



**TOWN OF TEWKSBURY  
CONSERVATION COMMISSION  
1009 Main Street  
Tewksbury, MA 01876**

Daniel Ronan, Chairman  
Evan Walsh  
Dennis Sheehan

**Meeting Minutes  
May 10, 2023**

The meeting was called to order by Daniel Ronan, Chairman, at the Tewksbury Town Hall at 6:30p.m. In attendance was Conservation Agent Joe Fontaine, Evan Walsh and Dennis Sheehan.

- A) Request to Extend an Order of Conditions; Civil Design Consultants, Inc. of Andover, Massachusetts; Former 138 Astle Street, Assessor Map 10 Lot 51 (Carl Donald Drive); DEP File # 305-1062.**

No one was present for this agenda item, and it was tabled.

- B) Request to Extend an Order of Conditions; Nitsch Engineering, Inc. of Boston, MA on behalf of the Town of Tewksbury; 135 Pleasant Street, Assessor Map 47 Lot 40. DEP File # 305-1103.**

Present was Peter Collins with CBRE Hery, working as the owner's project manager for the Town of Tewksbury for the Center Elementary School.

Mr. Collins explained that they are requesting a one-year extension to the order of conditions to allow vegetation to take root along the wetland area, and to fulfill the requirements of the order of conditions with VHB who is working as the monitor consultant for the Town.

Mr. Ronan asked how things are going so far, and Mr. Collins replied it is going well with a few items left. He anticipates them to be done in a couple of months, but the order of conditions expired on the 27<sup>th</sup> and is requesting a one-year extension to complete the project.

Mr. Fontaine said he had no objections and went out to the site a few times and it seems almost complete.

**MOTION: Mr. Walsh made the motion to Extend an Order of Conditions for one year from the date of expiration; Nitsch Engineering, Inc. of Boston, MA on behalf of the Town of Tewksbury; 135 Pleasant Street, Assessor Map 47 Lot 40. DEP File # 305-1103, seconded by Mr. Sheehan and the motion unanimously carried 3-0.**

**C) Request to Extend an Order of Conditions; Civil Design Consultants, Inc of Andover, Massachusetts; 1037 North Street, 1547, 1553, 1563 Andover Street, Assessor Map 39. Lots 45, 46, 47, 48. DEP File # 305-1077.**

Present was Meera Cousens on behalf of Civil Design Consultants.

Ms. Cousens explained that she is requesting a two-year extension on the project. The construction is on-going and buildings one, two and five have been constructed and the foundation for building four has been built. The existing house at the corner of Andover and North has not been raised yet and the contractor is in the process of completing the pavement for the access drive. The client made them aware of the May 5<sup>th</sup> expiration date after the last conservation meeting on April 19<sup>th</sup>, so the permit was still valid on April 21<sup>st</sup> when she explained the situation to Mr. Fontaine, and was still valid when they submitted the application two weeks ago. However, the permit has lapsed since then. Ms. Cousens requested the commission to take the date that the application was filed into consideration and not today's date.

Mr. Ronan stated that he was fine with that but someone higher up than them may require an order of intent to be filed. Mr. Walsh clarified if it needs to be 30 days before the order expires, and Mr. Fontaine confirmed this to be true according to the wetland protection act. Mr. Walsh stated that with that, he cannot approve of the extension.

Ms. Cousens stated that she reached out to Mr. Fontaine 15 days prior to request it and Mr. Fontaine agreed however it must be 30 days.

**MOTION: Mr. Walsh made the motion to Deny the request to Extend an Order of Conditions; Civil Design Consultants, Inc of Andover, Massachusetts; 1037 North Street, 1547, 1553, 1563 Andover Street, Assessor Map 39. Lots 45, 46, 47, 48. DEP File # 305-1077, seconded by Mr. Sheehan and the motion unanimously carried 3-0.**

**D) Request for Certificate of Compliance; Rhino Commerce Way Owner LLC of Boston, MA; Commerce Way, Assessor Map 23 Lots 18 & 19 (30 Commerce Way/Beyond & 22 Bellevue Road/Adjacent); DEP File # 305-353.**

No one was present for this agenda item.

Mr. Fontaine stated that he was expecting someone for this item, however he did not make it out to the property which is required for the regulation. Mr. Ronan said they would continue this item to the next meeting.

**MOTION: Mr. Walsh made the motion to continue the Request for Certificate of Compliance to the next meeting; Rhino Commerce Way Owner LLC of Boston, MA; Commerce Way, Assessor Map 23 Lots 18 & 19 (30 Commerce Way/Beyond & 22 Bellevue Road/Adjacent); DEP File #**

**305-353, seconded by Mr. Sheehan, and the motion unanimously carried 3-0.**

**E) Minor Modification; Hancock Associates of Chelmsford, MA; 60 Shawsheen Avenue, Assessor Map 112 Lot 69; DEP File # 305-1110.**

Present was David Cowell, senior wetland scientist with Hancock Associates on behalf of Dylan Costler.

