

## West Newbury Conservation Commission Meeting Minutes

**Meeting date & place:** 7:30 pm, October 18, 2021, Town Hall, Second Floor Hearing Room

**Members Present:** Judy Mizner, Chairperson, Kathy Feehery (arrived at 7:38PM), Margaret Hawkins, Tom Atwood, and Conservation Agent Michelle Greene

**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**

*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*

**Request for Insignificant Change --- DEP File# 078-0736 --- 326 Main Street --- Re: Construction of septic system between October 15<sup>th</sup> and November 1<sup>st</sup>**

James Pearson requested an alteration to the standard condition limiting the time of year restriction for work to allow him to continue construction of his tight tank septic system through mid-December 2021. His contractor is not currently available but believes he can complete the project by mid-December.

*Ms. Mizner moved to allow for work through the middle of December 2021 for installation of the tight tank system contingent upon weather and ground conditions. The contractor or applicant must contact the WNCC prior to starting any work so the Commission can confirm that conditions are appropriate. Mr. Atwood seconded the motion. Vote in favor 3-0 (Ms. Feehery not present).*

**Request for Insignificant Change --- DEP File# 078-0737 --- 9 Woodcrest Drive --- Re: Tree clearing without stump removal after October 15<sup>th</sup>**

Ms. Greene explained that she did a site walk with Noah Askman, who had inquired about removing a hazardous oak tree in the buffer zone on the edge of the forested area and the manicured lawn. Ms. Greene could see a large section of the oak tree was dead and that it was leaning toward Mr. Askman's driveway and propane tanks. She gave Mr. Askman permission to remove that tree. Mr. Askman later requested a change to his Order of Conditions to allow for tree clearing without stump removal after October 15<sup>th</sup>, after the installation of erosion and sedimentation controls, because the cost to remove the one hazardous tree would be almost the same as clearing the area for the barn.

*Ms. Mizner moved to allow for tree clearing without stump removal after October 15<sup>th</sup> contingent on tree clearing not beginning until the ground is frozen, erosion and sedimentation controls have been installed, inspected, and approved by the WNCC. Notification to the WNCC must be given before the work begins so the WNCC can confirm that conditions are appropriate. Mr. Atwood seconded the motion. Vote in favor 3-0 (Ms. Feehery not present).*

**Request for Certificate of Compliance --- DEP File# 078-0272 --- 5 Woodcrest Drive, Lot 1**

Ms. Greene conducted a site visit. The area is fully vegetated and stabilized. The house and associated structures are as located on the submitted as-built plan. Ms. Greene reported that the shed and the inground pool are both outside the 100' buffer zone and that there is a fence roughly along the 100' buffer zone with

everything on the wetland side of the fence undisturbed.

*Ms. Mizner moved to issue a Certificate of Compliance. Ms. Hawkins seconded the motion. Mr. Atwood abstained as he is an abutter to the property. Vote in favor was 3-0-1.*

**Request for Partial Certificate of Compliance (continued) --- DEP File# 078-0134 --- 5 Woodcrest Drive**

This request had been continued pending submission of an as-built plan. Ms. Mizner reviewed the Order of Conditions which provided that a deed restriction be recorded with each Lot. Ms. Greene will research to see if a deed restriction had been recorded.

*Ms. Mizner moved to issue a Certificate of Compliance contingent on confirmation that a deed restriction is in place on the property in accordance with the Order of Condition. Ms. Hawkins seconded the motion. Mr. Atwood abstained as he is an abutter to the property. Vote in favor was 3-0-1.*

**Request for Certificate of Compliance (continued) --- DEP File# 078-0664 --- 83 River Road**

Ms. Greene had not received an update from Natural Heritage regarding the viability of doubling up on elastic rodes as a mooring in a strong current area or any acceptable alternative moorings. Thomas Goodwin, on behalf of the applicant, had said that the rodes failed because the current is too strong in the dock's location. The flexibility in the rodes is beneficial when a dock moves up and down with a tidal change in water depth, but not in an area with a strong current. Ms. Greene provided Mr. Goodwin with the letter from Natural Heritage at the time the dock was permitted which explicitly stated chains could not be used as moorings for this dock. According to Mr. Goodwin many docks in the river use chains as moorings. Mr. Atwood questioned whether the issue should be discussed with the Harbor Master and the Town Manager. Ms. Mizner advised she would review files for other docks to see what conditions have been imposed. Ms. Mizner asked Ms. Greene to follow up with Natural Resources to see if doubling up on elastic rodes may work for this dock.

