

**TOWN of WILMINGTON****DEPARTMENT OF PLANNING & CONSERVATION**121 GLEN ROAD, WILMINGTON, MA 01887 [www.wilmingtonma.gov](http://www.wilmingtonma.gov) (978) 658-8238RECEIVED  
TOWN CLERK

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**CONSERVATION COMMISSION MINUTES**

October 6, 2021

Donald Pearson called the meeting to order at 7:00 p.m. Theron Bradley, Vincent Licciardi, and Michael McInnis were also present. Nestor John Salazar, Laura deWahl and Alexander Rittershaus were absent. Valerie Gingrich, Director of Planning & Conservation, Cameron Lynch, Conservation Agent, and Jayne Wierzbicki, Senior Clerk of Planning & Conservation were also present.

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 6 Ledgewood Road – Map 57 Parcel 15**

Documents: "Plot Plan", dated September 20, 2021  
Request for Determination of Applicability application, received September 21, 2021

Present in Interest: Robert G. Peterson Jr., Applicant/Owner  
Greg Saab, ESS

R. Peterson passed out plans and advised the Commission he is accompanied by G. Saab. Plot plan showing trees on the lot within the 100' buffer zone, and pictures of site provided to the Commission.

D. Pearson asked about the proposal cutting down seven (7) trees.

R. Peterson stated seven (7) trees proposed to be cut down in the 100' buffer zone, three (3) of the four (4) trees being cut down are 24" in diameter, others are less than 10" in diameter. Looking at the pictures provided, a site walk had been done and pictures taken today (October 6, 2021). Ledgewood Road is a very heavily wooded area, 6 Ledgewood Road has an existing dwelling, some of the trees, at least two (2) of them within the 100' buffer zone, are encroaching and are a danger to the house; they are leaning over and are in danger of falling on the house, as pictured, they are posing a hazard. General upkeep of the property is still under disrepair; the home and surrounding landscape is all overgrown. Shown in the pictures, the septic system is located to the right, if looking from the street, which is overgrown with trees and other vegetation that should not be on top of a septic system.

C. Lynch had no comments other than recommending planting two (2) replacement trees.

R. Peterson stated that looking at 4 Ledgewood Road from the street, their grass area runs all the way to the back, therefore the useful area of the site would be behind the building on 6 Ledgewood Road, anything to the right would be covered by the septic system. Understands that the policy is provided for erosion control and shade. But the area off the lot line, sitting at 42.8', in the back of the house is all wooded area. To do any sort of planting, they would be taking up the area in the back where the homeowner/future homeowner can make use of the lot. Appreciates and understands the intent of the Commissions policy, asked to take under consideration the surrounding trees and ample shading there already, in the wooded area behind the property, the reason it is being cleared is to create use for the lawn.

M. McInnis asked to consider plantings of trees or bushes.

R. Peterson stated that the work being done on 6 Ledgewood Road will not be knocking anything down but adding a second floor and septic system. The existing house is in bad disrepair. The line for the lawn will be run down all the way and across the back, starting at the front, right next to 4 Ledgewood Road. Post and rail fence to run along the back, at homeowners' discretion. Will be some erosion control in the back of the property line; will be up to grading and landscaping done to determine the erosion controls.

C Lynch advised trees or bushes, at least two (2), anywhere on the property, does not have to be on the back part.

R. Peterson stated that G. Saab suggested plantings to delineate the lot line between 4 and 6 Ledgewood Road. Offer erosion control and some sort of water absorption and allow lot lines to be delineated.

T. Bradley suggested four (4) shrubs to be planted.

R. Peterson stated that they can do that.

D. Pearson advised to check with C. Lynch on species that are native who will be providing a list.

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

VOTED: To issue a Negative (3) Determination of Applicability for 6 Ledgewood Road – Map 57 Parcel 15

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 26 Mill Road – Map 3 Parcel 2H**

Documents: "As-Built Plan" last revised September 21, 2021  
Request for Determination of Applicability application, received September 22, 2021  
Revised Page 4 of the Request for Determination of Applicability application, received September 27, 2021

Present in Interest: Luke Roy, LJR Engineering, Inc.

L. Roy stated that 26 Mill Road is a lot that was developed in 2015, received an Order of Conditions (OOC) for construction of a single-family dwelling, septic system, and associated site work. The project was completed, but the Certificate of Compliance (COC) was never requested. Now the home is in the process of being sold. The Request for Determination (RDA) is serving as an after-the-fact application for an attached deck and paver patio which were constructed at the rear of the house, which were not shown on the approved plan in the original OOC. Looking to re-submit the plan and have an update with the Commission, show the full extent including the items that were not included on the original plan. The deck and patio are both within the approved limit of work. The deck is 32' from the wetlands at its closest point, outside of the no build buffer, and the patio is 22' from the wetlands at its closest point. The patio is a paver block and constructed on stone sand base.

T. Bradley stated that the patio is 22' from wetlands asked if it can be moved to 25'.

L. Roy stated that the patio is existing, knows that patios have not always been subject to the no structure/no build setback. Stated that the owner would like to keep it the way it is but would need to check to see if the owners could move it.

T. Bradley stated that if it is a major project, 3' would not be bothersome. But if it is an easy move, it should be done.

D. Pearson asked for clarification on if the patio was approved earlier and if it was within the original limit of work.

L. Roy stated that it was within the original approved limit of work, but it was not shown on the approved plan. Not introducing any new disturbance.

D. Pearson understands that L. Roy will talk with the owner about bringing the 22' into compliance.

L. Roy stated that they would like to keep it at the 22' where it is and would need to make a call to see if the owners can move it.

