

West Newbury

Conservation Commission Meeting Minutes

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

Members Present: Judy Mizner (acting as Chair), Wendy Reed, Margaret Hawkins, Tom Atwood, Conservation Agent Bert Comins.

Continued Public Hearing --- Request for Determination of Applicability --- Denise Lang Pacini and Alia Elias --- 9 Prospect Street --- For 12'x12' addition over driveway with 8'x12' deck. Proposed work is in the buffer zone of a bordering vegetated wetland.

Mr. Atwood noted that on the site walk of this property, it looked fine: the proposed deck would be cantilevered over the septic system and would involve 3 sono tubes over 50' from the wetlands and the Health Agent is OK with this. The Commission could not determine from the submission, however, what footings or other foundation would be used for the proposed addition to be located over the current driveway.

Because additional information is needed, the Commission continued this matter to the meeting scheduled to October 21st. Mr. Comins will ask the applicants for a written description of all planned work, including plans for altering the driveway and the use of the sono tubes.

Mr. Atwood said that on the sitewalk, he observed a large amount of construction debris in wetlands on a neighboring property. Consultant Greg Hochmuth, who was present to address other matters, stated that he believes that Bill Spaulding owns this property and is renting it out. He said he would talk with Mr. Spaulding.

Continued Public Hearing --- Notice of Intent --- Christopher Harris --- 171 River Road --- For construction of stairs and dock system in the riverfront area, bank, and bordering land subject to flooding.

Denis Hamel, the Consulting Engineer for this project, described adjustments to the plan made after the Commission's site walk. To save 3 trees, the walkway to the dock and lower platform were moved slightly. He clarified that construction would not begin this fall. An 8" compost sock system is proposed for erosion control around the project, which will be about 20' long.

The Commission reviewed a recent dock approval's treatment of moorings when, as is the case here, ledge may be present. Ms. Mizner discussed a special condition imposed by the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage) providing for an alternative to the flexible mooring helical anchor. The alternative may use a drill into ledge to put in an eyebolt with quick set epoxy.

The Commission voted 4-0-0 to issue an Order of Conditions for the installation of platforms, stairs, and a dock with standard conditions and special conditions including 1) erosion control using an 8" compost sock, to be installed

by applicant and inspected and approved by the Conservation Agent prior to commencement of work; 2) footings to be hand dug, with excavated soils disposed of outside of the resource area; 3) platforms and stairs to be at least 18" from the ground; 4) submission of the construction schedule to the Commission at least 72 hours in advance of commencement of the work; 5) use of flexible mooring rodes for the floating dock, or if an alternative system is used, submission of the details of the proposed alternative to the Commission and to Natural Heritage for its approval prior to installation; 6) no storage of any equipment in the resource area; 7) no storage of oils, fuels, or other boating fluids at the dock or the resource area; 8) no hauling of dock components over the resource area during removal; 9) additional submission(s) to the Commission for any new or additional work; 10) attachment and incorporation of the September 23, 2019 letter from Natural Heritage in these conditions; 11) perpetual applicability of conditions such as those restricting storage in the resource area; and 12) revision of the submitted plan to include any provisions to accommodate ledge in construction or moorings.

Public Hearing --- Request to Amend Order of Conditions --- Linda and Dennis Lucken --- 72 Ash Street --- Request to amend orders of conditions for DEP File 078-674.

Wetlands Consultant Greg Hochmuth said that this property is part of a development that came before the Commission a few years ago. As occurred on other lots in the development, the applicants who purchased the 72 Ash Street lot seek to modify the previously approved generic home. They seek to change the house and driveway in a manner that reduces the amount of fill required and to better accommodate the grade. Among other things, 2 retaining walls are now proposed to build up the septic (to be approved by the Board of Health tomorrow), which now will require a pump chamber. Additionally, applicants propose a shed and a chicken coop. There is somewhat more disturbance in the buffer zone, but this remains close to the already approved generic plan.