*Ms. Mizner suggested that a Certificate of Compliance could not be issued at this time as the project is not in compliance with the conditions of the Order.*

**Request for Certificate of Compliance (continued) --- DEP File# 078-0732 --- 64 South Street**

Reviewing the plan and pictures submitted showed that woodchips were used extensively on site. Mr. Scanlon confirmed that woodchips were used on slopes around the leach field and that currently, no vegetation was growing through the woodchips. Mr. Atwood asked if woodchips had been removed from the site since the last meeting; Mr. Scanlon said no. Ron Pearson said that former Conservation Agent Jay Smith had given him approval during a site visit to use woodchips as a permanent solution on the disturbed areas. Ms. Mizner reported she spoke to Mr. Smith and he advised her that he had not approved it as a permanent solution. Mr. Pearson disagreed and said he has used woodchips on slopes at many projects and that whatever vegetation was there before will grow up through the woodchips roughly within one year. Ms. Atwood asked Mr. Pearson and Mr. Scanlon how thickly the woodchips were spread as that may impact how quickly vegetation could grow. Both were unsure of thickness. Mr. Scanlon said the woodchips were spread around July 19th. The feasibility of removing the woodchips was discussed; it would be difficult due to the location of the septic system.

*Ms. Mizner moved to postpone consideration of the Certificate of Compliance request until the spring growing season to see if*

*vegetation is growing through the woodchips. Ms. Atwood seconded the motion. Vote in favor, unanimous.*

Mr. Scanlon asked what happens if come spring nothing grows through the woodchips. Ms. Mizner responded that the condition specifies vegetation stabilizing the site. Ms. Hawkins added if vegetation has to be planted it should be native. Mr. Scanlon confirmed he will continue the request until one growing season has occurred and asked if the new owner could plant if they wished to do so. Ms. Mizner confirmed they could and asked Mr. Scanlon to have them call Ms. Green before beginning any planting.

#### **Old Business --- 15 Norino Drive --- Discussion Re: Houseboat**

Colin Hodgson explained that a few years ago, pre-Covid, he had brought a houseboat to the bank of the Merrimack River. He has not obtained authorization from Natural Heritage or the WNCC. The houseboat has remained in the same place on the bank and he has asked Natural Heritage if it can stay there as he does not think it is safe to put it on a mooring. Mr. Hodgson said that he filed this request with Natural Heritage the Tuesday after Columbus Day. Ms. Mizner stated that Mr. Hodgson was aware that the houseboat could not stay on the bank as Fish and Wildlife had told him it was unauthorized and he needed to file with Natural Heritage in 2018, and that in October of 2018 the WNCC sent him an enforcement order. Ms. Mizner asked Mr. Hodgson what he would like to see done with the houseboat now that he does not want to move it. Mr. Hodgson would like it to remain on the shore at the foot of his property. Ms. Hawkins asked if Mr. Hodgson used his houseboat in its current spot and he replied that he uses it for watching wildlife. Mr. Hodgson said that a dock is too expensive and that a float is the best option as the trees on the shore are not cut. Ms. Mizner replied that the houseboat is not authorized to be on the bank and that unlike a dock the houseboat does not allow light to reach the vegetation on the bank. Natural Heritage has asked the WNCC to conduct a site visit and provide them with pictures of the houseboat. *Mr. Hodgson and the WNCC agreed to a site visit on Sunday October 24th at 1:00 PM*

#### **New Business --- September 2021 expense report**

Ms. Greene shared a copy of the September 2021 expense report with the Commissioners for review. Ms. Mizner advised future expense reports can be shared with the Commissioners by email.

