



Norton Conservation Commission

70 East Main Street

Norton MA 02766

508-285-0275

Email: mharrop@nortonmaus.com

<https://www.nortonma.org/conservation-commission>

RECEIVED
NORTON TOWN CLERK

2022 DEC 12 AM 9:41

Monday October 24, 2022

6:30 pm

****Remote Participation Only****

Next Meeting

11-14-22

11-28-22

12-12-22

12-27-22- TBD

<https://us02web.zoom.us/j/82995848392?pwd=ODhHNzBRY0tTb0t6YTZRYUo5U3BIZz09> . When prompted enter **Meeting ID: 829 9584 8392 Passcode: 791852 .1-646-558-8656**

Chairperson to read about Public Meetings:

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the **Norton Conservation Commission** will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found at the end of this agenda.

Members of the public attending this public hearing/meeting virtually will be allowed to make comments if they wish to do so, during the portion of the hearing designated for public comment, by raising their hand virtually or pressing *9 if participating by phone.

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the **Norton Cable website** (<https://www.nortonmediacenter.org/>) an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

Minutes

****Public Hearings and possible Commission deliberations will be taken in order of this Agenda****

6:30pm Open meeting

Conservation Commission members present	<ul style="list-style-type: none">• Julian Kadish, Chair• Daniel Pearson• Ronald O'Reilly	<ul style="list-style-type: none">• Marc Fernandes• Tamah Vest
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Other representatives present	<ul style="list-style-type: none">• John Thomas, Conservation Director• Megan Harrop, Conservation Secretary
Members absent	<ul style="list-style-type: none">• Kerry Malloy Snyder• Lisa Carrozza, Vice Chair

I. NEW BUSINESS

- Enforcement Order- 0 Rear East Main Street (Map 11, Parcel 14)

John Thomas explains that he received a call from the MassDEP who notified him that there has been a structure placed on their property. Along with MassDEP there have also been complaints from neighbors and LPS about illicit cutting activities as well as ATV use of the land to gain access to the Commonwealth Property. John explains that he walked the area with the Division of Fish and Wildlife and they noticed and confirmed the bridge structure that was mentioned in the original violation notice, which was issued to the offender. After discussions in the field with the DFW and the environmental police they agreed the best action would be to issue an enforcement order. John mentions he needs the commission to vote whether to issue an enforcement order or not. John explains that the plans would be to remove the bridge as soon as possible but also get guidance from the State because the activity has created impacts to the adjacent banks. Julian Kadish asks who the violator is, and John explains that the person responsible lives at 23 North Washington Street, and they have been contacted by the state and the conservation office. Daniel Pearson points out that there are two violations, one being the bridge and the other being ATV use. John explains that it is his understanding ATV use is prohibited in town. Mike Rainville, who is with LPS explains that the area in question is in an ACEC which is why the report has been filed. Dan asks if the commission could issue fines. Julian explains there is no bylaw that gives the commission the authority to issue fines. Marc Fernandes asks John to give details about the trees that were taken down. John explains that there were a lot of trees and shrubs taken down and used to make some of the foundation of the bridge. John is unsure how many trees were taken down but all the trees taken down were on Commonwealth Properties and LPS property. It is also explained a majority of the vegetation taken down is within resource areas.



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Daniel Pearson makes a motion to issue the enforcement order for 0 Rear East Main Street	<p>Seconded by: Tamah Vest</p> <p>Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly</p> <p>Motion Carries</p>
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Tamah Vest asks if anything further will be needed from the conservation commission members. John explains that DEP will need to decide on how they would like to proceed going forward as a lot of the disturbance was done on Commonwealth land. Tamah asks if LPS would have to do their own work on their property. John explains that LPS may need to work with the landowners to provide a path for removing and depositing materials from the bridge area. Karen Sweeney comments that she is listening to the meeting to find out what is going on with the enforcement order. Karen comments that the disturbance was not done with any ill intent, that it was done for the good.

II. NEW PUBLIC HEARINGS

A. (DET#1128)- RDA-91 Bay Road (Map 16, Parcel 12)

The proposed plan is to add a covered porch, deck, and appurtenant egress features to an existing single-family house, which at the closest point will be located 70.9 feet from a BVW.

