

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, July 6, 2022, Second Floor Town Offices.

Members Present: Chair Judy Mizner, David Parrott, George Preble, and Kathy Feehery. Also present, Conservation Agent Michelle Greene and associate member Jack Haley.

1. **Public Hearing: Notice of Intent (continued): Town Wide, Applicant: West Newbury DPW, Re: Hazard tree management, DEP# 078-0717 Continued at the request of the applicant.**
2. **Public Hearing: Request to Amend Final Order of Conditions (continued): 87 Main Street, Lot 3, Applicant: Robert Johnson, Re: Construction of drainage and stormwater management systems to address runoff and sitework to stabilize site, DEP# 078-688 Continued at the request of the applicant**
3. **Public Hearing: Notice of Intent (continued): 137 Indian Hill Street, Applicant: Joshua Wegrzyn, Re: Construction of a garage and after-the-fact permitting of an outdoor patio, DEP# 078-0747 Continued at the request of the applicant**
4. **Public Hearing: Notice of Intent (continued): 13 Turkey Hill Road, Robert Scally, Re: raze and rebuild a single-family home, DEP# 078-0750**

Consultant engineer Bob Grasso described the planned work, noting that the Commission had taken a site walk on the property the prior Sunday. The plan is to replace the existing dwelling and save many of the trees except for the arborvitae lining the driveway and possibly a catalpa that may be impacted by digging for the new construction. The majority of runoff from the new buildings' roofs would be managed with an underground filtration system. Mr. Grasso also described the distances between certain structures and a proposed cantilevered deck. He stated that the plan is to use silt fence backed by a 12" silt sock for erosion control.

Mr. Grasso said that the property owner would like to continue mowing the wetlands he described as lawn in order to have a side yard for the new house. The idea is to have no structures other than perhaps a picnic table. Mr. Grasso provided an aerial photo from MA DOT from 1969 showing that the land was clear in that area, with only two large pines. He produced a DEP flyer saying that maintenance of existing landscaping is allowed. However, Ms. Mizner noted the flier referred to riverfront and buffer zone activities. The applicability of the wetlands regulations to such areas as riverfront and buffer zones was discussed further.

Ms. Mizner questioned how the property owner could establish that the cleared area was actually lawn as opposed to some naturally occurring herbaceous layer such as a wet meadow. It was suggested that an affidavit confirming that the area had been a lawn prior to 1987 and had been mowed continuously since that time would suffice. Robert Scally, the property owner, said that when he bought the property, he tried to do due diligence and had no inkling that the wetlands were there. Ms. Greene noted that in 1998 a well was installed in the wetland. Ms. Mizner said that the well had not been brought to the Commission's attention at the time.

Mr. Scally said that the project has been delayed and he needs to start construction. It was decided to proceed with an Order of Conditions for the building project with no mowing in the wetlands. Mr. Scally could request an Amendment to the Order of Conditions to permit mowing if an affidavit establishing that the area was a mowed lawn prior to 1987 and had been maintained as such were secured.

Ms. Mizner moved, Ms. Feebery seconded, and the Commission unanimously approved an Order of Conditions (as amended to provide for preservation of trees except the arborvitae and the catalpa if necessary) with standard and special conditions and further conditioned on the work to be consistent with the June 27, 2022 plan; installation of a 5' split rail fence 5' away from the wetland line; use of erosion controls consisting of staked silt fence backed by staked 12" silt sock (which erosion controls must receive Commission inspection and approval prior to commencement of work); installation of demarcation posts with Commission plaques installed along fence opposite flags 6a, 5a, 4a, and 2a; restrictions on herbicides and other chemical applications; submission to the Commission of a construction schedule 72 hours prior to commencement of work; disposal of waste materials offsite; no use of sodium deicers on the driveway in buffer zone.

5. **Public Hearing: Notice of Intent (continued): 0 Middle Street, Map R27, Lot 31 – Lower Artichoke Reservoir Spillway, Applicant: City of Newburyport, Re: Construction of a stone foundation along the upstream side of the Lower Artichoke reservoir spillway and removal of trees along the dam embankment, DEP# 078-0749 Continued at the request of the applicant**
6. **Certificate of Compliance Discussion: 64 South Street, Re: Bark mulch on slopes in buffer zone, DEP# 078-0732 Continued**
7. **Violation Update: 4 Norino Drive, Re: Clearing within the 25' no disturb buffer and clearing past the limit of work, DEP# 078-0740**
No update
8. **Violation Update: 21 Montclair Road, Re: Clearing trees within 100' buffer zone without a permit**
No update
9. **Enforcement Order Update: 87 Main Street, Lot 3, Robert Johnson, Re.: Construction of drainage and stormwater management systems to address runoff and sitework to stabilize site, DEP# 078-688**
Ms. Greene reported that developer Robert Johnson has removed silt and cleaned out the stormwater basins/ plunge pools and is now working on the slope behind the unfinished house. He is hoping to get the property graded and seeded. The Commission has not yet received an updated plan; the hope is that this will be ready for the July 18th meeting. Mr. Johnson also needs to submit a plan for the relocated septic system. There is no update on easements on properties already sold with regard to stormwater management structures needed for the unsold property but located on those other properties.
10. **Enforcement Order Update: 11 Pleasant Street, Sergio Vergara and Maia Vergara Azoulay, Re: Grading and filling within 100' of a bordering vegetated wetland; installation of fencing that constitutes a barrier to wildlife movement within 100' of a bordering vegetated wetland; and destruction of vegetation within 100' of a bordering vegetated wetland without a permit**
No update

