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## **TOWN OF NORTHBOROUGH Conservation Commission**

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### **Conservation Commission**

### **Zoom Meeting Minutes**

**March 11, 2024**

**Approved April 8, 2024**

**Members (Remotely):** Greg Young (Chair), Dan Clark, Justin Dufresne, Diane Guldner, Todd Helwig

**Members Absent:** Tom Beals

**Staff (Remotely):** Vincent Vignaly (Conservation Agent), Owen Jones (Northborough Cable)

**Others (Remotely):** Mark Elbag of Elbag Engineering; Bandi Chiranjivee; Jonathan Collette from Haley Ward, Inc.; Zoe Sanchez and Mitch Maslanka from Goddard Consulting; Brian Belfer, Northborough Trails Committee; James Venincasa and James Tetreault of Azimuth Land Design; Karin Weber and Janet Sandstrom and Ellen Farrar of Pond View Way

The Chair opened the remote meeting at 6:00 p.m. and announced that the meeting of the Northborough Conservation Commission is being conducted remotely consistent with Governor Healy's Executive Order of March 29, 2023, an Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency. All members of the Northborough Conservation Commission are allowed and encouraged to participate remotely. This Order allows the Conservation Commission to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting. The public is encouraged to follow along using the posted agenda unless the Chair notes otherwise. Members of the public who wish to view the live stream of this meeting can do so by going to Northborough Remote Meetings on YouTube via the link listed on the agenda. Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will feature public comment. The process was explained.

Member & Staff Roll Call: Dan Clark, Justin Dufresne, Diane Guldner, Todd Helwig, Greg Young; Staff: Vincent Vignaly (Conservation Agent), Owen Jones (Northborough Cable)

Ms. Guldner read the legal ad posted in the Worcester Telegram & Gazette newspaper on February 22, 2024, into the record for the following public hearings: Request for a Determination of Applicability: 0 Howard Street (Map 4, Parcel 3), by Brian Belfer, Northborough Trails Committee, to repair/replace Bennett Trail bridges, add 50' bridge, and improve trail surface within a Bordering Vegetated Wetlands, Bordering Land Subject To Flooding, 25' No Disturb Zone, 35' No Structures, and 100' wetland buffer zone; and a Request for an Amended Order of Conditions at 5 Bearfoot Road (Map 30, Parcel 33) DEP #247-1161, by Accessible Housing for Children Elders & Disabled, LLC, to change the proposed use from daycare to single-residence and move development outside the Northborough setbacks and 85' from the bordering vegetated wetland.

**Review February 12, 2024, Meeting Minutes**

Ms. Guldner made a motion to approve the minutes for the meeting of February 12, 2024, seconded by Mr. Dufresne. Roll call Vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig – abstain; Young – yes; motion approved.

### **Public Hearings**

#### **Continued Stormwater Management and Land Disturbance Permit: 311 Crawford Street (Map 57, Parcel 14) Permit # 2023-04**

Applicant: Bandi Chiranjivee & Manaswini Kokkula

Request: Land alteration to construct a new single-family home, well, and septic system, with associated site work.

Jurisdiction: Part of a Common Plan of Development

Mark Elbag of Elbag Engineering and Mr. Bandi were present. Mr. Vignaly presented the background for this property. He spoke to the Town Engineer who indicated that the requirements for a Driveway Opening Permit were more restrictive and the DPW requires that there be no drainage onto Crawford Street. Mr. Elbag explained the current plan. Everything is graded towards the stone swale before discharging onto the street. Various BMPs are proposed. The only way to prevent water discharging onto Crawford Street is to install 500' of town drainage on Crawford Street. Mr. Elbag updated the Commission and discussed obstacles and hurdles. He is working through alternative options and is requesting waivers for: minimizing development on steep slopes, and minimizing excavation below seasonal high groundwater. To construct a driveway, they will need to excavate into the steep slope along the roadway.

Mr. Young asked about the two waivers. Mr. Vignaly indicated that they need to be waived as the site is very steep even with a steep driveway grade of 12%. The DPW's request to have no discharge onto Crawford Street is a difficult standard. They will have to redesign the plan to bring it into compliance with the DPW. The Commission discussed similar situations throughout the town and their issues and solutions. Ms. Guldner questioned if there was any way to cut back the driveway and install a pond and bridge across to the street. Mr. Elbag said this would cause the driveway to become too steep, but he will review it.