#### **New Business --- Presentation from Megan Chiango, Re: Temporary art installations on conservation land**

Ms. Greene indicated this was postponed at Ms. Chiango's request to a November meeting

#### **New Business --- 823 Main Street, Ocean Meadows Trail, Discussion Re: Clearing of brush near gate for trail access**

Ms. Greene conducted a site walk with Carol Lloyd of ECTA at the Ocean Meadows trail. Ms. Lloyd had explained that the access issue through the properties on Main Street had been resolved and that a section of brush that had overgrown when property access was withheld needed to be cleared. Ms. Greene reported that no trees would be cut and that the area was not in a wetland or a buffer zone. Ms. Mizner said that any brush removed had to be disposed of offsite and asked Ms. Greene to have Ms. Lloyd email her plans.

#### **New Business --- 22 Farm Lane, Pentucket School Maintenance Building site review for comments to Planning Board**

The Planning Board had provided Ms. Greene with plans and a narrative for the construction of a maintenance building for the Pentucket School in the back on the 22 Farm Lane property. The Planning

Board would be discussing this on October 19th. Ms. Greene would provide any Commission comments or concerns to the Planning Board. Ms. Mizner believed the maintenance building had been approved through an RDA filing and would look for the filing to compare to the Planning Board filing. Mr. Atwood asked Ms. Greene to schedule a time to conduct a site walk to inspect the erosion and sedimentation controls at the Pentucket site as it had not been done in a while.

#### **Old Business --- 48-56 Stewart Street Emergency Certificate Update**

Ms. Greene left a voicemail for the fire Chief to discuss PFAS decontamination of their equipment. Clean Soils, the company performing the cleanup of the site had requested the emergency certificate, which required that the work be done within 60 days of the issuance of the emergency certificate. After that, a Notice of Intent must be filed to complete the work. Clean Soils had recently asked if the time allotted for the work could be extended because they can't begin the cleanup until they receive the results of the soil tests from the state lab, which is behind schedule. Ms. Mizner asked Ms. Greene to ask MA DEP if an extension or an amendment can be issued for the emergency certificate.

#### **Old Business --- Turtle Crossing Signs**

Ms. Greene advised she did not have an update on this.

#### **Wetlands Bylaws Update**

Ms. Mizner advised she did not have an update.

#### **Other Business --- Checks found in file for 14 Kimball filing**

Ms. Greene reported that when adding recording references to the file for 14 Kimball she found \$485.00 in checks to the Town from the original Notice of Intent filing which had not been processed. The Town Manager advised her to check with the Commission to see if they wished to pursue obtaining new checks from the applicants. Ms. Mizner and Mr. Atwood agreed that payment should be pursued. Ms. Greene will follow up with the Town Manager and Town Accountant.

#### **Land Agent Update**

Ms. Greene advised that a date had not been scheduled yet but there are plans to have a goal setting meeting among her, Ms. Mizner, Town Manager Angus Jennings, DPW Director Wayne Amaral, Open Space Chair John Dodge, and Select Board Member Richard Parker soon and she will advise the Commission when it is scheduled.

#### **Community Input**

None

#### **Correspondence**

None

#### **DEP Comments**

None

#### **Next Meeting**

November 1, 2021. Mr. Atwood explained he would have to attend remotely. Ms. Greene advised she would determine how to do this. Ms. Feehery advised she would have to attend the November 15<sup>th</sup> meeting

remotely.

**Adjournment**

*Ms. Mizner moved to adjourn the meeting. Mr. Atwood seconded the motion. Vote in favor, unanimous.* The meeting adjourned at 8:55 pm.

**Meeting Documents**

Presentations and records associated with each matter identified, as included in Ms. Greene's files.

Respectfully submitted