Mr. Cowell explained that about 3 years ago they assisted permitting this single-family lot to Patricia Donahue. She was present about a month ago requesting an extension to an order of conditions that she has. Ms. Donahue now has a contingent purchase and sale with his applicant who wants to construct a house in the footprint with a few minor modifications that they would like to be accepted under the existing order. In the prior order of conditions, it permitted 592 square feet of impact within the 50-foot no build zone. He is proposing to do work in about 350 square feet, which is a reduction of about 240 square feet. There is a decrease of the 100-foot buffer zone also, which was originally 6,470 square feet of impact and in this case, it has gone down 20 square feet. The construction of the house and grading is staying the same.

Mr. Ronan, the commission, and Mr. Fontaine stated that they have no questions. Mr. Fontaine noted that it looks like they are trying to get this approved as their formal site plan.

**MOTION: Mr. Walsh made the motion to Approve the Minor Modification; Hancock Associates of Chelmsford, MA; 60 Shawsheen Avenue, Assessor Map 112 Lot 69; DEP File #305-1110, seconded by Mr. Sheehan and the motion unanimously carried 3-0.**

**F) Public Hearing, Request for Determination of Applicability; Pan Am Railways, Inc.; Pan Am Railways Right of Way, 1 Railroad Street, Assessor Map 11 Lot 1**

Present was Keith Morris, consultant for Pan Am Railways.

Mr. Morris explained that they are required to file an RDA with each community for verification of the wetland boundaries. Essentially, they are looking to verify the no-spray zones. This would be a marking system where they would paint one tie blue and the one next to it would be painted yellow, which means that there is a resource area within 10-feet of the spray pattern/ballast area. Within the yellow zone you cannot apply any herbicides. In Tewksbury, there are several areas that are like that for 100-feet, then the wetland boundary will end, but between two yellow ties you can not spray. There is no reason to delineate in between that because all they need to know is if it is within 10 feet. Mr. Morris went on to explain that he went out and re-marked all the no spray zones.

Mr. Ronan asked if they had figured out the abutter's notification and Mr. Morris stated that in part of his application there is a letter from the Town Council, Robert Burns,

stating that they were exempt from that since the whole process is mandated by the Federal Railroad Administration.

Mr. Ronan stated that it seems very odd that the abutter's notification would not be required in this case and Mr. Morris agreed but deferred to the Town Council at the Railroad.

Mr. Fontaine commented that the applicant did present the document from the Town Council and per the WPA for this application, it is just to determine the wetland boundary. Mr. Morris also explained that he is with them during this, pointing out the no spray zones according to the map, and for example if there is a wetland area that ends but there is beaver activity and its flooded extending another 20-feet, they can not spray.

Mr. Fontaine asked how often that is updated, and Mr. Morris clarified that they cannot spray within 10 feet regardless of the map if it looks different out in the field.

**MOTION:** Mr. Walsh made the motion to close the public hearing for this project, seconded by Mr. Sheehan, and the motion unanimously carried 3-0.

**MOTION:** Mr. Walsh made the motion to Approve the Request for the Determination of Applicability; Pan Am Railways, Inc.; Pan Am Railways Right of Way, 1 Railroad Street, Assessor Map 11 Lot 1, seconded by Mr. Sheehan and the motion unanimously carried 3-0.

**G) Public Hearing, Request for Determination of Applicability, Woodland Design of Tewksbury, MA on behalf of Ryan Desroches; 185 Helvetia Street, Assessor Map 60, Lot 160.**

Present was Dick Hugo from Woodland Design representing Ryan Desroches.

Mr. Hugo stated that the project entails clearing about 4,000 square feet to the rear of the home. The plan shows where the existing tree line is when the contractor constructed the home and he stayed outside the 100-foot area. There is a lot of heavy brush in that area, and therefore the applicant is proposing to clear back to the 50-foot line and re-seed it. It is a flat area, and they are also proposing to put in an erosion control devise there that will act as a project limit. Then they will re-plant the area into the existing lawn.

Mr. Walsh asked where exactly the work is taking place and Mr. Hugo clarified that it is between the existing tree line and the green proposed tree line on the map.

Mr. Ronan asked if they were going right up to the no-build zone, and Mr. Hugo said just up to the 50-foot no build. They don't want to clear their whole yard; they just want to extend it a little bit. Mr. Fontaine asked if any fill is being added and Mr. Hugo stated no, and the grade will be the same as it is now.

Mr. Fontaine stated that if the commission were to issue a negative determination, the following is suggested: One, install and maintain erosion and sediment controls which shall include of a properly entrenched silt fence and/or straw waddles around the area of construction as to prevent the deposition of sediment into nearby wetland resource. Sediment controls shall be installed prior to any construction activity commencing and shall remain in place until all areas of disturbed/loose soil have been stabilized at the site.

