

West Newbury

Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, August 19, 2019 Conservation Commission Office, 1910 Building

Members Present: Chairman Dawne Fusco; Judy Mizner, Wendy Reed, Margaret Hawkins, Tom Atwood, Conservation Agent Bert Comins.

Public Hearing: Marc Wippert, 52 Turkey Hill Road --- Request for Determination of Applicability (RDA) for new garage

Mr. Wippert provided additional documents (updated to reflect wetlands lines determined at the site walk) concerning his plans to build a new two-car garage on a slab and to rotate and slightly move an existing shed to accommodate the garage. The work area is about 63' from wetlands. The lot is flat; the Commission discussed silt sock erosion controls located between the work site and the stone wall as suitable for the site. Mr. Wippert stated his understanding that all ground-related work must be complete by October 15. Also, he said that he would like to mow once a year in the old tow path between the two parallel stone walls.

Given the flat nature of the lot and the nature of the proposal, the Commission voted 5-0-0 to issue a Negative RDA with respect to the garage project and annual mowing, conditioned upon use of 12" silt socks for erosion control (to be installed by the applicant and inspected by Mr. Comins prior to commencement of work) and conditioned upon mowing occurring between August 15 and October 1.

Public Hearing: Request for Determination of Applicability --- Thomas and Marie Drewry, 11 Coffin Street --- For proposed removal of existing driveway to extend and replace with new asphalt driveway within the buffer zone of a bordering vegetated wetland.

Thomas Drewry appeared before the Commission with plans showing his existing driveway and a slightly expanded resurfaced driveway, the driveway being roughly within 50' of wetlands. Mr. Drewry would like to have the work done in September.

The Commission determined to conduct a site walk on Friday, August 30 at 8 a.m. and take the matter up at its next meeting on September 9.

Public Hearing: Notice of Intent (NOI) ---- Joyce Takesian and Kathleen Borusso, 87 Georgetown Road --- For proposed installation of a septic tank, pump chamber, and leaching facility within buffer zone of a bordering vegetated wetland, riverfront area, and land subject to flooding.

Greg Hochmuth, wetlands consultant for the applicants, described the proposed septic work as occurring on a lot that is flat but in a flood zone, surrounded by wetlands, does not perc in a number of areas, has a high water table, and has on it a culvert carrying perennial flows. He described efforts to site the septic field in the area least impacting wetlands while still meeting requirements for septic setbacks from the lot line and the house and to balance keeping the septic

area low in elevation to limit disturbance in the buffer zone needed for installation of the system while sufficiently elevated to meet the separation from groundwater requirements for a septic system. Mr. Hochmuth stated that he discussed these issues with the state Department of Environmental Protection (DEP) and the NOI has obtained a DEP number with no comments. He also spoke with a longtime resident in the area who once owned the lot. That person said that even in the 2006 Mother's Day flood, the house and the area where the septic was located did not flood, although flood waters did come up the driveway.

Mr. Hochmuth also pointed out that this is a voluntary septic upgrade. He noted that planned erosion controls include 12" silt socks. The plan involves no cutting of trees or shrubs, the proposed area being maintained lawn, which will be restored with loam and seeding. He added that there will be a deed restriction limiting the home to 2 bedrooms.

The Commission determined to conduct a site walk on August 30th at about 8:30 a.m. The hearing was continued to the next meeting on September 9

Discussion: Scott Brown for lot 3, Sullivan's Court --- Plan change request.

Architect Scott Brown appeared on behalf of applicants Joanne and John McGrath, whose application for a building permit on a lot on the riverfront has all boxes checked except for the Conservation Commission. Earlier the Commission approved plans submitted with Mr. Hochmuth as the consultant, for a generic building footprint—now applicants propose a revision of the footprint so that the edge of the garage is just at (but not within) the 200' buffer from the riverfront. Mr. Brown explained that with these changes to the building and the deck areas, the square footage of the project will be reduced on a net basis.

Mr. Brown stated that erosions controls are in place, but have been there since about 2015. The Commission advised that before any work is begun, erosion controls will need to be reinspected.

Mr. Brown also noted that in a future separate filing to the Commission, applicants plan to propose installation of a pool and patio within the 200' zone to the river. Ms. Mizner noted that the property is subject to a number of continuing conditions in the Order of Conditions that among other things require plantings and prohibit cutting in that area, and the conceptual pool and patio would be in conflict with those conditions. *The Commission noted that homebuyers can be surprised and disappointed at such restrictions and asked Mr. Brown to help the applicants by letting them know of these restrictions.*

Because the revision to the building footprint results in fewer square feet and involves the same location, the Commission voted 5-0-0 to accept the proposed plan change as minor and not requiring an additional filing.

Discussion: Merrimack River Pollution

Mr. Atwood stated that combined sewage overflows from upstream communities are increasing in frequency and severity. He suggested that the Conservation Commission, which has jurisdiction, could speak with counterpart commissions in similarly affected towns to explore litigation to

prompt state and federal investment in improved sewage systems. Mr. Atwood said that he has spoken with West Newbury resident Kevin Bowe, who knows the attorney who successfully sued to clean up Boston Harbor.

Ms. Mizner, a federal litigator, suggested that consultation with state and other agencies would be a logical first step as opposed to moving immediately to litigation, which is costly and time consuming. Ms. Reed pointed out that that quarterly meetings are occurring to address river pollution, with attendees including State Representative Lenny Mirra, Selectman Rick Parker, Merrimack Valley Planning Commission representatives, and others. *Ms. Reed will discuss this with Mr. Parker and report back to the Commission.*

Mr. Brown and Julie Boria, who live on River Road, said that this is a serious problem and enough is not being done fast enough. They described needles, things flushed down the toilet, and other disgusting and dangerous debris that washes up from the river. They also pointed out that there is no notification system alerting people when the river is unsafe for swimming. Ms. Reed stated a belief that DEP is looking into a 24-hour notification system.

Discussion: Other business

Trees on River Road Chairman Fusco and the Commission discussed orange circles painted along trees on River Road, indicating planned tree work. *Mr. Comins will discuss this with Department of Public Works (DPW) Director Wayne Amaral.* Mr. Atwood suggested that DPW adopt protocols for tree cutting along the lines of those adopted for trail maintenance.

National Grid Herbicide Spraying National Grid has sent a letter to the Town explaining its plan to hand-apply herbicides as a follow up to cutting on its right of way. *Ms. Mizner will examine the Code of Massachusetts Regulations and other materials to assess the regulatory status of this program vis-à-vis the Commission and report back at the next Commission meeting.*

Comcast Trenching at Hilltop Circle Mr. Atwood reported that Comcast has ceased work; it also has not filed an application with the Commission for excavation near wetlands. Mr. Atwood said that Comcast's temporary solution of a wire draped over trees is a safety hazard because the wire, which droops over the road, is now down to about 14' of clearance at a time when large trucks are constantly passing through in connection with construction work by the Water Department. *Mr. Atwood will contact Town Manager Angus Jennings about this situation.*

Discussion: Review of minutes

The Commission voted 5-0-0 to approve the minutes of August 5, as revised by Ms. Reed and Ms. Mizner.

Next Meeting

The next scheduled Con Com meeting is Monday, September 9, 2019

Adjournment

The Commission adjourned 8:43 p.m.

Meeting Documents

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

Respectfully submitted