

West Newbury

Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, April 2, 2018 Conservation Commission Office, 1910 Building

Members Present: Chairman Dawne Fusco; Judith Mizner; Wendy Reed; Tom Atwood, and Conservation Agent Jay Smith

Cont. Public Hearing --- Abbreviated Notice of Resource Area Delineation Cont. --- Fredrick and Stefanie Hufnagel for River Rd. (Map R-24, Lot 24-5 and 24-7) (DEP# 78-682). --- For the delineation of resource areas. Reschedule site visits

The Conservation Commission's initial site walk to review wetlands at this address was scheduled for April 8th at 8 a.m., to be continued as needed given the size of the property and extensive wetlands. If she wishes to visit the property separately, Ms. Reed was advised to contact Consultant Mary Rimmer, who is doing the wetlands delineation. The property is located at the Coffin Street end of River Road, and extends up to Cortland Lane.

The Commission will meet on April 8, 2018, at 8 a.m. next to the Lambert property, parking on River Road, for an initial site walk of this property.

Public Hearing --- Abbreviated Notice of Resource Area Delineation (ANRAD)--- Wendy Willis, 35 Prospect St. --- For the delineation of resource areas at 35 Prospect St.

Ms. Willis reported that both sides of the property in question have been delineated for wetlands and revised, complete plans will be submitted to the Commission. Mary Rimmer is working on the wetlands delineation. Ms. Willis said that the ANRAD fieldwork was completed last week and that this area showed little change from previous wetlands reviews. Conservation Agent Smith confirmed that he has the partial submission—the only thing lacking is the one side yet to come.

The Commission scheduled a site walk for April 15, 2018, at 8 a.m.

Public Hearing --- Request for Determination of Applicability --- Jeffery Mulqueen, Superintendent of Schools --- Applicant is seeking confirmation from the Commission that a stormwater pond is jurisdictional at the Pentucket Regional School District (PRSD), 22 Main St.

Jon Richardson, Dore & Whittier, PRSD School Building Project Designer; Rich Kirby, LEC, PRSD School Building Project Wetlands Consultant; Steve Theron, Vertex, PRSD School Building Project Owner's Project Manager appeared before the Commission to address the jurisdictional status of an excavated rectangular storm water retention pond on the PRSD high school/ middle school campus, where new school construction is in planning stages.

Mr. Kirby said that in determining whether the stormwater pond on the PRSD site is jurisdictional for the Commission's purposes, key questions are when was this created, and what was it created from. He stated that such stormwater management facilities created prior to the Wetlands Protections Act would not be jurisdictional. He further indicated that this was excavated and had no other surface inputs. Old plans indicate that the school building was approved in 1956, with construction completed around 1958.

Ms. Mizner noted that if the excavation dug out a wetland, it would be jurisdictional. Mr. Kirby replied that wetlands have historically been filled, altered, excavated. He contended that whether the spot was originally a wetland would not matter if the excavation had been done before the Wetlands Protection Act was in place.

Mr. Smith produced plans and documents from a Pentucket construction project filed on June 22, 1990 involving tennis courts, parking, and paved walkways. These documents discussed the pond as well as a buffer zone for the pond. Ms. Reed also observed that a Department of Environmental Protection (DEP) aerial map indicates that the pond is a deep marsh. It was also noted that currently, the source of water in the pond is both onsite and drainage from Main Street.

Ms. Mizner stated that the Commission would need to do further research. Mr. Atwood indicated that the Commission will need to prove the jurisdictional status and urged consultation with Town Counsel. Additionally, Mr. Kirby and the Commission agreed that some consultation with DEP should be undertaken. Mr. Kirby may be able to identify the DEP analyst who examined the PRSD site.

Ms. Fusco stated that the Commission's next meeting is April 17 and the matter will be continued to that meeting.

Public Hearing --- Notice of Intent --- Twig Rush Dock Association for Twig Rush open space – For a dock located within the Merrimack River resource area, bank and bordering vegetated wetland. The work proposed is in the open space area on Twig Rush. (Map R-1, Lot 112).

George Zambouras, Atlantic Engineering; Robin Plisinki, a homeowner and Twig Rush Association representative discussed the Twig Rush Dock Association's intent to install a dock on the Merrimack River. Mr. Zambouras explained plans showing the location of the proposed dock, which would cross Bordering Vegetated Wetlands (BVW) in a low-lying area at the river's edge. He described this as involving a wooden platform set on 4 wooden posts 1 ½' to 2 ½' off the ground, with stairs going to a small stone dust platform.

In response to Ms. Mizner's query why the dock would cross BVW as opposed to the area's space not including BVW, Mr. Zambouras stated that the dock site is so low-lying that without the crossing as proposed, the platform would be resting on the ground. He also stated that the location is constrained by the property lines and Army Corps of Engineers rights of way for the dock's moorings. To accommodate the shallow river bottom and the high range of tides, normally mooring

lines extend 50'-60.' Here, they would be 30'-35.' Also, the dock should be perpendicular to the river.

Mr. Zambouras said that it may be possible to make the platform a little higher and the ramp (currently planned to be 36') a little longer. It may be, however, that the last float would bottom out. He stated that he may have to evaluate actual elevations in the field.

The discussion turned to vegetation in the area. Ms. Plisinki said that the field is cut, but the BVW does not get overrun with grass and is left in its natural state. The area proposed for the dock involves 6 trees, the largest (likely an oak) being 36." This tree is fairly well rotted, and 2 trees by edge of bank are leaning into the river. Another 10" tree that would be adjacent to the ramp is half-dead, Mr. Zambouras reported.