**MOTION: Mr. Walsh made the motion to close the public hearing for this project, seconded by Mr. Sheehan, and the motion unanimously carried 3-0.**

**MOTION: Mr. Walsh made the motion for a Negative Determination of Applicability as discussed, Woodland Design of Tewksbury, MA on behalf of Ryan Desroches; 185 Helvetia Street, Assessor Map 60, Lot 160, seconded by Mr. Sheehan and the motion unanimously carried 3-0.**

**H) Public Hearing, Request for Determination of Applicability; James Furtado on behalf of DiPalma Estates; Juniper Lane, Assessor Map 62, Lot 50.**

Present was James Furtado, President and chairman of DiPalma Estates and Jim Caiccio.

Mr. Furtado explained that they were here tonight to get the approval to do roads in Phase III.

Mr. Walsh asked where the wetlands are and the boundaries. Mr. Fontaine noted it is at the rear of everyone's property based on aerial imagery and within 100-feet. Mr. Furtado explained that the paving company will put hay bales all around the outside edges and put all silk mesh along the inside of the drains which is outlined in their contract. They are going to be doing a full pavement installation starting May 30<sup>th</sup>.

Mr. Fontaine agreed that it is a straightforward paving project. If the commission were to issue a negative determination, the following is suggested: One, install and maintain erosion and sediment controls which shall include of a properly entrenched silt fence and/or straw waddles around the area of construction as to prevent the deposition of sediment into nearby wetland resource. Sediment controls shall be installed prior to any construction activity commencing and shall remain in place until all areas of disturbed/loose soil have been stabilized at the site. Sediment controls shall also include silt sacks and catch basins as needed within conservation commission jurisdictional areas. The sediment controls shall be installed by the applicant, or an agent of the applicant. Two, the conservation agent shall inspect and approve of the installed sediment controls, and three, the sediment controls shall be placed along the boundary so that when the area is cleared, they have a stopping point. Mr. Walsh added that any loose pavement should be taken off site and not swept into the wetlands.

**MOTION: Mr. Walsh made the motion to close the public hearing for this project, seconded by Mr. Sheehan, and the motion unanimously carried 3-0.**

**MOTION:** Mr. Walsh made the motion for a Negative Determination of Applicability; James Furtado on behalf of DiPalma Estates; Juniper Lane, Assessor Map 62, Lot 50, seconded by Mr. Sheehan and the motion unanimously carried 3-0.

**D) Public Hearing, Request for Determination of Applicability; Michael Kippenberger; 540 Whipple Road, Assessor Map 19 Lot 38.**

Present was Michael Kippenberger and Lauren Kippenberger.

Mr. Kippenberger recapped that the past few years he has been getting a lot of run off from Whipple Road due to water main breaks and a berm that broke. One area that was a yard was previously getting wet for which he removed the soil there, laid down stone and sand and plans to add soil on top to make the area lawn. It was lawn before, but the lower part was saturated. He took measurements and drew up a site plan.

Mr. Sheehan stated that he had no comments. Mr. Fontaine stated if the commission were to issue a negative determination, the following is suggested: One, install and maintain erosion and sediment controls which shall include of a properly entrenched silt fence around the area of construction as to prevent the deposition of sediment into nearby wetland resource. Sediment controls shall remain in place until all areas of disturbed/loose soil have been stabilized at the site. Two, prior to going forward with the construction activity, the conservation agent shall inspect and approve of the installed sediment controls, and three, send photos to the site and areas subject of the RDA to the conservation agent once work has been completed. The conservation agent may do a follow up visit after construction is completed.

**MOTION:** Mr. Walsh made the motion to close the public hearing for this project, seconded by Mr. Sheehan, and the motion unanimously carried 3-0.

**MOTION:** Mr. Walsh made the motion to Approve of the Request for Determination of Applicability; Michael Kippenberger; 540 Whipple Road, Assessor Map 19 Lot 38, seconded by Mr. Sheehan and the motion unanimously carried 3-0.

**J) Public Hearing, Request for Determination of Applicability; Civil Design Consultants, Inc. of Andover, Massachusetts on behalf of Plaza Al Fresca LLC (c/o Mark Angluin), Tewksbury, MA; 1768 Main Street, Assessor Map 85 Lot 5.**

Present was Meera Cousens on behalf of Civil Design Consultants.

Ms. Cousens explained that she is present on behalf of the applicant to file a Request for Determination of Applicability. The owner wants to repave the parking lot and a portion of the parking lot is located within a 100-foot buffer zone. No additional paving is proposed.

Mr. Fontaine nor any of the commission members had any further questions. Mr. Fontaine stated that this was a straightforward project and if the commission were to issue a negative determination, the following is suggested: One, install and maintain erosion and sediment controls which shall include of a properly entrenched silt fence and/or staked straw waddle around the area of construction as to prevent the deposition of sediment from construction activities into nearby wetland resource areas. Sediment controls shall remain in place until all areas of disturbed/loose soil and other erodible materials have been stabilized at the site. Sediment controls shall also include silt sacs and catch basins within Conservation Commission jurisdictional areas. Two, prior to construction activity commencing, sediment controls shall be installed by the applicant, or an agent of the applicant. The conservation agent shall inspect and approve of the installed sediment controls, and three, send photos of the site and areas subject to the RDA to the conservation agent once work has been completed. The conservation agent may do a follow up visit after construction is completed.