Blanding's turtles are in the area, and the turtle protection plan (which includes a trenched silt fence to keep turtles out of the construction area) will remain in place. Mr. Hochmuth said that he informally consulted Natural Heritage (Dave Paulson) and they gave their blessing, although they want to use the ultimate plan that the Commission has approved for use in final Natural Heritage review and approval.

The Commission reviewed the planned 12" PVC culvert and advised that the applicants should provide details of the culvert for the records and attempt to get the Department of Environmental Protection to respond to the adequacy of the planned culvert. Also, details for the shed, such as footings, should be specified.

Contingent on Board of Health and Natural Heritage approval, the Commission voted 4-0-0 to amend the Order of Conditions to substitute applicants' proposed new plan for the previously approved plan with conditions requiring 1) details for the culvert and the shed added to the plan; 2) continued applicability of the remaining conditions, excepting an amendment to Condition 6 so that erosion controls shall comprise a staked silt fence faced by a 12" mulch silt sock staked on the upland side of silt fence; 3) no work to commence until the revised plans have been submitted to the Commission and formal Natural Heritage approval has been received.

Public Hearing --- Request for Determination of Applicability --- David Savoy --- 91 River Road --- for digging of trench and installation of utilities from proposed new detached carriage house to the existing house. A portion of the trench and utilities will be in the buffer zone of a bordering vegetated wetland.

Applicant/ homeowner David Savoy explained ongoing work including construction of a 2-car garage in his back yard outside of the resource areas. He also proposes to install a generator and do trenching to run propane, electric and water lines between the new garage and the house. All work is outside of the resource area except for about 25' of trench. None of the work is within 200' of the river. Because the trenching is proposed to be done this fall, the Commission noted that the cut off for ground work is October 15 and urged Mr. Savoy to complete the trenching as soon as possible.

The Commission voted 4-0-0 to issue a Negative Determination of Applicability conditioned upon 1) applicant's installation of erosion control around trench area within the buffer zone, to be inspected and approved by the Conservation Agent prior to commencement of work; 2) disposal of any soil removed from the trench outside the buffer zone; and 3) stabilization of the area by November 1, 2019.

Public Hearing --- Request for Determination of Applicability --- Mirra Co. --- 2 Hilltop Circle--- For digging of trench and installation of utilities starting at PED at 2 Hilltop Circle and extending to existing PED near Woodcrest Drive. Proposed work is in the buffer zone of a bordering vegetated wetland.

No applicant representative was present. Mr. Atwood, an abutter, provided the context for the plan. He noted that in heavy November rains, water runs down the road very fast, presenting erosion issues. Thus, he said, the site should be stabilized before November. Also, he identified a potential discrepancy in the applicants' description of the location of the proposed trenching.

Because of the unresolved issues that were identified, the Commission continued this matter to its next meeting.

Discussion: 371 Main Street COC request—Albert Ting

The Commission reviewed the original and as built plans; the report of James Scanlon, PE, of substantial compliance with the Commission's conditions; and the Conservation Agent's favorable site review.

The Commission voted 4-0-0 to issue a Certificate of Compliance, based on the Conservation Agent's inspection and the materials submitted.

Discussion: Drakes Landing conservation restriction

The Commission considered a letter from the Division of Conservation Services stating that the Drakes Landing conservation restriction (which the Commission had already reviewed) was cleared for local signatures. *Accordingly, the Commission signed off on the conservation restriction.*

Discussion: Carr Post

Consultant Denis Hamel and Town Manager Angus Jennings provided an overview of proposed work at the Carr Post. A tight septic tank is proposed to be installed along with a pathway, grading, and a drywell for roof runoff. The parking lot has been installed and the existing driveway will be removed as part of the Drake's Landing development.

The work will occur more than 50' from wetlands, the land is flat, and the work is not major. A separate application for a Request for Determination of Applicability is the appropriate filing for the town to make. Wetlands flags should be installed recognizing that the Drakes Landing road and replication area has moved the wetlands to the other side of the road. The application will not be submitted to the Commission until the plans have been finalized.

Mr. Jennings said that the town will vote on use of CPC funds for this in November and construction would occur next spring at the earliest.

