

West Newbury

Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, August 6, 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 --- 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.

Continued to August 20, 2018 meeting.

Public Hearing --- Request for Determination of Applicability (RDA) --- Christine Rich and Ellen Ginsburg, 89 Church St. --- for an after the fact filing for a paved driveway. The proposed work will occur in the buffer zone to a bordering vegetated wetland and riverfront resource area.

Mr. Smith explained that this matter involves after-the-fact consideration of driveway paving undertaken without Commission approval. He noted separately that plantings called for in an earlier review are still not complete but the area in question is well vegetated, making the additional disturbance from planting of questionable benefit.

The Commission asked Mr. Smith to inform the property owners that they should come to a Conservation Commission meeting to discuss the after the fact filing.

Discussion: River Meadow Conservation Area --- Violation

Mr. Smith reported that a recent site visit revealed several problems within the riverfront area, such as extensive mowing very close to the ground (with bare dirt exposed as grass had died off), a barge moored adjacent to the riverbank, a large pile of brush and timber in the riverfront area, a car parked in the riverfront area, and kayaks stored at the riverbank. Mr. Smith showed photos of these items.

Mr. Smith stated that he had sent a letter to Terry Hartford of River Meadows raising these issues, but had received no response. No representative of River Meadows was present at this evening's meeting. The Commission expressed concern that given summer vacations, it might be possible that the River Meadows community was not yet aware of the letter. Mr. Smith noted that Mr. Hartford, who does or helps arrange the mowing at the riverfront, is the only known River Meadows contact. Mr. Atwood suggested David Hill as a potential contact and also suggested that the Town Assessor, Meredith Stone, may know of a contact person.

The Commission asked Mr. Smith to 1) attempt to identify additional River Meadows contacts and 2) send a letter giving Notice of Violation with respect to the specified deficiencies (to be described in the letter) found on the property.

Discussion: David Moody, 15 Church St. --- Discussion of options on his property

Mr. Moody explained that he and his wife would like to install a shed near the existing garage, which is right at the line 100' from the wetlands. He asked what procedures and forms he should use. Noting that he had understood the proposed location to be closer to the wetlands, Mr. Smith clarified that the question presented to the Commission is whether this should be a Notice of Intent or a Request for Determination of Applicability (RDA).

The Commission advised that if the disturbance will be over 50' from the wetlands, all that is required is a 4-page RDA filing. Applicants can use existing plans used for Commission review of the recently constructed house, showing the proposed shed on those plans. The Commission also clarified that mowing should not occur behind the wetlands buffer zone markers. The homeowner should follow a line between the markers—not the wetlands demarcation lines.

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

Mr. Smith provided an update: the homeowners have stopped cutting behind the stone retaining wall by the house. They are, however, still improperly mowing in other areas. Another problem is that some of the wetlands markers are in the wrong location and, because they all are flush to the ground, are difficult to see. Further, required plantings have yet to be installed and birdhouses are on posts in the wetlands. Mr. Smith stated that he still has had no success in contacting the homeowners.

The Commission discussed the preference for markers that are 4' high and thus readily visible. In this case, the Order of Conditions did not include the 4' requirement. This requirement has not in the past been applied to granite markers as opposed to wooden posts.

The Commission asked Mr. Smith to send the homeowners another letter, recognizing that some of the improper mowing has ceased, but other deficiencies (to be listed in the letter) still need to be addressed. The letter will also ask the homeowners to inform the Commission before the next meeting of their progress and plans for coming into compliance, and/or attend the next Commission meeting.

Discussion: Ryan Norman, 68 Ash St. --- Plan change request

Mr. Smith explained that this matter involves one of the 4 homes under construction at the corner of Ash and Middle Streets. The builder wants to run an underground electric line (usually a couple of feet deep) and trenching would occur in a small portion of the wetlands buffer zone. The builder will keep the trench as narrow as possible and will continue to comply with the turtle monitoring program.

