

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, April 18, 2023, Second Floor Town Offices.

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

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 Hearing: Notice of Intent: 10 Pleasant Street, Applicant: Anna & Schyler Reilly, Re: Septic system replacement, patio improvements, installation of new driveway, DEP# 078-076**
Continued.

3. **Public Meeting: Request for Determination of Applicability (RDA): 127 River Road, Applicant: Peter Niehaus, Re: Removal of two trees**

Ms. Greene shared photos of 2 sickly ash trees leaning over the applicant Peter Niehaus' dock. Mr. Niehaus reported that another such sick tree did fall over, damaging the dock last year. The extreme lean of the trees made leaving stumps as high as 10' infeasible, but Mr. Niehaus offered to take the trees down to 6' and install wood duck boxes on the stumps. He said that the tree cutters would come in on foot and that he would have the dead trees removed from the site provided that they fell on the land and were retrievable.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to issue a Negative Determination of Applicability for the cutting of the 2 designated trees, conditioned on the applicant: 1) leaving 6' stumps with wood duck boxes installed; 2) removing cut trees (if they fall on the land) from the area to outside the buffer zone; and 3) accomplishing the cutting and removal without using machinery in the wetland or buffer zone.

Mr. Niehaus then inquired if he might be able to plant native vegetation to help stabilize the riverbank, which is especially damaged by wave action from motorboats. He said that it would be good to ask the Harbor Master to establish a no wake zone, especially since this requirement applies to other parts of the river. *Ms. Greene said she would send a note to the Town Manager inquiring about a no wake zone.*

The Commission determined to treat this request as a request to amend the RDA and Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to include in the Negative Determination a condition authorizing the planting of native vegetation to mitigate damage to the riverbank, with the planting to be in accordance with a plan to be submitted by Mr. Niehaus and approved by the Commission. It was further agreed that Mr. Niehaus will consult with Ms. Greene about the planting plan and she will present it to the Commission for approval.

4. **Request for Extension to a Final Order of Conditions: 22-24 Main Street – PRSD, DEP# 078-0701**

Ms. Greene said that the applicants request a one-year extension to May 14, 2024 to be sure to have enough time to complete middle/high school construction of such items as the turf field, utility interconnections, installation of conservation posts, etc.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to grant a one-year extension.

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

Ms. Greene said that a number of emails have been exchanged and the applicants seem confident that the new basin system will work. Last weekend's rain created no problems. She said that the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage) has reached out seeking photos and inquiring about the status of this situation. They plan to have a site visit perhaps next week. In response to Mr. Haley, Ms. Greene said that the applicant has responded to Mary Rimmer's April 7 recommendations and mentioned a spot GPS methodology to determine the depth of the basin. *In response to Ms. Mizner, Ms. Greene will ask for the data underlying the basin depth determinations.*

6. Violation Update: 21 Montclair Road, Re: Clearing trees within 100' buffer zone without a permit

Ms. Greene reported that consultant Tom Hughes has been ill. He still owes the Commission certain documents, and will be in touch to say whether he is well enough to attend the planned Sunday morning site visit. When Ms. Greene hears from him, she will communicate with the Commission members about the status of the site walk.

7. Enforcement Order Update: 4 Norino Drive, Re: Clearing within the 25' no disturb buffer and clearing past the limit of work, DEP# 078-0740

Ms. Greene reported that consultant Tom Hughes has been ill. He still owes the Commission certain documents, and will be in touch to say whether he is well enough to attend the planned Sunday morning site visit. When Ms. Greene hears from him, she will communicate with the Commission members about the status of the site walk.

8. Enforcement Order Update: 13 Meetinghouse Hill Road, Re: Unpermitted clearing in bordering vegetated wetland and 100' buffer zone

Ms. Greene said that consultant Bill Manuell had developed a remediation plan for monitoring in the wetland, 50 plantings for the buffer zone, and Conservation posts at the 25' no disturb boundary line. Skunk cabbage is coming back in the wetland and Mr. Manuell proposes a wait-and-see approach to determine if the wetland will naturally revegetate. Homeowner Bill Homes was present and explained that he had not known of the wetlands rules. He said that he had cut, but not pulled out, vegetation such as prickly bushes.

