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By KWilber/Assistant Town Clerk at 10:46 am, Jul 09, 2024

## **TOWN OF NORTHBOROUGH Conservation Commission**

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### **Conservation Commission**

#### **Zoom Meeting Minutes**

**June 10, 2024**

**Approved July 8, 2024**

**Members (Remotely):** Greg Young (Chair), Dan Clark, Diane Guldner, Todd Helwig, Tom Beals joined the meeting at 6:15 pm

**Members Absent:** Justin Dufresne

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

**Others (Remotely):** Brandon Kunkel of Weston & Sampson; Chief David Parenti, Northborough Fire Department; Amy Dunlap of HKT Architects; Jim Jackson of Pare Corporation; Paul McManus of Eco Tec, Inc.; Vito Colonna of Connorstone Engineering; Scott Goddard; John Savello of Savello & Associates.

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 use 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 to comment was explained.

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

Ms. Guldner read the legal ad posted in the Worcester Telegram & Gazette newspaper on May 23, 2024, into the record for the public hearings for:

A Request for Determination of Applicability for 4 Saddle Hill Drive owned by Dipak Biswas to enclose existing single-family house deck to be a 3-season room. The work will alter areas within the 25' No Disturb Zone, 35' No Structure Zone and the 100' Wetland Buffer Zone.

A Request for Determination of Applicability for 2 Chapin Street owned by Janilton Silva to replace a single-family house fence, deck, and add a new patio. The work will alter areas within the 25' No Disturb Zone, the 35' No Structures Zone and the 100' Wetland Buffer Zone.

A Notice of Intent for 29 Fay Lane owned by Christopher Milton to replace collapsed retaining wall at a single-family house. The work will alter areas within the 25' No Disturb Zone, the 35' No Structures Zone and the 100' Wetland Buffer Zone.

A Request for an Amended Order of Conditions and Amended Stormwater Management and Land Disturbance Permit for 150 Boundary Street Dog Park owned by the Town of Northborough to revise the stormwater management system to comply with limitations within a Zone A from the Marlborough Reservoir. The work will alter more than one acre and be within the 100' Buffer Zone.

### **Review May 13, 2024, Meeting Minutes**

The minutes for May 13, 2024, were reviewed.

Mr. Beals made a motion to approve the minutes for the meeting of May 13, 2024, seconded by Ms. Guldner. Roll call Vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

### **Public Hearings**

#### **Request Amended Order of Conditions AND Amended Stormwater Management and Land Disturbance Permit: 150 “Formerly 0” Boundary St, Dog Park (Map 31, Parcel 9) LD Permit # 2023-09, DEP# 247-1242**

Applicant: Town of Northborough Planning Director

Request: Revise the stormwater management system to comply with limitations within a Zone A from the Marlborough Reservoir

Jurisdiction: 100' Buffer Zone and greater than one acre of alteration

Brandon Kunkel of Weston & Sampson and Laurie Connors, Northborough Planning Director, were present. Mr. Kunkel indicated that DEP has concerns about the stormwater system within the Zone A water source catchment area. Infiltrating pollutants in the Zone A is prohibited and the storm basin needs to be redesigned. DEP is in agreement with the redesign. The town has concerns about maintenance for the amended system. Since all parties are not in agreement they requested that the meeting be continued to July 8, 2024. Weston & Sampson is revising the design for agreement by DEP, the Conservation Commission, and the Town of Northborough DPW. The only outstanding issue is the storm basin. Mr. Vignaly indicated that there is an existing Order of Conditions under which the Applicant is working. The proposed amendments are issues that will be incorporated later in the construction. Since the contract has been awarded, the Applicant will move forward and the work should be completed in September 2024. When the Erosion and Sediment Controls are in place, Mr. Vignaly will be contacted for inspection. Mr. Kunkel stated that the Contractor is aware of the changes and they will contact Mr. Vignaly as they move forward.

No one from the public requested to comment.