Mr. Dufresne suggested that the DPW is concerned about icing in the spring and fall thaws. Mr. Elbag asked DPW for alternate solutions, such as a gutter drain or curtain drain, and he hasn't received an answer. Mr. Dufresne indicated that the construction period is a very important part of the Land Disturbance planning and mentioned the use of sediment basins and silt fence. He indicated that this plan has more stormwater features typically included for a single home construction, and he was pleased with the erosion control blankets, the roof infiltration and the driveway swale. He suggested that finding some locations for discharge could help, and that there has been some significant progress. Mr. Young questioned if there were other options for the drainage other than 500' of drainage. He suggested the installation of a catch basin with some French drain piping to mitigate the drainage. Mr. Elbag suggested other options. Mr. Vignaly indicated that another alternative would be to create a Common Driveway by improving the existing driveway and have the new lots utilize that. Mr. Elbag has said he suggested this to the abutter to the south, but it currently isn't a viable option.

The question of the existing driveway and the Land Disturbance Permit was discussed. Mr. Bandi indicated that the previous driveway permit was on 311 Crawford Street. A Common Driveway would allow them to use the property next door for the driveway. This may be something for the Applicant to discuss with DPW. Mr. Elbag indicated that when the Applicant purchased the property, he was told it was 100% permitted. He indicated that the Applicant was under the 40,000 square feet for the Land Disturbance Permit until all of the work had to be done for the drainage. Mr. Young indicated that the next step is now between the Applicant and DPW, and the project may have to be redesigned. Mr. Elbag indicated that the Applicant may

want to move forward with the Conservation Commission regardless of whether he can obtain a Driveway Opening Permit. Mr. Vignaly indicated that he preferred that the hearing be continued until there is a resolution with the DPW and the Commission could then move forward at the next meeting. He is hesitant to close the meeting because a new owner would not know the situation regarding this lot and then have to come back to the Commission for an amended application. The Commission reiterated that they are happy with the improvements that have been made but that there is still some flow onto Crawford Street; there will be more sediment and erosion control work than the average house site but the Commission is getting a better feel for this design. Mr. Vignaly noted that the construction exit was not shown and needs to be put back on the plan. There were no further comments from the Commission and no one from the public requested to comment.

The Commission discussed the waivers. Mr. Helwig and Mr. Clark noted that the buildability of the lot was questionable and indicated that this is a stormwater drainage problem, which differs from the typical wetland applications. Mr. Dufresne agreed with Mr. Helwig and added that proposed discharges match the current conditions, and the Applicant has worked diligently to meet the intent of the stormwater regulations. Mr. Young is in the same position. It has been a significant undertaking to mitigate the stormwater. The engineer is certifying that what is proposed to come off the site is no worse than what is coming off the site now. He would like to avoid water pouring onto Crawford St during and after construction.

Mr. Guldner made a motion to continue the hearing for 311 Crawford Street to 6:00pm April 8, 2024; seconded by Mr. Helwig. Roll Call Vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

Mr. Young asked that since this lot was one of four lots, was this problem going to come before the Commission four times? Mr. Vignaly indicated that probably is the case and knows that this will be coming before the Commission again for 317 Crawford Street. He was contacted by Connorstone Engineering and suggested they review the process and issues encountered by 311 Crawford and the requirements for the DPW so that they will be prepared.

**Continued Notice of Intent: 15 Prospect Street (Map 62, Parcel 61) DEP#247-1238**

Applicant: Kyla and Steven White

Request: Replace an existing single-family home, retain the septic system, and raze a shed.

Jurisdiction: 25' No Disturb Zone, 35' No Structure Zone, 100' Buffer Zone.

Jonathan Collette of Haley Ward, Inc. appeared for the Applicants. Mr. Vignaly presented the background to the Commission. Mr. Collette explained the house has been flipped, to stay out of the 35' No Structure Zone. A recharge chamber has been added in place of the existing driveway to infiltrate 1" runoff from the whole roof area. The shed will be removed and the area around it cleaned and reforested. The fence will be connected through where the shed was and 5 wetland signs will be placed along the fence. Mr. Young asked if the house could be moved one foot away from the 35' No Structure Zone and Mr. Collette indicated they could move the house closer to Prospect Street. Mr. Young indicated that some cleanup was needed in the wetland area at the back of the lot. A note was added that the area would be cleaned and seeded. Glenn Krevosky of EBP Environmental Consultants, a wetland scientist, will be monitoring the restoration and reforestation work. Mr. Young suggested that only two or three signs are needed. Mr. Clark indicated this was reasonable. The Commission recognizes that there will be alteration within the 25' No Disturb Zone setback and encroachment will be limited by the existing fence line.