Mr. Ronan confirmed with Ms. Cousens if she was okay with all of that and she replied yes.

**MOTION: Mr. Walsh made the motion to close the public hearing for this project, seconded by Mr. Sheehan, and the motion unanimously carried 3-0.**

Mr. Walsh asked if this was done last year or if work was done there last year, and Ms. Cousens said they went to the planning board for some site improvements and came back for an RDA.

**MOTION: Mr. Walsh made the motion for a Negative Determination of Applicability; Civil Design Consultants, Inc of Andover, Massachusetts on behalf of Plaza Al Fresca LLC (c/o Mark Angluin), Tewksbury, MA; 1768 Main Street, Assessor Map 85 Lot 5, seconded by Mr. Sheehan and the motion unanimously carried 3-0.**

**K) Public Hearing, Notice of Intent; Merrimack Engineering Services, Andover, MA on behalf of Lisa and Kenneth Hills; 6 Kneeland Road, Assessor Map 95 Lot 49. DEP File # 305-1180**

Mr. Fontaine confirmed the DEP File number has been assigned and is 305-1180.

Present was Kenneth and Lisa Hills of 6 Kneeland Road.

Mr. Hills explained that they are looking to add a single-story addition adjacent to the house. It will be based on the existing slab. It extends into the no-build zone, and they are looking for a waiver to be able to permit the project as they just learned of this issue. The extension does not extend beyond the existing house addition and includes removing a shed that is in the no-build zone. The plan filed with their application shows the sediment controls they intend to put in place during construction and all construction will take

place from the road which is at the front of the house and there is no planned activity to go behind the end line of the house. Everything will be done from driveway access and the wetland is only in the back of the house.

Mr. Ronan clarified if they are extending the foundation of the house or if they are just building upwards, and Mr. Hills explained that the addition is proposed on the side of the existing house but will be on a slab foundation and not an excavated foundation.

No one from the commission had any questions or comments. Mr. Fontaine commented on the lack of demonstration of necessity regarding building within the 50-foot no-build zone. He stated there needs to be some reasoning behind whether a waiver is granted or not, based on criteria that must be met according to their bylaw. Examples include allowing to encroach structures or a home 10% of the space, a hardship, etc. and therefore Mr. Fontaine asked if there was specific reasoning for this addition for the commission to grant a waiver.

Mr. Walsh commented that he agrees with Mr. Fontaine and asks for more clarification on whether it calculates within 10% and reasons why the construction needs to be done this way. Mr. Walsh also confirmed they are tearing down only one shed and Mr. Hills said yes. Mr. Walsh asked if the patio on the site plan is existing or if it is proposed, and Mr. Hills confirmed it is existing. Mr. Fontaine recommended that Mr. and Ms. Hills talk to an engineer and return to the next meeting with a better argument for why the waiver should be granted.

Mr. Ronan opened the public hearing, and no one came forward to comment. Mr. Ronan did not close the public hearing as this item is going to be continued at the next meeting.

**MOTION: Mr. Walsh made the motion to Continue the Public Hearing and Notice of Intent; Merrimack Engineering Services, Andover, MA on behalf of Lisa and Kenneth Hills; 6 Kneeland Road, Assessor Map 95 Lot 49. DEP File # 305-1180 to the next meeting, seconded by Mr. Sheehan and the motion unanimously carried 3-0.**

- L) Public Hearing, Notice of Intent; Vanasse Hagen Brustlin (VHB), Watertown, MA on behalf of David DiCenso of DAN Realty, LLC, Wilmington, MA; 1695 Shawsheen Street, Assessor Map 113 Lot 22. DEP File # Not Yet Assigned.**

Mr. Ronan disclosed they can talk about this agenda item tonight but cannot approve of anything without a DEP File number.

Present was Laura Leach and Dan Catchers with VHB.

Ms. Leach explained that they are present to discuss the proposed development as a retail space of about 6,600 square feet that will have surface parking and bike racks. No work is proposed within the resource area, and they are proposing to extend sidewalks. The wetlands are located to the east and a portion of the proposed work is within the 100-foot buffer zone. The existing wetlands are forested property that is undeveloped. They are



proposing a portion of the building within 100-feet, no structures within the 50-foot and no work at all within the 25-foot no disturb.

Mr. Catchers described the storm water design as they have been actively coordinating with engineering and hopefully have more details next meeting based on the test beds happening shortly. The proposed storm water design is fully compliant with Mass DEP and Town bylaw. Treatment training consists of deep and hooded catch basins, and they will be adding a pre-treatment water quality hydrodynamics operator, then a storm tech subsurface infiltration system reducing peak rates and volumes and meeting the local requirements of 90% TTS and 60% phosphorus.