D. Pearson stated that the patio and the deck were not in the original plan.

L. Roy stated that they were not depicted on the original plan, but they fall within the approved work limit.

V. Gingrich stated that for the Commission's sake, in the past, which came up last time with pools, the 25' setback is a policy of the Commission. That's typically applied to things that one would get a building permit for, such as a deck or retaining wall or those types of structures. It hasn't always been applied to things like a patio, especially if that patio is pervious with a stone base or it does infiltrate. Historically, patios haven't been held to the 25', but it is up to the Commission to have that conversation.

M. McInnis asked C. Lynch if it is a pervious patio, and C. Lynch confirmed it was a pervious patio.

V. Gingrich stated that the no disturb is typically a 15', they have a post and rail fence at that line.

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

VOTED: To issue a Negative (3) Determination of Applicability for 26 Mill Road – Map 3 Parcel 2H

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 417 Andover Street – Map R3 Parcel 15**

Documents: Request for Determination of Applicability application, received September 22, 2021  
Letter from John Marquis of Marquis Tree Service, Inc., dated September 20, 2021  
Sketched "Progress Print", received September 22, 2021  
Two (2) pictures of property, received September 22, 2021  
Six (6) pictures of trees on property, received September 22, 2021  
"Romano Residence" Elevation Sketch, last revised September 12, 2021

Present in Interest: David M. Romano, Applicant/Owner

D. Romano is asking for the removal of three pine trees that are a safety issue to the house. If they were to fall, they would fall on the existing house. On the second page, it shows the outline of the proposed septic system and has hopes to build a new house on the property next year. The existing house is one story, as depicted in the pictures, and even then, it is a very narrow lot. The septic system is on the front of the house, if allowed to get these trees removed with Marquis Tree Service, it will be extremely tight. Stated that if he ends up with the two-story house, which is his intent, this will become a problem. The other issue is that there are currently septic pits on the front lawn and once the new septic system is put in, he is unsure how they would get to it. Aerial photo shows the tall pines in the back. Stated that the pictures provided show what he is intending to do. C Lynch did a site visit. Depicted on the following pages is the potential house. Asked, if possible, which was a discussion between C. Lynch and himself, regarding the larger two trees on the right, the issue with those is that the height is a danger to the property. The back ones will be a problem in the future, because once the house is up, it would be impossible to get it out of there. If tree service can do it safely, what is under consideration is to cut the two trees on the right and leave 20' stumps sticking out of the ground. The reasoning is that it is good for and will attract wildlife. The tree in the back, he would like to take down, and to re-plant vegetation. If the Commission would want, stated that he would be able to plant replacements.

C. Lynch recommended that for these three trees, one planting is sufficient, it can be a tree or a shrub.

D. Pearson wanted clarification that it is three trees being removed, D. Romano confirmed it will be three pine trees.

The Commission discussed the number of replacement plants.

C. Lynch stated that two shrubs or one tree are to be planted as replacements.

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

VOTED: To issue a Negative (3) Determination of Applicability for 417 Andover Street – Map R3 Parcel 15

**PUBLIC HEARING – NOTICE OF INTENT – 100 Morse Avenue – Map 48 Parcel 17 – DEP FILE #344-1490**

Documents: Notice of Intent application, received September 21, 2021  
"Delineation Report", dated July 8, 2021  
"Proposed Subsurface Sewage Disposal System Repair" Plan, dated August 5, 2021  
Revised Page 1 of the Notice of Intent application, received September 27, 2021  
Abutters Notice received September 20, 2021  
Email from Cameron Lynch, Town of Wilmington Conservation Agent, received October 1, 2021  
Email from Greg Saab, ESS, received October 1, 2021  
Delineation Field Data Forms, received October 4, 2021

Present in Interest: Daniel Scholl, Applicant/Owner  
Greg Saab, ESS

G. Saab stated that they are proposing a house on the property, which is now a lot. There was a house on the property that was condemned by the Board of Health and removed this summer. Proposing a new septic system in the front yard with a new dwelling. They will use a bioretention area for runoff. Also add a deck in the back and a small back yard. Use erosion control along the 15' no disturb with a post and rail fence for demarcation.

C. Lynch stated that the deck is inside the 25' no build, and a portion of the stairs.

G. Saab stated that in the past, on redevelopment projects like this, they have been allowed to build the deck within that no build zone, gave the example on 142 Grove Street. Stated that it is 20' from the wetlands, and generally when you have a deck above ground, less chance of building a patio down below.

D. Pearson stated that applicants have been asked, in the past, to consider moving the house forward or move everything up to make everything come out of the 25' no build setback.

G. Saab stated that the septic system in the front yard is why they can't move the house forward. They need the setbacks for the tank, for the foundation, it is only a 50' wide lot, which is very compact. The back third of the lot will not be touched because of all the wetland area. Leaving a little more room back there.

M. McInnis stated that on the plan there is no distance shown.

G. Saab stated that it was checked today (October 6, 2021), it is 20' closest point of the wetlands to the corner of deck.

M. McInnis asked about not building a pervious patio underneath deck. And asked if the deck had no covering.

G. Saab confirmed that they will not be building a pervious patio underneath the deck, and the deck will not have a covering.

M. McInnis stated that it should remain pervious below the deck and no covering on the deck.

T. Bradley agreed.

D. Pearson stated that this will be a condition to be accepted going forward.

T. Bradley asked if there had been any Engineering comments.

V. Gingrich informed the Commission that there were no comments from them on this application. Also stated that there is no draft of the conditions, which will be ready for the next meeting.

