

**Minutes of the BOXFORD CONSERVATION COMMISSION
Virtual Attendance Pursuant to Chapter 20 of the Acts of 2021
August 19, 2021 7:00 PM**

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

Absent: None

Others Present: Conservation Agent Ross Povenmire, Town Administrator Matt Coogan, Garrett Friedman, Greg Hochmuth, Will Scopa, Mike McArdle, Stewart Lytle, Kristan Farr, Ted Merchant, Brian Madden, DPW Superintendent/Town Engineer Chris Olbrot, Andrew Cole, Shawn Nuckolls, Michael Laham, Lance Cluster/BCATv, and others

7:00 PM With a quorum present, Chair Peter Delaney called the meeting to order, and Director Povenmire called the roll to open the meeting.

7:03 PM HEARINGS AND DISCUSSIONS

**Enforcement Order: 119 Depot Road, 25-5-17, Friedman
Supporting Docs**

- **Enforcement Order:** *Garrett Friedman, 119 Depot Road: Unauthorized grading and tree work including access by machine, within 100-feet of a Bordering Vegetated Wetland and Riverfront Area, and within Wetland Resource Area.*

Director Povenmire advised the Commissioners that he received an anonymous call regarding trail building and river crossing that is taking place on the property at 119 Depot Road. The Director met with the homeowner and advised him that he is disturbing the wetland area. Povenmire provided photos for the Commissioners to view as he described the activity taking place there. Povenmire added that all work has stopped there and the homeowner was instructed to contact an engineering firm to assist with the necessary application filing. Greg Hochmuth, of Williams & Sparages, representing the homeowner, advised that they are working on an application and will get that filed as soon as possible. A brief discussion ensued on the possibility that there was an existing trail there, but the Director noted that additional recent disturbance has taken place. He suggested that the Commission schedule a site walk there to view the trail. Greg Hochmuth advised he will be out there tomorrow to view the area and will report back to the Director. They will be back on September 2nd with an update. The Chair asked for a motion to continue the Enforcement Order discussion.

On a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously to ratify and continue the Enforcement Order discussion to the September 2nd meeting.

Roll Call by Conservation Director Ross Povenmire:

David **Smallman:** Yes
Natasha **Grigg:** Yes
Alan **Fowler:** Yes
Frank **Di Luna:** Yes
Kerri **Lummus:** Yes

Peter Delaney: Yes

Continued Enforcement Order: Unauthorized Tree Work, 43 King George Drive, Worrall/McArdle Supporting Docs

- **WPA Form 9: Enforcement Order:** *Mike McArdle and Ellen Worrall*
- **WPA Form 9: Enforcement Order:** *Will Scopa*

The Director advised that the homeowner is going to be filing a Notice of Intent for the installation of a septic system upgrade and is hoping to be able to combine the tree removals with the septic system installation. Will Scopa from the tree company was also in attendance and apologized for missing the recent site walk. He will make sure that anyone from his company is completely informed of wetland regulations. He also apologized for the unauthorized tree work his company performed on the property. He thought the homeowner had filed the permits for the work. Mike McArdle advised the Commissioners that he has been in contact with Hancock Associates and a wetland scientist will be assisting them with any remediation that needs to take place, as well as determining the best location for the septic system. A Notice of Intent will be filed with the Conservation Commission for the septic system.

Continued Emergency Certification: Road Repair Work at Lily Pond Road: The Director advised the Commissioners that this was a result of a road washout due to the excessive rain and a tree being uprooted, taking along a large portion of the pavement there. He issued an Emergency Certification so the work could be done as soon as possible. DPW Superintendent/Town Engineer Chris Olbrot was also in attendance and added to the discussion.

On a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to ratify the Emergency Certification for the road repair work at Lily Pond Road, as completed by the DPW Superintendent/Town Engineer and issued by the Conservation Director.

