

## West Newbury

### Conservation Commission Meeting Minutes

**Meeting date & place:** 7:30 pm, April 1, 2019 Conservation Commission Office, 1910 Building

**Members Present:** Chairman Dawne Fusco; Judy Mizner; Wendy Reed, Margaret Hawkins, Tom Atwood, Conservation Agent Jay Smith

**Public Hearing --- Notice of Intent --- Timothy Lattrell, 70 Church St. (DEP#none) – The applicant would like to install a dock, and cross wetlands with a footbridge and path. The work will proposed is within the Riverfront, wetland and buffer zone to a bordering vegetated wetland at 70 Church St.**

Consultant John Paulson said that as a result of the site walk, the applicant's new plan shows adjusted lines (anything with the letter A after it is field-determined). He stated that the plan also show trees and previously planted shrubs, and it shows additional conservation markers as the Commission recommended. The new plan also has removed the proposed bridge and path through wetlands. It now shows a raised 4' x 84' walkway over wetlands, consisting of 7 4' x 12' wood sections with at a minimum 12" clearance (mostly higher) and 3/4" spacing between decking boards.

The Commission questioned use of pressure treated wood posts (with a pad at the bottom to distribute load and prevent sinking) in lieu of more durable sono tubes or the Diamond Pier process, which entails little soil disturbance but rather uses tripod-style support stakes driven underground. Applicant Timothy Lattrell, a custom builder as well as the homeowner, agreed to use sono tubes with the underlying pad, and with a stainless steel bracket for the 6" x 6" pressure treated posts. The same sono tube footings would be used for the planned 8' x 8' and 4' x 4' platforms.

The Commission also advised the applicant on locations of conservation markers (which will be pressure treated posts) and the planting of shrubs to narrow potential areas of mowing. The applicant agreed to return to the Commission with a planting plan if the ferns formerly in place do not regrow this summer.

Ms. Mizner reviewed a letter from the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage) concerning applicant's proposal. The letter determined that certain sturgeon species of concern were present, but that the proposed dock would not engender significant short term adverse impacts. To ensure a reduced long term impact on habitat, Natural Heritage wrote that it would require recording of its letter along with plans including flexible low impact moorings with helical anchors. The Commission noted (and applicant agreed) that the revised plan should contain a note reflecting Natural Heritage's conditions.

A question arose over whether the Natural Heritage letter would allow plan's note that if ledge precluded use of the helical anchors, a pin drilled into the rock would be used. *The Commission*

*determined that Mr. Smith will contact Natural Heritage to determine if the alternative for ledge would be permissible under the Natural Heritage letter.*

*The Commission indicated its favorable view of the proposal with the changes described above, a revised plan showing such changes, and confirmation from Natural Heritage that the drilled pin alternative could be used if ledge prevented use of the flexible helical anchors, and stated that it would begin to an draft order of conditions—all contingent on the revised plans and an affirmative response from Natural Heritage. The matter was continued to April 22, 2019.*

**Public Hearing --- Request for Determination of Applicability --- Blue Waters Vero LLC for 224 Main St –For grading associated with a septic repair within the buffer zone to a bordering vegetated wetland.**

Engineer Thomas Minetta provided a plan showing changes requested by the Board of Health. He noted that wetlands on the property are flagged consistent with a September 26, 2018 wetlands delineation by Patrick Seekamp. The septic project would involve a corner of grading within the wetlands buffer zone. Mr. Minetta explained that the septic system will be located on the only area where they could get perc rate, and the system will be raised due to the high water table.

The Commission noted that such a plan should show tree lines to allow a determination of the vegetation in the area. Mr. Minetta said that there is a 25' buffer of untouched vegetation around the wetland. The Commission further advised that Mr. Smith will need to view the area to confirm the wetlands lines and no disturb markers should be included if the Conservation Agent finds them necessary. If markers are needed, they will need to be put on a revised plan to be submitted to the Commission.

This is a failed septic system, so applicants want to start work as soon as possible. No one is currently living on the property but construction workers are present.