G. Saab agreed to continue the hearing and stated they still have to file the stormwater permit.

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

VOTED: To continue the Public Hearing for 100 Morse Avenue – Map 48 Parcel 17 – DEP File #344-1490 to November 3, 2021 Conservation Commission meeting

**PUBLIC HEARING – NOTICE OF INTENT – 31 Arlene Avenue – Map A-90 Parcel 10 – DEP FILE #344-1491**

Documents: Notice of Intent application and report, received September 22, 2021  
"Proposed Plot Plan" Boundary, revised September 13, 2021  
"Proposed Plot Plan" Topography, revised September 13, 2021  
Email from Cameron Lynch, Town of Wilmington Conservation Agent, received October 1, 2021  
Email from Steve Erikson, Norse Environmental Services, Inc., received October 1, 2021  
Memorandum from Paul M. Alunni, PE, Town Engineer, received October 6, 2021

C. Lynch stated that the applicant requested to continue to the November 3, 2021 meeting about an hour before the meeting started.

V. Gingrich stated that they haven't opened the hearing yet but asked to continue. If the Commission would like to open and continue the hearing all in one. Ideally, they would have been here to present the project, but a request for continuation was received right before this meeting. There is currently nothing to comment on.

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

VOTED: To open the Public Hearing for 31 Arlene Avenue – Map A-90 Parcel 10 – DEP File #344-1491

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

VOTED: To continue the Public Hearing for 31 Arlene Avenue – Map A-90 Parcel 10 – DEP File #344-1491 to the November 3, 2021 Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 201 Lowell Street – Map 48 Parcel 73A – DEP File #344-1480**

Documents: Comment Letter from Valerie Gingrich, dated September 17, 2021  
"Site Plans", Latest Issue September 17, 2021  
Comment Letter from VHB dated September 17, 2021  
Stormwater Management Report, received September 23, 2021  
Response Letter from Textron Systems, dated September 29, 2021  
Peer Review Report from LEC Environmental Consultants, dated August 13, 2021  
Peer Review Response Letter from LEC Environmental Consultants, dated October 6, 2021

Present in Interest: David Fenstermacher, Director of Land Development, VHB  
Eric Olson, VHB  
Sherry Clancy, National Development  
Richard Kirby, LEC Environmental Consultants, Inc.

S. Clancy stated that they are in the process of purchasing excess land from Textron to construct a new warehouse. There will be some work done on both the Textron lot and the new lot.

D. Fenstermacher started with a project update stating that they went through the drafted review letter from LEC that was received August 13, 2021, E. Olson went out for additional site work, drafted a response on September 22, 2021, and a follow up letter from LEC was received today, October 6, 2021. Some of the items are minor that can be addressed at this meeting and get the plans revised relatively quickly. There have been some significant improvements to the stormwater plan that had been originally prepared. Stated that a lot of the work and test pits went in as an investment from S. Clancy and her team to get a system that P. Alunni, Town Engineer, and the Town of Wilmington, were happy with. S. Clancy working with the Textron team, they have agreed to reconstruct the fire pump closer to the building and connect it to the municipal water lines, discontinuing use of the fire pond. The stormwater, as previously mentioned, they went out there and there were twenty (20) test pits to supplement all the existing tests that had already been done but wanted to finalize the design. They were able to decentralize the underground systems and find the right spots for them on site. The revised plan has 80% TSS removal, 65% phosphorus removal, and 1 inch water quality volume.

S. Clancy added to clarify that the one area working in the buffer zone, they are taking out existing pavement, but everything else is outside the buffer zone.

D. Fenstermacher motioned to the area that is currently a driveway and an existing parking lot which they will be removing, planting with vegetation, and will be the location of the pond. A comment in the latest letter that needs to be formalized is floodplain impact, but the work within the floodplain, there is a net additional storage based on that pond. There is a little berming that goes with it, there is a little bit of fill, so they did the foot by foot, there is a little grading that they need to do to balance it out. But as suggested in the review letter, those areas need to be highlighted on the plans. E. Olson to give an overview on what the LEC comments were.

E. Olson stated that in respects to the comments on wetland boundaries, they agreed with the majority of the comments that LEC had. Went back out into the field, re-delineated a few of the areas and picked up any of the flags that LEC put down. There were some wetlands out there that don't have any impact, all the changes made had no impact on any of the calculations or were far enough out and away from the edge of the closest wetland area that didn't have an effect on the project. Comments regarding two spots where they disagreed with LEC's review; one was far away from any of the work they are doing. The other spot, it was reevaluated, but didn't have an effect on any of the buffers. In the LEC response letter, they asked what the GPS accuracy was when they relocated the flags with their GPS unit, which was approximately 1-2' or 1-3' and varies as you go. The letter was just based off a couple of discrepancies. Stated that when it comes to the riverfront area, they did have a comment on how flags were missing along an area (motioned to visual display), but based on their recommendations in the letter, they basically have no issues, and realize they were conservative in their mapping of the bank and mean annual high water. Roughly 800-900 sq. ft. of work within the area. There were no issues with the riverfront area.

D. Fenstermacher brought up the one area where they are taking out the parking lot and putting in the basin, they did provide a foot by foot for floodplain, but they will supplement and provide on the plans in shaded areas. And will provide with calculations on the next submittal.

E. Olson stated that all comments will be addressed in the final submittal.

D. Fenstermacher added that these comments include the erosion control and more details on the plantings where they are converting the pavement to grass in the floodplain, with a little more detail on what that material and seed mix will be. Stated that for the most part, they are in concurrence with the review.

V. Gingrich stated that R. Kirby from LEC, Environmental Consultants Inc. is at the meeting tonight, who did the peer review. If the Commission would like to hear about any comments made on the follow up to the latest plans.

