

## West Newbury Conservation Commission Meeting Minutes

**Meeting date & place: 7:30 pm, February 24, 2020 Conservation Commission Office, 1910 Building**

**Members Present:** Chair Dawne Fusco, Wendy Reed, Margaret Hawkins, Judy Mizner, Conservation Agent Bert Comins.

### **Continued Public Hearing --- Notice of Intent (NOI) Department of Environmental Protection (DEP) File #078-0705 --- Michael Walters --- 41 Pleasant Street --- For Construction and replacement of septic system**

Mr. Waters reported that closing on the sale of this property has occurred. As discussed at the Commission's site walk, wetlands flags have been moved up gradient and the proposed septic system was moved to maintain a 50' offset from wetlands. He expects that the Board of Health will review and approve this tomorrow. The project has a DEP number and received no DEP comments. Mr. Waters stated that there is no other place to put a septic system on this property: he worked with Health Agent Paul Sevigny to keep the system as far from wetlands as possible.

In response to Ms. Mizner's inquiry about the possible foundation drain identified on the plans, Mr. Waters said that this was drawn in at the suggestion of Mr. Sevigny, who had noted that a trench had been found in exploratory digging to find the existing leach field, and who thought that the drain might be or become needed. Ms. Mizner noted that if trenching is needed for such a drain, erosion controls would have to be placed around the work area.

As to removal of the swimming pool, Mr. Waters stated that it is now covered and is perhaps ¼ full of water. Ms. Mizner noted a concern that draining the pool could put pool water, including algae, in the wetlands located close below.

It was also noted that the revised plans resolve the issue of the contents of the erosion control wattle: it will be straw. Also, a note on the plan referring to a stockpile location is incorrect: at the prior meeting it was clarified that any spoils will be transported offsite—and this correction was notified on the plan with Mr. Waters' initials.

*By 4-0-0 vote, the Commission approved an Order of Conditions for the installation of a septic repair, and installation of new deck supports, all as proposed in NOI and in the applicant's revised plan dated February 20, 2020, as further corrected at the meeting, with standard conditions and special conditions, including 1) applicant's installation of 12" biodegradable silt sock erosion controls, to be inspected and approved by the Conservation Agent; 2) 72 hours' prior notice to the Agent prior to any other work; 3) drainage of any swimming pool water to the uphill front of the property, so that it will infiltrate prior to reaching the wetlands; 4) installation of erosion controls in the event of installation of a French drain, to be inspected by the Agent and receive Commission approval beforehand.*

*Upon further discussion, the Commission voted 4-0-0 to allow work on this proposed project prior to April 15, contingent on Board of Health approval for construction start and the applicant's installation of erosion controls inspected and approved by Mr. Comins.*

**Continued Public Hearing --- Notice of Intent DEP File # 078-0706 --- Andrew Cole/National Grid --- 0 River Road 394 Transmission Right of Way --- For activities associated with exploratory geotechnical borings**

Theresa Portante, consultant for the applicant, provided revised plans pursuant to the Commission site walk. Some flags were relocated and mat placement will be expanded in certain areas. Also, erosion controls will be installed 15' off the poles. Ms. Portante stated that applicants would like to begin work as soon as possible to take advantage of frozen soil and to meet strict deadlines among many jurisdictions for this project.

*The Commission voted 4-0-0 to approve applicant's proposed wetlands crossings with temporary matting as shown in the updated plans, and with 1) at least an additional 10' matting margins at the 3d crossing on the northerly side to alleviate any potential wetlands impact, 2) additional erosion controls at poles as specified, 3) applicant's installation of specified erosion controls with Agent inspection and approval, and 4) at least 72 hours' notice to the Commission prior to work commencement.*

**Continued Public Hearing --- Notice of Intent DEP File # 078-0702 --- Terri Lee Spear --- 142 Moulton Street --- For Construction of new sanitary disposal system**

Consultant Greg Hochmuth appeared on behalf of applicant Terri Spear, who needs to do a septic repair before selling this property recently inherited from her mother. He said that the site walk with the Commission had been complete, DEP had no comments, and the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage) provided a "no take" letter, meaning that neither endangered species nor their habitat would be taken in this work.

*The Commission voted 4-0-0 to issue an Order of Conditions, all subject to Board of Health approval, allowing the work as proposed subject to standard conditions and special conditions including applicant's installation of erosion controls consisting of 12" straw wattle or silt sock to be backed by a silt fence to be inspected and approved by Mr. Comins prior to commencement of work and 72 hours' notice to the Commission prior to commencement of work. The C-line (one of the wetlands line) was not inspected because of inaccessibility and distance from the project—and was not approved or reviewed.*

**Public Hearing --- Request to Amend & Extend Order of Conditions DEP File # 078-666 --- Paul & Jennifer Walsh --- 409 Middle Street**

Greg Hochmuth, applicant's consultant, explained that applicant (who purchased the property near Follansbee lane after Commission approval in April 2017 of a generic house), has spent considerable time and effort on design work, so construction had not started but the land had been cleared and wetlands replication done but not planted. The site is surrounded by extensive bordering vegetated wetland. The new proposal is for the same size (5 bedroom) house and the same limit of work.

Proposed changes include a different (Presby) and somewhat relocated septic system and a significant

change in grading, and fill and retaining wall work in order to avoid a walk out basement. Somewhat more of the house would be in the buffer zone but all of it would still be at least 50' from the wetlands. The plan is to start work on April 15, so an extension is needed as well as the amendment.

