and per his discussions with the Town Engineer, he understands the reasoning on why some of that work won't be undertaken until there's some sort of decision by the Commission.

T. Bradley stated he's still concerned that the Commission is asked to consider having a building within 30' of the BVW with the guidelines being 50'. He explained he is struggling to find an answer as to how the Commission can allow this and then deny other requests to build multi-family units within 30' of the wetlands. He is not sure what distinguishes this project that it should be given an exception to the guidelines the Commission has been asked to enforce.

R. Peterson asked if the property across the street at 635 Main Street met the 50' no build setback and if the site across from Elia's met the 50' no build setback relative to a multi-family dwelling.

D. Pearson answered saying he doesn't have the numbers at the moment, but it is fair to say that it is a matter of balance when making some improvements to the wetlands. He thinks the Commission would consider the quality of the wetlands. He explained that he hears what R. Peterson is saying about making exceptions in the past, but he is unsure to what extent the exceptions were made, however he can say it is a balanced judgement.

T. Bradley stated what he is looking for in this case is that they want an exception to the guideline and other than it doesn't fit, he's not sure how many other circumstances there are.

D. Pearson recommended after hearing that, the applicant should make another pitch as to why this project deserves to be passed and for each individual Commissioner, they'll have their own comments and may or may not go along with it.

R. Peterson stated they have submitted numerous documents as to how they're improving this site with the upland mitigation, the retaining wall which will mark where the wetlands are in the back, and capturing runoff from the existing site in which there are no stormwater controls. He believes what has been presented to the Commission would address all the submissions and he wanted to confirm that there is a nonuniform application of the policy, but he understands and appreciates what the Commission is asked to do and what the policy states. He reiterated that he believes the proposed development offers a significant protection to the wetlands other than simply saying they'll keep 50' off the wetland line whereas otherwise with this proposal, the Commission is getting much more protection for the wetlands.

V. Licciardi stated the applicant has jumped through a lot of hoops with this site and his only concern is the distance from the wetland. He stated ultimately something is going to be done with this lot at some point, so he rather the Commission make the decision and not the State.

W. Wierzbicki stated it is a big building within the 50' no build having the wall in the back elevated and filling in the space with footings to hold the wall and parking lot up, which is quite an impact just to put there. He touched on V. Licciardi's point saying he agrees that eventually this site is going to be developed, however is questioning why it needs to be so big on such a narrow road. He believes it is a big impact for that area.

D. Pearson stated he appreciates the evolution of this site and the applicant being responsive to the Commission's concerns and working so well with the town. He continued saying six (6) individuals within the Commission all have different levels of concern and will balance the pros and cons to make their determination. He stated not to lose sight of the fact that the Commission appreciates all that they've done.

No comments were made by the public.

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

VOTED: To continue the Public Hearing for Cross Street – Map 40 Parcel 11 – DEP File #344-1504 to the December 7, 2022, 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**

Request to continue to the December 7, 2022, Conservation Commission meeting.

Upon motion duly made by M. McInnis and seconded by M. Gavegnano, 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 December 7, 2022, Conservation Commission meeting

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 63 Federal Street – Map 64 Parcel 3B – DEP File #344-1466**

Documents: Request for Certificate of Compliance, received September 17, 2022  
“As-Built Plan,” dated August 11, 2022

C. Lynch explained that demarcation was installed since the last meeting and the Certificate 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 63 Federal Street – Map 64 Parcel 3B DEP File #344-1466 to the November 2, 2022, Conservation Commission meeting

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

Documents: Request for Certificate of Compliance, received September 18, 2022  
“Plan for Certificate of Compliance,” dated September 13, 2022

C. Lynch explained that they came in last meeting and there was an unapproved pool installed, so the Commission asked them to file an after the fact Request for Determination of Applicability (RDA) for the pool, before issuing the Certificate of Compliance. He continued saying they are expecting the RDA submission for the next meeting.

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

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

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 18 Kelley Road – Map 51 Parcel 93 – DEP File #344-1503**

Documents: Request for Certificate of Compliance, received October 12, 2022  
“As-built Plan,” dated September 26, 2022

C. Lynch explained that this filing was for the replacement of a septic system, and it is ready to issue.

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

VOTED: To issue the Certificate of Compliance for 18 Kelley Road – Map 51 Parcel 93 DEP File #344-1503

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 3 Nottingham Drive – Map 107 Parcel 37 – DEP File #344-528**

Documents: Request for Certificate of Compliance, received October 12, 2022  
“Existing Conditions Plan,” dated October 12, 2022

C. Lynch explained that this was part of a subdivision that never received the Certificate of Compliance, and it 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 3 Nottingham Drive – Map 107 Parcel 37 DEP File #344-528

**ENFORCEMENT ORDER**

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

C. Lynch explained he went out to the property and they fixed the demarcation wall and have plants coming in this weekend. Once those are installed, it should be ready to close out.