R. Kirby stated that regarding wetland delineation, there were wetlands delineated on the property that didn't matter to the project, but they were still on the plan. If the Commission were to approve the plan, then there is a possibility they come back later with new work in those buffer zones. The OOC (Order of Conditions) is valid for three years, therefore those flags are valid for three years, they want to be consistent and keep those things in mind. If anything out of the ordinary happens, such as if the property changes hand or is subdivided and a new developer comes in. Stated that they wanted to be thorough and complete. There are just minor discrepancies. One option would be for the Commission to issue the OOC, approve the project but not necessarily approve the boundaries of the resource areas. Regarding the bordering land subject to flooding, stated that he is confident they are meeting the one to one incremental, they have to demonstrate how they are filling and how much compensation they provide. Stated that engineers often look at it in a different way; what is the net change of each incremental elevation. The way the regulations are written and the way the Commission needs to issue the OOC, requires the square feet and volume of fill in the floodplain and square feet and compensatory storage in the floodplain, then providing each incremental foot of fill. Stated that they are on their way to providing that. The riverfront area performance standards appear to be met; they are converting pavement to open space. Last bit of questions on how open space would be constructed, especially in a floodplain if you convert pavement to lawn, you have to over excavate to remove the pavement, reestablish the topsoil, organic content, would need more detail for a contractor; if they take out 6" and comes back 12", fill 6" of the floodplain. They need that detail and some spot grades in that area to show what the existing condition proposed. This is so the contractor can follow the plan. There needs to be more detail on the seed that is being proposed, if portion of it is lawn and a portion of it will be a pollinator meadow, to create the opportunity to improve the habitat. Make clear on the plans the erosion control and the limit of work carrying it around and up to the street including the construction entrance, so contractors can know where to go. Doesn't have to be compost sock, it can be the orange silt fence for areas that don't have it. Just a couple more things to put together and submit.

S. Clancy had a question on the delineation discussion. Stated that it sounds like they do need to have the line established in the areas that they are close to. She is concerned that the whole line is not being addressed. They are going to be disconnecting the fire pump from the fire pond, which will be work brought back to the Commission to do. Textron is making an investment to do this, but to carry out that, they will need to go in there and pull that pump out and abandon the piping but there will still be some disturbance in that area where some of those flags are. Would like to understand what the process would be to remove that pump and what implications that would have. Does not want to repeat the whole process again. Asking for advice on how they should be permitting the activity for the fire pond.

D. Pearson asked when they would file for the fire pump.

S. Clancy stated they still need to complete the design, and it is too late to do the work. Once the design is done within the next couple of months, they would come back in January and February to do the permitting, then start the work once the seasons change. They have committed to do it within twelve (12) months of the time from when this project is approved. The pump there now is sized for the whole campus, now the campus is going to be smaller, stated that they probably don't need the same size pump, this will all have to be hydraulically revisited. Wants to understand more about the line.



R. Kirby stated that it would be easy to spend time in the field based on the remaining flags, this could be done sometime next week, which can be reconciled and then the Commission can approve the boundaries.

S. Clancy asked that if they are very remote from where the pump is, maybe they would not have to do that. But if R. Kirby won't do the whole line, how will he distinguish between flags.

R. Kirby stated that it is not so much that they are approving the delineation, they are approving the work and the work within the buffer zone as a result of the delineation. The Commission wouldn't specify the approval of the boundaries as part of this Notice of Intent (NOI). There is a level of comfort with the delineation, as it currently exists for this project, but they are trying to avoid approval of delineations outside of the work zone and place the buffer zone at other points of the property. It could be subdivided and sold off, and if someone else wants to propose something, the flags will not be there.

M. McInnis stated that he understands the concern and asked if they could take the flags off.

R. Kirby stated, in that case, they would have a hole in the line, for example, 51 connecting to 55. 52, 53 and 54 go upgradient, so the line in between would be inaccurate.

D. Pearson stated that it is outside of the work and asked how many flags were involved.

E. Olson stated that two flags were approved in a previous project, D. Fenstermacher added that these two flags were right by the pond. Five flags along the corner of the river.

D. Pearson advised resolving the differences with those flags that are there in question.

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

VOTED: To continue the Public Hearing for 201 Lowell Street – Map 48 Parcel 73A – DEP File #344-1480 to the November 3, 2021 Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 201 Lowell Street – Map 48 Parcel 73A – DEP File #344-1479 (B)**

Documents: Comment Letter from Valerie Gingrich, dated September 17, 2021  
"Site Plans", Latest Issue September 17, 2021  
Comment Letter from VHB dated September 17, 2021  
Stormwater Management Report, received September 23, 2021  
Response Letter from Textron Systems, dated September 29, 2021  
Peer Review Report from LEC Environmental Consultants, dated August 13, 2021  
Peer Review Response Letter from LEC Environmental Consultants, dated October 6, 2021

Present in Interest: David Fenstermacher, VHB  
Sherry Clancy, National Development  
Eric Olson, VHB  
Richard Kirby, LEC Environmental Consultants, Inc.

See above minutes for 201 Lowell Street as both projects were presented jointly.

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

VOTED: To continue the Public Hearing for 201 Lowell Street – Map 48 Parcel 73A – DEP File #344-1479 to the November 3, 2021 Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 5 Navajo Drive – Map 13 Parcel 3H – DEP FILE #344-1487**

Documents: “Plan of Proposed Pool” dated September 16, 2021  
Letter from the Department of Environmental Protection, dated September 10, 2021  
Email Exchange between Mark Arnold of Goddard Consulting LLC, and Alicia Geilen, MassDEP Northeast Regional Office, dated September 13, 2021  
Email from Cameron Lynch, Town of Wilmington Conservation Agent, received October 1, 2021  
Email from Mark Arnold of Goddard Consulting LLC, received October 1, 2021  
Aerial Pictures of property, received October 1, 2021

Present in Interest: Evan Petrillo, Goddard Consulting LLC

E. Petrillo is proposing a pool with pervious pavers surrounding it with a proposed fence, all on existing lawn on the property. One comment from the Commission was that the proposed erosion control barriers and the fence should be pulled out of the 15' no disturb. Took the comment and brought it back to the engineer, and both of those things have been successfully pulled out of the 15' no disturb. Stated that no other changes have been made to the plan.