Mr. Ronan asked what would be done to prevent the dumpster in the back from overflowing into wetlands, and Mr. Catchers explained that a dumpster pad and wall will be used to catch any runoff. There will also be a large fence there that will enclose the dumpsters. Ms. Catchers clarified that the way the dumpster is positioned is so that the truck can easily get in and out. Mr. Ronan also asked regarding overflow snow storage, and what would be done to prevent that, and Mr. Catchers noted he was not sure if there are fences there, but there is a wall north that would act as a barrier.

Mr. Walsh asked if there is access to the storm tax for ongoing BMP cleaning and Mr. Catchers stated yes, there is a manhole that can be used. Mr. Walsh also asked about the design for the overflow and Mr. Catchers replied he was not sure specifically, but they anticipate sandy soil so there's quite a bit of infiltration.

Mr. Fontaine had no comments and nothing to add at this time.

Mr. Ronan opened the public hearing, and no one came forward to comment. Mr. Ronan did not close the public hearing as this item is going to be continued at the next meeting.

**MOTION: Mr. Walsh made the motion to Continue the Public Hearing and Notice of Intent; Vanasse Hagen Brustlin (VHB), Watertown, MA on behalf of David DiCenso of DAN Realty, LLC, Wilmington, MA; 1695 Shawsheen Street, Assessor Map 113 Lot 22. DEP File # Not Yet Assigned to the next available meeting, seconded by Mr. Sheehan and the motion unanimously carried 3-0.**

- A) Request to Extend an Order of Conditions; Civil Design Consultants, Inc of Andover, Massachusetts; Former 138 Astle Street, Assessor Map 10 Lot 51 (Carl Donald Drive); DEP File # 305-1062.**

Present was Christian Murray of Carl Donald Drive.

Mr. Murray explained that he is requesting an extension to the order of conditions because they have had delays in the project due to COVID, labor and now the weather. He is requesting an extension of 1 year.

Mr. Fontaine stated he had no issues.

**MOTION:** Mr. Walsh made the motion to Extend the Order of Conditions; Civil Design Consultants, Inc of Andover, Massachusetts; Former 138 Astle Street, Assessor Map 10 Lot 51 (Carl Donald Drive); DEP File # 305-1062 from one year from the original expiration, seconded by Mr. Sheehan and the motion unanimously carried 3-0.

- M) **Public Hearing, Notice of Intent, Goddard Consulting LLC, Northborough, MA on behalf of Jomarie Buckley; 105 Starr Avenue, Assessor Map 100 Lot 8. DEP File # Not Yet Assigned.**

Mr. Ronan opened the public hearing, and no one came forward to comment. Mr. Ronan did not close the public hearing as this item is going to be continued at the next meeting.

**MOTION:** Mr. Walsh made the motion to continue the Public Hearing and Notice of Intent, Goddard Consulting LLC, Northborough, MA on behalf of Jomarie Buckley; 105 Starr Avenue, Assessor Map 100 Lot 8. DEP File # Not Yet Assigned to the next meeting, seconded by Mr. Sheehan and the motion unanimously carried 3-0.

- N) **Emergency Certification; Martel Crane Service & Tree Removal of Billerica, MA; 36 Cottage Street, Assessor Map 94 Lot 331**

Mr. Fontaine explained that a tree was identified by the homeowner, and he went out to do a site visit to find it decaying and leaning toward the property where the kids play, therefore Mr. Fontaine issued an emergency certification to get the tree cut. It is one tree with two trunks.

The emergency certification was issued with the following conditions: Number one, the tree subject to this emergency certification shall be cut at the main stump and no stum grinding is allowed. Number two, all tree debris shall be taken off site and property disposed of. Number three, any heavy machinery used for the tree removal shall be appropriately staged in an upland area. Number four, the contractor, or the homeowner must photograph the area after the work is completed and send photos to the conservation agent to verify work was completed in accordance with this emergency certification, which that condition was already satisfied already.

**MOTION:** Mr. Walsh made the motion to ratify the Emergency Certification; Martel Crane Service & Tree Removal of Billerica, MA; 36 Cottage Street, Assessor Map 94 Lot 331, seconded by Mr. Sheehan and the motion unanimously carried 3-0.

- O) **Emergency Certification; B&P Tree Service of Medford, MA; 2 Terramor Drive, Assessor Map 32 Lot 69.**

No one was present for this agenda item.

Mr. Fontaine explained that this item is regarding several trees that are dead, dying, decaying and/or posing as a potential threat to human health and safety.

The emergency certification was issued with the following conditions: Number one, the tree subject to this emergency certification shall be cut at the main stump and no stump grinding is allowed. Number two, all tree debris shall be taken off site and property disposed of. Number three, any heavy machinery used for the tree removal shall be appropriately staged in an upland area. Number four, the contractor, or the homeowner must photograph the area after the work is completed and send photos to the conservation agent to verify work was completed in accordance with this emergency certification.

**MOTION: Mr. Walsh made the motion to ratify the Emergency Certification; B&P Tree Service of Medford, MA; 2 Terramor Drive, Assessor Map 32 Lot 69, seconded by Mr. Sheehan and the motion unanimously carried 3-0.**

- P) **Emergency Certification; Beaver Solutions, LLC of Southhampton, MA on behalf of Apex Companies, LLC of South Windsor, CT; 333 Main Street, Assessor Map 10 Lot 72.**

No one was present for this agenda item.

