

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:00 pm, November 6, 2023, Second Floor Town Offices.

Members Present: Chair Molly Hawkins, David Parrott, Jack Haley, George Preble, and Conservation Agent Michelle Greene. Associate member Alejandra Chandler via telephone.

Members Absent: Haley McCraven

1. **Public Hearing: Notice of Intent (continued): 0 River Meadow Drive – Whetstone Greenway, Applicant: Town of West Newbury, Re: Construction of a new trail and boardwalk, DEP# 078-0755 *Applicant requests a continuance.***
2. **Public Meeting: Request for Determination of Applicability (continued): 16 Donovan Drive, Applicant: Daniel Chiango, Re: Construct a 24'x32' barn *Applicant requests a continuance to December 4, 2023.***
3. **Public Hearing: Notice of Intent (continued): 0 Middle Street, parcel R27-28, Artichoke River Woods, Applicant: Essex County Greenbelt, Re: Construction of a parking area and portion of trail, DEP# 078-0766**

Mary and David Rimmer appeared on behalf of Rimmer Environmental Consulting and Essex County Greenbelt, respectively. Ms. Rimmer said that the state Department of Conservation and Recreation sent a couple of letters regarding a larger size for the culvert associated with the proposed parking lot, first requesting the culvert be at least 16" in diameter and then requesting that it be as large as possible for the site. She noted that a larger culvert would require more grading and thus would impact the resource area, requiring replication—which Greenbelt would like to avoid. She said that Greenbelt's engineer said that the hydrology would work with the proposed 12" culvert.

When consulted, the Department of Public Works Highway Superintendent Butch Hills (present for another agenda item) said that a larger culvert would be preferable to manage high flows of water. Mr. Parrott noted that the Commission needs to balance a smaller culvert with less disruption in construction against the risk of high-water volumes blowing out the culvert. Mr. Hills suggested two side by side 12" culverts, which would not change the proposed elevations but would accommodate larger stormwater volumes. Ms. Rimmer indicated that the two 12" culvert solution would work for Greenbelt. Ms. Rimmer asked that the Order of Conditions be issued this evening but held pending the Commission's receipt of a revised plan showing the two side by side 12" culverts.

Mr. Hills agreed to meet with Greenbelt in the spring to discuss and approve a curb cut for this project.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to close the public hearing.

Ms. Hawkins moved, Mr. Haley seconded, and the Commission voted unanimously to issue an order of conditions permitting work in conformance with the submitted plans and documents dated July 15, 2023 (as to be amended to reflect the two 12" culvert pipes) containing the Commission's standard conditions and special conditions including requirements that the applicant 1) the applicant shall install erosion controls comprising a staked 12" silt sock backed by fencing and obtain Conservation Agent inspection and approval of erosion controls prior to commencing work; 2) that the work follows the construction schedule in section 1.3 of the "Town of West Newbury Middle Street Artichoke Parking Area Project Construction Period Erosion, Sedimentation, and Pollution Prevention Plan" submitted as part of the NOI; 3) that Any material stockpiled on site for 24

hours or longer shall be protected with erosion and sedimentation control; 4) that a meeting be held prior to commencement of work with the conservation agent and the onsite supervisor for the project prior to the start of any work; 5) that the limit of work line shown on the plans shall be the limit of work; 6) that the culvert pipe shall be replaced with the maximum diameter culvert pipe suitable for the site or with 2 side by side 12" diameter culvert pipes accordance with any specifications from the Town of West Newbury Highway Superintendent and MA DCR; 7) the culvert pipe shall only be installed in periods of low flow; 8) fully stabilize all affected areas upon completion of work; 9) use no sodium-based deicers; 10) refrain from storing plowed snow in or adjacent to the wetland; 11) the stone infiltration trenches along the parking area shall be regularly inspected by the applicant and shall at least annually be cleared from debris and leaves; ; and 12) No use of pesticides, insecticides, herbicides, and fertilizers shall not be used on site within 100 feet of a resource area.