C. Lynch asked the question on how the riverfront was delineated, and how they went about it.

E. Petrillo stated that in regard to the riverfront, they stuck with the current line, because while viewing aerial photographs, it was hard to determine where it is, based on the flooding. With the proposed line, they were going off of the adjacent property, which had used the same line for a proposed pool and was ultimately approved by the Commission.

V. Gingrich stated that there were comments from DEP that were issued for this project, one of them being that the center line of the brook should not be used to cast the riverfront boundary. Started the discussion about how the riverfront was delineated for the property. The Department has not received satisfactory answers on those questions to date. DEP pointed out the riverfront delineation, referenced the regulations on how mean annual highwater should be delineated. Regarding the straight lines on the plans, our brooks never cast riverfront lines like that. Asking to take harder look at the riverfront and mean annual high to make sure this project isn't in the riverfront. The aerial photos were viewed today, there is a channel for the brook in the back, but there is also another possible water line that could be out there. They should respond to DEP's and the Planning & Conservation Department comments.

E. Petrillo stated that their response to those comments were based on the aerial photographs and adjacent property getting approval, they were confident in the delineation and the lines shown on the plan.

D. Pearson stated that he doesn't hear agreement on the issue. Sounds like they need to do something more conclusive. If they are making the argument about the adjoining parcel being involved, asked if

the riverfront be sort of connected to those straight lines. Having those straight lines is pretty unusual, as V. Gingrich stated.

E. Petrillo stated that is how they saw and displayed it.

M. McInnis stated that he is not clear on how it was presented and asked if they need instructions on how to determine and draw the line. Asked about the distance between the riverfront and the proposed work.

E. Petrillo stated that it is upwards of 250' and it is all existing lawn.

V. Gingrich searched for an aerial photo on the visual display. Stated that as the Commission knows, it is unusual for DEP to comment on a project that involves a swimming pool. The work that has been done to show riverfront has not been adequate. Motioned towards the visual display and stated that the brook in the back can be seen, however, the aerial photo is more undefined. There is a more recent ortho on the other maps, but a channel is seen through and around, but it is all unclear on where the boundary is. The task, when there is riverfront, is to determine where the mean annual high water is, which can be done in various ways. Consultants should know techniques to do that, which has been asked of the applicants to do.

D. Pearson advised to get a wetland scientist to determine the riverfront. Asked if this would be something that can be done in a month. E. Petrillo stated that is possible.

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

VOTED: To continue the Public Hearing for 5 Navajo Drive – Map 13 Parcel 3H – DEP File #344-1488 to the November 3, 2021 Conservation Commission meeting.

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 99 Fordham Road – Map 99 Parcel 135 – DEP FILE #344-1489**

Documents: Continuance Request Letter from Brenton Cole, P.E., Granite Consulting, LLC, dated September 22, 2021  
Memorandum from Paul M. Alunni, PE, Town Engineer, dated September 14, 2021

D. Pearson stated that the applicant requested to continue to the November 3, 2021 meeting.

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

VOTED: To continue the Public Hearing for 99 Fordham Road – Map 99 Parcel 135 – DEP File #344-1489 To the November 3, 2021 Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 154-156 West Street – Map 56 Parcels 1 & 2 – DEP FILE #344-1486**

Documents: Review Letter from Planning & Conservation Director, Valerie Gingrich, dated September 10, 2021  
Memorandum from Paul M. Alunni, PE, Town Engineer, dated September 14, 2021  
Letter from the Massachusetts Department of Environmental Protection, dated

September 20, 2021

Email from Elizabeth Wallis, Hayes Engineering, Inc., Continuance Request  
received October 1, 2021

D. Pearson stated that the applicant requested to continue to the November 3, 2021 meeting.

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

VOTED: To continue the Public Hearing for 154 – 156 West Street – Map 56 Parcels 1 & 2 – DEP  
File #344-1486 to the November 3, 2021 Conservation Commission meeting

**PUBLIC HEARING – ORDER OF CONDITIONS AMENDMENT 95 McDonald Road – Map R2 Parcel  
39 – DEP File #344-1453**

Documents: Letter from Elizabeth Wallis, P.W.S, Hayes Engineering, Inc., dated September 17, 2021  
Order of Conditions application, received September 20, 2021, Issued March 6, 2020  
“Sanitary Disposal System Plan” last revised February 6, 2021  
“Sanitary Disposal System Plan” last revised April 23, 2021

Present in Interest: Elizabeth Wallis, P.W.S., Hayes Engineering, Inc.

E. Wallis requesting to amend the OOC that was issued in March of 2020. Stated that at that time, they proposed a house that was a square-ish footprint, would like to change that footprint into a rectangular configuration. The house is more rectangular in shape, they are still proposing a porch in the front and the deck in the back. Pointed out that the green line is the 100' buffer zone, which goes halfway through the house. The change of configuration does not put the house closer to the wetland. The configuration was accommodated by shortening up the septic system and adjusting the location of the front cultec to be further away. Believes these are insignificant changes, so far as the design is concerned. There are minor grading changes, the septic system and cultec are outside of the buffer zone.

C. Lynch informed the Commission that he had no comments and does have a draft OOC that is ready to view.

M. McInnis asked if it was no closer to BVW (Bordering Vegetated Wetlands) and stated that there is no distance on the plan.

