

West Newbury

Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, August 20, 2018 Conservation Commission Office, 1910 Building

Members Present: Chairman Dawne Fusco; Judith Mizner; Wendy Reed; 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 September 4, 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 the applicants made a satisfactory after-the-fact filing in support of their new paved driveway (replacing a gravel drive in the same place) located in a riverfront protection area. He observed that the work involved scratching out the old driveway but there was no real disturbance and nothing that could go into the Merrimac River, which is across the street.

Ms. Rich pointed out that there are drains on each side of the street near the driveway, and the driveway is lower than the road, making it difficult for water to wash over the road and into the river.

Ms. Mizner explained that the Riverfront Protection Act covers 200' from the river, and generally regulations call for an application prior to work in the affected area. No disturbance is to occur within the first 100' and limited activity is permitted in the 100'-200' area.

Ms. Rich stated that she and Ms. Ginsburg were unaware of these requirements. They were simply replacing an existing driveway with a different surface. The Commission noted that other, more permeable, surfaces are available and the Commission could have advised on this.

The Commission advised that a filing beforehand is required and the after-the-fact filing is still necessary so that the matter is on the record and future owners know that the work has been permitted. Any future work in the affected area should have a prior filing.

The Commission voted 4-0-0 to issue a Negative Determination of Applicability because of the driveway project's minimal impacts and its successful completion.

Discussion: William Cranley and David Mignault, 119 River Rd. --- cutting violation

Mr. Smith noted that this matter involves a cutting violation along the bank of the Merrimac River. The homeowners have a permit to install a dock and cutting would be allowed only for a pathway to the dock. Mr. Smith shared photos showing mowing and brown areas devoid of vegetation at the riverfront.

The Commission explained that under wetlands regulations for the riverfront area, no cutting is permitted in the first 100' from the river. Retaining the vegetation is key to the integrity of the riverbank, mitigating erosion.

Messrs. Cranley and Mignault said that they understand that the prior owner's actions in destroying riverfront vegetation (mowing and, apparently, spraying with herbicides) had resulted in Commission enforcement actions. They had mowed because neighbors had been mowing and the property looked shabby. They feel singled out to the extent that other neighbors are mowing and they now face Commission enforcement.

The Commission noted that others along the river also face enforcement actions, and that specific conditions have been applied to individual properties. The clear requirement is no cutting in the first 100' from the river. The Commission stressed the need for vegetation to stabilize the riverbank, which is in the interests of the property owners.

The Commission advised Messrs. Cranley and Mignault to 1) cease mowing at the riverfront; 2) look at the list of native, wetlands plants Mr. Smith provided; 3) consult with Mr. Smith, and 4) develop a planting plan that can be appropriate both in terms of conservation along the riverfront and in terms of attractive landscaping. Ferns, for instance, could be an option.

Continued Discussion: River Meadow Conservation Area --- Violation

Mr. Smith reported that Terry Hartford, the River Meadow representative responsible for mowing at the riverfront, met with Mr. Smith on Thursday, but did not attend this Commission meeting. Mr. Hartford asserted that the debris piled at the riverfront was merely trash collected along the river—which did not explain large piles of slash, timber, and apparent landscaping debris.

Mr. Hartford indicated to Mr. Smith that he was turning this matter over to another River Meadow resident, Jeff Reisner, who recently appeared before the Commission in connection with a proposed sports court at 52 River Meadow Court.

As an update on the riverfront's condition, it was reported that the barge moored immediately next to the riverbank (and on dry land at low tide) was gone. The Town had granted a mooring permit at that location to one Jim Arnette, also a River Meadow resident, who is the person who parks on the riverfront. Ms. Reed noted that in a recent site visit she observed a huge new pile of brush with the leaves still on. She also saw a landscaper dumping debris in the wetland.

Mr. Smith stated that he has asked the police to drive by and try to keep an eye on this.

The Commission agreed that 1) Mr. Smith will attempt to contact Mr. Reisner about these issues and 2) with drafting assistance from Ms. Mizner, Mr. Smith will send a letter enumerating the riverfront violations to each homeowner in River Meadow.

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

Mr. Smith explained that this matter involves a septic repair to the property immediately to the left of the music school on Maple Street. Mr. Smith stated that it looks fine: the as-built is in compliance, the markers are in and everything is in good order. Debris was removed from the wetland. Additionally, he noted a dangerous, badly rotted tree that presents a safety hazard and authorized its removal.

Based on the documentation and Mr. Smith's report, the Commission voted 4-0-0 to issue a COC in this matter, DEP #78-589.

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

Mr. Smith reported that this matter involves septic work that has been satisfactorily completed in compliance with applicable requirements. The required markers have been installed.

Based on the documentation and Mr. Smith's report, the Commission voted 4-0-0 to issue a COC in this matter, DEP #78-604.

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

Mr. Smith stated that Elaine Poretta had contacted him and, although the Poretas would not be at this Commission meeting, provided an update. They are allowing vegetation to grow up to retaining wall behind the house and they removed the birdhouses from the wetlands. They are aggressively moving to resolve these issues, first by hiring a lawyer to address longstanding issues left by the homebuilder from whom they purchased the property. They also may hire a wetlands consultant. They are motivated to obtain a Certificate of Compliance.

When asked about mowing in other prohibited areas and the status of the markers, Mr. Smith stated that the whole matter will need review—and the homeowners' use of a wetlands consultant will aid in this..

Discussion: Gary Bill, DPW Director ---- For cutting in the wetlands along roadways.

Mr. Smith noted that Mr. Bill (who is retiring) will not be able to attend this meeting and in any event Commission member Tom Atwood (also not present) is needed to identify specific locations in terms of concerns about excessive roadside mowing.

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

Mr. Smith described confusion in terms of no-disturb wetlands markers vs open space markers, a trail that has been mistakenly cut, and too-wide cutting of trail pathways. It appears that the landscaper does not have the approved plans.

Ms. Reed stated that the Homeowners Association appears unaware of applicable plans and requirements. She recommended that the Commission meet with the Homeowners Association.

The Commission agreed that the Homeowners Association should come in to meet with the Commission to discuss 1) authorized trail locations, proper cutting, and restrictions on insecticide/herbicide use and 2) the requisite reports from the Homeowners Association to the Commission.

Discussion: Minutes of August 6, 2018

The Commission voted 4-0-0 to accept the Minutes of August 6, 2018 with Ms. Mizner's edit.

Other Business:

Moorings

The Commission revisited concerns that the Town is issuing mooring permits too close to the riverbank and in environmentally sensitive locations. There are also questions concerning moorings renewal and revocation.

The Commission agreed to determine who in Town issues the moorings permits and reach out to that person(s).

Pending enforcement matters

The Commission agreed that Mr. Smith will follow up and provide an update regarding enforcement issues at 1) 70 Church Street and 2) 15 Norino Drive.

Adjournment

The Commission adjourned at 9:01 p.m.

Next Meeting

September 4, 2018

Meeting Documents

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

Respectfully submitted,