The Commission voted 5-0-0 to accept this plan change, which is not a permanent disturbance, as a minor modification, conditioned on 1) the Conservation Agent being informed before digging begins, 2) repairs to pre-existing

erosion controls (which will be disturbed in trenching) after the trenching project is complete, and 3) a satisfactory final inspection of this work.

Discussion: 70 Church St. --- Enforcement issue

Mr. Smith provided an update, stating that he has sent a letter regarding standing deficiencies. The homeowner now has an engineer, who is putting together a filing for a new dock. The homeowner has replaced the posts for wetlands marketers and is in the process of complying with the Enforcement Order.

Discussion: The Cottages at River Hill --- Conservation issue

Ms. Reed said that a couple of homeowners raised concerns with her that the Cottages homeowners association is not complying with the approved management plan. The trail paths are overgrown, mowing is occurring behind no disturb markers, and insecticides may have been applied.

Mr. Smith stated that he can check on mowing. He noted that there may be confusion caused by markers identified as wetlands no disturb areas that in actuality concern open space areas.

Ms. Reed expressed concern over the lack of clear enforcement and follow up for the management plan. How is storm water management being maintained? What will occur with Drake's Landing, which has the same developer?

Mr. Atwood wondered if the Commission should meet with the Planning Board about the question of enforcing the management plans. Should there be periodic reviews? Should the Commission consult with the Selectmen about increasing the Conservation Agent's budget to cover additional costs of site visits and reviews of management plan requirements under Commission jurisdiction?

Review of the management plan showed that the homeowners association is responsible for owning and maintaining the storm water management facilities. It is also required to inspect and submit reports to the Conservation Commission.

The Commission agreed that Mr. Smith should send the homeowner's association a letter that will 1) remind it of the requirements in the management plan, 2) ask if requisite inspections have occurred, 3) request the reports required to be submitted to the Commission, and 4) after an inspection, list any deficiencies identified.

Discussion: Anthony & Donna Cannatelli, 13 Maple – Certificate of Compliance (COC) Request

Mr. Smith stated that an outstanding Order of Conditions concerns a new septic system. His inspection showed that the area is well vegetated, no dumping occurred in the wetlands. What remains to be done is installation of posts with markers.

The Commission determined that it will be able to consider the COC once the markers are installed.

Discussion: Jennifer Velonis, 177 River Road -- COC Request

Mr. Smith stated that this matter presents the same facts as the prior matter: a new septic system was installed and marker posts have yet to be installed.

The Commission determined that it will be able to consider the COC once the markers are installed.

Discussion: Minutes of July 16, 2018

The Commission voted 4-0-1 (Ms. Hawkins, not present, abstaining) to accept the Minutes of July 16, 2018 with Ms. Mizner's edits.

Other Business:**101 River Road**

Mr. Smith reported that at this location, a prior owner got permission for a dock and these owners did so for a gangway. Of concern is the storage of floats for a dock stored all summer in the riverfront area by River Road.

It was agreed that Mr. Smith should ask the homeowners about this issue.

119 River Road

A dock has been approved for this property, and the Order of Conditions limited cutting along the riverfront to a path to the dock, which is not yet built. A prior owner had been subject to enforcement action to cease cutting. Allowing the vegetation to grow back was part of the dock permit. Meanwhile, the riverfront area has apparently been sprayed with herbicide, the vegetation is brown, and shrubs and other plants have been cut.

No cutting is permitted and an approved plan for planting and revegetation is required. It is not clear whether the homeowners understand that these requirements apply now, even before the dock is installed.

The Commission determined that Mr. Smith should send a Notice of Violation letter, 1) clarifying that the homeowners currently are obligated to cease cutting and to allow vegetation to regrow and 2) asking the homeowners to come meet with the Commission.

Town cutting along roadways

Mr. Atwood reported that this year the Town has been cutting very aggressively along the river and in wetlands.

The Commission decided that Mr. Smith should ask Department of Public Works Director Gary Bill to come in to a Commission meeting to discuss this.

Adjournment

The Commission adjourned at 8:45 p.m.

Next Meeting

August 20, 2018

Meeting Documents

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

Respectfully submitted,