4. Request for Certificate of Compliance: 0 River Road, R24 – 5, River Road Reservation, DEP# 78-733

Ms. Rimmer said that the parking lot, replication area, and trail Greenbelt installed at this site is nicely vegetated and stable. She added that the only change from the initial plans is that one of the two bog bridges is a little shorter and another is a little longer with an elevated portion that allows more light for vegetation. Ms. Greene reported that the site looks good and the trail is popular. In response to Mr. Haley, Ms. Greene explained that the Commission's order of conditions for this project had no standard conditions and no requirement for an as-built plan to be submitted as part of a certificate of compliance request.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to issue a certificate of compliance for this project.

5. Public Meeting: Request for Determination of Applicability (continued): River Road Right-of-Way in front of 89 River Road, Re: Culvert improvements

West Newbury Health Agent Paul Sevigny and Mr. Hills appeared on behalf of the Town to propose improvements to an existing 12" culvert on River Road. They said that recent significant storms created a large pond of backed up water near and encroaching over the road because the culvert was clogged with root penetration where two culvert pipes meet close to River Road on the river side of the road. The state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage) sent a letter indicating no problems with this project and imposing no conditions. Mr. Sevigny said that the work will take one day to dig out and repair the culvert coupling and then fill it back in.

Ms. Hawkins moved, Mr. Haley seconded, and the Commission voted unanimously to issue a negative determination of applicability with special conditions requiring that the applicant 1) install erosion controls consisting of a 12" staked wattle; 2) obtain Conservation Agent inspection and approval of erosion controls prior to commencing work; 3) confine work to the limit of the erosion controls; 4) limit the excavation area to 5' x 7' (with the provision that the Conservation Agent may authorize a reasonable increase in these dimensions as needed); 5) refrain from stockpiling any materials on the site, keeping them on trucks instead; 6) perform all work from the pavement; 7) remove no trees as part of the project; and 8) immediately upon completion of the work, stabilize the disturbed area with loam, seeding, and salt marsh hay.

6. Public Meeting: Request for Determination of Applicability: 18 Norino Drive, Re: Change from helical mooring anchors to permanent anchor pins and eco-mooring blocks for dock

The property owners Mr. & Mrs. Miller appeared before the Commission to obtain approval for a final step in their dock construction. It was explained that this dock proposal initially came to the Commission as a Notice of Intent that is now expired. Ms. Greene added that the Order of Conditions was extended during the COVID state of emergency when some permits received COVID tolling which extended a permit's

expiration date. However, the tolling did not apply to extend the expiration date of the extended Order of Conditions. At this point, all the work has been completed except that when the mooring anchors were to be installed, it was realized that the river bottom was ledge and thus not suitable for the helical mooring anchors which Natural Heritage and the Commission conditioned be used for this dock. Ms. Greene noted that Natural Heritage has a hierarchy of preferred mooring anchor mechanisms, to be used depending on the nature of the river bottom. Helical mooring anchors are most favored, then permanent anchor pins, and then eco-mooring blocks. This request for determination of applicability asks to use two permanent anchor pins with flexible mooring rodes for the ramp closest to the bank and eco-mooring blocks for the float at the end of the dock.

Ms. Greene noted that Natural Heritage ordinarily approves mooring anchor changes such as the one proposed in these circumstances, but the Commission cannot act until Natural Heritage provides its letter of review indicating no objections or conditions to the proposed anchor changes. *The Commission generally advised that this proposal appears appropriate, continued the matter to the November 20th meeting, and agreed that the applicants could join that meeting by phone.*

The Commission further noted that this circumstance provides a lesson learned to be applied going forward: when future applications are made for dock construction, the Commission will require an assessment of river bottom conditions so that it can be assured that the applicant can actually implement the proposed mooring system.

