

## West Newbury

### Conservation Commission Meeting Minutes

**Meeting date & place: 7:30 pm, May 7, 2018 Conservation Commission Office, 1910 Building**

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

**Cont. Public Hearing --- Abbreviated Notice of Resource Area Delineation (ANRAD) 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.**

Mary Rimmer, wetlands consultant for the Hufnagels' property, stated that she had just received an updated set of plans (on smaller paper than the official size) from the surveyor with all changes the Commission had requested. She shared and reviewed the plan submitted in connection with the ANRAD, which consisted of four sheets. Pages 1 (the cover) and 2 had no changes to wetlands depicted. Revisions were made to sheets 3 and 4 as requested, but on sheet 4 channels were still shown. Rather than requiring another revision, the Commission determined to accept the current plans conditionally, noting the difference.

*The Commission voted 5-0-0 in favor of Ms. Mizner's motion to close the hearing and, subject to further review of a full-sized version of the plans by the Conservation Agent and Commission members, accept the ANRAD, excepting on page 4, flags showing the channel—viz., flags D1 to D25, E6 to E11, E16 to E26, CC22.1 to CC22.3-1, DD-5, and, with respect to a flag actually not in the buffer zone, E-10.*

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

Mr. Smith stated that a glitch involving notification and dates required another Commission vote as of today's date on this matter, which the Commission had already reviewed and approved.

*Based upon its site walk and prior review, the Commission voted 5-0-0 to accept the ANRAD.*

**Cont. Public Hearing --- Notice of Intent ---Sam Aldrich, 66 Ash St. --- For the installation of a pool within the buffer zone to a bordering vegetated wetland at 66 Ash St.**

Conservation Agent Smith noted that based upon the site visit, changes were made to the plan to expand wetlands line. He also explained that the applicant stated that he would like to install in the buffer zone wide planters with native species, pavers, and a swimming pool. With respect to a neighbor's concern about tree cutting, Mr. Smith stated the he had authorized removal of dead or dying pines near the house, but could not determine which had been cut.

*The Commission determined that further explanation and clarity was required from the applicants regarding this matter. For instance, the plan should be proportional to the new wetlands line and the location and specifications of the fence for the pool should be identified, as well as the specifics of the intended plantings and the planned pavers (pervious or not?). The Commission continued this matter to the next meeting on May 21.*

**Public Hearing ---Request for Determination of Applicability (RDA)--- Wendy Willis, 35 Prospect St. --- After the fact filing for koi pond and foundation located within the buffer zone to a bordering vegetated wetland.**

With respect to this after-the-fact filing (made in connection with a Certification of Compliance request) to show construction of a koi pond and a foundation in lieu of sono tubes in a buffer zone, the Commission's site walk identified no wetlands issue as a result of these two deviations from the applicable Order of Conditions.

*The Commission voted 5-0-0 to accept the after-the-fact RDA filing.*

**Discussion: Wendy Willis, 35 Prospect St. --- Certificate of Compliance (COC) Request.**

The Commission considered a COC for all outstanding wetlands jurisdictional work, including the two-storey sunroom (with foundation), replacement of an old fence, installation of a koi pond, and a stone walkway.

*Based on its site inspection and its approval of the revised RDA, the Commission voted 5-0-0 in favor of a COC for DEP # 78-483.*

**Public Hearing ---Request for Determination of Applicability --- West Newbury Open Space and The Mill Pond Committee --- For a Town-wide trail maintenance plan**

Ms. Reed explained that the Open Space Committee, Mill Pond Committee, Riding & Driving Club (all of which maintain Town trails and are not covered by the Essex County Trail Association management plan) are submitting a RDA for a trail management plan that will cover downed tree removal and vegetation management on existing trails. The documentation consists of 1) a set of written trail management protocols and 2) trail maps that generally identify wetlands and natural heritage areas on town-owned trails. Ms. Reed stated that rather than perform detailed delineations of all trails on wetlands, the idea is to use these protocols for all Town trails.

This covers only existing trails located on Town-owned properties. New trails or expansions or revisions to existing trails implicating wetlands would require specific Commission review. Commission action on new or revised trails could include a condition requiring compliance with these trail management protocols.

In response to Mr. Atwood, Ms. Reed stated that she had shared these documents with the Selectmen and had asked that this item be included on their agenda for the upcoming meeting next

Monday. These documents were submitted to the Department of Environmental Protection and should also be filed with the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage), inasmuch as certain spots by the river and at Mill Pond are natural heritage areas. This filing costs \$300 apiece, so it was determined to ask whether the Town, as the property owner, would fund this cost, likely through a Reserve Fund Transfer since the FY 2019 budget has just been set at Annual Town Meeting. Ms. Fusco noted that all this is time-sensitive since the trails need clearing after the winter's storms. *Ms. Reed will reach out to Natural Heritage to inquire about a streamlined/blanket process for such filing(s).*

As a side note, Ms. Fusco recalled that Mill Pond has certain plants that support butterflies and should not be cut until late fall. Could this be labeled with a sign? Kathy Feehery, representing the Riding & Driving Club, noted this.