Ms. Hawkins expressed concern that disturbed bare soil may invite invasive plants, which have an advantage over natives. Ms. Greene replied that the remediation plan has specific provisions for monitoring and for progress reports to the Commission.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to amend the enforcement order to incorporate the April 9, 2023 remediation plan with planting, monitoring, and reporting to the Commission into that order.

9. Enforcement Order Update: 15 Norino Drive, Colin Hodgson, Reinhild Hodgson, and Shirene Hodgson Re: Placement of a houseboat and dock along the Merrimac River without a permit with impacts to the 200' riverfront resource area, bordering vegetated wetland, inland bank, and rare species habitat

Ms. Greene said that she had conferred with the Town Manager about this issue and he is working on it.

10. Discussion (continued): Attorney General determination regarding site visit

No new developments.

11. Discussion (continued): Pumping in wetlands adjacent to Indian Hill Reservoir, DEP# 78-0445
No new developments.

12. Wetlands Bylaw Discussion:
No new developments.

13. Other Business:

14. Old Business:

15. Informal Discussion:

16. Community Input:

17. Approval of Minutes: February 22, 2023
Deferred.

18. Approval of Minutes: March 20, 2023
Mr. Haley's edits on amount in other business noted; Deferred.

19. Approval of Minutes: April 3, 2023
Mr. Haley's edits on date noted; deferred.

20. Correspondence:

21. DEP Comments:
Ms. Greene said that although this has not been publicized yet, DEP has updated RDA forms and has updated their e-file system, eDEP, to allow applicants to e-file RDAs with MA DEP and for Commissions to send DAs to MA DEP.

22. Land Agent Update:

a. Eagle Scout project on trails behind Page School and possibly onto Riverbend trails;

Ms. Greene said she has met with the Eagle Scout candidate, who would like to refresh trail markers in-kind, pick-up trash, and move brush off the trail. He has not yet identified the trails he would work on and intends to develop a plan for this work, which he will submit to the Commission. Ms. Greene would walk the trail with him, going over the plan. Ms. Greene noted that some of the site in question is Town owned and some is Commission owned, so the Commission would need to approve this work. She reported that the Select Board tabled this proposal because of concern about a minor doing work alone and unsupervised.

Ms. Mizner noted that regardless of ownership, the land includes wetlands and expressed concern that brush should not be disposed of in wetlands. *The Commission will revisit this once the Eagle Scout candidate has submitted a plan.*

b. Prescribed burn at Cherry Hill conservation land

Ms. Greene noted that removal of invasive plants had resulted in a brush pile on this Town-owned land

(which has no Conservation Restriction (CR) and no wetlands in the affected area) and the plan is to have a controlled burn to remove the brush pile. The Select Board approved this and the Executive Assistant to the Town Manager will inform abutters and publicize the burning with an email blast and Town announcement.

c. Bike use and wetlands impacts at River Road Reservation trails

Ms. Greene reported that unidentified persons have been digging mud from wetlands in order to construct bike jumps and banked curves on the trails. Greenbelt owns the land in question and the Commission holds the CR. She added that the construction on the trails has been removed and Mr. Haley observed that this could be a safety hazard on narrow trails. Ms. Greene said that she discussed the matter with Greenbelt, which offered no solutions for managing the situation but did remove the jumps and fill in the holes.

Mr. Parrott said that there is a significant difference between a onetime event and repeated behavior if the removed jumps and banked curves reappear. He added that bikes per se are not the problem; the problem is digging in the wetlands. Ms. Hawkins said that the same thing has been occurring on the Town-owned Mullen property.

Ms. Greene will look into temporary signage along the lines of "leave no trace" and will consult with Greenbelt about this.

23. Commission Representative to Open Space Update:

Next Meeting:

May 3, 2023 7:30 pm

Adjournment 8:21 pm

Meeting Documents

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

Respectfully submitted