

West Newbury

Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, May 21, 2018 Conservation Commission Office, 1910 Building

Members Present: Chairman Dawne Fusco; Wendy Reed; Tom Atwood; Margaret Hawkins, and Conservation Agent Jay Smith

Cont. Public Hearing --- Notice of Intent --- Sam Aldrich, 66 Ash St. --- For the installation of a pool within the buffer zone to a bordering vegetated wetland at 66 Ash St.

Mr. Smith stated that the applicant did as the Commission requested, resubmitting the plans showing 1) expanded wetlands delineation lines resulting from a site visit, 2) revised distances from the modified wetlands lines, 3) descriptions of intended planters and plantings, and 4) a detailed legend describing work planned. The applicant also provided specifications regarding pervious pavers that will form a patio around the proposed pool. Mr. Aldrich further stated that the selected plantings were based on a list of approved native plants provided by Mr. Smith.

The Commission discussed with Mr. Aldrich requirements to install 5 wetlands identifying monuments marking the 25' distance to consist of 4 wetlands medallions on top of the proposed fence surrounding the pool plus one 8' long 4"x4" post with a medallion atop, to be located across from the A6 wetlands flag. Mr. Aldrich agreed to a requirement prohibiting cutting of vegetation or disturbances in the buffer zone outside the pool fence, knowing that the woods will grow up to the fence.

The Commission voted 4-0-0 to use the standard Order of Conditions, modified to include the requirement for 5 wetlands identifier monuments.

Cont. Public Hearing --- Notice of Intent --- Gary Breitbord for 87 Main St. (lots 1, 2, &3) --- For the construction of a paved driveway and grading in the buffer zone to a bordering vegetated wetland.

Mr. Smith stated that the applicant sent the Commission a letter indicating that a wetlands delineation had been done on May 8, 2017 by Norse Environmental, with flags set out. Mr. Smith further reported that applicants have not provided the specific information and plans the Commission had determined, at the prior meeting, as a necessary precondition to a site walk.

Abutters Peter Haack, 87 Main St.; Paul W. Young, 7 Kents Ct., and John Terry, 117 Main St., raised several concerns. Mr. Terry queried how the property met perc requirements for a septic system and expressed concern about the extensive incursions on wetlands that have occurred with development throughout the Town. Further, this area is a rich resource for fauna and plant life. An environmental impact study should be required pursuant to M.G.L. ch. 30 § 61.

Abutters questioned impacts on wetlands from construction activities. Excavation seems likely to impact wetlands with silt, unthinkable adverse drainage consequences may occur, and the septic drain system appears proximate to wetlands. Further, endangered species could be present on this property.

Mr. Haack stated that of this 10-acre parcel, about half is proposed to be irrevocably altered, not including the wetlands and upper parts. This highly visible hillside (the tallest in West Newbury) would be changed forever. All 3 abutters at this meeting plus others unable to be present are very concerned about the landscape and particularly features such as the marvelous maple tree that looks to be bulldozed for a driveway. Mr. Haack also requested that the applicant be required to remove a hazardous dead elm tree that may fall across Main Street.

Ms. Fusco noted that concerns regarding perc tests and septic requirements are issues for the Board of Health. Conservation Agent Smith explained that the Commission's jurisdiction is limited to activities within the wetlands and their 100' buffer zone. Buildings, grading, and construction activities outside of that zone are not within Commission jurisdiction—even if deleterious impacts on a wetland may be anticipated. If, after the fact, adverse impacts on wetlands actually occur, the Commission might issue an Enforcement Order.

The Commission further explained that an applicant in these circumstances needs to hire a consultant to delineate wetlands. Applicable maps indicate that the property is neither a priority area nor habitat for endangered species. That could change if evidence of an endangered species is found on the property. In such case, the applicant would have to make appropriate filings with the Department of Environmental Protection and should also be filed with the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage). As to why no environmental impact assessment is necessary in this case, Mr. Smith noted that he would need to review this question. Ms. Reed added that she was unaware of prior instances in which the Commission had required such an assessment.

Chairman Fusco stated that the Commission's next step in this matter would be a site walk. That, however, cannot be scheduled until the applicant submits necessary plans and information and flags have been placed to delineate the wetlands. Abutters stated that some flags are in place, but appear to have been there for a while.

Cont. Public Hearing ---Request for Determination of Applicability (RDA)--- Pablo and Kahira Roldan , 19 Meetinghouse Hill Rd. --- For a replacement septic system a portion of which is located in the buffer zone to a bordering vegetated wetland.

William C. Holt, the applicants' consultant, provided a revised plan that corrects typographical errors, includes an electric fence for horses approximately 55' from the wetland, and hay bales for erosion control/silt containment. Mr. Smith noted that he concurs with Mr. Seekamp's wetlands delineation.

Mr. Smith reported that the fence looks fairly recent. The Commission considered whether to require an after-the-fact filing for the fence. Inasmuch as the usual requirement is that such a fence be no more than 50' from a wetland, it was determined that since a negative determination would result in any event, a filing would be unnecessary in this case. Ms. Roldan explained that the fence is temporary and could be moved. The Commission indicated that the fence should not be moved to a location less than 50' from the wetland and the rule is that such activities within 100' of a wetland require a filing. So, for instance, if a permanent fence with postholes were installed, a filing with the Commission would be necessary.

Mr. Holt stated that the Board of Health has approved the septic system. Mr. Smith said that apart from the question of the fence, the property and proposal looks good. Because of the woods, monumentation for the wetlands is not necessary.