*The Commission voted 5-0-0 to issue a Negative Determination contingent on installation of erosion controls, confirmation of the wetlands line, and if needed installation of markers delimiting a 25' no disturb zone.*

**Discussion: Jake Cormier, Indian Hill St. – Requesting an amendment to a Determination of Applicability**

Conservation Agent Smith explained that applicants have a small farm and obtained a Determination of Applicability with respect to certain house remodeling and septic work through a July 2016 Request for Determination of Applicability (RDA), which is still in effect. Erosion controls were included in the original plan for this.

Applicants now want to build a new goat shed (with no more pasturing goats in wetlands) and are working with the Building Inspector to determine the kind of foundation needed for this. They explained that the old shed, once torn down, would be put into a dumpster and carted away.

The Commission discussed whether the prior Determination of Applicability could be amended to include this new project, without requiring a more substantial filing and filing fees. Ms. Mizner stated that her research determined that nothing prohibits an amendment of any determination. Ms. Reed queried whether an amendment could be made when the new project was not contemplated in the initial authorization. Mr. Smith observed that all the new work would occur within the envelope identified in the initial Determination of Applicability, and that applicants have been doing a great job in complying with wetlands requirements. Applicants agreed that new erosion controls would need to be installed in view of the age of the existing ones.

*The Commission determined to wait to hear from the Department of Environmental Protection on the question of amending the Determination of Applicability and continued the matter to April 22, 2019.*

**Discussion: Community Preservation Act –Proposal to reduce the tax assessment from 3% to 1½%**

Ms. Mizner said that the Community Preservation Committee (CPC) is meeting on April 18 to review the proposal to reduce CPC funding and each affected board is taking a vote on this question.

Mr. Atwood, a proponent of the funding change, stated that he looked at the data for the past 13 years and assuming no change in processes, the same trends should persist. Funds have not been spent and there's been no increase in affordable housing, little in historical work, and not much open space or recreation activity. He cited siloing among different groups, the lack of a master plan, and vision for determining needed expenditures.

In response to Chairman Fusco's question why no such planning occurred during Mr. Atwood's term as Selectman, he indicated that other priorities were in play and now he is hoping for a broader discussion. Other Commission members did not agree that everybody is disappointed with the CPC results, citing work on restoring Action Cove, the Mill Pond Building, installation of bridges on the Coffin Street trail, etc. They said they view the CPC funds as a savings plan allowing for projects such as the proposed conservation easement on Brown Spring Farm and the acquisition of the River Road conservation lands.

*The Commission voted 4-1-0 (Mr. Atwood dissenting) to maintain the current 3% funding level.*

*The Commission voted 5-0-0 to ask the CPC to propose to the Selectman that a Town committee be formed (including representation by all affected boards and committees) to consider a master planning process that would better utilize CPC funds.*

**Other Business: Conservation Agent Position; Harbor Committee**

Because Mr. Smith will be retiring by the end of June, the Commission agreed that there's a need to advertise for his replacement as soon as possible. In response to Mr. Atwood inquiry about the possibility of outsourcing the work to consultant(s), the Commission emphasized the need to have

someone onsite and able to respond to resident inquiries ranging from how to prepare submission to enforcement when trees are improperly cut down. The Commission discussed advertising in publications for soil scientists and the MACC newsletter.

*The Commission is responsible for preparing the job description and placing advertisements, but Ms. Mizner will consult with the Town Manager to determine if any state or other standard requirements apply. Ms. Mizner will also talk with the Town Manager about ensuring that the Conservation Commission has representation on the Harbor Committee.*

### **Discussion: Minutes**

*The Commission voted 4-0-1 (Mr. Atwood, not present, abstaining) to approve the minutes of March 4 & Mar18, 2019, with revisions.*

### **Next Meeting**

The next scheduled Con Com meeting is Monday, April 22, 2019.

### **Adjournment**

The Commission adjourned at 9:36 p.m.

### **Meeting Documents**

Presentations and records associated with each matter identified, as included in Mr. Smith's files.

Respectfully submitted