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

L. Craig, the homeowner of 65 Chestnut Street, explained that at the last meeting, a restoration plan was presented that he objected to in which the Commission did not approve and stated they would give him additional time to review, which specifically asked for all the disturbed areas including the vegetation and tree locations, diameters, and species to be marked. He continued saying there were two (2) trees on the plan that were marked, and he estimated ten (10) to fifteen (15) trees at least. In the meantime, while the other homeowner was directed by the Commission to talk with L. Craig for resolution, instead they decided to go ahead and plant the trees onto his property without permission. He explained he is not sure what to do at this point, but would like his neighbor to come up with a reasonable number of trees that'll fulfill the Enforcement Order.

D. Pearson explained that the Commission's scope of work is to evaluate the restoration plan and approve it. He continued saying L. Craig can take independent action elsewhere about people coming onto his property and planting things regardless of whether it meets the restoration plan or not.

L. Craig stated he is aware that he can follow a separate process and showed photos from early on when he initially brought this in front of the Commission months ago. He understands the Commission doesn't have full power to restore this area, but he wants them to have a full picture of what the destruction was prior to approving a plan of what they're looking to replace it with, being only two (2) trees.

M. Herald spoke on behalf of her client, Mr. Cuddy, at 55A Chestnut Street. She stated her original plan was to plant three (3) red maples trees and six (6) sweet pepper bushes that was tabled so the neighbor could review it. Mr. Cuddy went ahead and planted four (4) red maple trees approximately 8'

in height and ten (10) sweet pepper bushes. The reason why he did the plantings was because he was concerned that the planting season itself would be over before the Commission could approve it, so he went ahead and planted more trees. Ideally, she would like to resolve this as it sounds like it's more of a personal disagreement than a Conservation issue.

D. Pearson asked hypothetically if they knew how many stumps were left behind, how many plantings would they be looking at as replacements. He continued saying M. Herald presented the case that Mr. Cuddy has planted more than what he would've had to do and asked what if the number of trees were doubled.

C. Lynch stated the number of trees and plantings out there now currently total roughly twenty-four (24) taken down trees and upwards of thirty-five (35). He continued saying nobody knows how many trees were out there to begin with as all the stumps were ground up, so it is difficult to speculate unless photographs were available that were taken prior to the removal.

M. McInnis suggested that L. Craig and his neighbor work together to determine the number of trees removed by looking at a different area with the same diameter and count the number of trees in that area and replicate it within the disturbed area. He continued saying that way, both parties would be satisfied as it's clear that Mr. Cuddy is willing to replace the trees, with the only issue being the number of trees to be planted.

D. Pearson asked M. McInnis if he is correct in saying that if they took a 10' x 10' area and counted the number of trees in that area and matched it into the area that has been disturbed, that would give an estimate to the number of trees to be planted.

M. McInnis stated instead of doing a 10' x 10' area, they should take the area that was disturbed, and superimpose that someplace else to represent the tree population. He continued saying if the area for example, is 50' x 100', go onsite and pace that out, count the number of trees in that area and the size in diameter and apply the Commission's tree removal policy, come to an agreement with the number of trees, and the Commission can put this to rest.

C. Lynch reiterated with the number of trees planted currently, it replaces twenty-four (24) trees on the low end to forty-two (42) trees on the high end.

D. Pearson stated that the problem is Mr. Cuddy placed the replacement trees wherever he felt like and a real restoration plan approved by the Commission would have a plan as to where each planting would go. He continued saying he likes M. McInnis' idea of placing the diameter into an area still populated with trees and seeing if the number of replacement trees is satisfied or not and then determine how to distribute them in the disturbed area.

M. Herald suggested a site visit with C. Lynch prior to the next meeting because in her opinion, she believes the placement of the plantings suffices the restoration policy.

C. Lynch stated he has no problem doing a site visit to check the location of the plants.

D. Pearson stated he wouldn't mind attending the site visit as well and asked C. Lynch to schedule a time that members of the Commission can go onsite with him, M. Herald, and L. Craig.

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

C. Lynch stated the homeowner installed the demarcation post and rail fence and is currently waiting on



the plantings. He continued saying once everything is planted, he is going to ask the homeowner to provide the Commission with a sketch so demarcation is noted for the future.

### **34 Birchwood Drive – Map 81 Parcel 28**

C. Lynch explained that the homeowner installed the demarcation, and a letter will be sent to close out the Enforcement Order.

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

C. Lynch explained this was brought to the staff's attention earlier this week because the property was listed for sale and when looking into Google Earth maps over the past few years, he noticed a huge chunk of forest removed. Most of the backyard is wetlands and looking into the file, it looks like they have taken down a large number of trees and filled in a good amount of wetlands to expand their yard. He continued saying the Notice of Violation (NOV) was sent out last week and staff has been working with DEP to come up with an Enforcement Order that was sent out today. They put a condition in the Enforcement Order saying that the seller of the house needs to notify any potential buyers that this is going on and that the restoration work needs to occur, so if they buy the property, it's going to fall on the new owner's shoulders to complete the restoration or it will be up to the current owner who is selling the home.

