

**Minutes of the BOXFORD CONSERVATION COMMISSION
REMOTE PARTICIPATION ONLY
May 20, 2021 7:00 PM**

Present: Peter Delaney, Natasha Grigg, David Smallman, Alan Fowler, Mark Mitsch (7:20PM), Frank Di Luna (7:30 PM)

Absent: Kerri Lummus

Others Present: Conservation Agent Ross Povenmire, Minutes Secretary Judi Stickney, Jenn Hughes, Larissa Nadworny, Scott Henderson, Dan Ottenheimer, Stan Frizzell, Shawn Nuckolls, Anne Marton, Richard Lombardo, Scott Cameron, Derek & Lee Repucci, Scott Miccile, Don Borenstein, Lance Cluster/BCATv, Andrew Gori, Brian Madden, and others

7:04 PM With a quorum present, Chair Peter Delaney called the meeting to order.

7:00 PM HEARINGS AND DISCUSSIONS

Discussion: Stormwater Management Bylaw

Jenn Hughes, Merrimack Valley Planning Commission, met with the Conservation Commission to discuss suggested changes to the Stormwater Management Bylaw dealing with TSS and Phosphorous removal. The Conservation Agent had sent copies of the recommended changes to the Commission members before the meeting and provided them on the shared screen for everyone to view. A brief discussion ensued. After discussion, the Commission took the following action:

On a **MOTION** made by **Smallman**, second by **Fowler**, the Conservation Commission **VOTED** unanimously by roll call vote to post a public hearing for June 3rd for the presentation of the Stormwater Management Plan and discussion of the amendments.

Roll Call (Called by Chair Delaney):

| | |
|------------------------|------------|
| <i>David Smallman:</i> | <i>Yes</i> |
| <i>Alan Fowler</i> | <i>Yes</i> |
| <i>Natasha Grigg:</i> | <i>Yes</i> |
| <i>Peter Delaney:</i> | <i>Yes</i> |

NOI 114-: 10 Barnside, 37-1-60, Viveiros

Supporting Docs

- **Notice of Public Hearing:** *Notice of Intent by applicant Richard & Janine Viveiros for the property located at: 10 Barnside Road, Map 37, Block 1, Lot 60; to install an in-ground pool and associated landscaping within 100-feet of Bordering Vegetated Wetland.*
- **Notice of Intent Package:** *Prepared by Scott P. Henderson PE, for Richard and Janine Viveiros, dated 4/29/2021:*
 - *Notice of Intent Forms*
 - *WPA Form 3*
 - *Filing Fee Information*
 - *Wetlands Fee Transmittal Form*
 - *Copy of Checks*
 - *Abutter Information*
 - *Abutter Notification Form*

- Affidavit of Service
 - Project Abutters
 - Narrative
 - Project Introduction
 - Existing Site Condition
 - Proposed Work
 - Mitigation Measures
 - Erosion Controls
 - Regulatory Compliance
 - Appendix
 - Locus Map
 - Site Plans
- **Existing Conditions Site Plan:** Prepared by Donohoe Survey, Inc. for Richard and Janine Viveiros, dated 12/1/18.
- **Pool Development Plan:** Prepared by Henderson Consulting Services for Richard and Janine Viveiros, stamped by Scott P. Henderson, dated 4/29/21.
- **Construction Details Plan:** Prepared by Henderson Consulting Services for Richard and Janine Viveiros, stamped by Scott P. Henderson, dated 4/29/21.

Scott Henderson, Henderson Consulting, representing the applicant, met with the Conservation Commission with a Notice of Intent to install an in-ground pool and associated landscaping within 100 feet of a Bordering Vegetated Wetland. Henderson provided drawings for the Commissioners to view, as he made his presentation. Henderson noted that DEP has not yet assigned a number for the project, so they will need to continue. The Chair requested that they plan a site walk and suggested Tuesday, June 1st at 6PM. The Commissioners and applicant agreed to the June 1st date.

At the request of the applicant and on a **MOTION** made by **Smallman**, second by **Fowler**, the Conservation Commission **VOTED** unanimously by roll call vote to continue the hearing for NOI 114-: 10 Barnside, 37-1-60, Viveiros, to June 3rd, with a site walk scheduled for June 1st, under the Act and the Bylaw.