The Commission voted 4-0-0 to adopt a negative determination for the RDA and imposed conditions specifying 1) erosion controls, 2) use of clean fill, 3) Conservation Agent inspection, and 4) if the fencing within the 100' buffer zone is made permanent, a prior filing will need to be made with the Commission.

Cont. Discussion: David Huseland, 12 Sullivan's Ct. --- Set site visit for a Certificate of Compliance (COC) request

Mr. Smith reported that he did visit this site and it is not yet ready for issuance of a COC. It was explained to Mr. Huseland that the Commission first must confirm that the newly seeded grass has grown in and everything is in place to prevent erosion. Once the grass is established, the silt fence should be removed. Additionally, Mr. Smith noted a problem area of erosion near the driveway and suggested installing stones to address this. Mr. Huseland agreed and reported that he has contacted a tree service to remove a brush pile 75' from the wetland, but they have yet to do this work.

Mr. Huseland was advised to contact Mr. Smith when the grass is grown. Mr. Smith will then do a final inspection to ensure that the silt fence has been removed, after which the COC can proceed.

Cont. Discussion: Amy Brennan and Lab Realty Trust, 70 Church St. --- Violation

Mr. Smith reported that this matter is still outstanding. He has been in touch with the prospective buyer of the property, who obtained wetlands plaque for necessary monumentation, as well as a copy of the existing COC and plans.

Discussion: Harrison Bonner, 192 Main St --- Plantings for release of an Enforcement Order

Mr. Smith stated that he had just inspected this property and the required plants were installed and are growing well amidst high grass. Also, requisite plaques for monumentation have been installed. Accordingly, Mr. Smith is fully satisfied.

Mr. Smith also said that this matter does not involve a COC because the underlying submission was for a septic repair in excess of 50' from the wetlands. Thus the applicants had submitted an RDA.

The Commission voted 4-0-0 to release the Enforcement Order.

Discussion: Colin Hodgson, 13 Norino Dr--- Violation

Conservation Agent Smith noted that the violations in question concern activity at the riverbank. First, a houseboat apparently used in connection with Airbnb activities is moored very close to the shore so that it is on river bottom—not floating—during low tide. Second, a dock about 4' wide is on the bank. The Commission previously informed the property owners of the violation and last year the houseboat had been moved out into the Merrimac River channel, but now it is back.

Additionally, Mr. Smith said that Natural Heritage has sent the Commission and Mr. Hodgson a letter stating that it has identified endangered species in this location. Mr. Smith noted that Natural Heritage will follow up on the endangered species issue.

The Commission voted 4-0-0 to issue an Enforcement Order specifying that no later than June 18, 2018, 1) the houseboat must be relocated away from the riverbank so that it is floating at all times, 2) the dock and any debris must be removed from the riverbank, 3) no storage of items may occur on the riverbank, and 4) no path through the reeds (which had developed as people walked through water to access the houseboat) may be created until the endangered species issue is resolved.

Mr. Smith stated that he will revisit the site to check on this.

Cont. Public Hearing ---Request for Determination of Applicability --- West Newbury Open Space, Riding & Driving Club, and The Mill Pond Committee --- For a Town-wide trail maintenance plan

Ms. Reed provided Commission members a copy of the Town-wide trail maintenance plan with redlining to reflect changes clarifying points raised at the prior meeting. She reported that the meeting with the Board of Selectmen had gone well. The Selectmen agreed to pay the filing fees for Natural Heritage review out of their budget, so no Reserve Fund Transfer Request will be needed. Ms. Reed will pursue the application to Natural Heritage. All 3 of the applicant groups (West Newbury Open Space and Mill Pond Committees plus the Riding and Driving Club) as well as the Selectmen have voted to approve the plan.

Ms. Reed further noted that she had inquired about the vegetation at Mill Pond that supports butterflies and should not be cut until fall. This is an ad hoc matter without a regulatory basis. Ms. Reed will follow up with the Mill Pond Committee to suggest signage marking the butterfly vegetation for fall cutting.

Ms. Fusco observed that this kind of conservation measure has been undertaken by knowledgeable residents and may be lost when those residents are no longer present. Mr. Atwood noted that the new Town Manager may be able to document such conservation activities and ensure they are applied when the Town contracts for cutting and other work.

The Commission voted 3-0-1 (Ms. Reed abstaining) to make a negative 3 determination regarding the RDA for the April 2018 Wetland Trail Corridor Maintenance Plan RDA.

Finally, Ms. Reed noted that Pentucket High School seniors volunteer to do trail work and the Myopia Hunt club does trail maintenance as well. She opened the discussion about applying the trail management plan to these activities. Mr. Smith noted that these groups should be coming in to the Commission before they do this work. Mr. Atwood suggested contacting Pentucket High School. Ms. Reed will draft a letter for the next meeting and will contact Deb Hamilton and the Essex County Trail Association to determine how to reach Myopia.

Discussion: Minutes of May 7, 2018

The Commission voted to accept the Minutes of May 7, 2018, with revisions to the listed excepted flags on sheet 4 of the plan for the Hufnagel property as shown on an email from the applicants' consultant Mary Rimmer and a correction to the spelling of Mr. Haack's name provided by Mr. Atwood.

Other Business:

None

Adjournment

The Commission adjourned at 8:37 p.m.

Next Meeting

June 4, 2018

Meeting Documents

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

Respectfully submitted,