D. Pearson asked if this is something that the Commission needs to ratify.

C. Lynch stated that is correct. If it is something urgent like this, the staff can send it out via Certified Mail and then the Commission ratifies it after that.

M. McInnis asked if the Enforcement Order that was sent in the mail needs the homeowner to acknowledge receipt of it. C. Lynch confirmed.

D. Pearson asked if the seller has been living there for a long time and if they are the one responsible for the fill.

C. Lynch stated the property was last sold in 2019, and looking at aerial photographs, it looks as if it started prior to them owning it and when they bought it in 2019, that's when it showed expansion of the yard much more than what was there before.

D. Pearson clarified that it was mostly one party doing the clearing. C. Lynch confirmed.

V. Gingrich shared her screen to display the Enforcement Order.

C. Lynch read through the Enforcement Order explaining the steps that the owner needs to take for the restoration.

M. McInnis asked about the calls that staff received regarding the property for sale and wondered if that is unusual. He also asked if it was a result of people being informed by the seller that this Order existed.

C. Lynch explained that whenever a house gets listed for sale, the staff always receives calls especially if there's wetlands around it. He explained it's nothing unusual, when people are interested in the house, they contact staff finding out the restrictions prior to moving forward. He continued saying it's a small

house, so a lot of the questions were if an addition can be added since it's so close to wetlands and they wanted to know the setbacks.

M. McInnis asked if he informed them about the Enforcement Order.

C. Lynch confirmed that he let them know.

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

VOTED: To ratify the Enforcement Order for 6 Hanson Road – Map 57 Parcel 47Q

### **ADMINISTRATIVE TREE REMOVAL**

#### **11 Coral Street – Map 67 Parcel 88**

C. Lynch explained one (1) tree was removed because it was dead and located close to the patio, house, and deck so the staff approved the removal. He stated since it was a dead tree, no replacements were required.

### **DISCUSSION**

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

C. Lynch stated a report was received today saying a catch basin was installed in the back of the property, which was part of the requirement.

D. Pearson asked if it showed what work is expected going forward.

C. Lynch stated it was pictures from the Professional Engineer (PE) showing the work for the catch basin. He continued saying there is still a decent amount of work that needs to be done as this isn't a monthly update, it's more of an update months and months later and explained they're still looking for those monthly updates.

D. Pearson stated the Commission would like to see progress as what they plan to do and what they have already done.

B. Autenzio was having trouble with his audio.

D. Pearson stated to C. Lynch that next time they talk, tell him thank you for the progress report and plan on doing it again next month, but also show the Commission what he intends to do and show the progress being made.

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

C. Lynch stated he's been out to the property, and they took back all the pavement, but that's about it. They've been trying to get in contact with the attorney that is representing them, and it's been months since he's returned an email. He explained they've been asking for updates with no response.

D. Pearson asked C. Lynch if he is hopeful that he can get more information.

C. Lynch explained hopeful is a strong word, but any contact would be good as all they've done is take

up the concrete and install jersey barriers to block it, which is progress, but not a whole summers worth of progress for the Enforcement Order, not an NOI.

D. Pearson asked if the situation remains unchanged into December, is there something he can think of that will be productive.

C. Lynch recommended another Enforcement Order to start work.

D. Pearson asked if a fine could be issued.

C. Lynch stated he can look into the fines and get back to the Commission at the next meeting regarding that. He doesn't believe that is out of the question.

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

C. Lynch explained that this is an Enforcement Order on its way. They filled in some wetlands to expand a driveway. They are located on a peninsula between Silver Lake and some BVWs and there are a bunch of violations. They installed a dock onto Silver Lake without approval as well as patios and decks. Engineering is going to attend the site visit with C. Lynch because there's supposed to be a big infiltration trench basin surrounding their whole backyard, but because the property is so small, they weren't going to have the biggest backyard. He continued saying any rainwater isn't going into that basin, its either going left into the BVWs or right into Silver Lake. He explained they still have to go through it with a fine-tooth comb to mark off all the violations since there is a handful of them. He explained they'll hopefully have an Enforcement Order for the next meeting.

### **2023 Meeting Dates & Deadlines**

The Conservation Commission accepted the 2023 meeting dates and deadlines.

### **MINUTES – October 5, 2022**

T. Bradley pointed out an error on page 9 and the correction was made.

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

D. Pearson, T. Bradley, V. Licciardi, M. Gavegnano, and W. Wierzbicki voted 5-0 to accept the minutes for the October 5, 2022, Conservation Commission meeting as amended. M. McInnis abstained.

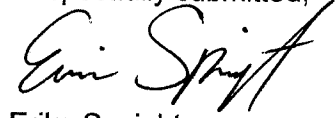
### **NEXT MEETING – December 7, 2022**

### **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, M. Gavegnano, and W. Wierzbicki to adjourn the meeting at 10:38 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Erika Speight". The signature is fluid and cursive, with a large, stylized "S" at the end.

Erika Speight  
Senior Clerk