Turning to the written trail management protocols, Ms. Mizner stressed the need for great clarity and specificity to guide volunteer trail maintenance workers, who cannot be expected to have any particular wetlands expertise. For instance:

- Tree limbs are to be cut back to the “bark collar”—what is that? An exemplar photo will be included in the protocols.
- What is the definition of a sapling? It is technically 4” in diameter or less—2” diameter will be specified.
- Regarding placement of cut limbs or vegetation—exactly how and where? Placement will not be in wetlands and will not impede wetlands water flow.
- What is an invasive species and how far from the trail can it be cut? With input from Ms. Feehery, wild rose and oriental bittersweet adjacent to a trail will be specified as invasives and may be cut to the ground.

Further, all those working on trail maintenance will be working under supervision of the sponsoring Open Space Committee, Mill Pond Committee and/or Riding & Driving Club and will be provided a copy of the protocols and pertinent maps. The notification of trail maintenance work provided to the Commission will include a list of names of those who worked on a given job.

**Public Hearing --- Notice of Intent --- Gary Breitbord for 87 Main St. (lots 1, 2, & 3) --- For the construction of three paved driveways and grading in the buffer zone to a bordering vegetated wetland.**

T.J. Melvin, Engineer/Consultant appeared on behalf of Concord River, the developer, to provide an overview of intended development, which involves a subdivision into three lots each proposed to contain a duplex and its own separate driveway. Three separate driveways are proposed for

Approval Not Required (ANR) status under Planning Board bylaws, although the wetlands impact would be greater than if a single shared driveway were used.

Peter Haack, an abutter, raised concerns including interference with deer migration, loss of one of the finest maple trees in West Newbury, and an uphill drumlin that leaks water. This latter point makes drainage issues a problem with this development, particularly in view of the multiple impermeable driveways proposed.

*The Commission advised Mr. Melvin to 1) submit full, compliant, plans that show the road and frontage; and 2) prepare a new, valid wetlands delineation submission, with a) flags at the site, b) stakes showing proposed driveway locations, and c) a thorough description of the wetlands analysis (e.g., soils, plantlife studied for the entire property). The matter will be continued, with the next Commission action (which will not require the applicant's presence) being setting of a site walk date after the documents have been submitted and the wetland flags and driveway stakes placed.*

**Public Hearing ---Request for Determination of Applicability --- Pablo and Kahira Roldan , 19 Meetinghouse Hill Rd. --- For a replacement septic system a portion of which is located in the buffer zone to a bordering vegetated wetland.**

William C. Hut, the applicants' consultant, stated that this property's septic system is failing and needs replacement. He generally described grading and run-off containment plans. Mr. Hut said that Pat Seekamp performed the wetlands delineation this spring.

*Mr. Smith advised that a better description of the techniques used for wetlands delineation would be helpful; the Commission scheduled a site walk for May 20 at 8 a.m. and continued the matter to May 21, 2018.*

**128 Indian Hill Street Certificate of Compliance (COC) request**

Jim Scanlan, the applicant's consultant, and Mr. Smith stated that all the paperwork has been submitted and is in order. Mr. Smith has viewed the driveway whose construction in a wetlands buffer zone is at issue in this request for a COC.

The Commission and Mr. Smith reviewed the as-built plans, noting that the governing Order with Special Conditions dates from 1997 and was obtained by a builder. Although the conditions specified that the driveway would be constructed with recycled asphalt or another equally permeable material, it appears that the driveway is now paved. Moreover, a rarely used gravel driveway and old silt barriers are present. Mr. Smith explained that he carefully examined the site and determined that it looks good. The sides of the driveway are not mown but instead have woodland vegetation.

*The Commission voted 5-0-0 to issue a COC finding substantial compliance with the Special Conditions, contingent upon removal of the silt fencing and the Conservation Agent's inspection establishing such removal and finding no areas of washout or erosion along the paved driveway.*

**Discussion: David Huseland, 12 Sullivan's Ct. --- COC request**

The applicants have submitted a COC request, but have more work to do on this matter.

*Accordingly, the Commission continued the matter to May 21, 2018.*

**Discussion: Amy Brennan and Lab Realty Trust, 70 Church St. --- Violation**

Mr. Smith outlined violations including conducting a brush burning in the wetland very near vegetation the Commission had asked for; removal of wood and piling of wood in wetlands areas; missing monuments designating wetlands; excessive mowing. The prior owner had obtained a COC, but Amy Brennan, who was unfamiliar with wetlands requirements, was not aware of this.

*The Commission advised Ms. Brennan to review the COC plan and requirements and scheduled a site visit for approximately 8:30 a.m. on May 20, 2018.*

**Discussion: Minutes of April 2 & April 17, 2018**

*The Commission voted to accept the Minutes of April 2, 2018, 4-0-1, Ms. Hawkins, not present, abstaining.*

*The Commission voted to accept the Minutes of April 17, 2018, with Ms. Mizner's corrections, 3-0-2, with Mr. Atwood and Ms. Hawkins, not present, abstaining.*

**Other Business:**

None

**Adjournment**

The Commission adjourned at 9:50 p.m.

**Next Meeting**

May 21, 2018

**Meeting Documents**

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

Respectfully submitted,