Applicant/ Representative	Representative: Peter Lyons; Collins Civil Engineering Group
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Peter Lyons explains the project to the commission, explaining they would like to add a new deck to the rear of the house with access to the basement. Peter explains some excavation will be required to tie in with the existing bulkhead in the back. There is also a proposed egress window for the basement outside the 100ft buffer as well as a covered porch also outside of the 100ft buffer. The proposed deck is 77 ft to the resource area at its closest point. Peter does explain that they have provided an 8-inch straw waddle around the entirety of the proposed work, including septic limits outside the 100ft buffer. All of the proposed work is being done within the previously disturb lawn. Peter also confirms there will be no tree removing or grading changes. Julian Kadish asks



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whether the waddle will have any effect because the area is relatively flat. Peter explains that any slope is considered somewhat of a risk for sediment migration and also helps the contractors stay in the approved limit of work. John Thomas states he has no issues with this project.

Motion to close public hearing made by Ronald O'Reilly	Seconded by: Daniel Pearson Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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Motion to issue a negative three determination made by Ronald O'Reilly	Seconded by: Daniel Pearson Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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**B. (DEP#250-1116)- NOI-9 Pratt Drive
(Map 21, Parcel 264)**

The proposed work is to construct a pool and patio area within 100ft of Bordering Vegetated Wetlands.

Applicant/ Representative	Representative: Chris Vandenberghe; Civil & Environmental Consultants, Inc.
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Chris Vandenberghe explains that they have requested a continuance for the hearing however they had some questions about the comments sent over to them. John Thomas explains that the comments came from him. John advises that they present a simplified operation and maintenance plan, just to have in case of any unforeseen issues. Chris asks if John will verify the flags onsite once they are marked, and John confirms that he will. Chris also asks if the O&M can just be notes on the plan and not a separate document and John agrees that it can be listed on the plan as long as it details how the pool will be managed. Chris agrees to continue the meeting until November 14th.



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Motion to continue the public hearing made by Daniel Pearson	Seconded by: Ronald O'Reilly Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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III. CONTINUED PUBLIC HEARINGS

A. (DEP# 250-1070) Notice of Intent - 0 Rear Eddy Street - Widak/Sher Corp. LTD
(Map 32, Parcel 31) <https://tinyurl.com/rearEDDYSherCorp>

The proposed project is to construct a common driveway with associated stormwater management, septic system, utilities, retaining walls and grading for 4 duplex units within 100 feet of bordering vegetated wetland.

(Continued from 1/25/2021 for 33 meetings)

Applicant/ Representative	Representative: Margaret Bacon; Civil Engineer
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Margaret Bacon gives the commission a briefing about the progress of the project. Margaret states that it is believed that they are almost complete with the stormwater aspect of the project, and that they need to send John Chessia, the peer reviewer, another iteration of the plans and report. Once all of that is completed Margaret believes the project will be able to be closed. John Thomas asks Margaret if she would like to present the plans at the November 14th, meeting. Margaret states she would like to present at the November 28th meeting to allow John Chessia to review and give comments on any plans. John mentions that he needs to make sure that there will be a quorum for the project at that meeting, if new materials are presented.

Motion to continue the public hearing made by Daniel Pearson	Seconded by: Ronald O'Reilly Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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B. (DEP 250-1093) – NOI – 70 Oak Street

REQUESTED A CONTINUANCE UNTIL DECEMBER 12TH

(Map21, Parcel 254-01) <https://tinyurl.com/70OAKSTREET-NOI>

The proposed project to construct a driveway and utilities to gain access to a proposed single-family home. (Continued from 2/14/2022, for 18 meetings)

Applicant/ Representative	Representative: None present
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Motion to continue the public hearing made by Daniel Pearson	Seconded by: Ronald O'Reilly Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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C. (250-1108) NOI-0 Hill Street

REQUESTED CONTINUANCE UNTIL NOVEMBER 14TH

(Map24, Parcel 62-02) <https://tinyurl.com/0HillStreetNOI>

The proposed plan is to construct a single story 9,900 square foot machine and fabricating facility with associated parking, drainage, and utility infrastructure within buffer zone. (Continued from 7/25/2022 for 7 meetings)

