

## West Newbury

### Conservation Commission Meeting Minutes

**Meeting date & place:** 7:33 pm, October 28, 2019, Conservation Commission Office, 1910 Building

**Members Present:** Wendy Reed (acting Chair), Judy Mizner (by telephone), Margaret Hawkins, Tom Atwood, Conservation Agent Bert Comins.

*Those physically present took a roll call vote and accepted Ms. Mizner's participation by telephone 3-0-0.*

**Continued Public Hearing --- Request for Determination of Applicability (RDA)--- Denise Lang Pacini and Alia Elias --- 9 Prospect Street --- For 12'x12' addition over driveway with 8'x12' deck. The proposed work is in the buffer zone of a bordering vegetated wetland.**

Ms. Elias and Consultant Tom Hughes were present on behalf of the applicants. In response to the Commission's questions, they clarified that the footings for the addition over the existing driveway would be sonotubes (likely 4 of them) punched through the driveway pavement. Mr. Hughes, who helped update the RDA, noted that there would be minimal disturbance in the ground and that the work would occur at a significant distance from the wetlands.

Mr. Hughes said that material storage would occur on the property's street side away from the wetland, and any spoils from sonotube installation would be disposed of offsite. If there were soil disturbance, it would be heavily mulched before winter.

Although the sonotubes were not shown on the plan, Mr. Hughes said that it appeared that the addition would connect to the house with a ledger board and would use four sonotubes. Ms. Elias noted that the Building Inspector has signed off on this project.

Applicants plan to begin construction immediately upon receipt of the permits. Because of minimal soil disturbance, they seek to start after the October 15 ban on groundwork.

*By a 4-0-0 roll call vote, the Commission approved a Negative Determination, conditioned on the applicants' 1) prior submission of an adequate plan showing the location of sonotubes for both the addition and the deck, 2) offsite disposal of any soils from sonotube installation at the driveway, and 3) disposal of any soils from sonotube installation for the deck outside of the wetlands buffer zone.*

**Public Hearing --- Request for Determination of Applicability --- Mirra Co. --- 2 Hilltop Circle--- For digging of trench and installation of utilities starting at PED at 2 Hilltop Circle and extending to existing PED near Woodcrest Drive. The proposed work is in the buffer zone of a bordering vegetated wetland.**

*Mr. Atwood recused himself as a decision-making Commissioner and remained present as an abutter.*

Tyler Nardone of Mirra Company and Bill Bowlan of Comcast explained that Comcast is seeking to replace an underground line and intends to dig a 2' x 2' trench next to the road, which would be hand dug or dug with a mini excavator. They said that within one day work will be completed with soil stabilization finished. Soil stabilization would consist of compacting soil over the trench, installing green mesh, and planting sod.

Mr. Atwood provided photos, showing that the work is perhaps 19 ½ to 17 feet from the wetland line. He questioned whether a Notice of Intent (NOI) would be required, in light of the NOI required for the Board of Health's trenching at the Steele landfill that was 22 feet from the wetland line. Mr. Atwood also expressed concern that strong storms cause water to course down the road, causing erosion along the shoulder. If the grass is disturbed, this will be worse and may also erode the roadway. Mr. Atwood also wondered if the plan identified the correct PED box.

The applicants stated that the correct box was identified and stressed that the temporary line in the trees needs replacement soon. Ms. Reed and Ms. Mizner concluded that the situation differs from the Steele landfill, where trenching work will be wider and deeper. They noted that Department of Public Works Director Wayne Amaral should be consulted about this project.

*With Mr. Atwood recused and not participating, by 3-0-0 roll call vote the Commission authorized a Negative Determination allowing work after the October 15 deadline, conditioned on applicants' 1) prior written submission of a plan for stabilization, 2) repairs, as necessary, to the soil stabilization in the spring, 3) completion of all work including soil stabilization within one day, and 4) installation of erosion controls if the work extends beyond a day.*

#### **Discussion: 8 Waterside Lane --- Request for Certificate of Compliance**

Applicants were not present and Mr. Comins explained that he inspected the site, which looks good. He saw no evidence that trees had been cut. They did move the dock a bit, which is shown on the as-built plan.

Ms. Mizner noted that the engineer's as-built plan states that the dock mooring was a helix mooring, "per owner." Does the certifying engineer for the as-built plan really know what the moorings are? *Mr. Comins will contact the applicants and seek a written confirmation from someone with knowledge of the moorings as to their actual type.*

*By 4-0-0 roll call vote the Commission determined to issue a Certificate of Compliance, based on the documents and the Agent's inspection, and contingent upon confirmation that the moorings are helix moorings as stated on the as-built plans.*

#### **Discussion: Sullivans Court Lot 6 update**

Town Consultants Meridian raised questions about whether required plantings in the wetlands replication areas had been completed. Mr. Comins said that he saw that plants had been installed, but needs to compare specifically what was required in plans vs. what is on the property. He will do that shortly.

Ms. Reed noted that Developer Tom Neve has yet to submit the Notice of Intent for the required trails.

