

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, November 21, 2022, Second Floor Town Offices.

Members Present: Chair Judy Mizner, David Parrott, Jack Haley, and George Preble. Molly Hawkins participated by phone. 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 *Applicant requests a continuance.***
2. **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.***
3. **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**

Consultant Anthony Damiano of GZA, appearing on behalf of National Grid, reported that National Grid's forestry group had returned to the site for a closer look and significantly reduced the number of trees that needed to be cut to a total of 7 now, with only 3 to be cut in the wetlands, including a 14" oak, 11" oak, and double stemmed maple. The head of West Newbury's Department of Public Works (also the Tree Warden) determined that all the trees to be cut were classified as hazardous except for the double stemmed maple, whose removal requires a separate hearing before the Tree Warden. Mr. Damiano noted that it was not feasible to locate the poles on the opposite side of the road because of instability of the slope at that location. He also said that because of safety concerns, the trees would be cut flush to the ground and not left at 10'-8'. Tree removal equipment will be confined to the roadway and the cut trees would be removed offsite.

Abutter Richard Baker of 288 Middle Street said that he preferred to have the trees flush cut for safety reasons, particularly given their proximity to a hazardous roadway. He also described the need for a guy wire to support pole 124 in the north/south direction, and Ms. Mizner read his letter to the Commission to this effect. Mr. Damiano said that he believes that such a guy wire will be provided and will check on this with National Grid.

Ms. Mizner moved, Mr. Preble seconded, and the Commission voted unanimously to issue a negative determination for the removal of trees as shown on the plan, conditioned upon the following: that the applicant 1) keep any tree removal equipment on the roadway, 2) dispose of cut trees offsite, 3) install erosion controls as shown on the plan, 4) obtain the Conservation Agent's inspection and approval of erosion controls prior to commencement of work, and 5) provide the Agent 72 hours' prior notice before commencing work; 6) obtain a permit from the Tree Warden prior to the removal of the double stemmed maple.

Mr. Parrott inquired why a Request for Determination of Applicability (RDA) was used when the project would have an impact to the wetlands. It was noted that the Tree Warden had determined that all but one of the trees were hazardous and they were in bad shape. And, with work done from the roadway and stumps left in place, impacts on the wetlands would be minimal.

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

Consultant Tom Hughes noted that the Commission had visited the site and confirmed that the wetlands were on the opposite side of a stone wall, so that the proposed work would not alter the wetlands, making a negative determination appropriate. He said that the applicant is still trying to line up a contractor and cold weather may impede pouring a concrete foundation, so that work may not start before the April 15 date lifting the winter work ban.

In view of the site visit showing that the resource area is separated from the proposed work by the stonewall, Ms. Mizner moved, Mr. Haley seconded, and the Commission voted unanimously to issue a negative determination conditioned upon the applicant 1) installing the erosion controls as shown on the plan, 2) obtaining the Conservation Agent's inspection and approval of erosion controls prior to commencement of work, 3) providing the Agent 72 hours' prior notice before commencing work, and 4) if work is commenced prior to April 15, 2023, installing additional erosion controls as the Commission deems necessary.

5. Public Meeting: Request for Determination of Applicability (continued): 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 provided amended plans for the RDA and the as-built plan for the Certificate of Compliance (COC) request relating to this property. The plans were revised to reflect changed wetland flag locations determined at the Commission's site walk. Ms. Mizner and Ms. Greene observed that note 4 on the RDA plan was not entirely accurate in describing that the Commission only confirmed a portion of the wetlands delineation and Mr. Hamel agreed to use the same note concerning this that is listed on the as-built plan. Mr. Hamel also clarified that the compost sock erosion control would be at the top of the slope and the work on the driveway would not change the grade, but would scrape off topsoil for the driveway's foundation.

Ms. Mizner moved, Mr. Preble seconded, and the Commission voted unanimously to issue a negative determination conditioned upon the applicant 1) installing the erosion controls as shown on the RDA plan, 2) obtaining the Conservation Agent's inspection and approval of erosion controls prior to commencement of work, 3) providing the Agent 72 hours' prior notice before commencing work, and 4) if work is commenced prior to April 15, 2023, installing additional erosion controls as the Commission deems necessary.