Roll Call (Called by Chair Delaney):

| | |
|-----------------|-----|
| David Smallman: | Yes |
| Mark Mitsch: | Yes |
| Alan Fowler | Yes |
| Natasha Grigg: | Yes |
| Peter Delaney: | Yes |

NOI 114 - : 20 Highland Road, 14-1-17, Bowen
Supporting Docs

- **Notice of Public Hearing:** Notice of Intent by applicant Robert Bowen, for the property located at: 20 Highland Road, Assessor's Map 14, Block 1, Lot 17; to install a replacement septic system for the existing single-family home which is partially located within 100-feet of Bordering Vegetated Wetland.
- **Notice of Intent Package:**
 - WPA Form 3
 - Project Narrative
 - Attachments:

- a. Locus Map ~ USGS Quad
- b. FEMA Flood Map
- c. MA GIS ASSESSOR and NHESP Map
- d. List of Parties of Interest (adjoining property owners)
- e. Parcel Deed ~ NMRD Book 6007 Page 460
- f. Notice to Abutters

- **Exhibits:**
 - 1. Project Site Plans (2 Sheet)

The Conservation Agent advised the Commission that he had a written request to continue this hearing to June 3rd:

At the request of the applicant and on a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to continue the hearing for 20 Highland Road, 14-1-17, Bowen, to June 3rd, under the Act and the Bylaw.

Roll Call (Called by Chair Delaney):

| | |
|-----------------|-----|
| David Smallman: | Yes |
| Mark Mitsch: | Yes |
| Alan Fowler | Yes |
| Natasha Grigg: | Yes |
| Peter Delaney: | Yes |

**Continued NOI 114-1317: 50 Moonpenny, 40-1-4, Nadworny
Supporting Docs**

- **Notice of Public Hearing:** *Notice of Intent by Applicant Matthew Nadworny for the property located at: 50 Moonpenny Drive, Map 40, Block 1, Lot 4, for clearing and grading to install a fence.*
- **Notice of Intent Package:** *Prepared by Wetlands and Land Management, Inc. for 50 Moonpenny Drive, dated January 2021*
 - **Project Narrative**
 - **Locus Map**
 - **WPA Form 3 – Notice of Intent**
 - **Notice of Intent Wetland Fee Transmittal Form**
 - **Abutter List**
- **Topographic Plan of Land in Boxford, MA, 50 Moonpenny Drive**
- **Wetlands & Land Management, Inc. Work Sequence Plan**

The Commission closed this hearing at the last meeting and the Conservation Agent had prepared the Order of Conditions, which he provided for the Commissioners to view on the shared screen. After a brief discussion, the Commission took the following action:

On a **MOTION** made by **Smallman**, second by **Fowler**, the Conservation Commission **VOTED** 4-1 by roll call vote to execute and issue the Order of Conditions for NOI 114-1317: 50 Moonpenny, 40-1-4, Nadworny, under the Act and the Bylaw.

Roll Call (Called by Chair Delaney):

| | |
|-----------------|-----|
| David Smallman: | Yes |
| Mark Mitsch: | Yes |

| | |
|----------------|-----|
| Alan Fowler | Yes |
| Natasha Grigg: | No |
| Peter Delaney: | Yes |

**Continued NOI 114-1322: 181 Topsfield Road, 38-1-25, Lombardo
Supporting Docs**

- **Notice of Public Hearing:** *Notice of Intent by applicant Richard Lombardo for the property located at: 181 Topsfield Road, Map 38, Block 1, Lot 25 to construct a two-story addition to an existing single-family residence within 100-feet of Bordering Vegetated Wetland.*

Applicant Richard Lombardo advised the Commission that he needs to have the haybale line and silt fence changed on the plans and asked to continue the hearing to June 3rd.

At the request of the applicant and on a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously to continue the hearing for NOI 114-1322: 181 Topsfield Road, 38-1-25, Lombardo, to June 3rd, under the Act and the Bylaw.

The Conservation Agent suggested that the erosion control also include the drain and drain outflow.

Continued NOI 114-1313: Willow Road, 6-2-2.2, Toll Bros., Inc.

**** Commissioner Frank Di Luna removed himself from this discussion. ****

Scott Cameron, The Morin-Cameron Group, along with Ann Marton, of LEC, and Shawn Nuckolls, of Toll Brothers, met with the Conservation Commission to discuss what is left in the process. A brief discussion ensued on bonding of the project for long-term mitigation. Cameron advised they are awaiting the final letter from LEC Engineering and advised he would have that for the Commission by the next meeting. Cameron added that they are trying to wrap this up within a meeting or two. A brief discussion ensued on the turtle habitat and whether that would be included in the bonding. After discussion, the applicant requested to continue the hearing to June 3rd.

On a **MOTION** made by **Grigg**, second by **Fowler**, the Conservation Commission **VOTED** unanimously by roll call vote to continue the hearing for NOI 114-1313: Willow Road, 6-2-2.2, Toll Bros., Inc. to June 3rd under the Act and the Bylaw.

