

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, February 8, 2021, Remote Participation via Zoom.

Members Present: Via remote participation Dawne Fusco, Wendy Reed, Margaret Hawkins, Tom Atwood. 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 (NOI) DEP File# 078-0712 --- City of Newburyport Department of Public Services --- Lower Artichoke Spillway --- Construction of stone foundation at lower Artichoke spillway

Continued at the applicant’s request.

Continued Public Hearing --- Notice of Intent DEP File# 078-0717 --- West Newbury DPW --- Town Wide --- Management of hazard trees

Continued at the applicant’s request.

Public Hearing --- Notice of Intent --- Deer Run Land Development LLC --- 519 Main Street --- Construction of roadway and storm water management areas, wetland fill and replication

Continued at the applicant’s request.

Continued Public Hearing --- Notice of Intent DEP File # 078-0724 --- Town of West Newbury --- Middle Street Artichoke River Bridge --- Reconstruction of bridge

Continued at the applicant’s request.

Public Hearing --- Request for Determination of Applicability --- Pentucket Regional School District (PRSD) --- 22 Farm Lane Parcel A --- Construction of maintenance garage and parking area

Tracy Peter presented plans on behalf of the PRSD to build a 5,000 sq ft maintenance garage on land acquired on Farm Lane that is contiguous with the high school campus. Ms. Peter said that a small area of a possible spring had been identified on adjacent property. That was marked on the plan—LEC Environmental did the analysis. The proposed building would be 65’ from the edge of the possible spring and the driveway would be about 35’ away. There would be a stockade fence at the property line, about 15’ from the spring area. Ms. Peter did not know about bylaws potentially governing such fences and did not know if the Planning Board had considered this project. She said that abutters had requested the fence. Neither fence post locations nor fence details are described on the plan.

Ms. Peter said that she looked at every component and did not find anything that would require a

Notice of Intent for this project. Ms. Mizner said that the key question is whether the area Ms. Peter referred to as the spring area is isolated land subject to flooding or some other wetlands resource area under Commission jurisdiction. This would depend on calculations of the area's size or a connection to another resource area. The Commission has not received any calculations because no proposal had been previously submitted. Some members saw this area over a year ago in the fall. Ms. Fusco said that they then identified a spongy area, which Mr. Atwood identified as a low spot.

Mr. Comins provided to Ms. Peter information about Rich Kirby, the LEC contact who had worked on this for PRSD. *It was agreed that the applicant will need to obtain and provide to the Commission the calculations pertaining to the spring area and any other information relevant to whether it is a resource area..*

Mr. Atwood noted that the plan shows a gravel driveway and inquired whether this would be subsequently paved. *It was agreed that Ms. Peter will confirm the final configuration, including paving or not.*

Ms. Mizner added that the Commission will need to review this proposal in the context of other nearby wetlands areas. *The Commission will conduct a site walk when snow and freezing conditions abate. Ms. Peter will contact Mr. Comins if she sees an opportunity for a site walk.*

The matter was continued until the March 1, 2021 meeting.

Discussion: Request for Certificate of Compliance (COC) 70 Ash Street DEP File# 078-675

Consideration of a COC for this homebuilding project had been delayed while Mr. Comins researched whether an underground propane tank (which had not been in the plans approved in the Order of Conditions) located in the buffer zone about 75' from the wetlands could pose a threat to groundwater. Mr. Comins reported that he found no indication that propane gas would pose a threat to groundwater.

The Commission considered the as-built plan shown on the computer screen by consultant Denis Hamel. Members discussed the 4" perforated sub-drain surrounding the house's foundation, which drains at low volume about 75' from the wetlands. Upon review of the plans submitted for the Order of Conditions, Ms. Mizner noted that the drain had been shown, but would have initially been closer to the wetlands.

Mr. Comins, who had inspected the property, reported that required posts had been installed and that the property is properly vegetated.

Based on Mr. Comin's research concerning the underground propane tank and the recognition that variances from the approved plan do not have greater impact on the wetlands, by unanimous roll call vote the Commission determined to issue a Certificate of Compliance.

In response to Mr. Hamel's inquiry about the status of the COC sought for the new dock at 171 River Road, Mr. Comins stated that state Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage) had determined that the applicant's use of mooring

chains instead of the elastic rodes Natural Heritage had specified was not acceptable and that the mooring system would need to be made compliant. This will be addressed in the spring when the dock is put back in the water and the use of the new flexible rodes can be verified.

Discussion: Sullivans Court trail easement

Mr. Comins reported that developer Tom Neve is currently not in the area but will provide the requested additional information once he returns.

Discussion: Land Agent

Ms. Reed said that it is still desirable to increase Mr. Comins' hours to work as Land Agent by an additional 3 hours, making it 5 hours/week. Mr. Comins is agreeable, but the upcoming Town budget is tight and it is highly unlikely that Town funds would be made available for this purpose.

Ms. Reed said that the wetland revolving fund currently has almost \$90K and is steadily increasing. She suggested using some of that money (whose use is restricted to wetlands protection purposes) to provide the Commission with 3 hours/week of administrative support, to be provided by Mr. Comins, freeing up the same amount of Mr. Comins' time for Land Agent work. Ms. Reed said that she has not raised this with the Town Manager, who would need to approve this use of the revolving fund.

In response to Ms. Mizner's concern that if the revolving fund is used this way, the Town will never provide line item budget monies for the administrative assistant, Ms. Fusco and Mr. Atwood said that in tight years the revolving fund has been used, with the Town later adding the same expense to the line item budget when finances eased. Mr. Atwood stressed that it will be very important that the Commission explain this to the Finance Committee. Ms. Fusco added that the trails are a significant asset to the Town, justifying this expense. Ms. Reed noted that work is ongoing to find means of allowing trail users to report issues or problems with trails that the Land Agent may be able to address. *The Commission generally agreed that Ms. Reed should ask the Town Manager about using the revolving funds for administrative assistant work.*

Discussion: Wetlands protection bylaw

The Commission noted that a warrant article request for the wetlands bylaw needs to be submitted soon—by February 17 or so. Ms. Hawkins said that the bylaw and its summary are ready. *Ms. Mizner will prepare the warrant request. It was also agreed that the Commission should hold a hearing and connect with other boards about this.*

Ms. Reed said that a storm water management bylaw is also slated for Spring Town Meeting.

Discussion: Other business

Mr. Comins reported that the question has been raised whether this Commission should hold a joint meeting with the Newburyport Conservation Commission about the Middle Street Bridge project. *The Commission generally agreed that separate meetings were preferable, but that it may be beneficial to share draft Orders of Conditions to avoid conflicting requirements. Mr. Comins will reach out to the applicant's representative and*

to the Newburyport commission.

Also, Ms. Fusco questioned where trucks and workers' vehicles will park along the narrow roadway and how will they turn around. *It was agreed that this question will be raised at the next meeting concerning this matter.*

The matter was continued until March 1, 2021.

Discussion: Review of minutes

By unanimous roll call vote, the Commission approved the minutes of December 21, 2020, as revised, and the minutes of January 4, 2021, as revised. By 4-0-1 roll call vote (Mr. Atwood, not present, abstaining), the Commission approved the minutes of January 15, 2021, as revised. The Commission deferred consideration of the minutes of January 25, 2021.

Next Meeting

February 22, 2021, March 1, 2021

Adjournment

The Commission adjourned at 8:36 pm.

Meeting Documents

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

Respectfully submitted