Mr. Helwig made a motion to continue the hearings for the Request Amended Order of Conditions AND Amended Stormwater Management and Land Disturbance Permit for 150 Boundary Street to July 8, 2024; seconded by Ms. Gulder. Roll Call Vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

**Continued Stormwater Management and Land Disturbance Permit Application: 61 & 65 West Main and 10 Monroe Streets (Map/Parcels 63/7,9 & 10) Permit #2024-01**

Applicant: Town of Northborough – Town Administrator, Timothy McInerney

Request: Fire Station Construction

Jurisdiction: Greater than one acre of alteration

Chief David Parenti, Jim Jackson and Amy Dunlap were present at the meeting. Mr. Jackson indicated that the comments from Mr. Vignaly have been worked through. Based on comments from the Planning Board, the west entrance to the property has been revised to line up with the exit to Dunkin' Donuts. They will submit a plan set that will be dated June 14, 2024.

The Applicant is requesting two waivers (1) for the minimum pipe velocity to 2.5 feet per second. They are not concerned with the build-up of sediment in the pipes. (2) A waiver for the volume of runoff. The peak runoff was reduced but not the volume even though there is as much infiltration as possible on the site. Mr. Vignaly indicated that since this project is a Redevelopment, the standard is 'to the maximum extent practicable' and he believes the Applicant has met this.

Mr. Young mentioned 3 outstanding matters from the last meeting: The first was to verify that soil contamination is non-existent; the stormwater management will not create problems in the MassDOT drainage system in Route 20; and the consideration of a sub-slab ventilation system as an option for construction. Mr. Jackson indicated that there is a Licensed Site Professional who will confirm the clean up of any residual contamination that may need to be addressed and will make recommendations regarding the need for a vapor barrier. The plans have been submitted to MassDOT for approval.

No one from the public requested to comment.

Mr. Beals made a motion to close the hearing for 61 & 65 West Main and 10 Monroe Streets; seconded by Mr. Clark. Roll call Vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

Mr. Vignaly mentioned that no additional conditions are needed in the Stormwater Management and Land Disturbance Permit, just the usual notification of the PreConstruction Meeting, and the assignment of an Erosion and Sediment Control Monitor for weekly reports under Storm Water Pollution Prevention Plan.

Mr. Beals made a motion to issue a Stormwater Management and Land Disturbance Permit for 61 & 65 West Main and 10 Monroe Streets; seconded by Mr. Helwig. Roll call Vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

**Continued Notice of Intent: 0 Hudson Street (Map 53, Parcels 19 & 20) DEP File #247-1251**

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

Paul McManus, Vito Colonna, and Scott Goddard appeared before the Commission. Mr. McManus updated the Commission and provided them with an explanation of the revised plan. The requested figures were provided to Mr. Vignaly and his comments answered. Mr. Colonna clarified details and added specific information requested by Mr. Vignaly. A DEP file number was received and included a comment that a Wildlife Habitat Assessment needs to be completed. Mr. Vignaly still has to review the packet. Mr. McManus showed the areas on the plan that were subject to flooding mitigation and the location of the knotweed. He pointed out the location of the infiltration system and the Table of Incremental Flood Storage. Mr. McManus indicated that Kim Roth (Mass DEP) commented that the mitigation may not have an unrestricted hydraulic connection, but he disagrees.

Mr. Vignaly asked where the measurements of the 25' No Disturb setback and the 35' No Structures setback begin because the bylaw states that they are from the Resource Area. Mr. McManus didn't think these applied to Bordering Land Subject to Flooding (BLSF) because it doesn't have a buffer zone under MA Wetlands Protection Act (WPA). There was discussion regarding the Northborough Wetlands Bylaw language for Buffer Zones and BLSF. Mr. Young indicated that the entire building falls within the 100' Wetland Buffer Zone. Mr. McManus pointed out that there are no buildings within the 25' No Disturb Zone and the 35' No Structures Zone if they are measured from the Bordering Vegetated Wetland (BVW). The Applicant is working within the BLSF. Mr. Vignaly suggested the Commission familiarize themselves with the bylaw and consider if the setbacks should border on all wetland Resource Areas, or just those that have buffer zones under the WPA. If a waiver is needed for the building as well as the mitigation work being done within the 25' No Disturb Zone and the 35' No Structures Zone, then one should be requested.