Mr. Vignaly indicated that the only condition he would add to the standard local conditions, to which the Applicant has agreed, is to have the deep soil testing done at the infiltration area before the other work is started on the property.

There was no further comment from the Commission and no one from the public requested to comment.

Mr. Helwig made a motion to close the hearing for 15 Prospect Street; seconded by Ms. Guldner. Roll call vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved. Mr. Helwig made a motion to issue an Order of Conditions for 15 Prospect Street with the additional condition that the soil testing takes place before work commences on the property; seconded by Mr. Clark. Roll call vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

Mr. Young asked about the timetable for the construction and Mr. Collette responded that he was not sure. Mr. Young asked that Mr. Collette contact Mr. Vignaly once the sediment control devices have been installed and before other work commences.

**Continued Notice of Intent: 6 Hillside Road (Map 105, Parcel 18) DEP#247-1244**

Applicant: Enis Shehu – Whiteacre Properties

Request: Renovate house and deck within same footprint, replace failed septic system.

Jurisdiction: 25' No Disturb, 35' No Structures, 100' Buffer Zone

Zoe Sanchez and Mitch Maslanka from Goddard Consulting appeared for the Applicant. Ms. Sanchez provided an update from the last hearing. The proposed work includes reconfiguring the driveway and renovating the existing structure. She provided a letter to the Commission regarding the 3 items of additional information requested: (1) the tire retaining wall is accurately shown on the plot plan; (2) they haven't received any comments from DEP regarding the proposed work as it relates to the Wetlands Protection Act; and (3) the property lines are accurately shown on the plot plan as noted by the surveyor. She has a letter from a Professional Land Surveyor indicating that the property lines are accurately shown, based on existing monumentation, and that the tire retaining wall is mostly off-site, except a 6' portion that encroaches on the property. The surveyor was not able to confirm the ownership of the pond. Mr. Young indicated that the house is currently for sale.

Mr. Vignaly spoke to Kim Roth from the DEP who indicated that the tires are solid waste and are not in the jurisdiction of the Conservation Commission but, since it is within the local bylaw setback and in the wetland buffer zone, any work done would need to be permitted. Since nothing is being done with the tires, it isn't something the Commission can act on at this time. The Northborough Board of Health confirmed the tires are hazardous waste so some action will be forthcoming. There was discussion concerning placement of an easement on the property so that the owner of Smith Pond will have access for the removal of the tires. Mr. Young confirmed the owner is renovating the house and replacing the deck and septic system. They are staying within the existing footprint, but work will occur within 13' of the wetland. There was discussion regarding what needs to be done with the tires and if they should be removed. Mr. Vignaly suggested there should be some permanent demarcation on the property line and ownership of the tires is ascertained. This could be added as a condition. Mr. Helwig indicated that the Applicant should not be responsible for determining ownership of the tires and the pond frontage owner. Mr. Helwig suggested that temporary access be required in the Order of Conditions. Ms. Sanchez indicated that the Applicant would allow temporary access to the property for the removal of the tires. The Commission discussed the proper way to demark the property line. The parties agreed to place a sign southwest of the deck and three (3) boulders or a split-rail fence inside the property line. Mr. Vignaly indicated that the Commission should be sent a copy of the recorded deed limiting occupation through the two-bedroom restriction prior to the issuance of a Building Permit.

There were no further questions or concerns from the Commission and no one from the public requested to comment.

Mr. Helwig made a motion to close the hearing for 6 Hillside Road; seconded by Mr. Dufresne. Roll call vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

Mr. Helwig made a motion to issue an Order of Conditions for 6 Hillside Road with the additional conditions that (1) the Applicant allow temporary access to the property for the removal of the tires and (2) the placement of a sign southwest of the deck and placement of three (3) boulders or a split-rail fence, or a combination thereof, inside the property line prior to occupancy and (3) the Applicant will provide a copy of the recorded two (2) bedroom restriction prior to the issuance of a Building Permit; seconded by Mr. Clark. Roll call vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

**Continued Notice of Intent: 0 Hudson Street (Map 53, Parcels 19 & 20) DEP File #247-XXXX**

Applicant: Scott Goddard, Circle Assets, LLC

Request: Proposed construction of a duplex with invasive plant remediation, a constructed wetland replication area, bordering land subject to flooding filling and compensatory areas, and associated site work.

