

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, August 13, 2020, Remote Participation via GoToMeeting.

Members Present: Via remote participation Dawne Fusco, Wendy Reed, Tom Atwood, Margaret Hawkins. Conservation Agent Bert Comins and Judy Mizner (acting as Chair) present in Town Offices and participating remotely.

At the outset, the Chair read the following statement: "Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the West Newbury Conservation Commission will be conducted via remote participation to the greatest extent possible."

Public Hearing --- Request for Determination of Applicability --- Raymond & Erin Antonopolous ---- 2 Gunners Hill Road --- Installation of in ground swimming pool

Representing the applicants, Rich Kirby of LEC Environmental discussed the proposed pool project. After applicants staked the location of the planned pool and patio, Mr. Kirby visited the site. Bordering vegetated wetlands are to the north and south of the property. The proposed pool and patio are 75 feet from the wetlands. Mr. Kirby's plan of the site, shown on the computer screen, identified the wetlands and intermittent stream and the pool/ patio plan. Applicants will use straw wattles as erosion control. The area is flat, so grading will be only a foot or so. Soil excavated for the pool will be disposed offsite, and any lawn disturbance will be replaced in kind.

By unanimous roll call vote the Commission decided to issue a Negative Determination of Applicability, conditioned upon applicants 1) complying with the notes on the plan, 2) installation of erosion controls, to be inspected and approved by the Conservation prior to the start of any other work.

Continued Public Hearing --- Notice of Intent DEP File# 078-0711--- Sandra A. Schade --- 25 Bachelor Street --- Septic System upgrade

Jim Scanlon, engineer consultant to the applicant (who is selling the property), said that the septic system has received a Department of Environmental Protection (DEP) file number and is now ready for Commission approval.

Regarding the separate issue of mowing in, and the shed located in, the wetlands, Mr. Scanlon and the applicant's realtor said that mowing has been going on in the wetlands area for decades. He showed an aerial photo from 1952. The distance between the rear property line and the wetlands is about 97', comprising most of the backyard. Commission members could not tell from the aerial photograph whether or not the area was being mowed at that time.

Ms. Mizner and Ms. Reed indicated that DEP has advised that there is no grandfathering of lawn mowing for wetlands and the regulations provide that regular mowing is not allowed in wetlands.

Applicant's realtor stressed that this loss of the back yard will blindside the buyers, and questioned the Town's activity on adjacent property that installed a septic line through wetlands (explained as a one-time, limited disturbance without continuing impact required by a DEP superseding order). Blake Seale, on behalf of the applicant, questioned how the Town was able to construct basketball courts next to applicant's property. It was explained that the courts were not in wetlands and had received Commission approval. The applicant's representatives noted that the limitations on use of the wetlands as a backyard could deter the sale of the property.

Ms. Reed emphasized that the prospective buyers should be made aware of the issue of restrictions on allowed activity in the wetlands. The Commission noted that despite requests from the Commission, no data sheets were provided as part of the wetlands delineation. The applicant may seek a second opinion on the wetlands delineation. The Commission also suggested that those wishing to keep the wetlands as mowed lawn may come before the Commission to look for alternative solutions.

Mr. Scanlon agreed that the Commission should proceed with approval of the septic project and that the use of the wetlands in the back will be addressed as a future matter.

By unanimous roll call vote, the Commission determined to issue an Order of Conditions allowing installation of the septic system as shown and described in the plans submitted, subject to standard conditions and special conditions providing that applicant will 1) install erosion controls and obtain Conservation Agent inspection and approval prior to the start of other work, 2) dispose of excavated soils and materials offsite, 3) do no work beyond the area encompassed by the erosion controls, 4) provide to the Conservation Agent 72 hours' advance notice before work begins, 5) cease mowing in the wetlands unless and until another wetlands delineation is completed and/or the Commission determines that some mowing is permissible, 6) file with the Commission to resolve the issue of the shed in the wetlands, 7) provide a letter (to be drafted by the Commission) to the prospective buyers disclosing the wetlands restrictions in the back yard, with signed evidence of receipt of the letter submitted to the Commission.

Next Scheduled Meetings

August 17, 2020

September 1, 2020 (September 7 is Labor Day)

Adjournment

The Commission adjourned at -8:22pm.

Meeting Documents

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

Respectfully submitted