Mr. Smith suggested looking at the whole area for the best spot. One area has been cleared for the most part, and is at the end of the path. Any other place would involve more BVW. As to clearing that occurred in this location and the advisability of a replanting plan, Ms. Plisinki stated that this had been clear for a decade or so. Ms. Mizner explained that Twig Rush was planned just before wetlands requirements became more stringent in 1987, so going back 10 years does not inform about cutting during development or after. Mr. Zambouras said that they can research past documentation and the Commission may also have records.

Chairman Fusco concluded that a site walk would occur on April 15, starting between approximately 8:30 and 8:45 a.m. This matter was continued to the Commission's next meeting on Tuesday, April 17.

Public Hearing --- Request for Determination of Applicability --- Paul Hamilton and Amy Custance, 39 Main St. --- For the upgrading of a septic system within the buffer zone to a bordering vegetated wetland at 39 Main St

Consultant Jim Scanlon described the property in question, whose septic system has failed, as located on Main Street almost directly across from the entrance to the PRSD campus, 2 doors down from Nick's restaurant. Julie von Drock delineated the wetlands. A Presby system is proposed, with a leach field, septic tank, and pump chamber. The leaching area (which currently is in grass) would be 66' from nearest wetland with grading going down to 50.' Siltation barriers would be used.

The proposal is currently before the Board of Health, and Mr. Scanlon has no indication of that group's views on this proposal.

Ms. Fusco stated that the Commission would schedule a site walk for this property on April 15, starting around 9:15-10 a.m.

Discussion: Harrison Bonner, 192 Main St – Request to release lot from Enforcement Order

Ms. Fusco noted that the property in question has a recorded enforcement order to address a non-permitted disturbance in a wetlands resource area. Harrison Bonner stated that the property has

been sold and new owners moved in, but he needs to have the enforcement order lifted so that he can receive outstanding funds from the transaction. Mr. Smith reported that the required posts for wetlands demarcation have been installed in appropriate locations with placards. Some horizontal strapping has also been installed to connect the posts as a sort of fence.

Mr. Smith further stated that vegetation in the wetlands is growing somewhat, but not much. Also, a planter in the wetlands should be removed. Prior enforcement orders and requirements specified not only wetlands demarcation, but also a planting plan. The Commission described to Mr. Bonner the requirements to 1) take his existing wetlands diagram and draw the locations of proposed plantings with a key showing what native wetlands plants would be planted where (the acceptable plants being on a list Mr. Smith provided), 2) submit this revegetation plan to Mr. Smith, 3) get prior approval of that plan from Mr. Smith, 4) in accordance with the approved plan, purchase and plant the native wetlands vegetation, and 5) ensure that the new plants survive (using advice from the plant seller). Mr. Bonner was further advised that blueberries work well and are a popular solution. The space in question about 9' x 14,' so about 7-8 plants should do and should be planted as a border along the fence and in the center so that the area is fully revegetated.

The Commission indicated that final sign off would take place a month or so after planting to ensure that the plants survive.

Discussion: Vanessa Johnson-Hall, Greenbelt --- To talk about a conservation restriction for Brown Spring Farm, Main St.

Mr. Smith advised that Greenbelt proposed to defer this meeting to a later date.

Discussion: William Bachrach, for West Newbury Parks and Rec. --- Delineation request for the Dunn property, Main St.

Ms. Mizner explained that the question before the Commission is whether Conservation Agent Smith can delineate wetlands on the town-owned Dunn Property for the Park & Recreation Committee—is this an appropriate use of his time?

Mr. Bachrach stated that the Dunn Property's north field is riparian and wet, and the south field has 2 test wells. Based on survey results, a special committee has been formed to look into long-term plans for active recreational areas for such things as flag football, a senior center, and an enclosed dog park. A variety of town-owned sites were considered and focus has now centered on the Dunn Property. Students from Wentworth University are engaged in a capstone review including such elements as traffic studies, but to develop a conceptual design, wetlands delineation is needed.

The Commission generally agreed that Mr. Smith should walk the site with someone familiar with the development goals in order to give a basic idea of wetlands locations. A third-party consultant would be used for actual wetlands delineation at the appropriate time.

Discussion: Minutes

The Commission revised the March 19, 2018 minutes to show that in approving the March 5 minutes Mr. Atwood, not present, abstained making the vote 3-0-1. Additionally Ms. Mizner corrected a typographical error. *With those revisions, the Commission approved the minutes of March 19, 2018, 4-0-0.*

Other Business:

None.

**Discussion: Notice of intent to sell property under 61B. 0 Middle St, (Map R-27, lot 32) ----
Selectmen requesting comments**

Mr. Smith described this property as near the Insight Meditation Center and adjacent to the Withers Conservation Area, town land. The 61B parcel for which the town has first refusal rights comprises 16.5 acres and is proposed to be sold for \$900K on April 30. The Selectmen presented this to the Commission for its advice on the matter.

The Commission voted 4-0-0 to have Ms. Mizner draft a letter on its behalf to the Selectmen, stating that the Commission views the property as having value in that it abuts town land and serves as a hiking, equestrian and wildlife corridor.

Adjournment

The Commission adjourned at 9:24 p.m.

Next Meeting

April 17, 2018

Meeting Documents

Presentations and records associated with each matter identified, as included in Mr. Smith's files
Draft Minutes of March 19, 2018 meeting

Respectfully submitted,