

## West Newbury Conservation Commission Meeting Minutes

**Meeting date & place: 7:30 pm, October 17, 2022, Second Floor Town Offices.**

**Members Present:** Chair Judy Mizner, Molly Hawkins, David Parrott, Jack Haley, George Preble, and 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: 116 Georgetown Road, Applicant: Matthew Perry, Re: Construction of a 24' x 24' garage and expansion of lawn, DEP# 078-0XXX**

Consultant Michael Seekamp thanked the Commission for conducting a site walk and noted that no changes were made to the wetlands delineation. He added that the Commission looked at the site for the proposed garage, the location of the fencing for the dogs, and the stone wall to be removed. The fencing will be 6" from the ground and no higher than 6' to allow wildlife to pass.

Mr. Seekamp said that the winter work ban is problematic in this case and observed that the ban is not consistently applied. Ms. Mizner said that this is in the Commission's Standard Conditions and may be waived if ground conditions warrant. Mr. Seekamp said that the applicants will not start work on the garage until after the spring start date, but would like to start on the fence for the dogs as soon as possible. Ms. Mizner said that the applicants may seek a waiver, submitting to the Commission a description of the fence (including how it would allow wildlife to pass) and the methods of construction, as well as proposed erosion controls.

*Because the Department of Environmental Protection (DEP) has not yet issued a DEP number for this project, precluding Commission action, the matter was continued to the November 7 meeting.*

3. **Public Hearing: Notice of Intent: 0 River Meadow Drive – Whetstone Greenway, Applicant: Town of West Newbury, Re: Construction of a new trail and boardwalk, DEP# 078-0XXX**

Consultant Greg Hochmuth showed plans for a new Town trail and boardwalk on an existing right of way, which has an existing trail in poor condition. The developer of Sullivans Court was supposed to install the trail and boardwalk connecting the River Meadow and Sullivans Court developments. The goal of this proposal is to make a permanent trail that will stand up to weather conditions.

Mr. Hochmuth said that the site has a bordering vegetated wetlands system that goes down to the Merrimack River and also an intermittent stream above. It is not possible to avoid any wetlands impact with this project, but the proposal tries to achieve the least disruption, tree cutting, and wetlands impacts.

The trail will have a stone dust type surface, which would connect to a slight ramp to a mildly

elevated (1-1.5' high) boardwalk traversing the wetland, and then a stone dust trail back to Sullivans Court. The boardwalk would be a puncheon plank system consisting of large pressure treated 5' x10"x10" beams resting on the ground and affixed by rebar pounded through, upon which 10' joists would be placed. A 40" wide deck of pressure treated planking would go on top. This system will not last forever, but very heavy materials were chosen to extend its life (perhaps 10 years or more). When the pressure treated wood fails, it would need removal and replacement.

The deck planks would not be spaced to allow light through, but rather would be close together. Brad Buschur of the Park & Recreation Commission explained that this is because the Town Building Inspector determined that the trail is a connection between two paved areas in the two developments and as such has transportation-related status—issues of safety arise in terms of bicyclists, pets, and so forth. Ms. Mizner wondered how the Building Inspector reached the conclusion this project was transportation related. In response to Mr. Parrott's question about alternative surfaces, Mr. Buschur said that a steel surface and/or wire mesh surface could also raise safety concerns and that it would require a more intrusive support structure. It would also be more costly and its production would be more environmentally impactful.

Mr. Hochmuth said that some earth moving would be needed on either side of the wetland to create more uniform grades and avoid steep areas. This, and the shading resulting from the tightly fitted planking would cause wetland impacts requiring replication. This proposal includes a 1:1 wetlands replication in an area with goldenrod and grasses. In response to Ms. Mizner, Mr. Hochmuth said that given the site conditions, additional replication would require more disruption and tree cutting. The elevation of the replication area will be lowered closer to the water table and replanted with native vegetation, as detailed on the plans. A 2-year monitoring program for the replication area will be required to ensure the replicated wetland is viable.

Erosion controls include 12" diameter mulch silt socks and, in the wetland, a trenched silt fence to avoid a residual bump when erosion controls are removed. Prior to construction, a land survey will mark property boundaries so the trail is in the right place. At the entrance of the work area, larger stones will be installed to catch mud from tires of trucks and construction equipment. Two temporary stockpile areas are proposed. A small mini excavator will be used in certain spots, but the intent is to install the puncheons with hand tools. Mr. Hochmuth said that the system will not impede water flows.

