

## West Newbury Conservation Commission Meeting Minutes

**Meeting date & place:** 7:30 pm, November 15, 2021, Town Office Building 2d Floor.

**Members Present:** Judy Mizner, Chair, Tom Atwood, Kathy Feehery, and Margaret Hawkins. Also present, Conservation Agent Michelle Greene.

**Cont. 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 ---Applicant requests a continuance.**

**Cont. Public Hearing --- Notice of Intent DEP File# 078-0717 --- West Newbury DPW --- Town Wide ---Hazard tree management --- Applicant requests a continuance.**

**Public Hearing: Notice of Intent (continued): Off Church Street (Parcel R13-341), Kenneth Cutcliffe, Re: Construction of a dock on the bank of Merrimack River, DEP# 078-0XXX -- Applicant requests a continuance**

**Request for Insignificant Change: 17 Rogers Street, Jason Plummer, Re: Request to continue work past October 15<sup>th</sup> for drilling and installation of well, DEP# 078-0730**

Mr. Plummer said that in construction at this property, a foundation hole has been dug and forms for concrete have been set. To obtain a building permit and continue non-Commission-jurisdictional work over the winter, the applicant needs water on the site. Thus they are asking the Commission for approval to drill a well beyond the October 15<sup>th</sup> cut off time. Mr. Plummer said that they would use existing material dug out for the foundation to create a berm to contain slurry or other excess materials from the drilling. Excess water during drilling would be pumped to the back, away from the resource areas. They would start work as soon as possible: it should take no more than a couple of days and be done by December 1.

Conservation Agent Greene noted that she has looked at the site and the erosion controls look good. *It was agreed that she will check the site again to make sure that the erosion controls are in good shape and the site is stabilized.*

*Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to allow the drilling of a private well as proposed, to be completed no later than December 1, conditioned upon the creation of a berm to contain well-drilling spoils and upon the pumping of water away from the resource area.*

**Request for Insignificant Change: 34 Ash Street, Gregory Hochmuth, Re: Request to continue work past November 1<sup>st</sup> for roughing out driveway, DEP# 078-0727 (DEP# incorrectly listed on Order of Conditions as “87-727”)**

Consultant Greg Hochmuth said that the builder would like to install a crossing of the roadside intermittent stream—the only Commission-jurisdictional area—to rough out a driveway and so be

able to work over the winter. He said that this would be begun as soon as possible, and would take a couple of weeks, weather depending. Closing has not yet occurred, so the completion date would be December 15-20<sup>th</sup>. Construction will include a headwall and new culvert, sized for a 20' wide driveway (to accommodate a shared drive for a total of 3 lots), although initially the driveway will be 15' wide, serving one lot. The intermittent stream will be dewatered with a sump during driveway construction. Wetlands replication, required under the existing Order of Conditions, would be done in the spring.

Mr. Hochmuth recommended wetlands monitoring at least weekly, with a check after significant rain events. He said that spoils from the construction would be kept away from the resource area on a tarp and covered so that it could be used for wetlands replication as appropriate. He also suggested riprap rock installed at the driveway near the road to clean mud off construction vehicle tires and said that the applicant plans to clean the roadway periodically.

*Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to lift the time of year restriction to allow the applicant to construct the intermittent stream crossing and culvert up to December 20, provided that the applicant complies with the Order of Conditions—particularly Condition 7, and 1) installs and maintains appropriate erosion controls and ensures stabilization over the winter, 2) stockpiles excavated materials on a tarp (and covered) outside of the buffer zone, 3) performs wetlands monitoring weekly and after precipitation events over 1", and 4) upon installation of the crossing installs riprap on the drive about 30' into the property from the stone wall and sweeps the street to clean sediment off the road.*

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

Agent Greene said that Ms. Chiango would like to wait and appear before the Commission when a specific area and proposal have been identified.

