

West Newbury

Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, September 4, 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 September 17, 2018 meeting.

Discussion: Request from Tom Hughes to limit inspection reports at Drakes Landing.

Tom Hughes, wetlands consultant for the Drakes Landing development, asked the Commission to lift the trigger of rainfall for inspection reports concerning the wetland replication areas. He noted that the vegetation in these areas has come in and shared photos of vegetative coverage on the slopes and matting in certain areas, making the replication areas really stable. Inasmuch as the replication areas are essentially established, Mr. Hughes asked the Commission to remove the expense and burdens of a report after every rainfall. Mr. Hughes stated he will still be providing regular water quality reports and storm water reports and monthly reports to the Commission.

Ms. Mizner stated that she has examined the site and found the replication areas well vegetated. She observed that reports after each rainfall are no longer needed. A monthly report on this, as well as the other reports, should suffice.

Mr. Hughes also reported that erosion control devices within the wetland area are no longer needed in view of the revegetation. He would like to remove the silt fences sooner rather than later to promote revegetation across the wetland areas. Erosion controls will be retained in construction locations.

The Commission voted 5-0-0 to 1) require monthly (in lieu of post-rainfall) reports regarding the replication areas and 2) authorize removal of the silt fence separating the replication areas from the pond.

Discussion: Michael Walters for 97 Moulton St. --- Plan change request.

Michael Walters explained that the change requested involves moving the proposed homesite farther from the septic field and farther from the wetlands.

Mr. Smith stated that Mr. Walters worked within the already-approved limits and both shrunk the house and moved the building farther from the wetlands, making this most recent version better in terms of wetlands impacts. He added that with this change, all conditions in the original 2016

Commission order are still met and the structure will be a lot less intrusive and better for conservation purposes.

The Commission voted 5-0-0 to accept the proposed change in the house location as a minor plan change.

Continued Discussion: River Meadow Conservation Area --- Violation

It was explained that River Meadow no longer has a homeowner's association, but does have an ongoing dock association whose dock is located in the area in question. Terry Hartford, serving as primary spokesperson for the River Meadow homeowners¹ (who received a letter from the Commission enumerating violations on Town-owned riverside land under Conservation Commission control) asked the Commission to recap its concerns.

Ms. Mizner stated that the issue is work being done in conservation land owned by the Town and activities not allowed under the wetlands regulations. River Meadow residents own a 20' wide strip (which bisects the Town-owned parcel) as access to a dock. Ms. Mizner noted that her recent site visit showed various unauthorized activities on the Town land, such as driving on it, mowing significantly more (75'-100') than needed for dock access, and piling debris that appears to include grass clippings, tree limbs, etc. Jim Arnette clarified that as of this day, his barge had been removed from the riverbank. Ms. Reed also raised concerns about dumping of landscape debris such as grass clippings in wetlands protected areas at the entrance to right of way that goes over to Sullivan's Court, noting that she witnessed this activity on the part of a landscaper. She added that Town-owned land up from the river is being used for dumping of landscaping materials. Mr. Hartford noted that this location looks like a good place for such debris.

Mr. Hartford explained that flooding associated with winter storms caused serious levels of debris in the area. River Meadow representatives explained that they care very much about the riverbank habitat and year after year volunteer in spring clean up to remove needles, plastic, glass and other trash. They leave the organic debris, including substantial lumber, in a pile.

Ms. Fusco observed that River Road residents pick up riverfront trash, put it in black trash bags along the road and rely on the Town Department of Public Works (DPW) to remove the bags. They leave the logs alone at the riverbank, rather than piling them up.

River Meadow representatives contended that the wood and organic matter serves as a net to catch more problematic and dangerous garbage. They said that DPW does not address these problems at the River Meadow location in question. They observed that bittersweet, poison ivy and the like are taking over on conservation land, which is an entire mess. Is this what conservation means? Having trees go into the river?

¹ Present at this meeting were: Kevin Deveney, 9 River Meadow Dr.; Mitchell Wallman, 44 River Meadow Ct.; Tim Cronin, 22 River Meadow Dr.; Ben Ketschke, 46 River Meadow Ct.; Carol & Ivars Jakobsons, 7 River Meadow Dr.; Sarah Sullivan, 4 River Meadow Dr.; Micky & Jim Arnette, 24 River Meadow Ct.; Jim Kelly, 3 River Meadow Dr.; William Goff, 48 River Meadow Ct.; Jon Horgan, 33 River Meadow Pl.; David Hill, 11 River Meadow Dr.