Responding to Ms. Mizner, Mr. Hochmuth said that the site of the trail was chosen to create the least adverse impact. Constraining factors include the existing trees and bordering vegetated areas and the slope of the land. The Commission will see this on a site walk. Mr. Hochmuth will make sure that the wetland flags are in place for the site walk.

Marlene Switzer, a resident of the River Hill community that abuts this project, noted that her community has, and is obligated to maintain, a trail system. One trail that ends where the area becomes too wet might connect to the proposed trail. Mr. Hochmuth offered to prepare a plan that shows the location of the trail Ms. Switzer described in conjunction with the proposed trail.

*The Commission continued the matter to its November 7 meeting and scheduled a site walk on November 6 at 8 am, meeting at the parking area on the Sullivans Court side.*

**4. Public Meeting: Request for Determination of Applicability: 7 Baileys Lane, Applicant: Noreen Arnold, Re: Replacement of septic system**

Consultant Greg Hochmuth said that the system on this property dates from the house's construction and is now failing. The size and nature of the lot leaves no other options, but the proposal will keep the leaching area out of the bordering vegetated wetlands (BVW) and the tanks will be 50' from the BVW. The BVW is all mowed lawn. Trees will be removed from the leaching area and from the side of the house to provide access for machinery, but many of the trees are dying ashes. Erosion controls are proposed around the work site and very temporary stockpiling of spoils will be needed. The owners are hoping to accomplish this in the fall when it is dry and are anxious to get started.

*Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to issue a Negative 3 Determination, conditioned on the applicant's obtaining Conservation Agent inspection and approval of erosion controls as described in the plan prior to the start of work and provision of 72 hours' prior notice before commencement of work.*

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

Consultant Anthony Damiano, appearing on behalf of National Grid said that the proposed project is a small one intended to install poles to connect a new housing development to the existing distribution line. One of the 5 new poles (which are about 18" in diameter) is in the 100' buffer zone. The work would comply with National Grid's best management practices and would use appropriate erosion controls. A utility truck with a small auger would, from the paved area, drill holes and install the poles. Any spoils would be removed offsite

Mr. Damiano noted that there would be permanent impacts on the wetland drainage feature (culvert) by the side of the road. There would be tree removal (anything within 10' of the poles) in the wetlands to provide clearance for the utility lines. Stumps would be left in the ground.

When asked why National Grid did not submit a more in-depth Notice of Intent, Mr. Damiano said that under 4 square feet of the culvert would be impacted. The Commission expressed concern about the tree removal.

The trees planned for removal will be marked ahead of the Commission's site walk. In response to Mr. Parrott's question about locating the poles on the other side of the street, Ms. Greene explained that the adverse impacts are not mitigated by switching sides.

*The Commission continued the matter to its November 7 meeting and scheduled a site walk on November 6 at 8:45 am.*

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

Ms. Greene noted that the application does not contain the abutters list provided by the Town Assessor. Consultant Jim Scanlan, appearing on behalf of the applicant, said that abutters were notified and he will provide the list to the Commission. The Board of Health will be providing

Mr. Scanlan said that this project, a septic system upgrade, does have a DEP file number and DEP had no comments. He said that the property is currently a 2-unit dwelling with 10 bedrooms and is being renovated to become a 2-unit dwelling with 8 bedrooms, so the size of the septic system is decreasing. The existing system is in failure and it is proposed to be replaced with a new Presby system. Wetlands are located in the adjacent property under National Grid transmission lines and also in the back of the property on the west side. Because of property lines and setback requirements, siting choices were limited. The project will be 56' from the wetlands on the west side and just short of 100' from the wetland under the power lines on the east side. The property was delineated a couple of years ago and the delineation was refreshed in July, 2022. Mr. Scanlan said he would provide the Commission field sheets supporting the delineation prior to a site walk.

Ms. Greene noted that National Grid had reached out to her, inquiring if the work would occur on its power line easement. Mr. Scanlan replied that the project will be within the applicant's property and not in the transmission line right of way.