Applicant/ Representative	Representative: None Present
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Motion to continue the public hearing made by Daniel Pearson	Seconded by: Ronald O'Reilly Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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D. (DEP#250-1105)-NOI- Pine Street Cluster

REQUESTED CONTINUANCE UNTIL NOVEMBER 14TH

(Map 24, Parcels 7,9,13,108 &109) <https://tinyurl.com/PineStreetNorton>

The proposed project includes the construction of a residential subdivision including a paved roadway crossing within Bordering Vegetated Wetland and the 100 ft Buffer Zone, along with grading and site development with 100ft Buffer Zone. (Continued from 7/11/2022 for 8 meetings)

Applicant/ Representative	Representative: None Present
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Motion to continue the public hearing made by Daniel Pearson	Seconded by: Ronald O'Reilly Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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**E. (DEP#250-1114) NOI – 306-308 East Main Street
(Map 5, Parcel 38 & 252)**

Proposed work is to add an addition to an existing warehouse, along with a detention basin and grading, all within 100ft of BVW.

(Continued from 9/12/2022 for 4 meetings)

Applicant/ Representative	Representative: None Present
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Applicant requested a continuance until November 14th.

Motion to continue the public hearing made by Daniel Pearson	Seconded by: Ronald O'Reilly Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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**F. (DEP#250- 1115) NOI – 0 King Philip Road
(Map 19, Parcel 142)**

The proposed project involves the construction of a single-family residence with associated gravel access driveway, garage, utilities, and deck. The proposed work will occur within BLSF and the 100-Foot Buffer Zone to BVW.

(Continued from 9/12/2022 for 4 meetings)

Applicant/ Representative	Representative: Chris Lucas; Lucas Environmental Elliot Brais; Attorney
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Chris Lucas explains the plan revisions to the commission. Chris explains that the color coding of the plan has been revised, the applicant is further avoiding a portion of the no disturb zone, the utilities have been shifted to underground, and the area at the back of the lot will be avoided and preserved. Chris also points out that the previously disturbed area in the front of the property will be a mitigation area to be loamed and seeded, which would be roughly 4,000 sq ft of mitigation at the front of the site. John Thomas



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mentions that the applicant has provided a letter that they would be discussing this plan with the Planning Board. John asks for a status report from the applicant on where they stand with the Planning Board. Chris explained that they will speak with the planning board but they do not believe Article V is applicable. John comments that some of the parameters in the zoning bylaw refer to a floodway, which needs to be identified to the planning board. Chris comments that the project is not located within a FEMA regulatory floodway. John explains that based on the zoning bylaw the drainage way located on the plans would constitute a floodway, no matter that it is not FEMA regulated. Chris states that this issue is an issue for the planning board. Elliot Brias, attorney for the applicant states that they are more than willing to speak to the planning board and come back to the conservation commission for an amendment if it is deemed to be needed. Marc Fernandes explains to the applicant that he would like further discussion on the waiver request for the 25ft no-disturb zone, per the towns policy. Elliot comments that the lot is a pre-existing non-conforming lot, and all reasonable steps have been taken to accommodate the WPA. Elliot comments that the town does not have a wetland bylaw, only a policy which he believes the project cannot be denied based on a concern with the policy. Chris also states that the policy states that the commission can grant a waiver to a portion of the no disturbance zone if there have been significant attempts made to meet the requirement and a clear showing that the requirement cannot be met. Marc comments that the policy mentions granting relief of the policy for a portion of the site, however the site in question would require being within the no disturb zone for a majority of the project. Marc asks other commission members what precedent does the commission have for granting the waiver for such a significant amount of the site. Julian Kadish mentions that this amount of work within the 25ft no disturb zone is unprecedented. Elliot comments that because the lot was pre-existing non-conforming and they have met all of the performance standards that the project cannot be denied under the WPA. Marc mentions that he is only talking about the town's policy, not the state law. Elliot explains a policy cannot be enforced the same way a bylaw can be. John mentions that there is a routing procedure that is mentioned in the zoning bylaw which he is unsure if that procedure supersedes the issuance of a permit, which is why it has been mentioned several times that the applicant should go consult the planning board. Elliot explains he has reviewed the zoning bylaw and as stated previously it is mentioned that the applicant will go to the planning board and seek guidance. John reiterates his