Roll Call by Conservation Director Ross Povenmire:

David **Smallman:** Yes
Natasha **Grigg:** Yes
Alan **Fowler:** Yes
Frank **Di Luna:** Yes
Kerri **Lummus:** Yes
Peter **Delaney:** Yes

Continued Emergency Certification: Road Repair Work at Lockwood Lane: DPW Superintendent/Town Engineer Chris Olbrot advised that on July 15th the culvert failed on Lockwood Lane, washing out part of the roadway there. Olbrot added that the culvert was on the list of those in dire need of replacement and provided the Commission with the steps that would be taken for the emergency temporary repair. It would be put on the 5–7-year capital improvement plan for a permanent replacement. The Chair requested that a plan be submitted showing metes and bounds. Director Povenmire advised that the Emergency Certification expired on August 18th, suggesting that the Commission issue a new Emergency Certification when the plan is submitted. After a brief discussion, the Commission took the following action:

On a **MOTION** made by **Smallman**, second by **Di Luna**, the Conservation Commission **VOTED** unanimously by roll call vote to ratify the Emergency Certification for the road repair work at Lockwood Lane, as presented by the DPW Superintendent/Town Engineer and issued by the Conservation Director.

Roll Call by Conservation Director Ross Povenmire:

Kerri Lumms	Yes
Alan Fowler :	Yes
Frank Di Luna	Yes
David Smallman :	Yes
Natasha Grigg :	Yes
Peter Delaney :	Yes

Emergency Certification: National Grid R.O.W. Between Georgetown Road and Kelsey Road: The Director advised that this a culvert that is halfway between Kelsey Road and Georgetown Road on the National Grid right-of-way. It has been failing for some time. Flooding in that area is persistent and threatens residents' septic systems. Water is not flowing through the culvert. Povenmire added that he issued the Emergency Certification on Sunday. Andrew Cole of National Grid provided photos for the Commissioners to view as he described the work they have planned to replace the culvert. Cole noted it is an exempt activity for emergency utility work in a public way and they would take advantage of the low flow to get the work done as soon as possible. The Chair requested that the inverts be provided to the Director for verification before work begins and asked the Commission for a motion to ratify the Emergency Certification.

On a **MOTION** made by **Smallman**, second by **Di Luna**, the Conservation Commission **VOTED** unanimously by roll call vote to ratify the Emergency Certification for the culvert repair work on the National Grid right-of-way between Georgetown Road and Kelsey Road, as presented by National Grid and issued by the Conservation Director.

Roll Call by Conservation Director Ross Povenmire:

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

DNI 2021-12: 32 Great Pond Drive, 16-3-16.11, Myers: Director Povenmire advised the Commission that this is a request to do some tree work and to grind down some stumps on the shore of Baldpate Pond. The homeowner is interested in a longer-term project to upgrade the dock and stabilize the shoreline in that area. That will be the subject of a later application. George Myers, homeowner, provided additional information on the proposed project. The Commissioners expressed their dismay at the plans to grind the stumps. They requested that they be cut flush, with no heavy equipment on the bank of the great pond. Myers advised the Commission that he has no problem cutting them flush and has no desire to build a beach area there, just restore the existing dock. The Director will prepare a letter allowing the removal of two trees with stumps cut flush.

On a **MOTION** made by **Grigg**, second by **Lummus**, the Conservation Commission **VOTED** unanimously by roll call vote to issue a letter to the homeowner allowing the manual taking down of two dead trees on Baldpate Pond and the manual flush cutting of four stumps.

Roll Call by Conservation Director Ross Povenmire:

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

Continued Discussion: National Grid Re: Pye Brook Lane: The Director advised the Commission that there have been two issues on Pye Brook Lane. The first has been stabilized and the second issue was investigated by DPW Superintendent/Town Engineer Chris Olbrot and Director Povenmire. There was a question on whether it was in a ConCom jurisdictional area. The Commission requested that an Enforcement Order be issued. Director Povenmire advised the Commission that he held off on that until there was a wetland delineation submitted. It was received today, and it is not in a jurisdictional area. Andrew Cole of National Grid advised he had the wetland delineation done and as noted, it is not in jurisdictional area, asking if the Enforcement Order is warranted at this point. He also provided the Commission with photos to view as he described the work that was completed in the area of Janes Road and Pye Brook Lane. Commissioner Alan Fowler wanted it noted for the record that it's important that the Commission knows where the wetlands are before work is started. Fowler added that it is also important for the Commission to have a process in place for emergency utility work such as this. Fowler also noted that when the utility work was started in another area of Pye Brook, that area is within 100 feet of a wetland and there were no erosion controls in place. He feels National Grid is not protecting the wetlands in the area of Hunters Road and agrees that a friendly Enforcement Order is warranted. Andrew Cole advised that National Grid has wetland protection protocols in order for emergency utility work. However, he acknowledged that not all protocols were followed for this emergency project. Commissioner Fowler noted that erosion controls were placed during a heavy rainstorm, which he observed, adding that work was conducted that was not in accordance with regulations. Cole apologized for the way this project proceeded, adding that it is not the norm. DPW Superintendent/Town Engineer Chris Olbrot advised that the DPW will be stepping up their inspections of National Grid's projects, working in collaboration with Director Povenmire. Director Povenmire advised he has requested the spec sheets from National Grid for work they are planning in jurisdictional areas, which will be required for any utility maintenance and repair projects. Andrew Cole wanted the Commission to know that this project will be completely reviewed with the construction crew, planners, and everyone involved, to review the mistakes that were made. After continued discussion, the Chair requested that Director Povenmire prepare a friendly Enforcement Order for the work near Hunters Road and the Commission took the following action:

