

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:36 pm, September 8, 2022, Second Floor Town Offices

Members Present: Chair Judy Mizner, George Preble, David Parrott, and Kathy Feehery participating via phone call. 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 applicant requests a continuance to the commission's September 19, 2022 meeting.

2. 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

Bob Prokop of Wetland Consulting Services appeared before the commission on behalf of the applicant and explained that revised plans have been submitted which now show a detached garage. The garage was originally planned to be attached, but is now proposed to be moved since ledge was found in this area which would significantly raise the project costs. Mr. Prokop noted that if an affordable ledge-blasting option is found, the applicant may return with an insignificant change request to move the garage back to the originally proposed location. The revised plans also reflect the changes to the wetlands line based on the Commission's site walk and show the relocation of an existing shed.

Mr. Parrott noted that a woodpile was observed in the field partially in the wetlands and that it is not depicted accurately on the plans. Ms. Mizner commented that on the revised plans the shed is shown as outside of the 100' buffer zone but that the proposed location is actually within the 100' buffer zone. Mr. Prokop indicated the shed will be sold. Ms. Mizner noted that the plan has not been signed by an engineer. Mr. Prokop advised he had not gotten a hard copy of the plan to the engineer to sign and stamp yet but will do so. Ms. Greene inquired if the Commission had made a determination about the stream across the street which is indicated on the plans as perennial with a 200' riverfront area but shows on the USGS maps as intermittent. Mr. Prokop indicated he thinks it is perennial stream and the Commission decided to agree. The Commission agreed to leave the plan as submitted.

Ms. Mizner moved to issue an Order of Conditions with the Standard Conditions and Special Conditions which include 1) submission of a revised, stamped plan to the WNCC for review and approval prior to the start of construction; 2) establishment of a naturally vegetated area extending 25' from the wetlands to remain undisturbed and to be demarcated with permanent markers; 3) no pesticides, herbicides, insecticides in the buffer zone and use of low nitrogen fertilizer only in the buffer zone; 4) any changes to the approved plan shall be submitted to the WNCC for its review and approval prior to changes being made; 5) No grass or landscaping clippings shall be disposed of within the wetland or 25' natural buffer; 6) deicers to be used within the 100' buffer zone and 200' riverfront area shall be either CaCl or CMA; 7) a construction schedule shall be submitted to the WNCC for review prior to the commencement of work; 8) the erosion control line will be the limit of work line; 9) erosion control shall be installed by the applicant and inspected by the agent prior to the start of construction; 10) any materials removed during the work and not to be reused on the site shall be disposed of lawfully off site; 11) any fill materials brought to the site shall be clean; 12) no additional wood may be added to the existing woodpile which is located within the wetland; 13) after the wood in the woodpile is used the area shall be revegetated and new wood shall be piled at least 25' from the wetlands line; 14) Once the garage is built the existing carport shall be removed and the area shall be allowed to revegetate; 14) Native plantings shall be planted around the existing deck. Mr. Preble seconded the motion.

Ms. Feehery questioned the location of the conservation post to be installed opposite to wetlands flag A10 which appears as if it will be located in the area of ledge shown on the plan. Ms. Mizner responded that if the post can't be installed in this area, the applicant can request a location change to the Commission.

The motion passed unanimously.

3. Public Hearing: Notice of Intent (continued): Along Church Street and Prospect Street, Applicant: Town of West Newbury – Water Department, Re: Replace approximately 7,500 linear feet of existing 6” water main with 8” water main, DEP# 078-0751

The applicant requested a continuance to the Commission's next meeting.

Ms. Greene shared a draft general note for the plans regarding the unconfirmed wetlands lines. Ms. Mizner commented that the note should indicate that the line shown is approximate and can't be used for future projects and that the term "delineated" should be removed. Ms. Greene will ask the engineer to update the general note and to also remove the flags from the wetlands lines on the plans.

Ms. Mizner suggested that the Commission should walk Church and Prospect streets again to see if they observe any other wetlands which have not been shown on the plans.

A site walk was set for September 18th at 8AM.

4. Insignificant Change Request: 64 South Street, Re: Additional native plantings at toe of slope to prevent erosion of woodchips into wetland, DEP# 078-0732

Jim Scanlan appeared on behalf of the applicant, and advised he was at the site within the last 2 weeks and did not observe any woodchips migrating from the slope into the buffer zone or wetland but that no vegetation was observed growing through the woodchips. Mr. Scanlan had a consultant create the planting plan which proposes planting 4 different native shrubs in quantities of 4 each, 16 shrubs total, to create a natural, permanent, buffer to hold back woodchips at the toe of the slope. The current homeowner has agreed to this and can have her landscaper plant the plants per the plan. Mr. Scanlan advised that once approved by the Commission, the planting will be done ASAP. The plants will be planted by hand using a shovel to dig the holes.

Ms. Mizner moved to accept the planting plan noting that no equipment shall be used between the toe of the slope and the wetlands. Mr. Parrott seconded the motion and the motion passed unanimously.

Mr. Scanlan asked about the process to obtain a Certificate of Compliance once the plants are planted and Ms. Mizner responded that the Commission will need to confirm that the plants are established before it can issue a COC.