7. Insignificant Change Request: 152 Middle St., FKA 14 Kimball Rd., Lot 1, Re: Installation of drainage trench, DEP# 78-722

Ms. Greene reminded the Commission of the [emergency stormwater situation](#) that occurred at this and neighboring properties over the summer, when large volumes of water streaming from a hillside under construction sent silt into wetlands across the street and into wetlands abutting the property. A violation letter was issued ordering that the homeowners address the situation and as a measure to address the runoff the homeowners and builder proposed the installation of a stone infiltration trench along the driveway to better contain the water flows. Ms. Greene clarified that the trench had not involved a submission to Natural Heritage because it was within the area of work. She reported that the site is now vegetated with grass and that this seems to have reduced stormwater and silt runoff but that there has also not been a significant rain event since the grass has been established.

In response to questions from the Commission, Mr. Kent noted that if more water comes into the trench at this site than what can be held and infiltrated into the ground, the excess water would go into the wetlands in front of the home at 154 Middle Street which is culverted under Middle Street to a wetland across the street. The culvert, however, may not be sufficient to manage the water coming off the hill as it was observed being inundated with the rains over the summer.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to approve the insignificant change request for the infiltration trench.

8. Request for Certificate of Compliance: Pathway off Twig Rush Lane for HOA, DEP# 78-397

Ms. Greene said that she had worked with the Homeowners Association (HOA) for submission of requests for certificates of compliance in connection with a common area containing paths and a dock. She reported that this matter concerns a pathway and footbridge and the site looks good. The path is no wider than 6' (as required in continuing conditions) and the surrounding area is heavily wooded. She noted that several decades

ago when the Commission reviewed the notice of intent, it waived requirements for replication, apparently because replication would require clearing of some trees and a greater disturbance around the wetlands.

Ms. Hawkins moved, Mr. Haley seconded, and the Commission voted unanimously to issue a certificate of compliance for the pathway and footbridge.

9. Request for Certificate of Compliance: Dock for Twig Rush HOA, Parcel R1-112, DEP# 78-685

Ms. Greene explained that this aspect of the HOA's common area in the river front shows some discrepancies from the approved plans. The dock is longer with an access ramp to the platform that is longer than the proposed stairs, and a simple wooden kayak rack has been placed in the inner Riverfront Resource Area. She observed that the kayak rack operates to improve conditions by eliminating residents' practice of dragging kayaks in and out of the water and storing them haphazardly on the bank and within the inner Riverfront Resource Area, disturbing vegetation in these areas. Instead, they can use the path and ramp for kayak access to the water and the rack for kayak storage. Ms. Greene also reported that the residents are now mowing the field in the common area in accordance with the ongoing special condition that regulates mowing, so that the vegetation is left at 6" and mowed annually except on the path—and this is considerable progress.

Ms. Greene explained that the dock's float feet, a system to keep dock floats from contacting the riverbed at low tide, is the same as that used for other docks in West Newbury but differs from what was shown on the approved plans which may provide a better method of keeping dock floats off the riverbed at low tide. It was noted that the plans also note a similar type of float feet may be used at the Commission's discretion. It was generally agreed that as the float feet are of the style commonly used in town, that the Commission finds the change from what was shown on the plans as insignificant.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to issue a certificate of compliance for the dock.

The Commission further noted that this circumstance provides a lesson learned to be applied going forward: when future applications are made for dock construction, the Commission may require that the applicant use float foot system such as the style of float feet shown on the plans for this dock as this style float foot will not become warped by river flows, potentially causing a failure that leaves the dock floats sitting on the river bottom at low tide.

10. Request for Reissue Certificate of Compliance: 246 Middle Street, DEP# 78-269

Ms. Greene explained that the Commission had issued a certificate of compliance in 1996, but the applicant did not file the original with the registry of deeds. The applicant now wishes to sell the property and needs a re-signed original to file and thus clear the title.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to reissue a certificate of compliance.

