

## West Newbury

### Conservation Commission Meeting Minutes

**Meeting date & place:** 7:30 pm, July 16, 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 --- Notice of Intent --- Gary Breitbord for 87 Main St. (lots 1-3) (DEP## 78-688 through 78-690) --- For the construction of a paved driveway and grading in the buffer zone to a bordering vegetated wetland.**

Wetland Scientist Steve Sawyer (accompanied by Wetland Scientist Tom Hughes) handed out plans and described wetlands flags that had been moved. He also noted that the revised plan shows tweaked driveway locations that separate the driveways more and allow for plantings in between. Applicant's representatives met with Town Planner Leah Zambernardi. Lots 1 and 2 are clear for Approval Not Required (ANR) status, but a question remains under Planning Board consideration regarding Lot 3, whose frontage is not contiguous. The applicant realizes that the Commission cannot act until the lots are determined. Mr. Sawyer said that he expects a resolution prior to the next Commission meeting. Messrs. Sawyer and Hughes did, however, want to share the updated plan showing revised wetlands lines and the changed driveway.

Mr. Hughes discussed a little pocket (some 1300 square feet) of sensitive ferns, multiflora rose and blackberries. That could be made into meadow and/or the plans could be slightly revised to avoid grading in this area, which may have been created as a result of farming practices. Ms. Mizner supported as little disturbance as possible.

Ms. Fusco inquired about using a shared driveway in lieu of 3 separate driveways, one each for the 3 planned duplexes. Ms. Reed noted that using only one driveway would mostly avoid the wetlands buffer area. Mr. Sawyer responded that a shared drive may be preferable, but Zoning Bylaws allow an individual driveway as ANR; a shared driveway entails additional regulatory burdens and delay associated with a Special Permit.

The Commission requested that

- The next plan use a 20 scale, which is easier to read
- A planting plan be developed for the buffer area
- Information be provided a week before the meeting

Abutter Peter Haack inquired (and was shown) where, on the plans, existing structures such as the red house, the old house, and the existing driveway are in comparison to the planned construction. Messrs. Sawyer and Hughes noted that the end result is that buildings will be moved farther from the wetlands.

*The Commission determined to put this matter on the agenda for the August 6 meeting, with the caveat that the item may be continued depending on action at the Planning Board.*

**Cont. Discussion: Michael Dacey, 16 River Rd. --- Request for determination of applicability (RDA).**

Mr. Smith showed submitted plans showing an 8' deck at the back of the house facing the river. This would replace the current 4' deck. The plan shows 10 additional sono tubes. Mr. Dacey explained that the original sono tubes are insufficient and cannot be reused. They will, however, be left in place under the new deck.

Ms. Mizner noted that the area involved is flat and the only issue is proper disposal of soil that is removed for installation of the new sono tubes. Mr. Dacey explained that the deck is only about 12" off the ground, and is adjacent to existing grass and trees between the house and the cliff at the river's edge.

*The Commission voted 4-0-0 to issue a Negative Determination of Applicability for installation of the deck as proposed with the planned sono tubes, upon the conditions that 1) any soil removed shall be disposed of on the River Road side of the line and 2) applicants shall notify the Conservation Agent immediately prior to commencement of construction.*

**Cont. Discussion: Tim Collins, 15 Church St. --- Certificate of Compliance (COC) request.**

Mr. Smith explained, with photos, that wetlands/buffer areas in the back of this property had required revegetation. The strip nearer the wetland in a sloped area is successfully vegetated with high grasses, while the grass in a flat area closer to the house is still becoming fully established. Mr. Collins stated that he has invested in costly drought-resistant grass seed and it is working. Mr. Atwood further noted that only the garage is within 100' of the wetlands.

*The Commission voted 4-0-0 to issue a COC.*

**Cont. Discussion: Colin Hodgson, 15 Norino Dr. -- Update**

Mr. Smith reported that he talked with Mr. Hodgson today. The deck is no longer on the riverbank, but rather now is floating attached to the houseboat moored in the water. Mr. Hodgson and the Commission are still waiting for further word from the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program as to concerns about storage of materials at the riverbank on this property.

*The Commission determined that 1) Mr. Smith should take a look at the spot where the deck had been stored to determine what was underneath and 2) to send Mr. Hodgson a letter reminding him that in winter, no items may be stored on the riverbank.*

**Cont. Discussion: Anthony Poretta, 463 Main St. --- Enforcement issue.**

Mr. Smith said that he has not been able to get in touch with the homeowners in question, whose phone number he does not have and who are away from home during weekdays. The previously noted violations are continuing and the required planting has not occurred.

*The Commission voted 4-0-0 to send the homeowners another letter with an Enforcement Order, with the notice that the Enforcement Order will be recorded with the Registry of Deeds.*

The Commission also discussed additional steps that can be taken, such as consultation with Town Counsel and the state's Department of Environmental Protection (DEP).

**Discussion: Drake's Landing replication area.**

Mr. Smith showed the controlling plans and photos, noting that there had been a mix-up in terms of plantings in a wetlands replication area, which is now a depression. The Commission-approved plans provided for a meadow mix in the replication area, with native bushes planted at the perimeter. Apparently due to a confusion with older plans, the builder dispersed the bushes throughout the area.

The Commission stated that preservation of wet meadow habitat is important. Mr. Atwood added that it is important that the developer identify and follow the governing plans.

*The Commission determined that the bushes should be replanted at the perimeter, with meadow grasses in the replication area as per the approved plans—except that the bushes should be planted in the inside of the depression edge so that they have better chances of establishing.*

**Discussion: 70 Church St. --- Enforcement issue**

Mr. Smith noted that this matter had been raised at a meeting with the homeowner on [May 7, 2018](#), but none of the remedial actions agreed upon had occurred. Among other things, there had been improper cutting at the riverbank and a mulch pathway to the river. The potential purchaser had promised to comply, and no Enforcement Order was issued. The next step would be a letter serving as a notice of violation.

*The Commission determined that Mr. Smith should send a letter stating 1) no corrective action has occurred and the Commission has not heard further from the property owner, 2) the list of deficiencies, and 3) the homeowners should come in to meet with the Commission on this matter.*

**Discussion: Minutes of July 2, 2018**

*The Commission voted 4-0-0 to accept the Minutes of July 2, 2018 with edits provided by Ms. Mizner.*

**Other Business:**

Mr. Smith reported that at 71 Church St., which is near the Rocks Village Bridge, the homeowner is cutting vegetation on public land across the street at the riverbank near the boat ramp. *Mr. Smith*

*recommended—and the Commission agreed—that the Commission develop and install “NO CUTTING” signs in this instance and others where cutting wetlands-related vegetation is a problem.*

Additionally, Mr. Smith identified a need obtain a list of all open matters lacking a COC, so that the Commission can follow up. Ms. Reed said that she had obtained such a list from the DEP website and will share that with Conservation Agent Smith.

### **Adjournment**

The Commission adjourned at 8:47 p.m.

### **Next Meeting**

August 6, 2018

### **Meeting Documents**

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

Respectfully submitted,