6. Request for Certificate of Compliance (continued): 3 Brickett Street, DEP# 78-504

Mr. Hamel discussed the amended as-built plan for the COC, with discrepancies from the approved plan including some changes to the driveway layout and installation of a well in the buffer zone. Ms. Greene noted that the COC has two continuing conditions requiring that the property owner 1) leave undisturbed naturally vegetated areas extending 25' from the wetlands and 2) refrain from applying fertilizers, pesticides, herbicides, insecticides or other chemicals within 100' of the wetland.

In view of the fact that most changes from the approved plans occurred outside the buffer zone, Ms. Mizner moved, Mr. Preble seconded, and the Commission voted unanimously to issue a Certificate of Compliance.

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

Ms. Greene reported that she had driven past the site and found no movement of fill over wattle erosion controls. No other update.

8. **Violation Update: 21 Montclair Road, Re: Clearing trees within 100' buffer zone without a permit**
No update.

9. **Discussion: 89 Church Street, Re: Special Condition #s 2 and 3 from Order of Conditions for DEP# 078-0538**

Ms. Greene explained that the property is being sold but has an open Order of Conditions dating from 2007 concerning installation of a dock. The 2007 Order of Conditions was obtained by owners prior to the ones now selling and was conditioned upon use of flexible mooring rodes to protect aquatic life. Mooring chains, rather than the required rodes were installed. It is not possible to get an as-built plan until springtime, when the dock can be placed back in the water, although the mooring chains are visible now, with the dock pulled out. The Order of Conditions also required that the owner plant native species and eradicate a stand of knotweed.

The present owners in the process of selling would like to obtain from the Commission clarification that the conditions regarding planting and knotweed removal have been satisfied. Ms. Greene said that she visited the site at the end of October and found that the area requiring planting is heavily vegetated with native plants, so that adding more would cause greater disturbance than benefit. Also, the knotweed is largely gone, although a small amount is present. The Commission reviewed the Special Conditions of the 2007 Order of Conditions concerning native plantings and knotweed removal, as well as photos Ms. Greene had recently taken.

Based on Ms. Greene's report, Ms. Mizner moved, Mr. Haley seconded, and the Commission voted unanimously to let the minutes reflect that no additional planting will be required and that the necessary knotweed eradication has been accomplished.

10. **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

11. **Wetlands Bylaw Discussion:**

12. **Other Business:**

Ms. Greene said that Vanessa Johnson of Essex County Greenbelt had asked to meet with the Commission at its next upcoming meeting in executive session to discuss a potential conservation acquisition. *The Commission agreed to meet with her in executive session at 7 pm on December 5 for half an hour, with the open meeting starting at 7:30.*

Ms. Greene shared a proposed Commission meeting schedule for 2023, noting that because of January holidays, the Commission would meet on the second Monday and on January 23.

13. **Old Business:**

14. Informal Discussion:

15. Community Input:

16. Approval of Minutes: August 15, 2022

17. Approval of Minutes: September 8, 2022

18. Approval of Minutes: September 19, 2022

Ms. Mizner moved, Mr. Preble seconded, and the Commission voted unanimously to approve the minutes of September 19, 2022 as amended.

18. Approval of Minutes: October 3, 2022

Ms. Mizner moved, Mr. Haley seconded, and the Commission voted unanimously to approve the minutes of October 3, 2022 as amended.

19. Approval of Minutes: October 17, 2022

Ms. Mizner moved, Mr. Preble seconded, and the Commission voted unanimously to approve the minutes of October 17, 2022 as amended.

20. Approval of Minutes: November 7, 2022

Ms. Mizner moved and Mr. Preble seconded to approve the minutes of November 7, 2022 as amended. Ms. Hawkins noted that with respect to National Grid's pole locations, east and west may have been mixed up. Ms. Mizner moved, Mr. Preble seconded, and the Commission voted unanimously to approve the minutes of November 7, 2022 as amended and as clarified by Ms. Greene upon review of the pole locations.

21. Correspondence:

22. DEP Comments:

23. Land Agent Update:

24. Commission Representative to Open Space Update:

25. Next Meeting: December 5, 2022. Review 2023 Meeting Dates

Adjournment 8:25 pm

Meeting Documents

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

Respectfully submitted

4

*West Newbury Conservation Commission
Minutes November 21, 2022
Approved December 5, 2022*