11. Enforcement Order Ratification: 0 Baileys Lane, Parcel R13-82A, Long Hill Orchards, Re: Filled wetlands

Consultant Greg Hochmuth appeared on behalf of the property owners and Connor Lincoln of CS Lincoln Excavation, whose business operation has been storing equipment and materials at the site on or near wetlands since about 2016. Mr. Hochmuth said that research with aerial maps and GIS indicates that beginning around 2013, wetlands were filled on the property, which is subject to an Agricultural Preservation

Restriction (APR) granted by the state. He said that he is aware of no argument that the filled area is not a wetland.

Mr. Hochmuth said that the goal is to keep it as simple as possible to get into compliance. He noted that per the APR, the land is supposed to be used for farming. Composting may be part of a farming operation, but the land cannot be used as a contractor's storage area. Mr. Lincoln may look for another suitable place to store his equipment and materials. The plan is for Mr. Hochmuth to flag the wetlands boundaries in the next few weeks and develop a plan to restore the wetland and buffer zone. All metal, concrete, and other materials will be disposed of properly offsite. Mr. Lincoln is proposing to use some material onsite to finish building a farm road rather than take it offsite and bring it back. The road would be gravel, not asphalt. The buffer area would be used to grow cow corn. Mr. Hochmuth said that he would serve as a soil evaluator, periodically doing inspections.

Ms. Greene discussed the enforcement order, and the Commission stressed the need for a timeline to achieve compliance. Mr. Hochmuth said a December 4 deadline for submitting a restoration plan should work. Ms. Greene noted that she has discussed this matter with the Department of Environmental Protection (DEP) and has explained that the parties are moving forward on a cooperative basis. DEP will become involved if the need arises.

Ms. Hawkins moved, Mr. Haley seconded, and the Commission voted unanimously to ratify the enforcement orders issued with respect to Long Hill Farm and Mr. Lincoln's company.

12. Enforcement Order Update: 13 Turkey Hill Road, Re: Planting update for unpermitted clearing in 100' buffer zone of wetlands

Homeowner Alejandra Chandler said that she has not done the remedial planting because a number of the plants she ordered online have not arrived (although the bayberries should arrive tomorrow) and the blueberries that did come were just twigs.

The Commission suggested that Ms. Chandler proceed to plant what she has and replace plantings that do not survive in the spring. Ms. Hawkins suggested that Ms. Chandler plan ahead about where to order appropriate plants for the spring. *It was agreed that Ms. Chandler will bring photos showing her progress to the Commission's November 20th meeting.*

13. Enforcement Order Update: 22-24 Main Street - PRSD, Re: Continuing sedimentation into intermittent stream, DEP# 078-0701

Ms. Greene reported that the applicant has hired consulting firm Epsilon to review and report on any needed clean up and restoration of the stream and wetlands impacted by silty runoff during construction. A report should be forthcoming soon. Ms. Greene did go to the site during a not-too-heavy rainstorm recently and saw that the runoff was less turbid and not highly laden with sediment. It's not clear whether this is because we have not had significant rainstorms recently or because the stormwater management and site stabilization is now working well.

Because no problems have been identified recently, it was decided to hold off on preparing a formal letter alerting stakeholders to ongoing issues.

Nonetheless, Ms. Greene said, two areas near the baseball field, the toe of the slope at the stream that has

emitted silty discharges and has a large hole and the apron that apparently functions as a catch basin, need to be watched. Ms. Greene has continued to discuss this site with MA DEP, who suggested that when the applicants approach the Commission for a certificate of compliance, the Commission can ask for evidence (perhaps a trail camera) proving that the source of the hole(s) at the toe of the slope have been created by burrowing animals as opposed to underground water flow.

Mr. Parrott advised that the Commission should make sure that the applicant is given notice of any outstanding issues that may affect a certificate of compliance—it is important to avoid surprises. Ms. Greene said that she has raised issues about the two problem areas in emails and other communications.