V. Gingrich stated that the plan shows the house being 47.3' from 30' offset to wetlands. If another 30' was added to the 77.3.

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

VOTED: To close the Public Hearing for 95 McDonald Road – Map R2 Parcel 39 – DEP File  
#344-1453

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

VOTED: To issue the Amended Order of Conditions for 95 McDonald Road – Map R2 Parcel 39 –  
DEP File #344-1453

**PUBLIC HEARING – ORDER OF CONDITIONS AMENDMENT – 9 Towpath Drive – Map 28 Parcel  
32 – DEP File #344-1457**

Documents: Letter from Luke Roy, LJR Engineering, Inc., dated September 21, 2021  
"Site Plan", last revised September 20, 2021  
"Site Plan", last revised October 4, 2021

Present in Interest: Karen Partanen, Representative

M. McInnis wanted to disclose that this borders the Middlesex Canal Commission property.

K. Partanen requesting to amend the original OOC issued in May 2020, for regrading the backyard, and putting in a stone wall and a retaining wall. Requesting to change the plan to include a deck platform instead. Will be adding a gas fireplace which requires a propane tank. K. Partanen explained that the plan submitted with the amendment request shows a larger propane tank which would have been needed if they converted their whole home to propane. Since then, they met with the propane company and per fire and other codes, it was not optimal. Now, they are putting in a small, 120-gallon standup propane tank up against the home, outside of the 25' buffer zone. Which is indicated on the revised plans that are dated October 4, 2021, there is a small circle in the corner which symbolizes the tank.

V. Gingrich stated that the newest plans show the proposed deck structure instead of the retaining wall and the smaller propane tank right up against the house, outside of the 25' no build zone.

M. McInnis stated that he understands the discussion on the propane tank and asked if the deck changed.

K. Partanen stated that originally, they wanted to grade the backyard, but due to property line and other issues, it would be more feasible to remove the concrete wall that was going to be put in and put a walk out platform from the lower level. It is not a patio, it will come out as a platform, the height would depend on the grade of the land. Right now, as it stands, there are pavers there in place. But as the property grades down to the fencing, there is a 3' difference. M. McInnis asked if it was pavers, K. Partanen stated it is not pavers, there are pavers existing and those will be pulled up.

M. McInnis asked if it was not on the original plan.

V. Gingrich stated that they first got their approval over a year ago, and there was a retaining wall and regrading. The deck was not approved at that point, it was instead regrading and a retaining wall. The proposed deck platform is in place of the previous wall and regrading. V. Gingrich suggested that the applicant check in with the Building Inspector about the setback, whether it will require the 20' setback for the deck platform. K. Partanen stated that she plans on talking with them.

T. Bradley asked if the shed was already there, K. Partanen confirmed that it was.

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

VOTED: To close the Public Hearing for 9 Towpath Drive – Map 28 Parcel 32 – DEP File #344-1457

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

VOTED: To issue the Amended Order of Conditions for 9 Towpath Drive – Map 28 Parcel 32 – DEP File #344-1457

**PUBLIC HEARING – APPREVIATED NOTICE OF RESOURCE AREA DELINEATION 30 Upton Drive – Map R1 Parcel 18H – DEP File #344-????**

Documents: Abbreviated Notice of Resource Area Delineation application and narrative, received September 13, 2021  
“Custom Soil Resource Report”, received September 13, 2021  
“Abbreviated Notice of Resource Area Delineation” Plan, received September 13, 2021  
Open Beyond 21 Days Form, received September 15, 2021

Present in Interest: Devin Howe, Beals Associates Inc.

D. Howe stated that the property is about 12.5 acres of land, surrounded by existing industrial and commercial uses. There is an existing, one-story, brick building, about 8,000 sq. ft. There is associated parking for the building on the front side of the property, loading on the back side of the building, as well as additional parking spaces in the rear. The intermittent stream starts at 36 and 38 Upton Drive, transects the site and flows toward the Upton Park retention basin, located just offsite of the property. There is a large easement, which is the New England Power Easement, so the only area to develop is what is existing out there today. On the plan filed, the green area shows the stream and the offsite retention basin that has been referenced earlier. The flags that were hung were delineated by Beals Associates, by observing the bank of the intermittent stream. There was a discussion about the stream a few years back with R. Hale, the previous Town of Wilmington Conservation Agent, regarding a wetland replication area, which is located offsite. This flows under Upton Drive through a culvert which connects to the wetlands/detention basin offsite. That gives protection to this intermittent stream. The flags that were hung by Beals Associates were field located by precision land surveying. At the bottom side of the site there is a drainage easement, looking at the upstream area, which does not have a wetland upstream of the drainage channels/drainage easement. This is the reason it was not flagged as an intermittent stream. Motioned to the photo on display of tributary area to the drainage channel, which is a large open lawn area, there are a couple of catch basins in there, which flow the water under Upton Drive. The photos included with the application were put on display, and he stated that it starts closer to Upton Drive and work their way. Motioned to the area that shows there is some water sitting in it. Moving further away from Upton Drive it starts to lose some water. Behind the existing building, there is no water flowing and the drainage ditch has trash piling up. Continuing down the existing stream, in the photo, it shows the parking lot in the background. There is an existing culvert, just downstream, it goes under an existing trail and towards the power easement. They stopped the delineation at about 80' from the property line. Stated that they showed some buffers in the area, these buffers were from Maps GIS, did not delineate the detention pond, just wanted to acknowledge that there were natural resource areas out there, but it wasn't shown on the plan. Stated that there were a couple of administrative items such as the peer review setup with C. Lynch, designating LEC for the Commissions Consultant. The project has not been issued a DEP file number yet.