On a **MOTION** made by **Di Luna**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to authorize Director Povenmire to issue an Enforcement Order to National Grid for work regarding Pye Brook Lane.

Roll Call by Conservation Director Ross Povenmire:

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

Continued NOI 114-1331: 146 Georgetown Road, 25-4-8, Sena

The Chair advised the Commissioners that there was a written request to continue this hearing to September 2nd.

At the request of the applicant and on a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to continue the hearing for NOI 114-1331: 146 Georgetown Road, 25-4-8, Sena, to September 2nd, under the Act and the Bylaw.

Roll Call by Conservation Director Ross Povenmire:

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

Continued NOI 114-1327: 29 Holmes Road, 40-1-42, Smith

Supporting Docs

- **NOTICE OF PUBLIC HEARING:** *Notice of Intent by applicant Andrew Smith, for the property located at: 29 Holmes Road, Map 40, Block 1, Lot 42, to replace existing decks on three sides of an existing house with re-designed decks within 100-feet of Bordering Vegetated Wetland.*
- **Letter and Supporting Documents:** *From Hancock Associates to Conservation Commission, Re: 29 Holmes Road Notice of Intent, 6/17/21:*
 - *WPA Form 3*
 - *Figures*
 - *Abutter Information*
 - *Filing Fees*
 - *Site Plan of Land*

Kristin Farr, Hancock Associates, representing the applicant, met with the Conservation Commission to review the recent site walk, noting that the ConCom had the opportunity to view the four decks. The front deck would have two footings and the back decks would have four footings each, and the side deck would have three. After the site visit, the homeowners decided they wanted to expand the driveway with 270 sq. ft. of new impervious surface. A brief discussion ensued on the proposed expanded driveway. After discussion, Farr requested to close the hearing.

At the request of the applicant and on a **MOTION** made by **Smallman**, second by **Lummus**, the Conservation Commission **VOTED** unanimously by roll call vote to close

the hearing for NOI 114-1327, 29 Holmes Road, 40-1-42, Smith, under the Act and the Bylaw.

Roll Call by Conservation Director Ross Povenmire:

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

On a **MOTION** made by **Grigg**, second by **Lummus**, the Conservation Commission **VOTED** unanimously by roll call vote to execute and issue an Order of Conditions for NOI 114-1327, 29 Holmes Road, 40-1-42, Smith, under the Act and the Bylaw.

Roll Call by Conservation Director Ross Povenmire:

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

**Continued NOI 114-1313: Willow Road, 6-2-2.2, Toll Bros., Inc., and
Continued Discussion of Conservation Restriction: Willow Road, 6-2-2.2, Toll Bros., Inc.**

**** Commissioner Frank Di Luna recused himself from
discussions and voting on these hearings. ****

Brian Madden, wildlife scientist with LEC Environmental, representing the applicant, met with the Conservation Commission to discuss the outstanding issues with the project. The Chair advised the Commission would like to see a third party brought in to monitor the project and report back to the Conservation Director. The Conservation Director will discuss procurement with the Town Administrator and Assistant Town Administrator to get the process started. Discussion turned to grading work proposed for the project. Michael Laham, The Morin-Cameron Group, explained that there would need to be some earth work and fine grading for the drainage design. The Chair reminded Laham that there would need to be a construction sequence submitted. The Director advised that the ZBA has required a monitor for the project as well and suggested that the ConCom and ZBA collaborate on a project monitor. Brian Madden will work with the Director on collaborating for the project monitor. Shawn Nuckolls, Toll Brothers, advised that the ZBA has made it clear that they will not close out their decision until the ConCom has issued a final decision. The Director advised the Commissioners that a draft of the bond language came in late today. He asked that the Commissioners take the time to read through it before the next meeting. The Chair requested that as much documentation as possible be submitted before the next meeting, so the process can move along.