5. Partial Certificate of Compliance Request: 17 Daley Drive, FKA a portion of 365 Main Street, DEP# 078-0679

Ms. Greene advised that this is a request to release one home being sold from the OOC for the entire subdivision. A portion of the lot for the house is in the buffer zone, the area is stabilized by vegetation, and the conservation posts on the lot were observed. She recommended that the Commission issue the COC.

Ms. Mizner moved to issue a partial COC to release the lot from the subdivision order. Mr. Preble seconded the motion and the motion passed unanimously.

6. Certificate of Compliance Request: 32 Baileys Lane, DEP# 078-0494

Ms. Greene explained that this OOC was for the construction of a single-family home. The driveway is within the buffer zone to a BVW on the property. The OOC required a naturally vegetated area extending 25' from the BVW but this area is being mowed. An area of pavement which the OOC required to be removed, loamed, and seeded has been removed and seeded recently but grass has not yet established in this area. The current homeowner is selling the house and the open OOC could jeopardize the closing.

Ms. Mizner suggested that the purchaser of the home could sign an affidavit indicating that they will reseed the area where the pavement was removed should it not be vegetated by the spring and that they will cease mowing and allow a natural vegetation area extending 25' from the BVW to remain undisturbed. Ms. Mizner advised that the wetlands flags shown on the approved plan will need to be rehung at the site so that the edge of the wetland can be seen and the 25' natural vegetation area can be determined. She suggested that she could provide the language for the affidavit.

Ann Donelan, the property owner, advised that the closing is scheduled for next week and that she is unsure if the GM2 could establish the wetlands flags at the site in time for the closing. Ms. Mizner suggested that perhaps money could be held in escrow for this if it has to be done after the closing occurs.

Ms. Donelan questioned if the establishment of flags and affidavit is the only way to resolve this and obtain a COC and Ms. Mizner advised that the removal and reseeding of the paved area and 25' natural vegetation area were conditions of the order and this is currently the only way to ensure the property is brought into compliance.

Ms. Mizner moved to issue a Certificate of Compliance conditioned on the following: 1) That prior to the sale of the property either the wetlands flags are re-established in the field or funds are withheld to cover the costs for reflagging; 2) Funds are withheld to cover the costs of reseeding the area where the pavement was removed should the current grass seed not take; 3) That an affidavit signed by the buyer be provided to the Commission stating that the buyer is aware of the condition requiring a 25' naturally vegetated area extending from the BVW which cannot be disturbed and that that area will no longer be mowed, that the buyer will reseed the area where the pavement was removed should the current seed not take, and that the buyer is aware of all other continuing conditions for the property. Mr. Parrott seconded the motion, Ms. Feebery abstained, and the motion passed 3-0-1.

7. Partial Certificate of Compliance Request: 32 Bailey's Lane, formerly a portion of 28 Bailey's Lane, DEP# 078-0493

Ms. Greene explained that this OOC was for a septic system replacement at 28 Bailey's Lane. This property was then divided into Lot 1, which remained 28 Bailey's Lane and Lot 2, which became 32 Bailey's Lane. This partial COC will release what is now 32 Bailey's Lane from this OOC while leaving the OOC for the septic replacement for 28 Bailey's Lane open.

Ms. Mizner moved to issue a partial COC to release Lot 2, now 32 Bailey's Lane, from the OOC for 28 Bailey's Lane. Mr. Parrott seconded the motion, Ms. Feebery abstained, and the motion passed 3-0-1.

8. **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.

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

No update.

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**

Ms. Mizner offered to draft a response indicating the Commission does not support Mr. Hodgson's request to continue to leave the houseboat where it is while he continues to find a solution. Ms. Greene suggested perhaps the Harbor Committee could assist with enforcement and Ms. Feehery suggested possibly sending a letter to the Harbor Committee to update them on the situation and seek their assistance with enforcement. Ms. Mizner advised she will draft a letter to the Harbor Committee bringing this situation to their attention.

11. **Other Business:**

Ms. Greene advised that the MACC fall conference is scheduled for October 15th and asked that anyone interested in attending let her know.

12. **Wetlands Bylaw Discussion: Outreach funding article for Fall Special Town Meeting**

Ms. Greene discussed the draft article she had circulated for fall town meeting with costs to send a mailer campaign for a survey on what residents would like to see in a local wetlands bylaw. Ms. Greene advised she would create a draft survey and distribute it for the Commission's review.

13. **Old Business:**

14. **Informal Discussion:**

15. **Community Input:**

16. **Approval of Minutes: April 4, 2022**

Ms. Mizner moved to approve the minutes as amended. Ms. Feehery seconded the motion and the motion passed unanimously.

17. **Approval of Minutes: June 6, 2022**

Deferred

18. **Approval of Minutes: June 22, 2022**

Deferred

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

Deferred

20. Approval of Minutes: August 15, 2022

Deferred

21. Correspondence:

22. DEP Comments

Ms. Greene shared a note from MA DEP NERO Circuit Rider Alicia Geilen advising that MA DEP NERO does not accept blanket permits for work such as a townwide trail permit or a townwide tree removal permit. A permit can be done for multiple locations but each location, its resource areas, and the work proposed there, all must be described in the filing.

23. Land Agent Update:

None

24. Next Meeting: September 19, 2022

Adjournment

The meeting was adjourned at 9:28 PM.

Meeting Documents

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

Respectfully submitted