11. Enforcement Order Update: 15 Norino Drive, Colin Hodgson, Reinhild Hodgson, and Shirene Hodgson Re: Placement of a houseboat and dock along the Merrimac River without a permit with impacts to the 200' riverfront resource area, bordering vegetated wetland, inland bank, and rare species habitat

Ms. Greene said that she spoke with Mr. Hodgson, who had been in South Africa for the past few months. The Commission reviewed the years of concerns and enforcement orders addressing Mr. Hodgson's disused houseboat left on the riverbank in a priority habitat area. As he has been informed in meetings and in the orders, the houseboat cannot be left on the bank at any time of year. Ms. Greene explained that Mr. Hodgson says that the item in question is not a houseboat but a duck blind. She noted that the item is on Town tax rolls as a vessel. Mr. Hodgson, she says, expressed concern that he would spend significant funds on engineering in connection with a Commission filing only to have his proposal denied. Ms. Greene said that she has requested an update on the status of Mr. Hodgson's MESA application from the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species program (Natural Heritage). Ms. Greene also raised the possible applicability of the Town's Harbor bylaws. The Commission may consult with the Town counsel. *Ms. Mizner advised Ms. Greene to tell Mr. Hodgson that a properly engineered plan in compliance with applicable requirements would not be denied.*

12. Other Business: Discussion on collaboration between ConCom / Agent and Planning Board / Town Planner on projects subject to stormwater bylaw Continued

13. Other Business: Approval of payment for UNH Wetlands Delineation Course for agent Michelle Greene

Ms. Greene described the components of the Commission's \$6,835 approved FY23 budget

1) For the West Newbury Commission:

- \$523 Massachusetts Association of Conservation Commissions (MACC) membership
- \$175 Association of State Wetlands Managers (5 members)
- \$1315 to attend fall and spring MACC conferences
- \$440 Commissioners' training
- \$370 office supplies, software & Zoom

2) For Ms. Greene (whose Conservation Agent work is shared with Merrimac):

- \$145 MACC and MSMCP memberships
- \$1415 training and conferences
- \$840 vehicle
- \$378 cellphone
- \$350 software

- \$200 supplies
- \$200 miscellaneous

Ms. Greene also described a \$695 invoice for a University of New Hampshire (UNH) wetlands delineation program scheduled for September which would come out of the \$1415 training budget.

Ms. Mizner moved, Ms. Feebery seconded, and the Commission unanimously approved the proposal for the UNH program.

14. Other Business: Approval of payment to MACC for FY 2023 dues

Ms. Mizner moved, Ms. Feebery seconded, and the Commission unanimously approved the proposal for the MACC dues.

15. Other Business: Reimbursement discussion regarding MACC membership and fundamental unit registration for Associate Commissioner Jack Haley

Mr. Haley, currently an associate member who will soon Ms. Feebery as Commissioner, paid out of pocket for certain wetlands training and MACC fees and asked about reimbursement.

Ms. Mizner moved, Ms. Feebery seconded, and the Commission unanimously approved \$95 in payment to Mr. Haley—\$20 for a MACC handbook and \$754 for MACC membership.

16. Other Business: Discuss and appoint a ConCom representative to the CPC Commission, per the Town Clerk, current appointment of Judy Mizner ends June 30, 2022

Ms. Feebery moved, Mr. Parrott seconded, and the Commission voted unanimously to reappoint Ms. Mizner as the Commission's Community Preservation Committee (CPC) representative. Ms. Feebery further noted that the Commission usually has a representative join the Open Space Committee (OSC). Mr. Parrott will apply to serve as an associate member of the OSC.

17. Wetlands Bylaw Update:

Ms. Mizner suggested that the Commission take this up at the next meeting. Ms. Greene said that because of the large amount of interest in this topic, Town officials suggested raising this at an Annual Town meeting instead of in the fall. If the Commission would like to pursue this for Fall Town meeting, it should inform the Select Board as soon as possible.

18. Old Business

19. Informal Discussion:

20. Community Input:

Elisa Grammer, a member of the Town's River Access Committee, informed the Commission that the Committee will be seeking CPC funding for a study of a small parking area and an access path so that cartop boats (kayaks, etc) can use the river access afforded by the acquisition of conservation property on River Road. In response to the Commission's inquiry, she said that the hope is that Essex County Greenbelt can assist with the Conservation Commission permitting. The first step has been identifying the property boundaries. *The Commission generally welcomed submission of a permitting request once the project has been defined.*

21. Approval of Minutes: April 4, 2022

22. Approval of Minutes: June 6, 2022

23. Approval of Minutes: June 22, 2022

24. Correspondence:

None

25. DEP Comments:

None

26. Land Agent Update: Introduction to invasive plant interns, Dan and Kevin

Ms. Greene introduced the two interns working on mapping invasive plants on Town property. Dan McNamara, who is completing studies in environmental science at UMass Amherst, said that he hopes to work in forest and wildlife ecology. Kevin Stacy, who is finishing his studies in marine safety and environmental protection at the Massachusetts Maritime Academy, would like to serve as a game warden enforcing environmental laws. They described their work mapping invasives (bittersweet, honeysuckle, buckthorn, etc.) at Mill Pond, the Pipestave area, and other planned sites. They are using EdMap software on iPads to report data points (which are then verified) including photos, percent cover of species, and other information. This can be exported into the MIMAP GIS system. At the end of their tour they will make a presentation to the Town, with data obtained and management suggestions.

27. Next Meeting: July 18, 2022

28. Adjournment 9:10 pm

Meeting Documents

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

Respectfully submitted