Discussion turned to the documentation that Natural Heritage requires for the Conservation Restriction. Brian Madden advised that he does not anticipate any issues with Natural Heritage but has not yet heard back from them. He expects to have the information for the next meeting.

On a **MOTION** made by **Smallman**, second by **Grigg**, the Conservation Commission **VOTED** unanimously by roll call vote to continue the hearing for NOI 114-1313: Willow Road, 6-2-2.2, Toll Bros., Inc., and continued discussion of Conservation Restriction: Willow Road, 6-2-2.2, Toll Bros., Inc. to September 2nd.

Roll Call by Conservation Director Ross Povenmire:

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

**** After the vote, Commissioner Di Luna returned to the meeting. ****

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

Supporting Docs:

- <https://www.town.boxford.ma.us/conservation-commission/pages/harry-lee-cole-school-project>

The Conservation Director advised the Commission that he received a written request to continue the hearing for Cole School and for Spofford School to September 2nd.

At the request of the applicant and on a **MOTION** made by **Smallman**, second by **Lummus**, the Conservation Commission **VOTED** unanimously by roll call vote to continue the hearing for SWMP 2021-2: Harry Lee Cole School at 28 Middleton Road, 32-1-21, Stephen Clifford for the Town of Boxford, to September 2nd, under the Act and the Bylaw.

Roll Call by Conservation Director Ross Povenmire:

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

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

Supporting Docs

- <https://www.town.boxford.ma.us/conservation-commission/pages/spofford-po...>

At the request of the applicant and on a **MOTION** made by **Smallman**, second by **Lummus**, the Conservation Commission **VOTED** unanimously by roll call vote to continue the hearing for NOI 114-1319: Spofford Pond School at 31 Spofford Road, 15-1-4, Stephen Clifford for the Town of Boxford, to September 2nd, under the Act and the Bylaw.

Roll Call by Conservation Director Ross Povenmire:

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

COC 114-1299: 9 Powder House Road, 19-3-18.4, Gilbert

Greg Hochmuth, Williams & Sparages, representing the applicant, advised this is for a septic system upgrade, which has been installed according to the Order of Conditions, noting that the site is stable. The Director advised that the site is stable and recommended the issuance of the Certificate of Compliance, and the Commission took the following action:

On a **MOTION** made by **Smallman**, second by **Lummus**, the Conservation Commission **VOTED** unanimously by roll call vote to execute and issue the Certificate of Compliance for DEP file #114-1299: 9 Powder House Road, 19-3-18.4, Gilbert, under the Act and the Bylaw.

Roll Call by Conservation Director Ross Povenmire:

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

9:15 PM Minutes Review/Approval: After a brief discussion on edits, the Commission took the following action:

On a **MOTION** made by **Grigg**, second by **Lummus**, the Conservation Commission **VOTED** unanimously by roll call vote to approve the minutes of August 5th, 2021, and the Executive Session minutes of August 5th, 2021, as amended.

Roll Call by Conservation Director Ross Povenmire:

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

9:17 PM Welcome Matt Coogan, Town Administrator

Chair Delaney publicly welcomed Boxford's new Town Administrator, Matt Coogan, to the town, and thanking him for staying for the entire meeting. Coogan introduced himself to the Commission, noting that he was happy to be in attendance to learn how the Commission works and what types of issues the Commission must deal with.

9:23 PM ADJOURN

With no further business, on a **MOTION** made by **Grigg**, second by **Lummus**, the Conservation Commission meeting of August 19th, 2021 adjourned at 9:23 PM.

Roll Call by Conservation Director Ross Povenmire:

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

Respectfully submitted,



Judith A. Stickney
Minutes Secretary