

West Newbury Conservation Commission Meeting Minutes

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

Members Present: Chair Judy Mizner, Molly Hawkins, David Parrott, Jack Haley, and George Preble. Also present, Conservation Agent Michelle Greene.

1. Public Hearing: Notice of Intent (continued): Town Wide, Applicant: West Newbury DPW, Re: Hazard tree management, DEP# 078-0717

The hearing was continued at the request of the applicant.

2. Public Hearing: Notice of Intent (continued): 116 Georgetown Road, Applicant: Matthew Perry, Re: Construction of a 24' x 24' garage and expansion of lawn, DEP# 078-0754

Property owner Matthew Perry appeared before the Commission. He advised that he was looking to install the fence on his property as soon as possible to contain his dogs. He provided the Commission with a document outlining fence details which will consist of a post and rail fence in the backyard with wire mesh and an aluminum panel fence along the sides of the property. Ms. Mizner asked if spacing will be left for wildlife passage under both fences and Mr. Perry advised a 6" space will be left at the bottom of both.

Ms. Mizner moved to issue an Order of Conditions for the work proposed with Standard Conditions and Special Conditions that erosion control be installed and inspected prior to construction; that 72 hour notice be provided to the WNCC prior to commencement of work; that the fence be installed as shown on the fence explanation document submitted to the Commission this evening; and that, due to the limited impact the fence installation will have on resource areas, the installation of the fence can commence after the time of year restriction of 10/15/2022. Ms. Hawkins seconded the motion and the motion passed unanimously.

3. 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

The hearing was continued at the request of the applicant.

4. Public Meeting: Request for Determination of Applicability (continued): Along Middle Street near 288 & 290 Middle Street, Applicant: National Grid, Re: Relocation of utility poles and tree removal

Anthony Damiano of GZA appeared on behalf of the applicant. He recounted the site visit with the Commission on 11/6 and advised that, based on the site visit, the wetland line in front of 288 Middle Street was extended further and now includes wetland flags B1a and B1b. He also advised that he flagged the wetlands across the street along the road which the Commission had reviewed during the site visit. Asked about moving the proposed poles to the east side of the street rather than the west side of the street, Mr. Damiano said that while it appeared feasible when reviewing online mapping which shows an extensive wetland on the east side of the street and no wetlands on the west side of the street, in the field, wetlands do exist on both sides of Middle Street in this location. Concerns have also been shared with him and National Grid from the abutters on the west side of the street as they are concerned over loss of maple trees which they tap for their sugaring operations. Mr. Damiano advised that he does not have a revised plan for the Commission to review and has not heard from National Grid whether they will

change the pole locations but wanted to provide an update on the project. He added there are concerns over the steep slope along the road on the east side which could compromise the safety and stability of the poles if they were located there. Based on this, National Grid will likely keep the poles on the west side of the street. A conversation over permits for tree removal ensued and Mr. Damiano expressed his view that a permit from the Commission will be needed for work in wetlands and a permit from the tree warden will be needed for removal of the trees.

Ms. Mizner said the Commission is unable to make a decision without knowing exactly what is being proposed. Mr. Damiano advised he could have this information for the Commission by its next meeting. Ms. Mizner reiterated that she wanted to know if poles 122 & 123 could be relocated to the east side of the street to reduce the amount of tree clearing needed. Ms. Hawkins asked if the slope on the east side could be stabilized and Mr. Damiano replied he could check with the engineers. Ms. Mizner questioned how far off the road the poles needed to be located and Mr. Damiano answered enough room for snow plows is needed but this can also depend on the type of pole being installed. Mr. Parrott commented it seems that there would be less wetland impact if the poles were moved to the east side of the street unless major engineering to support the slope was required.

With Mr. Damiano's permission, the meeting was continued to the November 21st meeting.

5. Public Hearing: Notice of Intent (continued): 528 Main Street, Applicant: Jeffrey Smith, Re: Replacement of an existing septic system, DEP# 078-0752

Consultant Jim Scanlan provided newly revised plans for a replacement septic system. He noted that as determined at the site walk, wetlands flag WF4 was relocated out 5' based on observations made by the Commission during the site visit and what had been viewed as a smaller isolated wetland is all part of a larger bordering vegetation wetland (BVW) partially off property connected to this wetland area through a culvert. This change will not impact the project, which has received Board of Health approval and shows a 100' buffer zone around both wetlands shown on the plans. Mr. Scanlan stated that the new septic system is ready to go and will be installed as soon as possible.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to find that the areas delineated by flags WF1-WF4 and A1-A4 are BVW.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to issue an Order of Conditions with standard and special conditions, requiring that the applicant will 1) install erosion controls consisting of a silt fence backed by a 12" silt sock, which must be inspected and approved by the Conservation Agent prior to the beginning of work; 2) provide the Agent at least 72 hours' prior notice before commencing work; 3) leave the area extending 25' from wetlands undisturbed as a natural vegetation area; 4) install posts, to be selected by the applicant and approved by the Commission, extending four feet into the ground and four feet above ground, with conservation placards, 25 feet upland from flags WF3 and WF4 and the unnumbered flag at the curve to mark the natural vegetation area; 5) remove trash and dispose of it offsite; 6) be permitted to continue work after November 1, given the flat terrain of the work area and with the condition that additional erosion controls will be installed if the Commission deems it necessary.; and 6).

