

West Newbury

Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, March 18, 2019 Conservation Commission Office, 1910 Building

Members Present: Chairman Dawne Fusco; Judy Mizner; Wendy Reed, Margaret Hawkins, Conservation Agent Jay Smith

Cont. Public Hearing --- Notice of Intent --- Richard Atwater, 7 Waterside Lane (DEP# 78-694) --- For a driveway, seasonal float, and repair to a boat ramp within the riverfront resource area, bank and bordering vegetated wetlands.

Mr. Smith provided the Commission revised plans, which Consultant Greg Hochmuth described. Mr. Hochmuth noted that a DEP number was received. An application has been sent to the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage) and the matter has been discussed with them over the phone. A letter from Natural Heritage will be following soon.

Natural Heritage requested that there be a maintenance plan and report every 5 years, as well as fabric under the gabion baskets embedded in the ground at the boat ramp (Mat Grid WG 5) that will allow roots to grow and disperse weight loads. This technique has been used at the Topsfield Fair to reduce erosion and hold the slope. Mr. Hochmuth also reported that West Newbury Department of Public Works appears satisfied with the planned curb cut, provided that this will not push water toward a road.

Mr. Hochmuth explained that the applicant did not need to file this as a limited project because as proposed it fully complies with performance standards. Although this makes prior existence of the gravel boat ramp not determinative, he provided various older photos to indicate whether and how long the boat ramp had been in existence.

Mr. Hochmuth also stated that the float at the end of the dock was made smaller at 8'x24' and has been extended so that it will be floating at all tide levels. The ramp structure to the dock will have 4 sono tubes—all the rest will be seasonal. The ramp structure will be about 12' wide and flare to 18' at bottom. Also, the new owner will cease his predecessor's practice of mowing and brush trimming without ConCom permission. No disturb areas will be marked with permanent 4"x4" pressure treated posts with a placard showing wetlands.

The Commission asked that markers be placed adjacent to the ramp structure at about the top third farthest from the river. Ms. Mizner and other Commission members also noted that as a matter of practice, inspection of the boat ramp will occur at least annually—plus as required after each major storm. They suggested annual inspection with an annual brief letter from the homeowner to the

Commission reporting on the boat ramp's condition. If major damage occurred, the applicants would need to apply to the Commission to make repairs. After 5 years of annual reports, the Commission will consider whether such reports can be made less frequent.

The Commission voted 4-0-0 to issue (upon receipt of a satisfactory letter from Natural Heritage) an Order of Conditions based on the revised plan, with standard and special conditions including a 3/4" gap between ramp structure/dock planks to allow light for plants below and a requirement that the homeowner submit to the Commission an annual inspection and maintenance report, whose frequency will be reevaluated after 5 years.

Public Hearing --- Notice of Intent --- Federal National Mortgage Assoc., for 104 Bachelor St. (DEP#78-695) --- To replace a failed septic system within the buffer zone to a bordering vegetated wetland at 104 Bachelor St.

Consultant Matt Steinel, Millenian Engineering described the proposal to use an updated previously approved but unexecuted septic replacement plan. Around 2013-14 a septic replacement plan was approved for this property but it expired with no action on the septic update undertaken. Although the prior Certificate of Conditions never was recorded, Mr. Smith clarified that it would still need to be closed out, via a letter saying that no work had been done.

The applicant is seeking to use the prior approved plan with updates reflecting the new owner, new date of application, etc. Otherwise, the plan is identical to what had been approved before. This was resubmitted to the Board of Health and approved.

The Commission noted and Mr. Steinel agreed that the original 2013 wetland delineation will need updating. Ms. Mizner requested notes and data sheets used to support the updated delineation. Also, prior to construction updated wetlands flags will need to be in place.

Patricia Garnett, a neighbor, inquired about this project's impact on the brook that runs from the property under review to her yard, which includes wetlands. Mr. Steinel explained that the system was placed as far as possible from the stream—around 100'. Also, with prior inspection by the Conservation Agent, there will be silt fences and hay bales to stabilize the site and prevent runoff. After work is done, another plan showing satisfactory completion will be submitted to the Commission showing, among other things, final stabilization of the site.

The Commission voted 4-0-0 (subject to a completed wetlands delineation update) to issue an Order of Conditions (with standard and special conditions) that conforms to the prior approved plan.

Public Hearing --- Notice of Intent --- Timothy Lattrell, 70 Church St. (DEP#none) – The applicant would like to install a dock, and cross wetlands with a footbridge and path. The work proposed is within the Riverfront, wetland and buffer zone to a bordering vegetated wetland at 70 Church St.

Consultant John Paulson noted that he was the engineer and Bill Manuel is doing the wetlands delineation, updated from work Mary Rimmer did in 2004. He presented a plan that included both new and prior wetlands delineations. The project has a DEP number and is waiting for a response from Natural Heritage.