The Commission explained that trees along the riverbank provide root networks that hold soil against erosion and pointed out that excessive mowing has been a longstanding issue. Mr. Hartford conceded that in 2012 mowing had been excessive. Mr. Smith stated that current mowing is beyond that allowed and close to the road the grass is so short that it is worn away, creating potential erosion problems. The Commission pointed out that the wetlands regulations also apply to what can be done on the 20' River Meadow-access strip.

In response to the query why others can mow near the river, the Commission explained that some landowners were grandfathered, although this may cease upon new filings before the Commission or a transfer of the property. Other properties have received authorizations. Tom Neve, for the development off Sullivan's Court, filed for and obtained Commission authorization for limited mowing. Also, within the 200' from riverfront restrictions, the first hundred feet are to be untouched if there has been no development. In the second hundred feet, certain percentages may be worked on.

The Commission also stressed that the River Meadow homeowners do not own the Town property on each side of the 20' strip. That Town property is deeded to Conservation Commission control. The Commission has not authorized, but rather objected to, the activities currently undertaken by River Meadow residents.

The Commission explained that anyone who wants to can file a Notice of Intent (NOI) with the Commission to do work involving wetlands. An applicant can request that work be done and the owner of property may or may not object. Every one of the desired riverfront activities—such as bittersweet removal, once-a-year mowing, brush burning in the 2d hundred feet from the river, any activities in the 20' strip—should be included in the NOI filing. Ms. Reed added that the NOI needs to be specific and complete.

Mr. Hartford asked why the Commission cannot prepare such an NOI. The Commission explained that conflict of interest laws do not permit a reviewing body to prepare an application, submit it to itself, and vote on its own proposal. Nonetheless, Mr. Smith is available to assist applicants and the NOI form is on the Commission website. Once the NOI is prepared and submitted to the Commission, the filing will also need to be sent to the state, including the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage). Natural Heritage review is required because the river is a corridor for endangered and threatened species. This will take 6 or so weeks, and will involve state and (potentially waivable) Town fees.

River Meadow resident Sarah Sullivan stressed the importance of actively maintaining the property in question as providing a better, cleaned up, space for wildlife and a safer place for young children such as her own. Poison ivy allergies are of serious concern to some of her family members and additional mowing provides the benefit of greater visibility from her house when trespassers not from the River Meadow community walk along the riverfront. (When it was again pointed out that

the bulk of the property is Town-owned, Ms. Sullivan indicated that these were suspicious individuals.) She stated that failure to keep the area clear may ruin the view.

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

Mr. Smith stated that he talked with the lawyer and others who would assist the Poretas in compliance. Wetlands Consultant Patrick Seekamp does not yet have contract but plans to do work in wetlands marking, planting, etc. The Poretas are largely in compliance with the Enforcement Order. Mr. Seekamp should have a report by the next Commission meeting.

This matter will be on the agenda for the September 17 meeting.

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

Mr. Smith reported that he spoke with Maureen Harris, the only remaining active member of the Cottages Homeowners Association (HOA). She said that the HOA stands ready to understand wetlands-related requirements and to comply but the organization needs two more members to act. The community will vote for new HOA directors on October 3.

The Commission determined to address this matter at the October 15 meeting.

Discussion: Healey, Deshaies, Gagliardi and Woelfel, PC for 8 Marshall Dr. --- Certificate of Completion (COC) Request

Mr. Smith explained that this matter involves an old and not-very-satisfactorily closed out development on Marshall Drive just off Main Street. In connection with a property transfer, owners at 8 Marshall Drive are seeking a partial COC for their legacy share of responsibility for the roadway built by the developer. The COC is sought to release for the lot, which is one of 7 originally planned.

The Committee voted 5-0-0 for a partial Certificate of Compliance for 8 Marshall Drive.

Discussion: Minutes of August 20, 2018

Deferred to September 17 meeting.

Other Business:

None.

Adjournment

The Commission adjourned at 9:01 p.m.

Next Meeting

September 17, 2018

Meeting Documents

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

Respectfully submitted,