Mr. Young stated that he feels this is a borderline unbuildable lot and this project is not in the best interests of the Town or buyers of the property. Ms. Guldner would prefer it be a single-family residence or condensed a little more. Mr. McManus replied that a formal Alternatives Analysis was not completed as the proposed work is being done under the Redevelopment provisions. Mr. Vignaly commented on this in his reviews and suggested that the existing sized single family homes in the area be reviewed. Mr. McManus indicated this was done and those homes had more disturbance and hard surface area than what is proposed at this site.

Mr. Helwig asked how they came to their interpretation of the Wetlands Bylaw Section 4.2.3 for the location of the 25' and 35' setbacks to the resource area. Mr. Colonna replied that Section 4.2 is titled Activities within the Buffer Zone, and since BLSF has no buffer under the WPA then it is not a Resource Area that would claim the 25' and 35' setbacks. Mr. Helwig disagreed. Mr.

McManus suggested they will submit a waiver request for the work in the “inner BSLF” Buffer, and no areas on the site exist in a natural undeveloped condition. Mr. Helwig commented that the size of the house does not concern him and agrees with the removal of the knotweed.

Mr. Clark added that he has many issues with the proposal, and thinks this area shouldn’t be developed. He feels that the knotweed is still natural vegetation and is more “undisturbed” than the proposed duplex development.

Ms. Guldner feels that clearing the knotweed could be a big problem. She asked how it would be eradicated and kept from returning. Mr. McManus replied that he has a protocol for removal and it is critical that native plantings be introduced to the area to keep the knotweed from growing back. Mr. Vignaly asked if the amended plan contains a protocol for keeping the knotweed at bay for as long as the house will be on the property? Mr. McManus replied that he has a plan for several years, which will introduce native plantings that will keep the knotweed away. This is how the knotweed will be managed. Ms. Guldner asked if there were companies that extract it and kept it away? Mr. McManus indicated that there are success stories but no examples were submitted. The protocol they are using is universal from NRCS and other organizations, and Knotweed can be controlled hydrologically. Mr. McManus stated that this is why the grade is being dropped in the area where the knotweed is found. He indicated that the excavation for the compensatory flood volume would help stop the knotweed growth.

No one from the public requested to comment.

Mr. Young asked the Commission how to proceed on this matter. Mr. Beals asked that the matter be continued to next month. The Applicant wants to continue. Mr. Vignaly would like to continue this matter so he can complete his review of the information presented by the Applicant.

Mr. Young reminded the Commission to review the local bylaws for the next meeting regarding the resource area and the intent of the bylaw versus the headings of the sections.

Mr. Helwig made a motion to continue the hearing for the Notice of Intent for 0 Hudson Street to July 8, 2024; seconded by Mr. Beals. Roll call Vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

**Continued Stormwater Management and Land Disturbance Permit Application: 317 Crawford Street (Map/Parcel 42/1) Permit #2024-02**

Applicant: Sarah Smeilus  
Request: Single-family house construction with associated well and septic system  
Jurisdiction: Greater than one acre of alteration

**Continued Notice of Intent AND Stormwater Management and Land Disturbance Permit Application: 291 Lyman Street (Map/Parcel 86/2) Permit #2024-03 DEP File #247-XXXX**

Applicant: Division of Capital Asset Management and Maintenance  
Request: The proposal will redevelop the existing vehicle management fleet maintenance site to provide paved parking, an office, fencing and stormwater management  
Jurisdiction: Isolated Vegetated Wetland, 25’ No Disturb Buffer, and alter more than one acre

Mr. Beals made a motion to continue the hearings for the Stormwater Management and Land Disturbance Permit for 317 Crawford Street; and the Notice of Intent and Stormwater Management and Land Disturbance Permit for 291 Lyman Street; seconded by Mr. Helwig. Roll call Vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

**Request for Determination of Applicability: 4 Saddle Hill Drive (Map/Parcel 101/36)**

Applicant: Dipak Biswas

Request: Enclose existing single-family house deck to be 3-season room

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

Mr. Vignaly presented a sketch showing a pond and wetlands on the property and a perennial stream to the north. The wetlands begin 19' from the house. There is an existing deck that is in the process of being converted to a 3-season room within 10' of the wetland. Straw wattles and a sediment fence are being used for barriers. The Applicant is requesting waivers from the 25' No Disturb Zone and 35' No Structures Zone setbacks.