The proposal includes a crushed shell path from the back yard through the first wetlands area with a low footbridge (supported with sono tubes) over a particularly wet area in spring and fall. The main goal is to be able to have a dock in the form of an 8'x8' wood platform. There would be a stationary portion from an upland area nearer the second, riverside wetlands, which will connect to lengths of seasonal aluminum docking (with ¾" gaps for light penetration). Based on discussions with the Army Corps of Engineers, Mr. Paulson is investigating use of a sand augur system to provide pipes to anchor the floating dock. The augurs would be set 22" into the river bottom and would be 18" high. They could be removed in fall and inserted in spring. If this system was not feasible, the more traditional method for mooring the floating dock would be used.

The Commission stressed the importance of light penetration for plant growth and expressed concern about a path through the wetlands. Ms. Mizner was concerned about loading crushed shells onto the wetland and Ms. Reed suggested a boardwalk in lieu of a path to minimize wetlands disturbance. Mr. Smith stated that the property next door has an elevated walkway. The Commission also explained that greater detail was needed about the plans for moorings, extant vegetation, etc.

The Commission set a site walk for March 31 at 8 am; and continued this matter to April 1, 2019.

Discussion: Tom Neve for Lot 6, Sullivan's Ct. (DEP#78-636) --- Plan change request.

Sullivan's Court Developer Tom Neve stated that he received the Commission's Enforcement Order this winter concerning Lot 2 erosion control and has been relentless in resolving this with multiple silt barriers and controls. He has been monitoring this ever since and now is ready to go for springtime construction, so maybe the Commission might remove the Enforcement Order.

Mr. Smith stated that the success of Mr. Neve's measures remains to be seen. This will be inspected after the next major rainstorm. The Commission agreed, noting that the Enforcement Order, which states that he must control runoff, should remain in place until it is established that no issue remains. Mr. Neve stated that once the area is landscaped there should be no problem.

Mr. Neve reported that Lot 3 has been sold to people from the Netherlands and he will make sure that it is stable and that the peoples' contact information will be given to Mr. Smith.

After being informed that the Enforcement Order does not affect Lot 6, Mr. Neve explained that he wants to complete a driveway on Lot 6 after April 15. This has a wetlands crossing and the approved plans show a 4-sided box culvert to serve as a bridge over a seasonal stream. He

suggested that a 3-sided culvert (shaped in profile like an unused staple) could be placed over the stream with no need for excavation in the stream bottom or stream diversion.

Mr. Neve stated that the 3-sided precast culvert alternative would be more expensive, but later agreed with the Commission that the net cost inclusive of excavation and related expenses would be less with this new proposal. Mr. Neve advised that this could be treated as a minor modification and work could begin on this 3-day project on April 15, 2019, assuming suitable weather.

Ms. Mizner noted that the Order of Conditions now in effect limits this culvert work to July through August and has provisions for stream bank restoration. Thus this is not a minor modification: Mr. Neve's proposal requires an application for an amendment to the Order of Conditions, with written details of planned work and revised plans—all with an explanation why current conditions no longer apply. The Commission did concur that this new 3-sided culvert looks less disruptive to the wetlands.

Mr. Neve asked whether the Commission would consider allowing him to start work on this project on May 1; otherwise, the time and effort of preparing and submitting an application may not be worthwhile. The Commission declined to provide such assurance and Mr. Neve stated that he will further review the matter.

Regarding the proposed public trail to the river, Mr. Neve agreed that Ms. Reed's suggestion of a changed location from the top of the slope to its base could be preferable. He will need to check deeds, but conceptually this is better and better for property owners. It was agreed that the trail should be staked as on the current plan and then the trails could be adjusted, with a new plan submitted. The Conservation Agent will need to be involved in this.

Discussion: James Dwyer, 17 Coffin St. (DEP#78-611) --- COC Request for work never done.

Mr. Smith explained that superseding Order of Conditions issued June 2014 (and now expired) for a failed septic system was never acted upon and needs to be closed out. The Certificate of Conditions will merely state that the work was never done. A new proposal is expected to be forthcoming and the Health and Conservation Agents will review this carefully.

The Commission voted 4-0-0 to issue a Certificate of Conditions indicating that the Order expired and work was never begun.

Discussion: Minutes

Deferred to the next meeting

Other Business

Regarding the Order of Conditions authorizing limited mowing at the Town-owned land and Rivermeadow community-easement strip near the Rivermeadow dock, Mr. Smith received an email

from the Department of Environmental Protection (DEP) indicating that contrary to Commission expectations, Rivermeadow representatives never effectuated the requisite DEP filing and thus never actually issued the necessary DEP number. This deficit needs to be rectified and the correct DEP number must be included in the Order of Conditions before it can be recorded and made effective.

Ms. Mizner agreed to draft a letter for Mr. Smith to send to Rivermeadow Representative Terry Hartford stating that because DEP never received his Notice of Intent submission, the Order of Conditions will not be valid until DEP issues a number and that correct number can be included in the Order of Conditions.

Next Meeting

The next scheduled Con Com meeting is Monday, April 1, 2019.

Adjournment

The Commission adjourned at 9:49 p.m.

Meeting Documents

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

Respectfully submitted,