*The Commission continued the matter to its November 7 meeting and scheduled a site walk on November 6 at 9:30 am.*

**7. Public Hearing: Notice of Intent: 132 Crane Neck Street, Applicant: Brenda Dow, Re: Replacement of an existing septic system, DEP# 078-0XXX**

Consultant Jim Scanlan, appearing on behalf of the applicant, said that the project would upgrade a septic system currently in failure and a Presby system is proposed. Siting on this property was difficult: 6-7 perc tests failed and the one location available is on the front corner of the property. A wetland drainage swale is across the street. The only vegetation removal planned is removal of 2 bushes in the front yard.

William Dawson, an abutter living at 128 Crane Neck Street asked for assurances that this project will not affect his property in terms of new/additional soggy areas or a wet cellar. He, Mr. Scanlan, and the Commissioners examined the plans. Mr. Scanlan noted that the project will reduce drainage toward the neighbor's because it will be somewhat higher and will redirect water toward the back of 132 Crane Neck Street.

*The Commission continued the matter (which is awaiting a DEP number) to its November 7 meeting and determined that members may want to drive by to look at the culvert.*

**8. Public Meeting: Request for Determination of Applicability: 70 Church Street, Applicant: Timothy Lattrell, Re: Removal of dead ash trees**

The applicant, Timothy Lattrell, explained that 15 dead ash trees on his property need to be removed. Of particular concern are the trees threatening the house, which would be removed via a bucket truck from the driveways. The other trees would be removed manually.

*The Commission continued the matter to its November 7 meeting and scheduled a site walk on November 6 at 10:00 am.*

**9. Public Hearing: Notice of Intent: Along Rogers Street near the Artichoke Reservoir, Applicant: Massachusetts Electric Company / National Grid, Re: Relocation of utility poles and tree clearing, DEP# 078-0XXX**

Consultant Carolyn Gorss appeared on behalf of National Grid to explain a proposed project involving relocation of a utility pole as part of a larger pole replacement job. The pole to be relocated is surrounded by asphalt and in an awkward, unstable place. The plan is to relocate it across the street somewhat further from the wetlands resources and in a more stable location. A number of trees will be removed as part of this project to provide clearance for the utility lines. A wetlands delineation was done on August 23.

Ms. Gorss noted that some of the work is exempt utility maintenance in replacing existing poles, which will be removed and taken away—except perhaps for poles belonging to Verizon and the pole to be relocated which is stuck in asphalt. That one may be cut flush to the ground. The relocation and removal of trees is not, however, exempt from wetlands protection requirements.

Ms. Gorss said that the work should take a matter of hours. Trees would be cut flush to the ground with the stumps left and the trees taken away. The Commission’s Order of Conditions also would serve as compliance with MGL ch 91 concerning navigability of the Artichoke River.

*The Commission continued the matter to its November 7 meeting and scheduled a site walk on November 6 at 10:30 am.*

**10. Public Meeting: Request for Determination of Applicability: 87 Coffin Street, Applicant: James P. Kelly, Re: Installation of solar panels**

James Patrick Kelly explained his proposal to install ground-mounted solar panels. He noted that wetlands on either side of his property were delineated in 1998 when his house was built, and Ms. Greene noted that they are using the as-built plans dated 2005. The wetlands are not on Mr. Kelly’s property and are not flagged. His property is in the buffer zone. Ms. Mizner said that delineations are usually good for 3 years.

Mr. Kelly said that installing the panels involves no soil disturbance. Large ground screws, installed manually, would anchor the panel system. Connecting a cable between the house and the solar panel system would involve a trench 18” deep x 6” wide. Silt socks could be put in as erosion controls. This could be done in one day and reseeded. The trench was designed with an angle to minimize

intrusion into the buffer zone, and for the same reason the trench was located as close as legally allowed to the septic system. The Board of Health has approved this. No trees would be cut down for this project.