Mr. Fontaine explained that this emergency certification was a result of a beaver problem that caused high water levels in residential areas which were submerging trees close to some dwellings. The health department issued their own emergency certification as it was a threat to health and safety, and Mr. Fontaine followed up with his own.

Mr. Fontaine noted the emergency certification was issued with the following conditions: Number one, the beaver dam breaching shall be in accordance with the attached guidance document provided by Mr. Mike Callahan of Beaver Solutions LLC. Number two, coordinate with the conservation agent prior to and after dam breaching. Number three, photographs shall be provided to the conservation agent before and after the dam has been breached. Number four, accumulated sticks removed from the beaver dam shall be properly disposed of and appropriately placed in a nearby upland area.

Mr. Walsh asked if this work is being done by the town, and Mr. Fontaine noted that if it is private property than it is a private matter, they just have permit issuing authority.

Mr. Ronan asked if only Beaver Solutions LLC is used or if Beaver Deceivers is another option of a company, and Mr. Fontaine explained that since the work being done is to breach the dam and to repair an existing pipe they are going with that company.

**MOTION: Mr. Walsh made the motion to ratify the Emergency Certification; Beaver Solutions, LLC of Southhampton, MA on behalf of Apex Companies, LLC of South Windsor, CT; 333 Main Street, Assessor Map 10 Lot 72, seconded by Mr. Sheehan and the motion unanimously carried 3-0.**

- Q) **Enforcement Order; Kevin O'Brien of O'Brien Homes, Inc., Andover, MA; Foster Lane & Map 24, Lot 26**

Mr. Sheehan stepped down for this agenda item.

Kevin O'Brien of O'Brien Homes, owner of the property at Foster Lane was present.

Mr. O'Brien explained that he had problems with erosion on the site and the area that was in the bend in the road. Mr. Fontaine and Mr. O'Brien discussed leaving it the way it is for the time being. The water and mud had come up to the top of the silt fence and has gone over a little bit. Mr. O'Brien explained that he believes it is best to let it dry and take it out all at the same time with the machine and put the new materials in. He added that he spoke with the Town Manager and the Assistant Town Manager recently who had asked if he would stop work once the area was cleaned out and Mr. O'Brien agreed to do that. They are still in discussions over the roadway, for which they will set up a formal meeting for, including attorneys.

Mr. Fontaine noted that this is just a discussion, and no action can be voted on. Mr. Ronan noted that MassDEP had requested a wetland scientist to help develop a site restoration plan and requested an update on that.

Mr. Fontaine began to explain that with what he saw during the site visit. He noted that he saw a considerable amount of sediment that went over the sediment controls that were established per the site plan. Mr. Fontaine issued an enforcement order due to the magnitude of the situation.

Mr. Fontaine recommended that sediment controls be bolstered up the in same area where it is blown out and stabilizing the area so that it is not a continued violation every time we get rain, and developing some sort of restoration plan that outlines how they will stabilize the area to its original condition. Mr. Fontaine did say that MassDEP reached out today regarding the situation, and they had suggested it would be a good idea to have a wetland scientist assist the violator in developing a restoration plan in addition to implementation on site.

Mr. Ronan expressed concern that returning the site to its original condition seems confusing as they are developing a parcel and it doesn't specify if that means going back to a dirt road, if it includes seeding, etc. Mr. O'Brien said that the water is puddling on the roadway, and it is not going out and they do intend on ultimately seeding the area once the work is done. Mr. Fontaine noted that the problem is the nature of the sedimentation in that the deepest parts were right past the sediment controls that were established and there were about 8 inches. As it goes to the wetlands, it tapers off. The water goes between vegetation, and it makes most sense to seed that area so that when the area is brought back up, the sedimentation isn't as significant. Mr. Fontaine noted that the areas that are thick is ideal to use a machine. For the rest of the sediment controls, he recommended them to be established back to original condition. Mr. O'Brien asked Mr. Fontaine if he called MassDEP and Mr. Fontaine said he did not.

Mr. Ronan explained that, as already mentioned, this is just a discussion and this item will be continued in the next meeting to determine the best course of action, where hopefully there will be a quorum.

Mr. O'Brien said that what is going on now he does not think is going to get any worse, and Mr. Fontaine stated that it would be good to have it stabilized at some capacity.

**R) Violation Notice, Kenneth Sandberg; 85 William G Drive, Assessor Map 79 Lot 31**

Present was Ken Sandberg at 85 William G Drive.

Mr. Fontaine explained that he saw heavy machinery out back very close to wetland and looks like there is unpermitted tree clearing activity happening there.

Mr. Sandberg said that is storm debris that has developed over the years. He stated that he was not clearing trees. He noted there was no saw dust, pine needle debris or cutting displayed in the photos. Mr. Sandberg said he was told by Mr. Fontaine to stop what he was doing, and he stopped, and is now present for a discussion.