6. Public Hearing: Notice of Intent (continued): 132 Crane Neck Street, Applicant: Brenda Dow, Re: Replacement of an existing septic system, DEP# 078-0753

Consultant Jim Scanlan said that this project had been waiting for a Department of Environmental Protection (DEP) number, and is now under contract to be sold. The proposed new septic system is at an

elevation below the street and will not impact the wetland bordering the other side of the road.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to issue an Order of Conditions with standard and special conditions, requiring that the applicant will 1) install erosion controls consisting of a 12" silt sock (suitable given the location of the work and its distance from the wetland), which must be inspected and approved by the Conservation Agent prior to the beginning of work; 2) provide the Agent at least 72 hours' prior notice before commencing work; and 3) be permitted to continue work after November 1, given the location of the work area and the failed septic system.

7. Public Meeting: Request for Determination of Applicability (continued): 70 Church Street, Applicant: Timothy Lattrell, Re: Removal of dead ash trees

Ms. Hawkins reported that the Commission had conducted a site walk and looked at the trees proposed to be cut. She said that the tree closest to the house is a clear hazard and it, as well as the two at the end of the boardwalk at the sitting area and the two on the north west side of the lawn near the shed, are good candidates for immediate removal. These five would be flush cut and removed. The remaining trees at the border of the landscaped area could be cut at about 10' and left in place to serve as wildlife habitat.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to issue a negative determination with respect to the tree cutting proposed in the filing before the Commission, with five trees shown on the plan in the landscaped area - the tree closest to the house, two at the end of the boardwalk at the sitting area and the two on the north west side of the lawn near the shed -to be cut flush and removed (keeping the roots in place), the eleven other trees to be cut to a height of at least 10' to serve as wildlife habitat with wood to be dropped in place, and with replacement of the tree closest to the river with a fruit tree.

8. Public Hearing: Notice of Intent (continued): Along Rogers Street near the Artichoke Reservoir, Applicant: Massachusetts Electric Company / National Grid, Re: Relocation of utility poles and tree clearing, DEP# 078-0756

Carolyn Gorss of BSC Group on behalf of National Grid described the project to replace and relocate certain utility poles and conduct tree cutting to protect the wires. Pole 16 is currently poorly located in the asphalt and will be cut off at its base. A replacement pole will be moved across the street farther from the wetland. As a result of the site walk, she contacted National Grid's forestry group and determined that where possible taller stumps will be left to provide habitat. They will further consider whether some of the trees may not actually require removal. Heavy equipment will remain on the roadway. Straw wattles will be placed around the poles, which will be disposed of offsite.

Ms. Greene noted that one of the trees to be removed has Newburyport signage relating to the Artichoke Reservoir and Ms. Gorss agreed to arrange for communication with Newburyport about that.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to issue an Order of Conditions for the replacement of poles 15, 17, and 18, and relocation of pole 16 with standard and special conditions, requiring that the applicant will 1) install (and remove after work is complete) erosion controls as described; 2) conduct tree cutting as shown on the plan, with cut trees left at 10' where possible; and 3) be permitted to continue work after November 1 given the limited impact of the work proposed.

9. Public Meeting: Request for Determination of Applicability (continued): 87 Coffin Street, Applicant: James P. Kelly, Re: Installation of solar panels

Property owner Margaret Mahony appeared before the Commission. Mr. Preble noted that the site visit showed an area that looks fine and said that the applicant is proposing to move forward with the solar installation as soon as possible.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to issue a negative determination given the location and limited impact of the project.

10. Public Meeting: Request for Determination of Applicability: 143 Turkey Hill Street, Applicant: Robin Desmond, Re: Construction of a single-family house, grading, and associated utilities

Consultant Tom Hughes discussed the plans for a new 3-bedroom home and a garage with a 1-bedroom in-law suite above (reusing the existing gravel driveway and already installed septic system and well). He described the proposed project and the nearby agricultural land that has some hydric soils and wetlands vegetation. He suggested using the stonewall as demarcation of the maximum extent of potential resource areas, observing that it has a raised elevation.

The Commission continued the matter until its November 21st meeting and scheduled a site walk for 9 am on Sunday November 20th.

11. Public Meeting: Request for Determination of Applicability: 73 Coffin Street, Applicant: Michael DiModica, Re: Removal of dead and dying trees

Homeowner/applicant Michael DiModica described 2 dead and dying ash trees and a maple he proposes to cut himself. The two ash trees are on a slope going to the wetland, and when felled may fall into the wetland. Mr. DiModica proposed to remove those trees, once cut, from the wetland with a chain on his truck. Ms. Greene noted that if the trees died naturally, they would fall into the wetland.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to issue a negative determination conditioned upon the applicant's 1) removal of fallen trees from the wetlands and 2) leaving the stumps and roots of the three cut trees in place.

