

West Newbury

Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, July 15, 2019 Conservation Commission Office, 1910 Building

Members Present: Chairman Dawne Fusco; Judy Mizner, Wendy Reed, Margaret Hawkins, Tom Atwood, Conservation Agent Bert Comins.

Discussion: Sullivans Court Lot 6 ---- non compliance

Sullivans Court Developer Tom Neve declined to respond to Ms. Mizner's query why he ignored the Commission's Order. He stated he believes he complied. When Ms. Mizner pointed out that the Order required prior notification and inspection by the Conservation Agent at each stage of replication work specifically identified in the Order, Mr. Neve said that it is one big stage. He added that he was ordered to put the culvert in (apparently referring to Commission approval of his sua sponte application) and he is quite pleased with it and there have been no issues even with significant downpours. He spent \$1,000 and notified abutters in order to modify the culvert plan.

Citing his 1978 degree from the University of New Hampshire, the soil evaluator certification he received in Massachusetts, and his former wetlands consulting business, Mr. Neve stated that he is a wetlands scientist, although he has not practiced as such before this Commission. Mr. Neve said that he is acting as the wetlands professional with Greg Hochmuth (who is currently on vacation and thus not present at this meeting) as his stand in, and that he did not know about prior Commission meetings in which Mr. Hochmuth indicated that he (Mr. Hochmuth) was the wetlands scientist on this project. Mr. Hochmuth, Mr. Neve explained, is particularly good with wetlands plants.

Mr. Neve stated that he found the work in question here perfect in terms of matching the elevation plans. It also was planted with more seeds than required and the surface vegetation is growing and looking good. He took a hands-on role and got the work in question done in two days, very efficiently. Mr. Hochmuth was not on site for this work: Mr. Neve acted as wetlands scientist for this.

Ms. Mizner read aloud portions of the Order, including paragraph 16(b), which required the developer to contact the Conservation Agent and obtain Conservation Agent sign off at very specific points in the process—which Mr. Neve did not do. Mr. Neve stated that he did two out of four. Mr. Neve said that he has no issue with anyone going out to examine the work. He is confident it will be acceptable.

As to why he failed to follow the Commission's conditions, Mr. Neve explained that he was sorry but he just didn't. He stressed that he had asked Mr. Hochmuth to contact the Conservation Agent, but Mr. Hochmuth did not do this—though he would never blame Mr. Hochmuth for anything. Mr. Neve said that he did not read the amended Order because he believed, based on the meeting

in which it was approved, that no changes such as those under discussion here were made. Ms. Mizner noted that some of the conditions Mr. Neve said he is unfamiliar with were in a letter from Mr. Neve to the Commission. Mr. Neve did not recall that. The letter is incorporated in the Order. Mr. Neve also stated that he was almost certain that former Conservation Agent Jay Smith had inspected the work in question, but the Commission confirmed that Mr. Smith had retired before this work commenced.

The Commission expressed concern whether they could have confidence about Mr. Neve's compliance going forward. Chairman Fusco and others stressed the need to comply and to notify the Commission ahead of time—with time for the Commission to respond—before he deviates from any conditions, specifically including but not limited to the planting list. Mr. Neve agreed to do this. In response to Ms. Reed, Mr. Neve confirmed that he now has read the entire amended Order.

The Commission determined that upon Mr. Hochmuth's return from vacation, Agent Comins, Mr. Hochmuth, and Mr. Neve will conduct an inspection of the work in question.

Mr. Neve also stated that he wants to backfill the foundation, apply loam, and seed down to the replication area. *The Commission advised that this would be acceptable upon the following conditions:*

- 1) Protect the replication area, with installation of erosion barriers on the uphill side of the replication area,*
- 2) Contact Agent Comins for an inspection prior to doing work, and*
- 3) Commence work only after approval from Mr. Comins*

Discussion: Utility Permitting Process

Mr. Atwood described additional utility excavation work in the Hilltop Circle area within 20' to 50' of four different wetlands—all without Commission approval. The excavation also apparently occurred without verification of the location of West Newbury water lines. Mr. Atwood reported that the work has ceased and they did fill in the excavated area. Those working on the project appeared to know that there were wetlands issues, but stated that they had approval from West Newbury's Department of Public Works (DPW).

Mr. Atwood spoke with DPW Director Wayne Amaral and Town Manager Angus Jennings about developing a process that requires applicants to obtain necessary Commission approvals. The Commission noted that the Building Inspector and the Health Agent have procedures requiring applicants to obtain Commission approvals.