Mr. Ronan asked for clarification on the claim of storm debris, and Mr. Sandberg said that there are two trees that are totem poles, one is about 40-50 feet tall with no top, the other is about 60 feet tall with no top. Another area there are trees that sprout up into two trees, with one of them falling. Mr. Sandberg explained that he would've just taken that down if he was clearing trees. Mr. Ronan pointed out a photo that looks like there were cut trees, and Mr. Sandberg said that he cut them because they had rot and were falling due to storms, piling up on each other.

Mr. Fontaine asked if the trees were standing when he cut them, and Mr. Sandberg said no, they had fallen over, and he cut the stump for a clean edge. Mr. Ronan said that according to the photos they are looking at, it looks like these trees, specifically the edges, have been cut down with some sort of chain saw. Mr. Sandberg said that is what he was using, and Mr. Ronan and Mr. Walsh asked for clarification on why he would be cutting the ends of tree trunks and tree edges if the trees weren't cut down. Mr. Sandberg said he did so to be able to move them.

Mr. Ronan explained that regardless of why the tree edges had been removed, if they are in a wetland the ideology is that they have to be left there as is, and this is located within a buffer zone. Mr. Ronan asked Mr. Sandberg if he had any pictures of the area before he started clearing, and Mr. Sandberg said no, and he is not clearing. Mr. Ronan explained that that would be the best evidence to prove this is being done for cleaning and not clearing trees out.

Mr. Fontaine explained that for projects like this, there is no real way to prove one way or the other. When Mr. Fontaine did his site visit, he said he did not see any fresh logs and they did seem like they were rotted but it does not necessarily mean that they had fallen over, and it would have been best to ask for permission.

Mr. Walsh asked if Mr. Fontaine knew where the buffer zones were and Mr. Fontaine said within the 100-foot but definitely within the 25 for where the machinery was, which would have required an RDA.

Mr. Ronan explained that an RDA must be filed in an instance like this, and discussion took place as to what to write on the RDA and the cost. Mr. Sandberg said he will have to think about it.

**S) Exemption Letter; National Grid; Highland View Road**

Mr. Fontaine explained that National Grid is doing routine maintenance that involves replacing poles and installing a ground grid which is a grounding mat for the electrical poles.

Mr. Walsh asked if this is a one-time thing or if it is re-occurring. Mr. Fontaine stated that he was no sure but the considers this as a separate exemption as it involves installing a grounding mat. Ultimately it is up to the commission if they want to consider it as maintenance. Mr. Walsh said that he was fine with that, and Mr. Ronan agreed.

Mr. Ronan voiced this item does not require a vote.

**Old Business** – None for discussion

**New Business**

**Discussing Potential Changes to Wetland Protection Bylaw & Regulations**

Mr. Fontaine noted they are looking at potential changes to the wetland bylaw and regulation, so they have some draft documents proposed and ready for review. Mr. Ronan stated they will continue to keep it on the agenda so that the material can be read then reviewed with public comment in the future. Mr. Fontaine stated some of the content streamlines best practices, clarifies language, and restructures formatting.

**Central Massachusetts Mosquito Control Project**

Mr. Fontaine stated they are doing a project of dredging on Roger Street which is an exempt activity.

**Approval of Meeting Minutes** – No meeting minutes were presented for approval.

Mr. Ronan announced that the next meeting is May 24<sup>th</sup>.

**Adjournment**

**MOTION: Mr. Walsh made the motion to adjourn; seconded by Mr. Sheehan and the motion unanimously carried 3-0.**

**Approved on: November 15, 2023**

*List of documents for the 05.10.2023 meeting  
Documents can be found in the Community Development Office*

- 06:30 P.M. Call Meeting to Order**  
**Approval of Minutes** June 22, 2022; August 17, 2022; September 7, 2022; September 21, 2022; October 5, 2022; December 7, 2022; December 21, 2022; January 11, 2023; January 25, 2023; February 8, 2023; February 22, 2023; March 8, 2023; March 22, 2023; April 5, 2023; April 19, 2023;
- A. Request to Extend an Order of Conditions;** Civil Design Consultants, Inc. of Andover Massachusetts; Former 138 Astle Street, Assessor Map 10 Lot 51 (Carl Donald Drive); DEP File # 305-1062.
- **Site Plans – 8/10/18**
  - **OOB – 2/22/19**
  - **OOB Extension Request – 4/7/23**
- B. Request to Extend an Order of Conditions;** Nitsch Engineering, Inc. of Boston, MA on behalf of the Town of Tewksbury; 135 Pleasant Street, Assessor Map 47 Lot 40. DEP File # 305-1103.
- **Site Plans – 12/19/23**
  - **OOB – 6/2/20**
  - **Wetland Replication Monitoring Report – 1/4/23**
  - **OOB Extension Request – 4/25/23**
- C. Request to Extend an Order of Conditions;** Civil Design Consultants, Inc. of Andover Massachusetts; 1037 North Street, 1547, 1553, 1563 Andover Street, Assessor Map 39, Lots 45, 46, 47, 48. DEP File # 305-1077.
- **Site Plans – 4/3/20**
  - **OOB – 5/5/20**
  - **OOB Extension Request – 4/24/23**
- D. Request for Certificate of Compliance;** Rhino Commerce Way Owner LLC of Boston, MA; Commerce Way, Assessor Map 23 Lots 18 & 19 (30 Commerce Way/Beyond & 22 Bellevue Road/Adjacent); DEP File # 305-353.
- **Application – 5/4/23**
  - **Site Plans**
  - **OOB from 1989**
- E. Minor Modification;** Hancock Associates of Chelmsford, MA; 60 Shawsheen Avenue, Assessor Map 112 Lot 69; DEP File # 305-1110.
- **Recorded OOB**
  - **Extension Permit – 4/7/23**
  - **Site Plans**
- F. [PUBLIC HEARING] Request for Determination of Applicability;** Pan Am Railways, Inc.; Pan Am Railways Right of Way, 1 Railroad Street, Assessor Map 11 Lot 1.
- **CSX Letter – 3/31/23**
  - **RDA**
- G. [PUBLIC HEARING] Request for Determination of Applicability;** Woodland Design of Tewksbury, MA on behalf of Ryan Desroches; 185 Helvetia Street, Assessor Map 60 Lot 160.
- **Application – 5/4/23**