12. Public Meeting: Request for Determination of Applicability: 3 Brickett Street, Applicant: Anthony Iacobucci, Re: Pavement of a driveway and after-the-fact permitting of a garage/accessory dwelling

Consultant Denis Hamel of GM2 shared plans concerning this project. He said that the wetland line was delineated in September 2022, and data sheets are available. As background, he said that in the permitting of the existing garage, the applicant had met with former Conservation Agent Jay Smith who advised that this was not in the buffer zone.

Ms. Greene clarified that in the initial plan Mr. Smith reviewed, the buildings were located in other areas, with the house further up in the lot and further from the wetlands. The buildings, however, were not built where initially approved. Ms. Greene caught this change when looking at the plans for new work.

Mr. Hamel said that the property has solar and geothermal energy systems, and the house is still out of the buffer zone. He acknowledged that a corner of the existing garage is in the buffer zone. There is also a well in the buffer zone that had not been approved.

Mr. Hamel said that the new plan is to add an in-law apartment above the existing garage with an additional accessory dwelling and lean-to off the back of the existing garage. There will also be additional driveway paving. No trees would be cut and the work area is currently maintained as lawn. The area where the work is proposed is mapped priority habitat for rare and endangered species, but is manicured lawn and therefore does not require a MESA filing. Mr. Hamel added that the next plans will be updated to show erosion controls.

The Commission scheduled a site walk for Sunday November 20th at 9:30 and continued the matter to its November 21st meeting.

13. Request for Certificate of Compliance: 3 Brickett Street, DEP# 78-504

The Commission determined to take a look at the whole site during the site walk for the RDA on the 20th and continued this matter to its November 21st meeting.

14. Violation Update: 4 Norino Drive, Re: Clearing within the 25' no disturb buffer and clearing past the limit of work, DEP# 078-0740

Consultant Tom Hughes said that he will be doing 25 meter transects identifying native vs. invasive plants. He said that trees cut were mostly silver birch and some of those are coming back and are on the right path. He added that some invasive plants like autumn olive and honeysuckle are present. The trees cut will become multi-stemmed as they grow back and he will recommend reestablishing some single stemmed trees. He said that some places are devoid of vegetation and should be replanted with native plants.

Ms. Greene said that considerable fill has been brought in and she sent a letter in September reminding the property owner of the upcoming work stop date of October 15th and stabilization date of November 1st for work in the buffer zone. Mr. Hughes said that the owner brought the fill in before October 15th with the intention of smoothing the piles of fill, which is where the new house will be built. However, that did not happen and the excavation contractor knew not to do work after the October 15th cutoff date. Mr. Hughes said that the piles of soil are about 5-6' from the street and wattles are in place. He did not think there would be much impact at the back where the wetlands are, and the plan is to smooth off the piles, install secondary wattles to control erosion around the piles, seed it, and perhaps cover the side by the road to keep soil from going into the street. The piles will be reviewed periodically.

15. Violation Update: 21 Montclair Road, Re: Clearing trees within 100' buffer zone without a permit

Consultant Tom Hughes said that he will be putting together a restoration strategy. Trees were cut and now are lying on the ground as felled. Cutting was stopped as it was ongoing. He said that leaving the trees in place would allow them to serve as a carbon sink and removal would create more disturbance. He does not have a count of the trees cut, but it includes three that are good sized. Mr. Hughes said that his focus is less on tree-by-tree replacement and more on returning the same density and canopy of vegetation. Some small maples are coming in. He said that many invasive plants, including multiflora rose, honeysuckle, and buckthorn are present. Mr. Hughes is still trying to delineate the wetland. One of the felled trees is in the way, combined with thorny roses. He is trying to complete the field work and present a plan to the Commission.

In response to Ms. Hawkins' question about what the homeowners were trying to do, Mr. Hughes said that the tree cutting was to improve the views.

16. **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

No update.

17. **Wetlands Bylaw Discussion:**

No update

18. **Other Business:** Ms. Greene will be taking vacation time from 12/27/2022 to 1/3/2023. The Commission's December meetings will be on December 7 and December 19 as scheduled and the Commission decided to move its first Monday meeting in January 2023 from January 2nd, the date New Years is observed, to Monday January 9th. Mr. Preble said that he would be away in December.

19. **Other Business:**

20. **Old Business:**

21. **Informal Discussion:**

22. **Community Input:**

23. **Approval of Minutes:** August 15, 2022

Deferred

24. **Approval of Minutes:** September 8, 2022

Deferred

25. **Approval of Minutes:** September 19, 2022

Deferred

26. **Approval of Minutes:** October 3, 2022

Deferred

27. **Approval of Minutes:** October 17, 2022

Deferred

28. **Correspondence:**

29. **DEP Comments:**

30. **Land Agent Update:**

Ms. Greene reported that a group of 17-18 people removed invasive plants at the Cherry Hill Conservation Land on Sunday November 6th with attendees from West Newbury and surrounding areas including Newburyport and Amesbury. They did find some marked Thurlow nursery trees, but not the

root cellar.

31. Commission Representative to Open Space Update:

No update.

32. Next Meeting: November 21, 2022

Adjournment 9:37 pm

Meeting Documents

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

Respectfully submitted