### **Discussion: Sullivans Court Lot 3 update**

Architect Scott Brown appeared representing homeowners Joanne and John McGrath. He said that they did as much grading as possible before the October 15 deadline but reached a point where they needed to stabilize for winter before grading (which is occurring within the silt fence a good 100' from the river) was complete. Meanwhile, the house is under construction. The lot is subject to serious runoff from other lots in Mr. Neve's development. This raised two questions:

- 1) How to stabilize soils, particularly near the house, where digging/grading will not occur during the winter period but heavy construction vehicles will be working. The Commission advised that stabilizing with hay is unlikely to work because the hay will blow away and/or be ground into the mud. It recommended matting for an expanse about 15' from the house where heavy construction vehicles travel (and such vehicles should be confined to the matted area). In the large remaining area, the Commission advised that applicants should plant winter rye as soon as possible—and if that does not work, matting is the solution. *Ms. Mizner will draft a letter from the Commission confirming these measures—and this will be monitored.*
- 2) How to manage runoff from other lots. Mr. Brown reported that at a recent Planning Board meeting, the Town consultant recommended the construction of a swale to help manage runoff caused by the development of other nearby lots. Mr. Brown said that this needs to be done sooner rather than later and should extend perhaps another 20' beyond where the silt fence is now placed. Mr. Comins also noted that in some areas, the silt fence needs to be toed in. Also, a good amount of soil has backed into the silt fence. Apparently Developer Neve, who caused this situation, has transferred responsibility to the homeowners. Ms. Reed explained that this could be acceptable if it were 150-200' from the river but the Commission needs to review specific plans. Applicants will need to submit to the Commission a plan change and the Commission will need to amend its orders to allow the change, revise requirements for the silt fence, and provide for continuing maintenance.

### **Discussion: Drakes Landing stormwater runoff**

Developer Chip Hall and Consultant Tom Hughes appeared to discuss recent silty runoff issues, much like those that [arose in a major rainstorm in July](#). Mr. Hughes identified problems with runoff that bypassed the drains because the roadway level is lower until the top asphalt coat is applied or because the filter fabric clogged. He stressed that now water leaving the site is clean. They have ordered special silt socks for all basins to address this and plan to monitor them in case they fill with sediment. Messrs. Hughes and Hall stressed that the construction site is increasingly stabilized and that they have been responding quickly when issues arise.

**Discussion: River Road Conservation Restriction**

Vanessa Johnson Hall of Essex County Greenbelt reported that she discussed the River Road area conservation restrictions with Ms. Mizner and added provisions that trails be 6'—not 8' wide so that motorized vehicles are not encouraged and that vegetative management requires prior notice to the Grantee only if it disturbs over an acre.

*By 4-0-0 roll call vote the Commission signed off on the conservation restriction, notarized by Ms. Johnson Hall.*

**Discussion: Developer Assignment of Permits to Homebuyers**

Ms. Reed raised the issue of developers who create wetlands-related problems and then transfer responsibility to homeowners who may not be adequately informed or capable of managing the issues the developer caused. The Sullivans Court development is but one example. Ms. Mizner noted that Mr. Neve remains responsible for the trail because that was connected to the subdivision roadway approvals. She added that Commission Orders of Conditions run with the property and the homeowner is in a buyer beware situation. She added that in future orders concerning developments, the developer could be required to retain responsibility for certain items.

**Discussion: Other business**

High school site walk. Mr. Comins, Ms. Hawkins, and Mr. Atwood participated in a site walk of the site where school construction will be occurring. An immediate concern is the current violation of the wetlands protections acts. Several piles of grass and other organic fields maintenance waste as well as old tires have been stored within 100 feet of the perennial stream between the high school and middle school, as well as near the delineated wetlands in front of the middle school. Similar problems were identified previously in connection with construction of the track and athletic facilities behind the middle school and the football practice and playing fields in front of the high school in 2014. Mr. Comins spoke with the school building manager, who reported that he is fixing these issues.

*Mr. Comins will further inquire where the grass piles will be moved. Mr. Comins will let the school representatives know that such maintenance issues should be included in their upcoming application to the Commission. This should include such matters as location/composting of grass clippings, siting of snow piles, plans for de-icing, etc.*

72 Ash St. Tree Mr. Comins said that 72 Ash Street looks good, but they needed to cut a tree for the driveway. The Commission clarified that with the winter work ban, it is acceptable to just leave the stump in place until spring.

Mr. Atwood's schedule Mr. Atwood reported that due to his father's failing health, he would be staying with his parents for several weeks until matters stabilize. He will participate in Commission meetings by phone.

**Discussion: Review of minutes**

*By 4-0-0 roll call vote the Commission approved the minutes of October 7, as revised.*

**The next scheduled Con Com meeting is Monday, November 18, 2019**

*Mr. Comins will reach out to parties with pending applications to see if they have urgent matters that require a meeting before the 18<sup>th</sup>.*

**Adjournment**

The Commission adjourned 9:33 p.m.

**Meeting Documents**

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

Respectfully submitted