- H. [PUBLIC HEARING] **Request for Determination of Applicability**; James Furtado on behalf of DiPalma Estates; Juniper Lane, Assessor Map 62 Lot 50.
- **Application – 5/4/23**
- I. [PUBLIC HEARING] **Request for Determination of Applicability**; Michael Kippenberger; 540 Whipple Road, Assessor Map 19 Lot 38.
- **Application – 4/20/23**
  - **Site Plans**
  - **Photos**
- J. [PUBLIC HEARING] **Request for Determination of Applicability**; Civil Design Consultants, Inc. of Andover, MA on behalf of Plaza Al Fresca LLC (c/o Mark Angluin), Tewksbury, MA; 1768 Main Street, Assessor Map 85 Lot 5.
- **Application – 4/26/23**
  - **Site Plans**
- K. [PUBLIC HEARING] **Notice of Intent**; Merrimack Engineering Services, Andover, MA on behalf of Lisa & Kenneth Hills; 6 Kneeland Road, Assessor Map 95 Lot 49. DEP File # Not Yet Assigned.
- **Application – 4/27/23**
  - **Site Plans**
- L. [PUBLIC HEARING] **Notice of Intent**; Vanasse Hangen Brustlin (VHB), Watertown, MA on behalf of David DiCenso of DAN Realty, LLC, Wilmington, MA; 1695 Shawsheen Street, Assessor Map 113 Lot 22. DEP File # Not Yet Assigned.
- **Application – 4/27/23**
  - **Photo Log**
  - **Site Plans**
  - **IDR Comments – 4/20/23 & 5/5/23**
- M. [PUBLIC HEARING] **Notice of Intent**; Goddard Consulting LLC, Northborough, MA on behalf of Jomarie Buckley; 105 Starr Avenue, Assessor Map 100 Lot 8. DEP File # Not Yet Assigned.
- **Application – 4/21/23**
  - **Site Plans**
  - **Wetland Report**
- N. **Emergency Certification**; Martel Crane Service & Tree Removal of Billerica, MA; 36 Cottage Street, Assessor Map 94 Lot 331.
- **Emergency Certification – 4/13/23**
  - **Photos – 4/10/23**
- O. **Emergency Certification**; B&P Tree Service of Medford, MA; 2 Terramor Drive, Assessor Map 32 Lot 69.
- **Emergency Certification – 4/21/23**
  - **Photos – 4/21/23**
- P. **Emergency Certification**; Beaver Solutions LLC of Southampton, MA on behalf of Apex Companies, LLC of South Windsor, CT; 333 Main Street, Assessor Map 10 Lot 72.
- **Emergency Certification – 5/2/23**
  - **Photos – 5/1/23**
- Q. **Enforcement Order**; Kevin O'Brien of O'Brien Homes, Inc., Andover, MA; Foster Lane & Map 24 Lot 26.
- **Enforcement Order – 5/4/23**



- **Photos**

**R. Violation Notice;** Kenneth Sandberg; 85 William G Drive, Assessor Map 79 Lot 31.

- **Violation Notice – 4/13/23**
- **Photos**

**S. Exemption Letter;** National Grid; Highland View Road.

- **National Grid Letter – 5/3/23**
- **Plans**

#### **Old Business**

#### **New Business**

- Discuss Potential Changes to Wetland Protection Bylaw & Regulations
  - **Comparison of current & proposed bylaw**
  - **Town of Tewksbury Wetland Protection Regulations – 4/4/23 – 4/25/23**
  - **Town Wetland Bylaw Update – 3/21/23 – 4/4/23**
- Central Massachusetts Mosquito Control Project
  - **Letter dated 4/5/23**

#### **Administrators Report**

#### **Adjournment**