Discussion: PRSD building project update

Pentucket School Architect Brad Dore joined Mr. Jennings to provide a status update on the school building project. The drawings should be ready to submit to the Commission this week: the Commission will be receiving plans showing 1) existing conditions and 2) the proposed construction and grading with wetlands and buffer zones. Ideally applicants will be able to submit their filing later this month. They are planning to have a pre-application conference this month.

The Commission planned a site walk for Friday, October 18, at noon, meeting at the high school with Rich Kirby of LEC, who did the wetlands work.

Discussion: Sullivans Court trails/Lot 6 update

Ms. Reed reported that Sullivans Court developer Tom Neve has not filed with the Commission for approval of trails mandated in his development approvals, making it likely that he is not intending to do so. Also, Mr. Comins received a copy of an invoice for wetlands plants to be used in the required wetlands replication area, but has not been told when they would be planted.

Mr. Comins will email and ask when planting will occur, provide a reminder that work must be completed by October 15, and inspect the area to determine compliance. In the event of noncompliance, the Commission will ask the Building Inspector to withhold the occupancy permit until the property is in compliance.

Discussion: Clean fill bylaw

Ms. Reed note that the Open Space Committee identified development of a clean fill bylaw in its action plan. The Health Agent did not think this would be necessary. *The Commission generally viewed such a bylaw as a good idea but was unsure how it would be enforced.*

Discussion: Open Space Committee wetlands crossing NOI

Brad Buschur of the Open Space Committee's Stewardship Subcommittee discussed the idea of developing a blanket Notice of Intent, as Essex County Trail Association has done, for certain Open Space Committee trail work. This would essentially set a policy for the town and would relieve all parties of the cost and burden of repetitive filings. He specifically has in mind bog bridges, and some trail rerouting, which currently are needed at the Dunn Field/ Mill Pond area.

The Commission generally favored an approach similar to that used by ECTA to establish specific procedures. Ms. Mizner stressed that the proposal should be detailed in writing in the Notice of Intent. Ms. Reed suggested that a joint application with the Mill Pond Committee and the Riding and Driving Club as co-applicants might be in order. She also noted that provisions for Commission review will be important. Ms. Hawkins said that Weston has a good narrative about this on its website.

Discussion: October 15th work deadline

Mr. Comins asked the Commission about the details of the October 15 work stoppage requirement. The Commission clarified that work like framing can continue—the stoppage and stabilization apply to 1) ground work 2) in resource areas and the buffer zone.

Mr. Comins was advised to go around the current construction sites, giving reminders about the October 15 deadline and urging those with a problem to come into the Commission. Whether extensions are appropriate depends on the site: if the work is far from a wetland and the land is flat, there may be fewer issues.

Mr. Comins will check on any site subject to Commission orders with no Order of Compliance and see if it has been stabilized. Ms. Reed noted that it would be good if Mr. Comins developed an electronic record keeping track of what sites had Orders of Conditions, Certificates of Compliance, etc.

Discussion: Agent evaluation

The Commission reviewed the report of Jennifer Hughes, the Merrimack Valley Planning Commission mentor and the list of items for Mr. Comins to accomplish in his probation period. Mr. Comins noted that the mentoring process had been helpful, as had been a recent DEP presentation

The Commission voted 4-0-0 to make Mr. Comins' position as Conservation Agent permanent.

Discussion: Other business

Ms. Hawkins, a member of the town Tree Committee, noted that the Tree Committee had just started and has no budget but wants to have an Arbor Day event with educational materials and so forth. A grant may be sought, but the Tree Committee wanted to ask if any Commission funds could be donated for this.

While the Commission supports trees, it concluded that the townspeople appropriated ConCom funds for wetlands protection activities and Tree Committee activities are outside of the scope. It suggested asking the Open Space Committee, the Finance Committee Reserve Fund, or the Selectmen's fund.

Discussion: Review of minutes

The Commission voted 4-0-0 to approve the minutes of September 23, as revised

The next scheduled Con Com meeting is Monday, October 21, 2019

Adjournment

The Commission adjourned 9:55 p.m.

Meeting Documents

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

Respectfully submitted