Roll Call (Called by Chair Delaney):

| | |
|-----------------|-----|
| David Smallman: | Yes |
| Mark Mitsch: | Yes |
| Natasha Grigg: | Yes |
| Alan Fowler: | Yes |
| Peter Delaney: | Yes |

Continued Discussion of Conservation Restriction: Willow Road, 6-2-2.2, Toll Bros., Inc.

**** Commissioner Frank Di Luna removed himself from this discussion. ****

Commissioner Natasha Grigg advised the Commission that all their concerns about the signs and kiosk were addressed. Ann Marton, of LEC, advised that Natural Heritage wants to see an

example of the sign, so they are going to send one to them. Chair Delaney suggested they include medallions along the trail to keep people on the trails. Brian Madden, also of LEC, was in attendance and spoke to the topic of bonding for long-term mitigation. Madden advised that they would have access to funds, as reflected in the escrow agreement between Toll Brothers and Natural Heritage, which will be recorded at the Registry. The application to Natural Heritage is imminent and they expect the permit to be delivered in about 30 days after application. After discussion, the applicant requested to continue this discussion to the next meeting. The Commission took the following action:

On a **MOTION** made by **Grigg**, second by **Mitsch**, the Conservation Commission **VOTED** unanimously by roll call vote to continue the discussion on the Conservation Restriction for the Willows Project to June 3rd.

Roll Call (Called by Chair Delaney):

| | |
|-----------------|-----|
| David Smallman: | Yes |
| Mark Mitsch: | Yes |
| Natasha Grigg: | Yes |
| Alan Fowler: | Yes |
| Peter Delaney: | Yes |

**Continued SWMP 2021-3: 6 Gunnison Road, 34-1-43, Cogley
Supporting Docs**

- **Notice of Public Hearing:** *Stormwater Management Bylaw Application by applicant, Michael Cogley, for the property located at: 6 Gunnison Road, Map 34, Block 1, Lot 43, to authorize grading and landscaping, partially after-the-fact, in accordance with the requirements of the Boxford Stormwater Management Bylaw.*
- **Letter and Related Material from Atlantic Engineering to Conservation Commission, Re: Stormwater Management Application - Enforcement Order – 2020-1SWMP, Michael Cogley, 6 Gunnison Road, Assessor's Parcel 34-1-43, dated 2/10/21**
 - *Stormwater and Hydrologic Report*
 - *Permit Plan*
 - *Abutters List*
 - *Permit Fee*
 - *Legal Notice Billing Authorization*
- **Permit Plan at 6 Gunnison Road:** *Prepared for Michael Cogley, prepared by Atlantic Engineering & Survey Consultants, stamped by George J. Zambouras, dated 2/5/21.*
- **Stormwater & Hydrologic Report for Site Regrading:** *Located at 6 Gunnison Road Boxford, Massachusetts 01921, Prepared for Michael Cogley & Alissa Stuckey; prepared by Atlantic Engineering & Survey Consultants, dated 2/8/21.*

The Conservation Agent provided a draft of the Order of Conditions for the Commissioners to view as he made a brief presentation on the findings. After discussion, the Commission took the following action:

On a **MOTION** made by **Mitsch**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to execute and issue the Order of Conditions for Stormwater Management Permit #2021-3: 6 Gunnison Road, 34-1-43, Cogley, under the Act and the Bylaw.

Roll Call (Called by Chair Delaney):

David Smallman: Yes
Mark Mitsch: Yes
Natasha Grigg: Yes
Alan Fowler: Yes
Frank Di Luna: Yes
Peter Delaney: Yes

Continued NOI 114-1319: Spofford Pond School at 31 Spofford Road, 15-1-4, Stephen Clifford for the Town of Boxford

The Conservation Agent advised he had a written request to continue this hearing and the next to the June 3rd meeting.

At the request of the applicant and on a **MOTION** made by **Mitsch**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to continue the hearing for NOI 114-1319: Spofford Pond School at 31 Spofford Road, to June 3rd, under the Act and the Bylaw.

Roll Call (Called by Chair Delaney):

David Smallman: Yes
Mark Mitsch: Yes
Natasha Grigg: Yes
Alan Fowler: Yes
Frank Di Luna: Yes
Peter Delaney: Yes

Continued SWMP 2021-2: Harry Lee Cole School at 28 Middleton Road, 32-1-21, Stephen Clifford for the Town of Boxford

At the request of the applicant and on a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to continue the hearing for SWMP 2021-2: Harry Lee Cole School at 28 Middleton Road, to June 3rd, under the Act and the Bylaw.