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question as to whether the procedure has been met, which at this point in the process does not appear to be the case. Chris comments that the commission cannot hold up a state permit based on a zoning regulation, as it is outside of their purview. Chris also states that if after discussions with other boards they need to come back and make changes to the plans either administrative or otherwise they can do that at a later date. Marc comments that it is difficult for him to understand how the town can have a policy but have to set that policy aside for roughly 80% of a project. Chris mentions that roughly 80% of the site would include work within the 25ft no disturbance zone but when looking at the actual numbers that 80% amounts to roughly 3,000 sq ft of permanent impact, and the WPA allows up to 3,000 sq ft of wetland fill. Chris restates that the project is fully in compliance with the WPA. Marc also comments that another point is that the design of the house is still within 8.8ft of the wetlands boundary, and the 8.8ft of lawn will be loamed and seeded up until the wetlands, when typically based on policy nothing within the 25ft no disturbance zone should be altered. Julian mentions that prior permits typically involve existing old construction that needed modification. Julian comments that those exceptions were allowed however this project involves a completely new structure. Chris comments that the best efforts have been made and there is nowhere to put the house that is not in the 25ft no disturbance zone and to deny the project based on the policy would not be in compliance with the WPA. John mentions that the building inspector has asked the applicant to file for a special permit with the planning board. John comments again his concern about the site being in a floodway and makes it known to the applicant that they may have to come back to the commission to confirm that the site is not within the floodway. It is discussed with the applicant to continue to the next hearing where the commission can decide whether or not to close the hearing and issue an Order of Conditions.

Motion to continue the public hearing made by Daniel Pearson	Seconded by: Tamah Vest Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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G. (DEP#250- 1113) NOI – 0 East Hodges

REQUESTED CONTINUANCE UNTIL NOVEMBER 14TH

(Map 36, Parcel 2-0)



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Proposed work is to construct a single-family house, barn, pool, stormwater management infrastructure within 100-ft buffer zone to BVW, and the proposed barn within 200ft of Riverfront area.

(Continued from 9/26/2022 for 3 meetings)

Applicant/ Representative	Representative: None Present
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Motion to continue the public hearing made by Daniel Pearson	Seconded by: Ronald O'Reilly Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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IV. REQUEST FOR PARTIAL/ CERTIFICATE OF COMPLIANCE

V. SIGN AND ISSUE ORDER OF CONDITIONS/ORDER OF RESOURCE AREA DELINEATION

A. (DEP#250-1112)-ANRAD-0 S. Washington

(Map 24, Parcel 62) <https://tinyurl.com/ANRAD0SWashington>

The proposed plan is to verify resource areas on the property.

(Continued from 8/22/2022 for 4 meetings)

Applicant/ Representative	Representative: None Present
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Motion to issue ORAD for DEP#250-1112 made by Tamah Vest	Seconded by: Marc Fernandes Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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V. REQUEST FOR SIGNATURES

VI. REVIEW DRAFT MINUTES



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- 10/11/2022

Motion to approve minutes as drafted made by Daniel Pearson	Seconded by: Tamah Vest Aye: Daniel Pearson, Marc Fernandes, Tamah Vest, Julian Kadish, Ronald O'Reilly Motion Carries
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VII.NEW/OLD BUSINESS

- Site Inspections – PARE, Chartley Pond
John explains that the Chartley Pond report looked good and has been submitted to the state.
- Report from Staff
John Thomas explains that he has circulated a potential wetland bylaw to Daniel Pearson and Kerry Snyder for review. Kerry and Daniel have volunteered to be part of the bylaw committee, and will be providing comments.
- Fee Schedule 2023
John Thomas mentions that the fee schedule is still under review and needs to be voted on at the next town meeting.
- 10/29- Clean up at Rose Farms 12pm-3pm
John Thomas comments that there will be volunteers going out on site to clean up the front of Rose Farms.
- Vote on whether to have a 12/27/22 meeting
John Thomas mentions that it needs to be discussed by the commission whether they want a meeting on 12/27/2022. The commission decides to wait and see how everyone's schedules turn out before deciding on whether to have a 12/27 meeting. If the meeting is not held the commission is aware that there are time limits that need to be adhered to.

