

## West Newbury Conservation Commission Meeting Minutes

**Meeting date & place: 7:30 pm, November 16, 2020, Remote Participation via Zoom.**

**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, Ms. Mizner 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.”

### **Continued Public Hearing --- Notice of Intent DEP File# 078-0712 --- City of Newburyport Department of Public Services --- Lower Artichoke Spillway --- Construction of stone foundation at lower Artichoke spillway**

*This matter was continued at the applicant’s request.*

### **Continued Public Hearing --- Notice of Intent Department of Environmental Protection (DEP) File# 078-0715 --- Charles Spencer --- 83 Ash --- Septic system upgrade, construction of barn and extension of gravel driveway**

Mr. Comins shared an updated plan on the computer screen, and said that the state’s Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage) accepted the applicant’s proposed turtle protection program.

Ms. Mizner noted that the turtle protection program was the only missing element for Commission approval.

*By 4-0-1 roll call vote (Mr. Atwood, having arrived at the meeting after discussion of this item, abstaining), the Commission determined to issue an Order of Conditions conditioned upon applicant’s compliance with the turtle protection plan accepted by Natural Heritage, standard and special conditions, including use of clean fill, installation of posts and placards to protect a 25’ no disturb area, 72 hours’ prior notice to the Conservation Agent before work begins, and receipt of Agent approval of erosion controls prior to commencement of work*

### **Public Hearing --- Notice of Intent DEP File# 078-0718 --- Jennifer Attenborough --- 387 Middle Street --- replacement of failed sanitary disposal system**

As Mr. Comins shared plans on the computer screen, consultant Greg Hochmuth explained that the property is on the market, and needs a new septic system. Wetlands and a lack of suitable soils make two tight tanks (with alarms notifying homeowners of the need for pump out) the only possible option. The location is as far from wetlands as possible. Mr. Hochmuth said that DEP provided no comments and the property is not subject to Natural Heritage review. This has received Board of

Health approval. Mr. Hochmuth did the delineation on the same day he tested the soils in September, 2020.

Ms. Mizner raised the question of mowing in wetlands behind the house. Applicant Jennifer Attenborough said that she has been in the house for over 40 years and prior to that it had been farmland. She said that the area in question has always been mown, but that the mowed area has decreased over time. Mr. Hochmuth said that because of this history and the passage of time, this mowing is not subject to Commission jurisdiction.

Ms. Attenborough said that a closing is scheduled for December 17 and she has a contract in place to construct the new system. Thus she would like to move this along as quickly as possible while meeting regulatory requirements.

*The Commission determined to hold a site walk on November 22 and to hold a meeting on November 30 to address this issue. Accordingly, the matter was continued to November 30, 2020.*

**Discussion: Request for Certificate of Compliance DEP File# 078-663, 58 Ash Street**

Mr. Hochmuth discussed the as-built plan on the computer screen. The site has been stabilized, requisite posts with placards installed, and erosion controls removed. Mr. Comins confirmed that the site looks good. The only unusual condition was permission for the drive to encroach a bit on the 25' limit from the wetland.

*By unanimous roll call vote, the Commission determined to issue a Certificate of Compliance based on Mr. Comins' inspection and the presentation at this meeting.*

**Discussion: Request for Certificate of Compliance DEP File# 78-698, 17 Coffin Street**

With the as-built plan on screen, consultant Jim Scanlon stated that the grass has come in, erosion controls have been removed, and wetland markers are in place. Agent Comins agreed. In reviewing the plans, the Commission noted that blueberries were to have been planted.

*By unanimous roll call vote, the Commission determined to grant the Certificate of Compliance, contingent up Mr. Comins' confirmation that required planting are in place.*

**Discussion: 11 Sullivans Court violation**

Mr. Comins showed photos, reporting that improper mowing had occurred at the riverfront, both in the no disturb zone and the area to be mown to 18" high. Homeowner John McGrath said that the problem was miscommunication with the landscaping company. The house is newly constructed and work is ongoing, with a pool to be installed in the spring. Currently, the issue is stabilization for the winter.