C. Lynch stated that usually with ANRADs there are peer reviews. LEC has been contracted and the work is underway, they have until 20<sup>th</sup> which is the deadline to provide the review.

V. Licciardi asked if parking areas are allowed in the buffer zone which are in the back of this project.

D. Howe stated that the Town of Wilmington has a 15' no disturb zone. Some of the parking areas in the back are already existing, which was probably put there before the policies were enacted. This is the reason those spaces are within that buffer.

V. Gingrich stated that this is the existing condition, that is why those spaces are already there, this development probably predates the policy of the 15' no disturb. Typically, there would be a 15' no disturb along the resource area.

D. Howe stated that the property was constructed in the early 90's and was unsure about what the Town's Bylaws and policies were at that time.

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

VOTED: To continue the Public Hearing for 30 Upton Drive – Map R1 Parcel 18H – DEP File #344-???? To the November 3, 2021 Conservation Commission meeting.

**CONTINUED PUBLIC HEARING – ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION – 11 Sprucewood Road – Map 80 Parcel 7 – DEP File #344-1485**

Documents: Peer Review Contract, signed September 8, 2021  
Email from Richard Kirby, LEC Environmental Consultants, Inc., dated September 16, 2021  
Two (2) Sketches of “approximate location of the revised flags”, received September 16, 2021  
Email from Maureen Herald, Norse Environmental Services, Inc., Continuance Request received October 4, 2021

C. Lynch stated that the applicant requested to continue to the November 3, 2021 meeting.

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

VOTED: To continue the Public Hearing for 11 Sprucewood Road – Map 80 Parcel 7 – DEP File #344-1485 to the November 3, 2021 Conservation Commission meeting

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 26 Mill Road – Map 3 Parcel 2H – DEP File #344-1309**

Documents: Letter from Steve Eriksen, Norse Environmental Services, Inc., dated September 23, 2021  
“As-Built Plan” last revised September 21, 2021

Present in Interest: Luke J. Roy, LJR Engineering, Inc.

L. Roy stated that they submitted a revised as built plan. On the initial submission for the Request for Certificate of Compliance, there were some comments and questions which included the deck and the patio, which were not shown on the original approved plan. Stated that there were also a few sections of the demarcation fencing, as far as the panels of fencing go, that is somewhat less than the 15' from the wetlands, that fencing was relocated, so the entirety of the demarcation fencing is 15' or greater from the wetlands. There was also a question on the as built grading of the wetland replication area. They conducted a more detailed instrument survey of spot grades to show what is generally excavated. There were comments on providing a greater level of detail of the replication area, including a monitoring report that Norse Environmental conducted, providing a supplemental letter with the additional information and detail that has been requested.

C. Lynch asked what the square footage that is graded out to 127.5 since it is not shown on the plan in the replication area.

L. Roy stated that a statement was made in the submittal of the request about the replication being done in accordance with the approved plan. When they survey it, they locate roughly the total slope, which is not exact, but they survey that perimeter, and then they overlay it on what the approved area was and prepare that. Area provided was equal to or greater than the area on the approved plan.

V. Gingrich stated that the original order called for the 2340 sq. ft. to be graded to 127.5. Looking for something to confirm that, so the Commission can issue the Certificate. There are some areas that have the spot grades above the 127.5, there are some at 127.7. The report from the wetland scientist did give a general statement about the hydrology, they thought it was suitable for wetland plants. If the area is shown to meet that square footage, the Commission can approve.

L. Roy stated that it is not always an exact 127.5 when constructed, even just surveying, if it is in a soft area, the point can sink, which could be a couple inches higher or lower in some spots.

D. Pearson asked what is needed.

V. Gingrich stated that what has been recommended is to get the square footage confirming the 2340 sq. ft. of replication is present as required by the original Order.

L. Roy stated that it is critical to get the Certificate.

D. Pearson asked if L. Roy will put a number on the plan.

L. Roy stated that there is really no calculation other than putting it into the program and adding in the square feet on the plan. D. Pearson stated that the plan should provide the square footage and be submitted to the Planning and Conservation Department.

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

VOTED: To issue the Certificate of Compliance for 26 Mill Road – Map 3 Parcel 2H – DEP File #344-1309

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 5 Tacoma Drive – Map 68 Parcel 42 – DEP File #344-1436**

Documents: Request for Certificate of Compliance application, received September 21, 2021  
“Proposed Plot Plan”, dated December 9, 2020  
Six (6) pictures of new plantings, received September 21, 2021  
Attached letter including project information, received September 21, 2021

C. Lynch stated that he did a site visit and that everything looked good, and they have met all the requirements.

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

VOTED: To issue the Certificate of Compliance for 5 Tacoma Drive – Map 68 Parcel 42 – DEP File #344-1436



**NOTICE OF VIOLATION – Trees 8R Fernbanks Road – Map 15 Parcel 109**

J. Snider stated that it is 8R Fernbanks Road, the rear lot. On September 17, 2021, had a local tree company take down some trees in the area, it is essentially within 100' of wetlands. Stated that he was not aware of the tree removal policy. There were ten (10) trees taken down. Stated that he brought pictures and copies of the plot plan, which has been marked up to show the area, shows the square footage and the diameter of each tree.