VIII.BILL SUMMARY



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9/26/2022- 10/24/2022			
Name	Amount	Account number	Account name
MACC	\$ 220.00	001-171-570-5716	operating - educational
Comcast	\$ 129.94	001-171-5701-5308	Maintenance of Conservation Areas
verizon	\$ 29.84	242-171-100-5701	Wetland Protection Fund
PARE	\$ 2,520.00	001-171-614-6071-17-08	Chartley Reservoir Dam Investigation Report
Water Department	\$ 492.38	001-171-5701-5308	Maintenance of Conservation Areas
Water Department	\$ 69.88	001-171-5701-5308	Maintenance of Conservation Areas
Town of Norton- Water department	\$ 492.38	001-171-5701-5308	Maintenance of Conservation Areas
Town of Norton- Water department	\$ 69.88	001-171-5701-5308	Maintenance of Conservation Areas
National Grid	\$ 36.60	001-171-5701-5308	Maintenance of Conservation Areas
WB Mason	\$ 3.00	001-171-570-5420	Office supplies
WB Mason	\$ 4.83	001-171-570-5420	Office supplies

IX. RATIFY LAST MEETING'S OPEN SESSION (TOPICS NOT ANTICIPATED 48 HOURS IN ADVANCE)

X. OPEN SESSION (TOPICS NOT REASONABLY ANTICIPATED 48 HOURS IN ADVANCE)

XI. PUBLIC REMOTE PARTICIPATION PROCEDURE

For this meeting, members of the public who wish to participate in the meeting may do so in the following manner:

1. To participate in the meeting, we recommend downloading the zoom app  before the meeting. (This may not be necessary because you can click the link below but we have found that this makes logging in to the meeting easier.)
2. **Join the Zoom Meeting at 6:30pm.** Using your computer or smart phone go the Zoom app and click "join a meeting" or click on:

<https://us02web.zoom.us/j/82995848392?pwd=ODhHNzBRY0tTb0t6YTZRYUo5U3BIZz09> . When prompted enter **Meeting ID: 829 9584 8392 Passcode: 791852 .1-646-558-8656**



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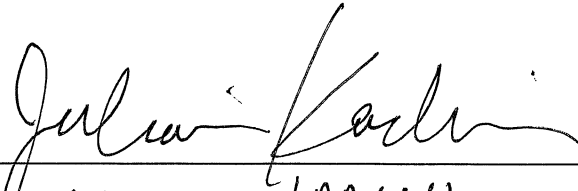
<https://www.nortonma.org/conservation-commission>

- The site can be a little tricky so if it doesn't work the first time, try again. Try copying and pasting the link into a google chrome browser if internet explorer or another browser doesn't work for you.
 - Using "connecting to video and audio through the computer" has been the easiest method. So make sure your computer's video/audio is on.
 - If you cannot hear, you may need to phone in by calling 1-646-558-8656, same meeting ID and password as above. If it asks for a participant id you can just hit #. Please put your phone on mute until the Chairman asks for your comments.
 - Everyone will be placed on mute at the beginning of the meeting as you sign in but you should be able to hear. We will unmute you when we reach the public question and answer portion of our meeting.
3. If, for some reason, neither option is working for you, you can email the Conservation Commission at conservation@nortonmaus.com to ask your questions. We will read your email address, name and comments into the public record.
 4. The standard procedure for a public hearing is a presentation by the applicant's representative, questions and comments by the Conservation Commission and Director, then opening questions and comments to the abutters. Please be patient and wait for your turn to participate.
 5. If there are no additional questions by the Conservation Commission or Director, the hearing would typically close; however, to ensure adequate opportunity for public participation, those specific hearings will be continued until the next meeting. This will be announced. You will have until the next meeting to provide your comments and questions before the Commission closes the hearing and makes a decision.

Respectfully submitted by: _____ Megan Harrop _____

Minutes approved by the commission on: _____ 11/14/2022 _____

Conservation Signature:


Name JULIAN KADISH

12/1/22

Date