

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:00 pm, January 2, 2024, Second Floor Town Offices.

Members Present: Chair Molly Hawkins, David Parrott, George Preble, Haley McGraven, and Conservation Agent Michelle Greene.

Not present: Jack Haley

1. **Public Hearing: Notice of Intent (continued): 0 River Meadow Drive – Whetstone Greenway, Applicant: Town of West Newbury, Re: Construction of a new trail and boardwalk, DEP# 078-0755 Applicant requests a continuance.**

2. **Public Meeting: Request for Determination of Applicability (continued): 16 Donovan Drive, Applicant: Daniel Chiango, Re: Construct a 24'x32' barn**

Ms. Greene said that the applicant asked that the matter be continued to the February 5, 2024, meeting.

3. **Public Meeting: Request for Determination of Applicability (continued): 56 Church Street, Applicant: James Igoe, Re: Tree removal**

Homeowner James Igoe provided a marked-up plan showing proposed tree removal, which was circulated among the Commission members, some of whom had participated in a site visit. Mr. Igoe said that he had a large stand of trees in his backyard, many of which are very brittle predominantly ash trees. These are swaying in the wind, breaking off limbs, and threatening his walkway. His neighbor recommended he remove some trees that, in his neighbor's view, threaten the neighbor's property. Mr. Igoe said that a crane cannot get to the back, so the tree felling would have to be done by hand. His plan is to leave the trees in place where they fall.

Ms. Hawkins noted that the tree marking at the site and the plan provided to the Commission do not make it clear just which trees would be removed. Mr. Igoe said that perhaps 48-52 trees would be removed, representing about 25% of the tree stand. Ms. Hawkins said that the Commission needs specific information about the trees that would be removed and raised concerns about too many felled trees left in the wetland. She observed that the current plan looks like a clear cut. The Commission, she said, needs to understand the distance from the riverbank and the wetland and whether rare species are involved in the felling of a tree in the jurisdictional area. She also noted that the Commission needs to be consistent in applying the rules.

Mr. Igoe suggested that perhaps 25 trees could be felled. He also said that the cut trees could be removed and used as firewood.

The Commission advised that Mr. Igoe should have a certified arborist send the Commission a letter that 1) contains a plan of the trees to be felled in relation to the wetlands, buffer zone, and riverfront, 2) explains the hazard associated with the trees to be cut, and 3) describes how the work would be done and whether or where felled trees would be removed or left. Also, the exact trees to be cut should be marked at the site.

Mr. Igoe agreed to provide the arborist's letter and the matter was continued to the January 22, 2024 meeting.

4. Public Hearing: Notice of Intent (continued): 10 Harrison Avenue, Applicant: Lee & Jeanne Stafford, Re: Construction of an addition to an existing single-family home, DEP# 78-0768

Homeowner Lee Stafford appeared before the Commission, noting that the newly revised plans show a revision to wetlands flag 9A, expanding the wetlands somewhat. This did not substantially change the proposed project. Ms. Greene said that a remaining issue is that the existing conservation posts (properly placed in accordance with requirements associated with a 2019 septic upgrade) are now agreed to be in the wetlands.

Ms. Hawkins raised the concern that the wetlands markers are now misleading. She acknowledged that Mr. Stafford has not been mowing up to the wetlands markers, but said that future homeowners may not continue this practice, particularly if the wetlands markers are deceptive. It would be best, she said, if the misplaced markers were removed and located at the edge of the resource area. *It was agreed that several of the inaccurate markers would be relocated, with one at the corner left as is to leave room for a lawn area used by children as a playing field.*

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to close the public hearing.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to issue an Order of Conditions for this project subject to special conditions, and requiring that the applicant will 1) ensure that all work conforms to the December 18, 2023 plans; 2) relocate conservation posts as agreed before construction begins; 3) install erosion controls as proposed, which must be inspected and approved by the Conservation Agent prior to the beginning of work; 4) provide the Agent 72 hours' prior notice before commencing work; 5) restrict heavy equipment entrance and egress to the existing paved drive; 5) keep spoils and other materials outside of the resource area or buffer zone and dispose of them offsite; 6) keep stockpiles within the erosion control area; and 7) abide by restrictions on use of fertilizers, insecticides, pesticides or other chemicals in the natural vegetation area.

5. Public Hearing: Notice of Intent (continued): 125 River Road, Applicant: Michael Fusco, Re: Construction of a roadway, driveways, and associate grading, DEP# 78-07XX

Ms. Greene noted that the applicant is not present (having a Planning Board meeting for the project at the same time) and that the matter is continued to January 22.

Ms. Greene said that a peer review by Horsely Whitten had been arranged for \$5,850 and the agreement needs to be executed.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to authorize Ms. Greene to execute the contract for peer review.

6. Public Meeting: Request for Determination of Applicability: 32 Maple Street, Applicant: John & Judith Durant, Re: Tree removal

Applicants John and Judith Durant described their proposal to remove nine trees, including six dead ash trees. They said that the trees will be removed by crane, which will enter and exit via the driveway. Floaters will be used to protect the lawn and all debris will be removed from the site. The Durants agreed to leave the stumps and where feasible, leave the stumps at 6-10 feet high to provide wildlife habitat.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to issue a negative determination of applicability for removal of up to 9 trees as shown on the plan, conditioned on requirements that the applicants will 1) leave the stumps in place and where feasible at heights of 6-10 feet; 2) allow no heavy equipment in the wetland; 3) loam and seed any

disturbed area; and 4) refrain from placing any debris in the wetland.