Jurisdiction: Bordering Vegetated Wetlands, Riverfront Area, Bordering Land Subject To Flooding, 25' No Disturb Zone, and 100' wetland buffer zone

Mr. Vignaly indicated that the Applicant has requested a continuance due a personal situation with the wetland scientist.

Mr. Clark made a motion to continue 0 Hudson Street to April 8, 2024; seconded by Mr. Dufresne. Roll Call Vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig - yes; Young – yes; motion approved.

**Request for a Determination of Applicability: 0 Howard Street (Map 4, Parcel 3)**

Applicant: Brian Belfer, Northborough Trails Committee

Request: Repair/replace Bennett Trail bridges, add 50' bridge, and improve trail surface.

Jurisdiction: Bordering Vegetated Wetlands, Bordering Land Subject To Flooding, 25' No Disturb Zone, 35' No Structures, and 100' wetland buffer zone

Mr. Belfer, Northborough Trails Committee, appeared for the Applicant. Mr. Vignaly explained that the Committee needs to do maintenance/repair on Bennett Trail. . Mr. Belfer clarified that most of the existing bridges will be replaced with bridges that are wider and slightly higher and constructed with pressure treated lumber. A new 50' section will utilize helical piles to span the westernmost portion of the wetland where there is currently no safe dry passage. Mr. Vignaly provided photos of the area.

Mr. Young questioned the stone materials to be used. Mr. Vignaly indicated that washed ¾" crushed stone will be used in areas where the roots are exposed between the bridges. This will reduce impacts to the vegetation.

Mr. Helwig and Mr. Clark both stated this work will be an improvement to the Bennett Trail. Mr. Belfer has a material list, a budget, and the resources lined up to complete the project. They are applying for permission from the Town of Berlin Conservation Commission to use their parking area for staging. The bridges will be built on site. The Fire Department is offering use of a vehicle to get supplies/equipment to the site. Work will commence in either April or May.

There were no further questions or concerns from the Commission and no one from the public requested to comment.

Ms. Guldner made a motion to close the hearing for 0 Howard Street; seconded by Mr. Helwig. Roll call vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

Mr. Helwig made a motion to issue a negative determination for 0 Howard Street trail work with a requirement for a 48-hour notification before work commences at the property; seconded by Ms. Guldner. . Roll call vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

**Request an Amended Order of Conditions: 5 Bearfoot Road (Map 30, Parcel 33) DEP #247-1161**

Applicant: Accessible Housing for Children Elders & Disabled, LLC

Request: Change proposed use from daycare to single-residence and move development outside the Northborough setbacks and 85' from the bordering vegetated wetland.

Jurisdiction: Bordering Vegetated Wetlands, 25' No Disturb Zone, 35' No Structures, and 100' wetland buffer zone

James Tetreault of Azimuth Land Design and James Venincasa appeared before the Commission. Mr. Tetreault explained the requested design changes: (1) relocate all work no closer than 73' from the nearest wetland instead of 15'; (2) the only intrusion into the 100' buffer zone is for a portion of the underground stormwater infiltration system; (3) the drainage and parking on the plan has been reduced and segregated from the wetland; and (4) only 20,000 square feet of land within 100' of the wetlands will be altered compared to the 28,000 square feet for the previously approved site plan. An additional deep hole was dug and soil was found to be sandy loam. Sediment barriers will be installed at the limit of work and there will be a site exit mat. There will be 3 different points of infiltration. Mr. Vignaly mentioned that there had been previous discussion around a Conservation Restriction on the property to the east and south of the site that is mostly wetland and extends to Solomon Pond Road. The Applicant is amendable to having this in place prior to the issuance of a Certificate of Occupancy. Mr. Tetreault indicated that he wants to make sure all of the permits are obtained before the Conservation Restriction is placed on the property. Mr. Young asked about the pathway from Pond View Way to Bearfoot Road. Mr. Venincasa indicated that he will not commit to allowing access due to liability reasons. There is no fencing proposed in that area.

Ms. Guldner asked how much parking is proposed and where. There are 9 proposed parking spaces and the Applicant indicated that there is additional parking to the west of the proposed house. The Applicant explained about the crescent-shaped parking area. There will be 5 full-time occupants living in the house and two staff present 24/7.