Mr. Clark asked about the status of the construction and Mr. Vignaly responded that construction is underway. Mr. Young asked about the footprint of the 3-season room and Mr. Vignaly indicated that the Applicant is using the same footprint as the original deck. The builder was unaware of the wetlands issue until the Building Department alerted Mr. Vignaly. Mr. Young asked about the extent of the construction and Mr. Vignaly indicated that the deck is being enclosed and 3 posts are being replaced with Techno Post piers to support the walls and roof. In response to Mr. Beals the existing structure and old stairs are being replaced and a small landing will be added. Mr. Beals suggested that wetland signs be placed at the wetlands and the pond to prevent encroachment. Mr. Helwig made a suggestion for a Negative Determination. Mr. Clark asked why a Notice of Intent shouldn't be submitted. Mr. Vignaly responded that the deck is existing and the wetlands haven't been altered. When he saw the helical piles were in place, Mr. Vignaly had them install the sediment barrier. The property owner has been very responsive and debris has been picked up. Discussion ensued. Mr. Vignaly presented and explained photos he took of the site to the Commission. Mr. Young asked if the Applicant could cease mowing in the area abutting the wetlands for further protection. Mr. Vignaly suggested that signs be placed on the posts but the lawn has been used as such since before the setbacks were required.

No one from the public requested to comment.

Ms. Guldner made a motion to close the hearing for 4 Saddle Hill Road; seconded by Mr. Helwig. Roll call Vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

Mr. Helwig made a motion to issue a negative Determination of Applicability with conditions to post a 'Wetland' sign at each of the wetland areas for 4 Saddle Hill Drive; seconded by Mr. Beals. Roll Call Vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

**Request for Determination of Applicability: 2 Chapin Street (Map/Parcel 35/46)**

Applicant: Janilton Silva  
Request: Single-family house fence, deck, and patio improvements  
Jurisdiction: 25' No Disturb, 35' No Structures, 100' Wetland Buffer Zone

No one from the public requested to comment.

Ms. Guldner made a motion to close the hearing for 2 Chapin Street; seconded by Mr. Helwig. Roll call Vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

Mr. Helwig made a motion to issue a negative Determination of Applicability with conditions to post 3 signs along the fence and 1 sign post to the east to indicate the wetlands and to approve the waiver for the fence to be installed 2-3 feet from the top of the slope for 2 Chapin Street; seconded by Mr. Clark. Roll call Vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

**Notice of Intent: 29 Fay Lane (Map/Parcel 44/4) DEP File #247-XXXX**

Applicant: Wally's Landscaping for Christopher Milton  
Request: Replace collapsed retaining wall at a single-family house  
Jurisdiction: 25' No Disturb, 35' No Structures, 100' Wetland Buffer Zone

John Savello is representing Wally's Landscaping. They will be repairing the retaining wall at the site. Mr. Savello drafted the plan and showed the 25' No Disturb Zone and the 35' No Structures Zone setback from the wetland instead of the floodplain line. The retaining wall could be shortened to remove it from the new 25' No Disturb Zone based on the new floodplain line. The Applicant is requesting a waiver within the 35' No Structure Zone, to be 30' from the wall to the wetland area at the closest point. The proposed new wall is 3 feet further south from the existing collapsed wall to install a grid 6 feet back to prevent future damage. The distance from the garage to the new wall is 9.5 feet. The builder does not want to get any closer to the garage foundation to prevent undermining. Mr. Young questioned the wetland delineation of the standard used by Mr. Savello. Mr. Savello used the Army Corps of Engineers form instead of the

Mass DEP form. Mr. Vignaly needs to verify the wetland line. Mr. Vignaly showed photos of the thick vegetation in the area, including invasives. Mr. Savello stated that the staging area for the materials will be on the driveway area outside of the 100' Buffer Zone.