7. Certificate of Compliance Request: 104 Bachelor Street, DEP# 78-621 and DEP# 78-695

Ms. Greene explained that this property, which had gone into foreclosure, had a failing septic system for which an order of conditions had been obtained with DEP# 78-621. The order of conditions was not recorded with the Essex South Registry of deeds, the work was not done, and the DEP# 78-621 order of conditions expired. After the bank took over the property, a new order of conditions (DEP# 78-695) was obtained, the work was done and closed out with the Board of Health.

Ms. Greene said that the area is stable and the conservation posts were properly installed. Thus she recommends issuing 1) a certificate of compliance for DEP#78-621 for purposes of the Commission records and 2) and a certificate of compliance for DEP# 78-695, which can be recorded with Essex deeds.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to issue a certificate of compliance for DEP# 78-621.

Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to issue a certificate of compliance for DEP# 78-695.

8. Certificate of Compliance Request: 104 Bachelor Street, DEP# 78-695

See discussion above.

9. Enforcement Order Update: 0 Baileys Lane, Parcel R13-82A, Long Hill Orchards, Re: Filled wetlands

Ms. Greene reported that consultant Greg Hochmuth had a conflict with today's meeting and asked for a continuance. *The Commission extended the matter to January 22.*

10. Enforcement Order Update: 22-24 Main Street - PRSD, Re: Continuing sedimentation into intermittent stream, DEP# 078-0701

Ms. Greene said that she went to the site during the last rain event and it looked OK.

11. Discussion: Wetlands Protection Bylaw

Ms. Greene said that she sent an email blast about the new draft and responded to individuals who sent in comments.

12. Discussion: Update that MA DEP has issued a Superseding Order of Conditions approving the installation of a pond leveling device / beaver deceiver at Macey's Pond, 0 Main Street parcel R2-35, Applicant: Town of West Newbury, DEP# 78-763

Ms. Greene reported that on appeal of the Commission's order, MA DEP issued a superseding order approving the Commission's order, and thus making DEP the approving authority for the project now.

13. Approval of Minutes: December 4, 2023 executive session minutes

Deferred.

14. Approval of Minutes: December 6, 2023

Deferred.

15. Approval of Minutes: December 11, 2023

Deferred.

16. Approval of Minutes: December 18, 2023

Ms. Hawkins moved, Ms. McCraven seconded, and the Commission voted unanimously to approve the minutes of December 18, 2023, as amended.

17. Land Agent:

Ms. Greene reported that a final checklist for new trails has been prepared.

18. Conservation Agent:

None

19. Commission Representative to Open Space (OSC):

None

20. Commission Representative to Community Preservation Committee (CPC):

The Commission discussed an email from Jack Haley, who serves as the Commission's representative to the CPC. He said that the CPC reviewed its charge as a committee and that members would be more active in proposing projects for funding. Thus he asked that the Commission consider funding of the Whetstone Greenway project in coordination with the OSC.

Ms. Greene and the Commission members discussed which projects they would prioritize. Ms. Hawkins noted that the Whetstone Greenway, which is very costly and not something that residents are clamoring for, was not a Conservation Commission sponsored project.

Ms. Greene noted that trails in Riverbend are heavily used and impact and are impacted by wetlands. Ms. Hawkins said that the Commission might look at the Indian River bridge in the Riverbend area. Ms. Grammer said that the bridges at the Coffin Street trail were [built by AmeriCorps with CPC funding](#) at low cost.

The Commission determined to develop a ranked list of needed projects that could be proposed for CPC funding, and Ms. Greene will start with a draft. It was decided that the Mill Pond Committee should be encouraged to develop such a list for Mill Pond trails, and Ms. Greene will send that Committee an email encouraging such action.

21. DEP Comments: MA DEP proposed updates to regulations:

Ms. Greene said that she had a chance only to skim the proposed regulations. They address climate change resiliency and propose among other things to reduce barriers for new culverts and encourage more ecological projects.

a. Wetlands Protection Act regulations 310 CMR 10.00 (see link below for more info and public comment process):

<https://www.mass.gov/regulations/310-CMR-1000-wetlands-protection-act-regulations#proposed-amendments-public-comment>

- b. 401 Water Quality Certification regulations 314 CMR 9.00 (see link below for more info and public comment process):

<https://www.mass.gov/regulations/314-CMR-9-401-water-quality-certification#proposed-amendments-public-comment>

- c. Waterways (Chapter 91) regulations 310 CMR 9.00 (see link below for more info and public comment process):

<https://www.mass.gov/regulations/310-CMR-900-the-massachusetts-waterways-regulation#proposed-amendments-public-comment>

22. Other Business:

- *Ms. Hawkins moved, Mr. Preble seconded, and the Commission voted unanimously to approve a \$469 expenditure from the Conservation Revolving Account for a weather station at Town offices.* Ms. Greene will coordinate with the Department of Public Works and Jake Soucy the town's IT provider about installation.
- Ms. Greene noted that she will be away starting on January 12 and returning on the 22nd
- Ms. Grammer noted that if the Commission is interested in the background story of a given property, members can go to the Historical Commission's [Historic Sites Survey](#), which lists properties by address.

23. Informal Discussion:

- 24. Upcoming Meetings:** January 8, 2024 – Administrative business, work on wetlands bylaw
January 22, 2024 – Regular business, public hearings and meetings. Please note date is 4th Monday.

Adjournment 8:26 pm

Meeting Documents

Presentations and records associated with each matter identified, as included in the Conservation Agent's files.

Respectfully submitted