Mr. Comins added that they are working on a short term and long-term solution. DPW is trying to expedite permitting. In the short term, when a permit is pulled, Mr. Comins will join Mr. Amaral for a site walk and they will check MIMAP for wetlands. In the longer term, an applicant will have to submit a map showing potential wetlands and then there will be the site walk. New permit applications will have ConCom checkoff box.

The Commission determined that Mr. Comins should contact Mr. Amaral to be sure DPW understands that ConCom action involves about a 2-week process, given official notice and other requirements.

Drakes Landing

Drakes Landing Developer Chip Hall and Wetlands Consultant Tom Hughes joined the meeting to discuss storm water runoff from the construction area associated with an intense rainstorm around 8 p.m. on Friday, July 12, 2019.

Mr. Hall stated that he received a text from abutters at the Buscher property with photos of dirty runoff running from the development onto their lawn. Water also overtopped storm drain on Rt 113. That drain could not handle water coming from Main Street, Mr. Hall explained.

Mr. Hall described the status of his work in progress, noting that the area is being revegetated from the front by Main Street to the back. Mr. Hughes added that the wetlands are in good shape and the raw construction area is steadily diminishing. Mr. Hall said that photos in the report by wetlands consultants Meridian showed that the detention basin was not full. He identified the problem as the silt sacks, which get clogged and impermeable notwithstanding frequent replacement. This prevents water from draining properly.

Mr. Hall said that the project had a clear report from Meridian the day before Friday's storm. Mr. Hughes reported that he had done an inspection on Friday and found no issues. Hay bales had been installed to address runoff but somehow disappeared between Mr. Hughes' inspection Friday afternoon and the intense rainstorm in the evening.

Mr. Hall summarized that the project has a good track record and he is committed to resolving issues that may come up. Mr. Hughes added that as soon as he is notified of problems, he will work on solutions.

Discussion: Pentucket School—Plans

Regarding the school project, Mr. Atwood noted that this is a lengthy and major project and may benefit from use of booms like those for oil spill containment projects. He saw this system in a construction project in Florida. The booms could be used to address silty runoff in the stream on the Pentucket campus, as well as at the intersection with the Merrimack River.

Ms. Reed shared some plans for the new school project, and reminded the Commission that the school architect had asked whether the Commission would need a third party consultant. Ms. Mizner observed that without an actual application and more detailed plans, it was difficult to say.

The Commission also noted that the most recent prior wetland delineation for the Pentucket campus occurred in 2014, so there was a need for a new one. Ms. Reed did not know the schedule for this.

The Commission agreed to conservatively advise the school architect that it would need a third-party consultant.

Discussion: 463 Main St. Certificate of Compliance

This matter involves a house built very close to wetlands whose developer failed to finish all Commission conditions before selling it. The buyers made a filing requesting a Certificate of Compliance and Mr. Comins looked at what they planted. The Commission reviewed documents pertaining to this property and determined that members would inspect the property and its plantings.

The Commission voted 5-0-0 to issue a Certificate of Compliance contingent upon Commission confirmation that required plantings are in place.

Discussion: Agent Training

Ms. Reed shared a draft contract with Merrimack Valley Planning Council (MVPC) that would cover MVPC's provision of guidance and mentoring to Mr. Comins in his initial 90-day period.

The Commission voted 5-0-0 to approve the contract, with amendments.

Discussion: Other Business

Ms. Reed explained that the Open Space Committee is exploring establishment of a Town tree committee and shared its proposed charter.

The Commission voted 5-0-0 to approve the proposed Tree Committee.

Minutes

The Commission voted 4-0-1 (Ms. Mizner, not present, abstaining) to approve the July 1, 2019 minutes as revised. Ms. Mizner stated she was surprised to see that these minutes reflect the concern of Essex County Trail Association representative Deborah Hamilton that the proposed bridge at the Coffin Street would be some 50'. Ms. Mizner said that based on her observations when she accompanied Ms. Hamilton on a site walk and recently revisited the site, the bridge proposed to and accepted by the Commission would be no longer than 35'. This will be cleared up with Ms. Hamilton.

The Commission voted 5-0-0 to amend the previously approved June 7, 2019 Executive Session Screening Subcommittee minutes to remove the names of Conservation Agent candidates in anticipation of their release from confidential treatment.

The Commission voted 5-0-0 to lift confidentiality status from the June 4 and 7, 2019 Screening Committee Executive Session minutes and post them on the website.

Next Meeting

The next scheduled Con Com meeting is Monday, August 5, 2019

Adjournment

The Commission adjourned at 9:52 p.m.

Meeting Documents

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

Respectfully submitted