14. Enforcement Order Update: 35 River Road, Re: Unpermitted clearing in 200' river front area, 100' buffer zone, and NHESP mapped priority habitat and

15. Enforcement Order Update: 7 Worthy Lane, Re: Unpermitted clearing in 200' river front area, 100' buffer zone, and NHESP mapped priority habitat

Ms. Greene said that in these matters, adjoining landowners had cleared trees and other vegetation in the 200' river front area and had submitted restoration plans that included planting replacement trees, 8 trees at 7 Worthy Lane 4 trees at 35 River Road. Now, with the wet summer, the properties are well vegetated, including with locust tree saplings. Thus, the homeowners are seeking a waiver of the requirement to plant additional trees. Ms. Greene noted that the wood chippings have also been removed from the area.

Mr. Parrott inquired whether the purpose of the remedial action requirements was to restore approximately what was there before. Ms. Greene said that the question is whether the revegetation is naturally occurring and is there a need for additional plantings.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to lift the enforcement orders for both properties with the advisement that no further cutting or disturbance may occur without prior Commission review and approval.

16. Discussion:

Climate Change Resiliency signs at River Rd & Riverbend conservation areas

West Newbury Climate Change Resiliency Committee chair Elisa Grammer provided a likeness of the citizen science sign to be located in five places along River Road, including at the end of River Road/beginning of Riverbend Trails and at the parking lot for the River Road conservation area. The signs would be about 11" x 14" and would go on a metal post with minimal soil disturbance. Ms. Grammer also noted that two larger signs describing the River Road grant project will be installed, one at the corner of Coffin Street and River Road and one at Ferry Landing Park.

Tree limb removal at the Quaker Cemetery

Ms. Grammer reported that the Historical Commission's project to clean up the Quaker Cemetery has just been completed. She said that she had done some of the work and observed that a tree limb had fallen, breaking one of the gravestones. She said that two trees have limbs threatening the grave stones and that the Historical Commission may seek Community Preservation Act funding to have a tree climber remove those limbs. Ms. Greene said that this work could be tree trimming for the river view and Ms. Grammer said that she believes that the Historical Commission's RDA covers this as well.

17. Approval of Minutes: October 16, 2023

Deferred

18. Land Agent Updates:

Ms. Greene reported that the November 4 invasive plant cleanup was a success at Cherry Hill, with about 18 people volunteering. A conservation seed mix will be used at the site. The Select Board controls this property, and consideration is being given whether to preserve the land as a meadow, as an early succession forest, or allow it to become heavily forested.

19. Conservation Agent Updates:

No updates.

20. Commission Representative to Open Space Update:

Mr. Parrott and Ms. Green reported that the Open Space Committee had met to discuss the potential check list intended to enable the Town to standardize new trails on Town land and on public trails that are recorded in the registry of deeds.

21. Commission Representative to Community Preservation Committee Update:

Mr. Haley reported that the most recent meeting of the Committee occurred on September 20 and none is currently scheduled.

22. DEP Comments:

None

23. Other business:

Sawmill Brook open space acquisition

Ms. Greene said that the state has awarded a grant to help cover the cost of this property acquisition. *The Commission signed documents relating to the grant.*

Conservation Commission attendance at November 9 and November 15 Town forums

It was agreed that Ms. Hawkins and Ms. McCraven will attend on November 9 and Ms. Greene, Mr. Parrott, and Ms. Chandler will attend on November 15.

24. Informal Discussion:

None

- 25. Upcoming Meetings:** November 7, 2023 @ 7:00 PM – Administrative Business/Bylaw
November 20, 2023 @ 7:00 PM – Regular Business/Public Hearings & Meetings

Adjournment 9:26 pm

Meeting Documents

Presentations and records associated with each matter identified, as included in the Conservation Agent's files.

Respectfully submitted