With Mr. Hochmuth, who worked on the initial permitting, and Mr. McGrath, the Commission reviewed the several different areas proposed for no-disturb, meadow to be cut to 18" once per year, and lawn, as well as demarcations for these areas, which are not yet in place.

*It was generally agreed that Mr. Comins will visit the site to ensure stabilization, Mr. McGrath will do no more work without notifying the Commission, and oversight and follow up will occur in the spring.*

**Discussion: Commission policies for hiring third party consultants**

Ms. Mizner said that the proposed rules, based on the Massachusetts Association of Conservation Commission model rules, for hiring third party consultants look good. Reference to a bylaw should be removed, however.

*The Commission agreed to vote on the rules on November 30, and hold a public hearing on December 7, 2020.*

**Discussion: Third party consultant for Coffin Street Delineation**

Mr. Comins stated that of the potential consultants he contacted, Greg Hochmuth and Matt Schweisburg expressed interest. Ms. Reed suggested that having three candidate consultants would be good. *Mr. Comins will pursue finding additional candidate(s).*

Ms. Fusco stated a preference for beginning delineation as soon as possible, inasmuch as activities may be occurring soon.

*It was generally agreed that the hearing on the 28 Coffin Street development will begin on December 7, and consultant interviews will take place on the second meeting in December, so that the consultant can be in place in January. The Commission will also offer its own explanation of its decision to use a consultant at the December 7 meeting. Also, the consultant will review the entire delineation submitted in the ANRAD.*

**Discussion: Tree Committee guidance for trees on scenic roads**

Ms. Hawkins, who is also a member of the Tree Committee, said that this guidance is being deferred because the Board of Selectmen want to take a look at it. The Town Manager expressed concern that it is too regulatory. In response to Mr. Atwood, she explained that it would apply only to trees in the Town right of way along scenic roads. Ms. Reed suggested that the document note the Scenic Roads Bylaw requirements for Planning Board notification and a public hearing.

**Discussion: Wetlands protection bylaw**

*The Commission generally agreed that Ms. Hawkins' executive summary was a good explanation to present to voters at Town Meeting.*

**Discussion: Other business**

Hunting at the river Ms. Reed inquired whether hunters could walk around the river edge where wild rice is growing. Mr. Comins clarified that they are allowed to do so if they are below the mean high water line and sufficiently distant from homes, etc.

Yard waste composting Mr. Atwood said that he followed up and learned that concerns with the Board of Health are that regulations relating to trash disposal may apply and that generally the reaction was that this would not be available for West Newbury. Perhaps a regional effort could

occur with Merrimac and Groveland, or the Town could partner with companies on the North Shore.

Yard waste dumping signage Mr. Comins reported that the Department of Public Works will order signs saying no dumping allowed for conservation areas such as the property at River Meadow

Middle/High School Construction Mr. Atwood said that he has noticed that an area near the construction roadway behind the school building project, where the area has been raised 4-5', has a fairly steep drop that should be stabilized. *Mr. Comins will investigate that.* Mr. Comins also noted that monitoring the school construction has so far been manageable.

Letter from Jim & Sue Noyes The Commissioners have read the letter from the Noyes, abutters to the proposed 28 Coffin St development, sharing concerns about runoff. *The Commission generally agreed to explain to them that the current first step is to do the delineation.* Mr. Comins said that he did respond to them and will follow up

91 River Road Ms. Reed said that she observed a large pile of mulch and yard waste in wetland areas at this property. *Mr. Comins will investigate.*

### **Discussion: Review of Minutes**

*By unanimous roll call vote, the Commission approved the minutes of October 19, 2020, as revised.*

*By 4-0-1 roll call vote (Ms. Mizner, not present on 11/2/20, abstaining), the Commission approved the minutes of November 2, 2020, as revised.*

### **Next Meeting**

November 30, 2020; December 7, 2020

### **Adjournment**

The Commission adjourned at 9:10 pm.

### **Meeting Documents**

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

Respectfully submitted