D. Pearson asked if J. Snider circulated the plot plan with the drawings on it. And asked if everyone has seen the plan.

J. Snider stated that he just came up with plans in the past few days, in terms of marking it up. Had brought copies and the original. For the ten trees, four (4) of them are 10" or wider for the diameter, the remaining six (6) are from 3" to 5". When measuring the diameters, stated that he did the most liberal measurement in terms of measuring at the widest spot for all the trees. Four (4) of the trees were pines, and the other six (6), he believes, were a form of Beech tree. Stated that he will show the zone with pictures and a marked-up plot plan. Would like to remediate in terms of necessary replacement with a tree or two or a tree and some shrubs. Stated that he has done some research into what grows well in wet, somewhat alkaline soil, has done a pH test for the soil, it said it was more towards alkaline. Stated that it is a somewhat sunny, somewhat shaded area. Asked about what he should be planting in terms of species of trees and shrubs.

V. Gingrich stated that this process typically involves, a Notice of Violation (NOV) letter sent out, and the owner would come in and talk about what happened. The Commission can advise the property owner if a delineation should be prepared to show whether the trees were in the wetland itself or just in the buffer zone, locate the stumps, and then prepare a replacement and restoration plan, which is typically what is required.

J. Snider stated that he was definitely within that zone towards the wetlands, and on the plan, it shows where they are, stated that he marked up the plan when he measured the area, including the square footage, and the area where the cluster of trees was located, facing the house and to the immediate right. A rough estimate of the square feet would be about 216 to 220 sq. ft., in a boxed, rectangular area. They went in a pattern, then restated that he has pictures and a plan to show where the trees were to give perspective.

D. Pearson asked if it was obvious that the trees were within the wetlands.

C. Lynch stated that he would say it is obvious but does not think that they were in the wetlands, but within 30 to 40' of it.

J. Snider stated that he thinks that is a fair statement, but one of the things that he wanted to restate is that he did not know. Stated that it was somewhat frustrating, because where the trees were taken down in that area before, looking another 2 to 3' behind, there was another tree taken down, stated it was a Birch tree.

D. Pearson asked if they should entertain an RDA (Request for Determination of Applicability).

V. Gingrich advised to the Commission to require filing an RDA, but have a delineation done just to show how close the trees were to the wetland, which is typically what is required.

D. Pearson stated that he can include the map and drawing of where the trees came down, and propose, with consultation with C. Lynch, what the applicant intends to plant as replacements.

J. Snider asked for clarification on what delineation means.

D. Pearson stated that the wetland scientist will measure the boundaries.

J. Snider stated that he already has on a plot plan what the boundaries are and asked what the wetland scientist would measure in the case of the boundaries.

V. Gingrich stated that the plan he has is not very recent, J. Snider stated that it is from May 2002, V. Gingrich stated that they ask for new delineations after 3 years, wetlands do shift and change.

J. Snider asked that if the boundary had changed and was closer to the house, and the work was done beyond the boundary, what would that mean.

D. Pearson stated that if they found that some of the trees were in the wetlands, they would help guide choices on replacements, and there would be more guidance on how to do the replacements within the wetlands with a wetland scientist.

V. Gingrich stated that she was not sure if there was an Order of Conditions for the house, there is a 15' no disturb zone that comes out from the wetland line where it is not supposed to be disturbed in that area, and the Commission would require a demarcation of that no disturb so that trees are not cut in that area including the grass being mowed in that area. That wetland line sets the 15' boundary as well. Depending on how close the trees were to the wetland, it impacts what type of benefit they provided to the wetlands; what type of shade they provided would depend on how close they were to the wetlands and the type of tree will determine wildlife benefit to the wetland. J. Snider asked what the best tree to plant would be.

D. Pearson stated that what the Commission wants to see is to have the wetlands delineated so it is clear where the cutting took place and then have some sort of strategy for the next step. Stated that they cannot pick the type of replacements until it is known where the wetland boundary is. Advised the owner to find a wetland scientist to do the work and then to superimpose the measurements onto the plan.

J. Snider stated that he understands but believes it would take time and considerable resources.

D. Pearson stated that it may take some time and asked if the Commission can provide a list of wetland scientists. C. Lynch stated that neither the Conservation Department nor the Commission cannot provide a list. Stated that the benefit of doing the work and then submitting the application, instead of showing everything now, get everything done first, and the Commission will have more time to view everything.

J. Snider asked if the wetland scientist could mark up the existing plot plan from 2006 which is just a plan of the property. Prepare an RDA and have the wetlands delineated.

V. Gingrich stated that if J. Snider could prepare a filing with the wetland scientist, and file it by the deadline for the November 3, 2021 Conservation Commission meeting, it will be put on the agenda and the Commission can review it at that point. Stated that the wetland scientist could help determine what plan or document would be appropriate.

V. Gingrich stated that the wetland scientist will be familiar with what the Commission wants to see, and any draft can be brought to the Planning & Conservation Department and can be reviewed. Stated that the deadline is two weeks in advance of the meeting. J. Snider can call or stop into the office for further assistance and guidance.

**ADMINISTRATIVE TREE or SHRUB REMOVAL 10 Burlington Avenue – Map 29 Parcel 1**

C. Lynch stated that this is at the Wilmington Crossings apartment complex by the railroad, they have a couple of trees within the 100' buffer that aren't in the best shape and are leaning over an adjacent property/house behind 10 Burlington Avenue.

**MINUTES – September 1, 2021** – The September 1, 2021 Conservation Commission meeting minutes could not be voted on due to the lack of members who attended the September 1, 2021 meeting.

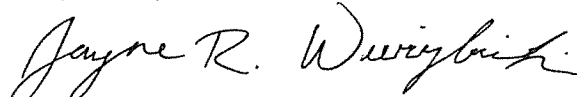
**NEXT MEETING – November 3, 2021**

**ADJOURN**

There being no additional business to come before the Conservation Commission, M. McInnis motioned and V. Licciardi seconded

VOTED: To adjourn the meeting at 9:13 pm.

Respectfully submitted,



Jayne Wierzbicki  
Senior Clerk