Karin Webber of 7D Pond View Way is objecting to the erection of the building. She indicated that the proposed building is being placed in the only buffer zone to the Industrially Zoned area and would affect the property values on Pond View Way. Mr. Tetreault responded that the proposed building will be better than the currently approved project because it will maintain a sound buffer from the intersection of Solomon Pond Road and Bearfoot Road

Janet Sandstrom of 1B Pond View Way questioned the type of fence that will be located around the property. Mr. Tetreault explained there is no fence, just the sediment control barrier during construction. Two small sections of split-rail fencing is proposed off of the parking area and the southeast area of the back of the house along a retaining wall. Ms. Sandstrom felt that a privacy fence was needed for noise reduction. Mr. Venincasa indicated that there was no plan for a privacy fence.

Ellen Farrar of 1A Pond View Way wanted to know about the amount of tree buffer zone there will be around the property. Mr. Tetreault explained what areas on the plan will retain trees.

There were no further questions or concerns from the Commission and no one from the public requested to

comment.

Mr. Helwig made a motion to close the hearing for 5 Bearfoot Road; seconded by Ms. Guldner. Roll call vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

Mr. Helwig made a motion to issue an amended Order of Conditions with the condition for the Conservation Restrictions to be in place before a Certificate of Occupancy is issued and deletion of the conditions that no longer apply seconded by Mr. Dufresne. Roll call vote: Clark – yes; Dufresne – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

Mr. Young asked about a timeline and the Applicant indicated that they are ready to start immediately. They are waiting for the signed Building Permit. Mr. Vignaly indicated he would speak to the Building Department regarding the amended Order of Conditions.

**Requests for Certificate of Compliance:** None.

**Violations:**

**128 Davis Street (Map 95, Parcel 5)** – Tree cutting and debris placed in a wetland buffer were removed. Mr. Vignaly explained the violation. The trees were felled and the debris was pushed on to the abutter's property within the 100' Buffer Zone approximately 18' - 30' from the wetlands. Upon driving past, the Chair notified Mr. Vignaly, and they spoke to the second logger who was hired to clean up after the feller. The work was stopped and the location of the property lines were resolved before the second harvester was allowed to remove the debris from the altered area.

**Informal Discussions:**

**Harrington Lane** – Project Status before Street Acceptance

Mr. Vignaly indicated that the Applicant submitted a Request for a Certificate of Compliance for the subdivision construction. The Town Engineer also reviewed the project and indicated that work in the stormwater basin, in a stormwater swale, along the shoulders, and the installation of the bounds need to be completed. Mr. Litchfield has approximately 20 punch list items for completion including the cleaning and regrading of a swale. Mr. Litchfield's review letter indicated that the street acceptance can go through but all the punch list items need to be completed before Town Meeting. A Certificate of Compliance is a separate process that is not tied to Street Acceptance.

Zoe Sanchez of Goodard Consulting went over the conditions and indicated that the wetland area work is in compliance. A wetland report for the wetland replication area was submitted. Mr. Vignaly indicated that site work remains, and though a partial Certificate of Compliance could be issued, the stability of the stormwater basin, the method for the 25' setback delineation needs to be approved and installed and other items. The Commission agreed. Mr. Vignaly will send Ms. Sanchez a list of the reasons why the Certificate of Compliance will not be issued.

**Forest Stewardship** – Update.

Mr. Vignaly indicated that there was no change. The Town Manager has made some advances and Mr. Vignaly is still trying to get a signed version of the contract from Wigmore Forest Resources Management.

**Bartlett Pond Invasive Plant Management Contract** – Update.

The contract has been approved by the Town and the consultant, SOLitude Lake Management. Mr. Vignaly should be receiving the signed contracts shortly. SOLitude will be filing a Notice of Intent for the work. Filing needs to be submitted by March 22, 2024, for the April agenda. The work will be completed in May 2024

through 2026.

**MACC Annual Meeting Attendance – Update.**

Mr. Clark was present and indicated that the meeting was well attended. Ms. Guldner attended virtually. She indicated that the grant writing seminar was very involved. Mr. Young virtually attended the Riverfront Regulations and Invasive Species Management.

**The next meeting is scheduled for Monday April 8, 2024**

Mr. Helwig made a motion to adjourn; seconded by Ms. Guldner. Roll Call Vote: Clark-yes; Dufresne-yes; Guldner – yes; Helwig – yes; Young-yes; motion approved.

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,  
Brenda M. DiCelle Commission Secretary