### **Old Business: Turtle Crossing Signs**

Ms. Greene reported that due to requirements for roadway signs, Department of Public Works (DPW) Director Wayne Amaral said that he cannot provide a sign with a turtle picture, but can provide a sign with the words "turtle crossing." *The Commission identified the following spots for installation of turtle crossing signs:*

- The location on Hilltop Circle where a home made turtle sign now exists
- The location at Brake Hill where a construction sign has been coupled with a homemade turtle sign
- The locations at each end of the unpaved part of Ash Street
- A location at the new homes at the intersection of Ash and Middle Streets, which area is subject to Blandings turtles protections
- The location at Crane Neck Street where the swamp is on both sides of the road

### **Old Business: Open Spot on Conservation Commission**

*The Commission authorized Ms. Greene to post a notice of the Town website about the open seat on the Conservation*

*Commission.*

**Wetlands Bylaw Update:**

Ms. Mizner said that she is working on the bylaw and plans to circulate a redraft at the end of the week. She asked that *Commission members review the draft and individually forward their comments so that she can finalize a new draft for the next meeting.*

**Other Business: Expense request for Conservation Agent soil training course**

Agent Greene described her search for soil training courses, saying that she found a thorough online course from an organization of wetlands professionals based in Portland, ME. She described various payment options. *The Commission authorized her to obtain the \$65 membership, which offers free courses and certificates showing professional training.*

**Informal Discussion:**

14 Kimball Rd—Ms. Greene said that the question of the check for fees has been resolved.

Emergency permits for breaching beaver dams—Ms. Greene said that she has issued one emergency permit to allow a trapper to breach a beaver dam at Pikes Bridge trail. The location, about halfway down the trail, involves a culvert that had been blocked up by beaver activity.

Ms. Greene noted that several other areas may be subject to requests for such permits. She described the multiple levels of permitting and consultations with other departments. Ms. Mizner stressed that the permits should occur only when there is a real need—not just because a homeowner is annoyed about beavers nearby.

Zoom subscription—Ms. Greene reported that COVID-related funding for Zoom subscriptions had ended, and thus committees are now being asked if they want to pay \$7.49/mo for a Zoom virtual meeting subscription. *The Commission decided that since it is meeting in person, it does not need the subscription.* -

Flooding & runoff at 87 Main Street—Ms. Hawkins had shared photos of severe flooding associated with new construction and its steep driveway. At least 3” of sediment was at the base of the street, which itself was flooded. Sediment was also going into wetlands across the street from the construction area. It was reported that the state, which operates 113, and the DPW were very concerned, and a meeting had occurred with Ms. Greene, Mr. Amaral, and other interested entities.

The Commission discussed concerns such as:

- The significant safety threat of a hard rain followed by a flash freeze on the roadway
- The larger impacts on downstream areas, particularly the new drainage systems and the stream at the Pentucket High and Middle Schools
- The adverse impact to the wetlands immediately nearby
- The inadequacy of the builders’ stormwater management systems and the need for continual catch basin cleaning

Additionally, the Commission addressed the limitations of its after-the-fact jurisdiction in this situation to address a problem that materializes but not to prevent it. Ms. Hawkins questioned the adequacy of stormwater management overall.

*Ms. Greene will*

- Consult with the Pentucket construction manager about impacts on the stream and on the drainage systems at the school
- Work with Ms. Mizner (who noted the possibility of check dams or other means of diverting water from the driveway/raceway) on an enforcement order
- Revisit the site to check on and photograph impacts to wetlands
- Continue to consult with other affected departments

Ocean Meadows trails—Ms. Greene said that she joined a sitewalk with Essex County Trail Association (ECTA) at the Ocean Meadows trail, which entails divergent interests of multiple property owners including the Ocean Meadows condominium board. ECTA is proposing to relocate the trail. Once ECTA has completed its proposal , including recording revised locations, this would be brought to the Commission. She noted that Ocean Meadows representatives have a variety of concerns as well.

**Community Input:**

None

**Approval of Minutes:** November 1, 2021

Not ready

**Correspondence:**

None

**DEP Comments:**

Ms. Greene said that the Department of Environmental Protection (DEP) had no comments, but she has been working on training with DEP and will share information with the Commissioners.

**Land Agent Update:**

None

**Next Meeting:** December 6, 2021

**Adjournment**

The Commission adjourned at 8:34 pm .

**Meeting Documents**

*Materials pertaining to each item, as maintained in Conservation Agent files.*

Respectfully submitted