Mr. Hochmuth said that the flags and the erosion controls are still in place, but the erosion controls could be re-inspected. Ms. Mizner noted that the wetlands delineation, was done in 2017 when the conditions were very wet. Also, the conditions should perhaps include the 2-year monitoring requirement for the replication plantings.

*The Commission voted 4-0-0 to accept the amended plan as a plan change and to authorize a 1-year extension of the Orders of Conditions, with all conditions remaining in force and effect, and additional requirements that 1) erosion controls shall be revised and upgraded if determined to be necessary upon Commission inspection, 2) the Commission will be notified at least 72 hours prior to any other work, and 3) a condition requiring monitoring of replication plantings for 2 seasons, with reports provided to the Commission at the end of each growing season.*

**Continued Public Hearing --- Notice of Intent DEP File # 078-0701 --- Justin Bartholomew/ Pentucket Regional School District --- 24 Main Street --- for proposed demolition of existing Middle and High School buildings and construction of a new High School and Middle School building with associated work including new roadways and parking areas, access driveway, utilities, landscaping, athletic fields, slope stabilization, earthwork, and revegetation. Several aspects of the proposed project are in the buffer zone to bordering vegetated wetlands.**

Ms. Mizner asked if the Commission now has the exact same set of plans as those used by the Planning Board and was assured that both boards are working from the same plans. The Commission, however, has a current electronic copy but the hard copy is the January 31 version, which has had changes that the applicant's consultants described as very minor. The applicants' consultants from the Dore & Whittier team will provide the Commission a current hard copy of the plans.

The consultants provided a February 3, 2020 letter from Meridian addressing issues raised and resolved. They said that Meridian met with them and discussed every point raised. Meridian is done and satisfied with storm water management matters.

As regards plans for operation and management (O&M) of storm water systems (Appendix E), the Commission asked if the School District is explicitly assuming this responsibility and was told yes. Ms. Mizner noted that the O&M plan requires annual reporting, but monthly inspections of some bioretention areas. She suggested twice yearly reports so that they could stay on top of this and the consultants agreed to this. Bioretention for storm water management is in the C2.100 sheet series. They are dated January 31 and are up to date.

*It was agreed that the applicant will 1) make this revision to O&M plans (which will be attached to the Order of Conditions), and 2) ensure that the Commission has not only electronic but also hard copies of the most current plan. Also, the Commission will reach out to Meridian to confirm that they are fully satisfied with the storm water*

*management plans.*

*The Commission proposed to continue to review the materials provided (and it may need additional items) and start drafting a proposed Order of Conditions, to be circulated to the applicants for comment. This will be addressed at the March 16 meeting. This is pretty much complete at the Planning Board and the consultants anticipating obtaining a building permit together around mid April.*

After the Commission site visit to the additional strip of land to be acquired in a swap transaction, the wetlands consultant was going to run a calculation to determine if this is isolated land subject to flooding. Mr. Dore said that the land transaction has yet to be completed and unresolved issues are being worked on. This is to be addressed separately from the larger school project whose applications are well underway.

**Discussion: 119 Bachelor Street, Request to Extend Order of Conditions DEP File # 78-651**

Mr. Comins shared a letter from the applicant requesting an extension. The letter did not specify the amount of time sought or what work remains to be done. Mr. Comins said that the replication work had been completed and the erosion controls look ok, although the silt fence could be repaired in a couple of places.

*Mr. Comins will email the applicant to determine the specifics of what the Commission is being asked to approve.*

**Discussion: Trail monitoring and maintenance**

Ms. Reed reported on the Commission proposal in the upcoming budget for the Conservation Agent to undertake trail management and supervision. The proposal the Town Manager submitted to the Finance Committee did not include the Commission's accompanying justification and reduced the amount sought to fund this.

*The Commission will attend the Finance Committee's March 10 meeting at 7 p.m., with a revised job description for trail supervision that makes clear that the full job description are ultimate goals, with near term tasks being prioritized. The presentation will also include some photos.*

**Discussion: Conservation Commission funds/payment of Merrimack Valley Planning Council (MVP) invoice**

Ms. Reed reported that the Town Manager determined that the Commission has over \$47K in a conservation trust fund and over \$91K in the conservation revolving fund (which the Town Manager sees as his responsibility to sign off on and which is to be used to hire consultants for the Commission).

*The Commission voted 4-0-0 to pay the invoice from MVPC for Agent mentoring technical services from the conservation revolving fund.*

**Discussion: Other business**

Letter to Developer Tom Neve, Sullivans Court, Lot 6 Ms. Mizner presented a draft letter to

developer Neve concerning his noncompliance regarding a deteriorating culvert that has presented a number of issues. The letter cites Meridian's critical report concerning failing systems at Lot 6, and steps that need to be done to rectify the situation. The Commission adopted several revisions, including a requirement that Mr. Neve obtain a further review by Meridian at Mr. Neve's expense.

*The Commission voted 4-0-0 approve the revised letter, which Mr. Comins will deliver to Mr. Neve at a meeting tomorrow.*

Brochure for new residents Ms. Fusco suggested that this should contain specific descriptions of proscribed activities near the river and streams. *The Commission generally agreed that this should be done in a way that avoids giving the appearance of allowing anything that is not specifically mentioned.*

**Discussion: Review of Minutes**

*Minutes were deferred to the next meeting*

**Adjournment**

The Commission adjourned 9:47 p.m.

**Meeting Documents**

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

Respectfully submitted