Roll Call (Called by Chair Delaney):

David Smallman: Yes
Mark Mitsch: Yes
Natasha Grigg: Yes
Alan Fowler: Yes
Frank Di Luna: Yes
Peter Delaney: Yes

8:12 PM PENDING ACTION ITEMS

COC 114-1296: 40 Surrey Lane, 38-2-9.1, Sandler

Dan Ottenheimer, Mill River Consulting, representing the applicant, met with the Conservation Commission to request a Certificate of Compliance for the septic system they installed. After a very brief discussion, the Conservation Commission took the following action:

On a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to execute and issue the Certificate of Compliance for DEP file 114-1296: 40 Surrey Lane, 38-2-9.1, Sandler, under the Act and the Bylaw.

Roll Call (Called by Chair Delaney):

David Smallman: Yes
Mark Mitsch: Yes
Natasha Grigg: Yes
Alan Fowler: Yes
Frank Di Luna: Yes
Peter Delaney: Yes

Continued COC 114-1197: 10 Maple, 17-2-19, Repucci

The Conservation Agent advised that at the last meeting there was a question on whether the playground area was supposed to be a replication area. He checked the approved plan for that area, and it was never supposed to be a replication area. He recommended the issuance of the Certificate of Compliance.

On a **MOTION** made by **Smallman**, second by **Mitsch**, the Conservation Commission **VOTED** unanimously to execute and issue the Certificate of Compliance for DEP file #114-1197: 10 Maple, 17-2-19, Repucci, under the Act and the Bylaw.

Roll Call (Called by Chair Delaney):

David Smallman: Yes
Mark Mitsch: Yes
Natasha Grigg: Yes
Alan Fowler: Yes
Frank Di Luna: Yes
Peter Delaney: Yes

Tree Permit: 4 Hillside; 14 King John; 28A Sagamore Lane: The Conservation Agent provided information on two administrative permits he issued for tree removals and provided the Commission with the following:

- **May, 4 Hillside:** 5 dead or dying ash trees, due to the Emerald Ash Borer. They will be removed by a crane.

On as **MOTION** made by **Smallman**, second by **Mitsch**, the Conservation Commission **VOTED** unanimously by roll call vote to ratify the tree permit for 4 Hillside Road to remove 5 ash trees, under the bylaw.

Roll Call (Called by Chair Delaney):

David Smallman: Yes
Mark Mitsch: Yes
Natasha Grigg: Yes
Alan Fowler: Yes
Frank Di Luna: Yes
Peter Delaney: Yes

- **Green, 14 King John:** 3 dead red maples and a dead ash. He provided photos for the Commissioners to view of the trees, noting that the trees will be removed by a bucket truck or by climbing. A brief discussion ensued on the issue of where the Emerald Ash Borer infested trees would be disposed. After discussion, the Commission took the following action:

On a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to ratify the tree permit for 14 King John Drive to remove 3 declining red maples and a dead ash tree, under the bylaw.

Roll Call (Called by Chair Delaney):

David Smallman: Yes
Mark Mitsch: Yes
Natasha Grigg: Yes
Alan Fowler: Yes
Frank Di Luna: Yes
Peter Delaney: Yes

The Conservation Agent will have information on the 28A Sagamore Lane trees at the next meeting.

8:28 PM OTHER BUSINESS

- **Travel Expenses:** The Conservation Agent presented an expense report in the amount of \$197.23 for travel expenses. The Commission took the following action:

On a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to authorize the expenditure of \$197.23 for travel expenses for the Conservation Agent.

Roll Call (Called by Chair Delaney):

David Smallman: Yes
Mark Mitsch: Yes
Kerri Lummus: Yes
Natasha Grigg: Yes
Alan Fowler: Yes
Peter Delaney: Yes

- **Minutes Review/Approval:** After a brief discussion on amendments to the minutes of May 5, 2021, the Commission took the following action:

On a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to approve the minutes of May 5, 2021 as amended.

Roll Call (Called by Chair Delaney):

David Smallman: Yes
Mark Mitsch: Yes
Kerri Lummus: Yes
Natasha Grigg: Yes
Alan Fowler: Yes
Peter Delaney: Yes

8:35 PM ADJOURN

With no further business, on a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to adjourn at 8:35 PM.

Roll Call (Called by Chair Delaney):

| | |
|------------------------|-----|
| <i>David Smallman:</i> | Yes |
| <i>Mark Mitsch:</i> | Yes |
| <i>Kerri Lummus</i> | Yes |
| <i>Natasha Grigg:</i> | Yes |
| <i>Alan Fowler:</i> | Yes |
| <i>Peter Delaney:</i> | Yes |

Respectfully submitted,



Judith A. Stickney
Minutes Secretary