Mr. Young asked why the current wall can't just be replaced. Mr. Savello replied that the Structural Engineer indicated that the wall fell because it wasn't constructed correctly. It needs a solid footing and proper materials behind the wall.

Mr. Helwig indicated that there are a lot of matters to consider with this project such as distance to the wetland area, the wetland delineation, what activity is in the 25' or 35' Buffer Zones, and how materials will be brought to the site. Mr. Savello responded that he will submit additional information, but it is a block wall instead of a pre-fabricated wall to disturb less area. They are proposing a silt fence and an 8" straw wattle for sediment control. The soil is all Class A and erosion won't be an issue. Wally's Landscape will remove the wall section by section and build the new wall accordingly. Mr. Clark inquired about how much of the vegetation will be removed and what was

the Applicant's plan for revegetation. Mr. Savello responded that he is assuming the vegetation will just re-grow on its own. Mr. Vignaly asked for a revegetation note on the plan for the area such as reseeding with a specific mix. A condition in the Order of Conditions that access on the downhill side of the wall will be limited to a foot or two for weed-wacking. Some shrubs or plants should be placed in the area to encourage growth. Mr. Savello agreed and he will relay this information to the Applicant. He will also re-evaluate the 25' No Disturb Zone from the floodplain line and make sure the wall is out of the 25' No Disturb Zone or request a waiver. Mr. Vignaly indicated that the line for the wetlands needs to be determined and Mr. Savello agreed. Mr. Vignaly noted that a DEP file number has not been issued.

No one from the public requested to comment.

Mr. Helwig made a motion to continue the Notice of Intent for 29 Fay Lane to July 8, 2024; seconded by Mr. Clark. Roll call vote: Beals – yes; Clark – yes; Guldner – yes; Helwig – yes; Young – yes; motion approved.

### **Requests for Certificate of Compliance:**

#### **Violations:**

#### **187 Lyman Street, DCAMM-Dept of Agriculture, Access encroachment into 25' No Disturb Zone**

Mr. Vignaly explained that this area is south of the new DCAMM building. There is an agricultural field that used to have access east to the back field through the new building site. Last year the farmer was prevented from accessing that area, so created an access road. In so doing, the new road and clearing encroached on the 25' No Disturb Zone. Mr. Vignaly provided photos and explained that last month, Mr. Vignaly took measurements with the Department of Agriculture (MDAR) staff who staked out the area 26 feet from the resource area. The photos show tractor wheel ruts in the area. The farmer was allowed to access the rear field this year to prep and plant as long as he stayed outside the 25' area. MDAR has hired an engineer to prepare a contract to create a stable road for the farmer outside the 25' No Disturb Zone. The road will be 12' wide and the area within the 25' No Disturb Zone will be restored with shrubs and seedling plants. Mr. Vignaly expects the plan will be completed within the next three months. Since the work is outside the 25' No Disturb Zone and the MDAR has committed to restoration of the impacted area and doesn't have a large budget for engineering, design and permitting, Mr. Vignaly asked the Commission to authorize him to review and approve the work if it meets the standards. MDAR has been cooperative, and Mr. Vignaly would like to keep this moving. The Commission agreed unanimously with this suggestion. Mr. Young asked to be kept updated and notified if there are future violations.

Ms. Guldner asked where the road begins and Mr. Vignaly responded that it comes off the north side of Lyman Street, just east of the new building and where the old driveway used to access the building that was torn down. As part of this access improvement, the farmer would like to stabilize the area adjacent to the road. Mr. Young noted that the access to the property is gated and locked by DCAMM, which is why the farmer needs a new way to access the back field.

#### **Informal Discussion:**



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**Forest Stewardship** – Mr. Vignaly has not made any progress reissuing a new request for proposals for the forestry work at Edmund Hill Conservation Area.

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

Mr. Beals will be unable to attend the July meeting and Mr. Dufresne will be unable to attend the August meeting. All others are available.

**Adjourn**

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

The meeting was adjourned at 8:01 p.m.

Respectfully submitted,  
Brenda M. DiCeglie, Commission Secretary