

## **West Newbury Conservation Commission Meeting Minutes**

**Meeting date & place: 7:30 pm, May 4, 2020 Remote Participation via GoToMeeting.**

**Members Present:** Via remote participation Dawne Fusco, Wendy Reed, Margaret Hawkins, Tom Atwood. Conservation Agent Bert Comins and Judy Mizner (acting as Chair) present in Town Offices and participating remotely.

At the outset, Ms. Mizner read the following statement: “Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor’s March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the West Newbury Conservation Commission will be conducted via remote participation to the greatest extent possible.”

### **Discussion: 465 Main Street Request for Certificates of Compliance DEP File #'s 78-108 and 78-162**

Mr. Comins stated that he has consulted with prior property owners about these two matters. The Commission orders in question date from the late 1980s, subsequent to which the property at 465 was subdivided. With the subdivision, the part of the property to which the two Commission orders applied no longer relates to the 465 lot. Ms. Mizner proposed that the Commission issue a partial Certificate of Compliance that 1) clarifies that no outstanding Order of Conditions applies to the 465 lot as now configured and 2) does not relieve the other pertinent subdivided properties of their need to meet Commission orders concerning a replication area and repair work on a pond.

*By unanimous roll call vote the Commission determined to issue a partial Certificate of Compliance stating that the work subject to the orders relating to DEP File #'s 78-108 and 78-162 does not apply to 465 Main Street.*

### **Discussion: Plan modification request 58 Ash Street DEP File # 76-663**

Consultant Greg Hochmuth explained that the plans relating to the Commission’s current Order of Conditions showed a generic house footprint. Now that construction is planned, the house plans have changed. Overall, the changes are beneficial in terms of wetlands impacts. The house will be about 10’ farther away from wetlands, and the garage will be under the first floor, so that less fill will be brought in.

*By unanimous roll call vote, the Commission determined to grant the plan modification given the project’s greater distance from, and diminished potential impact on, wetlands.*

### **Discussion: EPA proposed modifications to Municipal Stormwater General Permit for MA communities**

Mr. Comins noted that the Town Manager suggested that the Commission consider whether it has comments on EPA’s proposed modifications to the general stormwater permit for Massachusetts communities. Comments are due at the beginning of June. *The Commissioners will look at this. If anyone has comments, this will be addressed at the next meeting.*

### **Discussion: Sullivan’s Court Culvert**

Ms. Mizner said that as discussed at the previous meeting, she prepared another draft letter to developer Tom Neve. The new draft reminds Mr. Neve that in February, the Commission sent him a

letter stating that he needs to submit to the Commission a full professional and adequate engineering plan for his failing culvert that meets minimum standards. Planning Board consultant Meridian has identified inadequacies that need to be addressed in Mr. Neve's submission to the Commission of a new, fully adequate plan and application to take action to rectify the problems associated with Mr. Neve's culvert.

*By unanimous roll call vote, the Commission approved Ms. Mizner's letter, contingent on final wording modifications that may result from Mr. Comins' circulation of the draft to the other Commissioners.*

### **Discussion: Minutes compensation**

Ms. Reed raised the question of whether Commission minutes taker Elisa Grammer should be paid for her work. The Planning Board pays its minutes taker. Ms. Grammer indicated that she would prefer to remain a volunteer: any additional salary funds in the Commission budget should go to Mr. Comins.

### **Discussion: Future site walks**

The Commission discussed how to conduct site walks in this era of COVID 19 social distancing requirements. It was generally concluded Conservation Agent Comins can do site visits for reviewing requests for certificates of compliance and any other matters where the Commission feels such agent-only site visits are appropriate, and for providing advisory service to homeowners. For small projects which do not involve large or complicated delineations Commissioners can be present, with distancing. Projects with large or complicated delineations are not appropriate at this time. Ms. Mizner stressed that to make the site walk meaningful, the Commission should have plans and open a hearing before engaging in the site walk.

Ms. Hawkins noted that May is the window of opportunity to identify vernal pools. The problem is that the property owner must cooperate to get the certification of a vernal pool for its protection. Ms. Reed reported that the owner of Riverrun Farm is working now to obtain certification of a vernal pool on that property. *Ms. Reed will consult to determine if other vernal pools may be eligible for certification.*

Concerning the very large project proposed for Coffin Street, Ms. Mizner observed that the Governor's order has extended Commission deadlines to 45 days after the COVID 19 state of emergency is lifted.

### **Discussion: Hilltop Circle wildlife crossing signs**

A resident contacted Mr. Comins to ask if wildlife crossing signs could be erected on Hilltop Circle. Mr. Comins discussed this with the Department of Public works, which can acquire and erect such signs. *The Commission generally agreed that such signs should be acquired and installed, perhaps at Ash Swamp and other locations as well as Hilltop Circle and two types of signs are advisable—one for wildlife and one for amphibian crossings. Mr. Comins will work with DPW on this matter.*

### **Discussion: Other business**

Power Line Tree Cutting at River Road Ms. Reed reported that National Grid has cut large old pine trees on River Road very close to the Merrimack River. Mr. Comins contacted National Grid and was told that the Federal Energy Regulatory Commission (FERC) mandates the cutting as a safety

measure to prevent arcing of electricity from high voltage transmission lines. This tree cutting is not connected to the project National Grid recently submitted to the Commission concerning wetlands to be crossed to conduct testing. *The Commission generally agreed that Mr. Comins will contact National Grid to determine the citation to the FERC mandate for tree cutting.*

Tree Cutting and Platform Construction at the Commission-Owned Withers Property Adjoining the Artichoke Reservoir Ms. Reed said that on Sunday, May 3, 2020, someone cut about 6 trees and began construction of a platform on the Withers property (Town Conservation land) near the reservoir. This matter had been posted on Facebook. Mr. Comins had examined the site and noted that tools including bow saws had been left behind. *The Commission determined that Mr. Comins will contact the nearby Meditation Center to see if anyone there had observed unusual activity, and Mr. Comins will collect the tools, leaving a note explaining the situation and proposing that the tools' owner can pick them up at Town Offices. Mr. Comins will see if DPW can help take down the structure, with Mr. Comins' supervision.*

Commission Budget for Town Meeting Ms. Reed stated that the Selectmen changed their minds and now support only two additional hours for Mr. Comins and just a cost of living increase in pay. The Finance Committee, however, had voted for two additional hours for trail work and a 6% increase. *The Commission generally agreed to put a hold on the budget item to allow discussion at Town Meeting.*

Pentucket High/Middle School Order of Conditions Ms. Mizner said that the Order of Conditions had been drafted and discussed various proposed clarifications. *It was agreed that Mr. Comins circulate a revised draft, and Commission members will provide him any additional comments.*

### **Discussion: Review of Minutes**

*By unanimous roll call vote, the Commission voted to accept the draft minutes of February 3, 2020, as amended. Remaining pending minutes were deferred to a future meeting.*

### **Adjournment**

The Commission adjourned 8:45 p.m.

### **Meeting Documents**

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

Respectfully submitted