*The Commission continued the matter to November 7 and scheduled a site walk on November 6 at 11:15 am. The work area is staked and applicants need not be present.*

**11. Insignificant Change Request: 24 Main Street, Pentucket Regional H.S, Re: Work after October 15th stop date, DEP# 078-0701**

Kyle Manny of the W.T. Rich company appeared on behalf of the Pentucket Regional School District by phone in connection with an extension of permitted work at the new high/ middle schools after the October 15 winter work ban. Ms. Greene noted that she had recently visited the site and inspected the erosion controls. Mr. Manny said that they are working to complete the permanent parking lot by November 30. A binder layer of asphalt is on half of it now and the remainder should be done next week. Then curbs, sidewalks, loam, and seeding should go in.

Then they will start removing the blacktop (with offsite disposal) from the temporary parking lot along Main Street and dump in large amounts of fill to raise the level for the turf baseball field. There is a drop of 40'-30' over a span of about 30' toward the wetlands with grading for the baseball field planned within the 100' buffer zone. In response to questions about stabilizing the large area of fill over the winter, Mr. Manny said that they do have erosion control blankets for the steep slope on the south side within the buffer zone. An existing gravel access road will separate the baseball field from the wetlands. Hay wattles and silt fences will be used as erosion control, with more added at the toe of the slope.

*Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to approve waiver of the winter work ban for this work, conditioned on 1) installation and satisfactory inspection of additional erosion controls shown on the diagram, 2) the addition of any further erosion controls as the Commission may find necessary based on site conditions, and 3) use of erosion control blankets on the southern side of the work site.*

**12. Certificate of Compliance Request: 9 Newell Farm Drive, DEP# 078-0713**

Ms. Greene said that the project involved installation of a swimming pool. The changes shown on the as-built plan are for the better. The concrete patio that had been approved was made smaller and built with permeable pavers. Arborvitae and iron fencing separate the wetlands and the area is well vegetated. A number of ongoing conditions remain in force.

*Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously, based on the site inspection, to issue a Certificate of Compliance.*

**13. 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.*

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

*No update*

**15. 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*

**16. Other Business:**

64 Bridge St—Ms. Greene explained that this project involves a force main trenched through wetlands. The contractor hit ledge where the septic tank is to be located and the work has been delayed. This request for an extension beyond the winter cutoff date came in after the agenda had been published. The applicant is hoping to have the work done by November 1. In response to Ms. Mizner, Ms. Greene said that she will check to ensure that the erosion controls are in place around the area of work. She will also check on the applicant's progress in installing the leach field.

*Ms. Mizner moved, Mr. Preble seconded, and the Commission voted unanimously to allow work to go forward beyond October 15 as an insignificant change, provided that the applicant 1) install and obtain a satisfactory inspection of additional erosion controls on either side of the wetlands, 2) manage any unvegetated areas with erosion control blankets, and 3) agree to employ any additional stabilization deemed necessary by the Commission.*

Deer Run Development Ms. Greene reported that developer Mike Crowe explained that construction had been delayed due to extenuating circumstances. A binder coat has been put on the roadway. One foundation has been poured and that awaits approval from the Building Inspector. Once that is approved, the foundation will be backfilled and stabilized. Over the winter work will be confined to the house on the new foundation and the existing house to be remodeled—with no additional ground work until spring.

Erosion controls wrap around the entire property and some of them have decayed. The plan is to bring the erosion controls up to standard in the spring before site work recommences. The detention basins are in good shape and inspections by consultant Meridian on behalf of the Planning Board have been satisfactory.

**17. Wetlands Bylaw Discussion:**

**18. Old Business:**

**19. Informal Discussion:**

Ms. Greene said she is working on her wetlands 101 presentation for the Sage Center on November 10. Ms. Hawkins suggested showing the map with all they types of soil in West Newbury and bringing in some soil samples.

**20. Community Input:**

**21. Approval of Minutes:** August 1, 2022

*Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to approve the minutes of August 1, 2022, as amended.*

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

*Deferred*

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

*Deferred*

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

*Deferred*

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

*Deferred*

**26. Correspondence:**

**27. DEP Comments:**

Ms. Greene reported that DEP is experiencing delays in issuing file numbers for new projects due to their pending office move.

**28. Land Agent Update:**

Ms. Greene reported that November 6 from 1-3 pm will be a community work date to remove invasive species at Cherry Hill and Mouton Streets. This is a continuation of work started as part of the invasive species internship in August at the same location.

**29. Next Meeting:** November 7, 2022

**Adjournment** 9:48 pm

**Meeting Documents**

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

Respectfully submitted