

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, July 6, 2020, Remote Participation via GoToMeeting.

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

At the outset, the Chair 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."

Continued Public Hearing --- Request for Determination of Applicability --- Kerry Laguex -- 45 Moulton St -- For construction of a retaining wall and repaving of existing driveway.

After the Chair reread the statement set forth above, the Commission reviewed the plan and photo for the proposed work. A site walk occurred on June 26th. Ms. Mizner noted that the proposed retaining wall (which is about 65' from the wetland) will consist of boulders dropped in at the top of a slope, with minimal earth movement. The retaining wall is intended to address erosion. Ms. Hawkins inquired what had killed vegetation around the wellhead. The applicants explained that they had used a hedge trimmer around the wellhead in connection with water testing. No application of chemicals took place.

By unanimous roll call vote the Commission approved a Negative Determination, conditioned on 1) the applicants' installation of haybales and siltfencing at least 60' from the wetlands in connection with the retaining wall work, 2) applicants' installation of the same erosion control system along side of the driveway, between the driveway and the wetland 3) Conservation Agent inspection and approval of erosion controls prior to commencement of work, 4) applicants' 72 hours' prior notice to the Agent before commencement of work.

Public Hearing --- Request for Determination of Applicability --- James M. Ryan --- 98 Bachelor Street --- For tree removal

Homeowners David Houlden and James Ryan provided a plan showing seven large pine trees they propose to remove. The tree closest to the stream at their property is about 36' from the stream, which applicants describe as intermittent. The applicants stated that these pine trees (which are damaged with split leaders) are around 100' tall and are twenty to forty feet from the house. Mr. Ryan stated that he had consulted with an arborist, Bill Verrier and son, and was told that the trees could pose a threat to the house. The plan would be to leave the stumps and plant red maples somewhat farther from the house.

It was generally decided that 1) the applicants will mark the trees proposed for cutting, 2) the Commission members will individually go to the property to view the site and trees proposed for removal, and 3) the matter will be continued until the next Commission meeting on July 20.

Public Hearing --- Request for Determination of Applicability (RDA)--- Dr. David Mignault

--- 119 River Road ---For construction of 27'x13' deck

Dan Reitano of Reitano Home Improvement and Tammy Leocata explained that the applicant seeks to build a new deck using helical piles as foundation supports. They said that helical piles are more environmentally friendly and are preapproved by the building inspector. The applicant submitted an RDA to the Commission with a plan based on the plan used for septic work several years ago. A description of the proposed deck work was submitted to the Town Inspector but not the Commission, and applicants consulted with the Health Department about wetlands issues associated with the deck. Ms. Mizner noted that it appears that the wetlands delineation used for septic work occurred in 2013, which is beyond the three-year period of validity.

Ms. Leocata will email to the Commission information submitted to the Building Inspector, Mr. Comins will obtain the Commission's prior records on this property's septic system, and the Commission will hold a site walk on Friday, July 10, at 8 am and continue this matter until the upcoming meeting on July 20.

Public Hearing --- Request to Amend Order of Conditions DEP File # 78-555 --- Essex County Trail Association (ECTA) --- Amendments to town wide trail management plan

Carol Lloyd of ECTA noted that a proposed amendment had been submitted and this was shared on the computer screen. The amendment would make the Town a co-applicant. Ms. Reed noted that Mr. Comins would serve as the contact person for the Town. Ms. Reed suggested sharing this proposal with the Selectmen, the Open Space Committee, and the Mill Pond Committee to see if they have any comments. Ms. Mizner asked that the amendment be revised to 1) remove the section on culverts (noting that culverts can be addressed under the heading "other,") and 2) clarify that in the case of each individual project, the applicant(s) will come before the Commission so that it has the opportunity to review the proposal.

It was agreed that 1) Ms. Lloyd will make and submit the recommended revisions, 2) Ms. Reed will circulate the revised amendments to the Town groups she identified, 3) Ms. Lloyd will inform Deb Hamilton, who is active in both ECTA and the Riding & Driving Club of this matter so that the latter group is made aware of it, 4) the matter will be continued until the July 20 meeting, and 5) based on comments received from other Town boards, Ms. Reed will inform Ms. Lloyd whether Ms. Lloyd needs to attend the July 20 meeting

Discussion: Request to extend Order of Conditions DEP File #'s 78-672, 78-671 & 78-670. For work proposed at 151, 153 & 155 Middle Street.

Mr. Comins shared on the computer screen the applicant's letter requesting a three-year extension for Orders of Conditions concerning subdivision and septic development for lots on which no work or disturbance has occurred. Applicant Tom Cook explained that the intent is to leave the land undisturbed as long as Mary Cook, a healthy octogenarian, stays in her home at 157 Middle Street. The land engineering for this subdivision was completed and approved by the Planning Board and the Commission so the parcels could be sold in the event that funds are needed to support Ms. Cook should she need to move away.

Ms. Reed and Ms. Fusco raised the concern that the 2015 wetlands delineation, which underlies the Orders of Conditions for which an extension is sought, is now out of date. Ms. Mizner suggested that

the extension could be granted conditionally, subject to a new wetlands report before any construction could occur.

By unanimous roll call vote the Commission approved a three-year extension of the Orders of Conditions, with the proviso that no work on the house lots may begin until the Commission has reviewed and acted upon a report of a wetlands scientist either confirming that the 2015 delineation remains unchanged or, if a change occurs, an amendment is submitted to and approved by the Commission.

Discussion: Other business

6 Waterside Lane DEP Appeal Mr. Comins reported that he received a notice that the Department of Environmental Protection (DEP) is appealing the Commission's Orders of Conditions for a dock at 6 Waterside Lane. DEP asserts that the Orders do not meet performance standards for land subject to flooding.

Commission Consultant for Coffin St Development Ms. Mizner said that she spoke with Matt Schweisberg, who is willing to serve as the Commission's consultant advising on the proposed large development on Coffin and Main Streets. Mr. Schweisberg worked for many years at EPA in wetlands programs, served on West Newbury's Conservation Commission, and is on the MACC Board of Directors.

Contract for MVPC Review of Conservation Restrictions Ms. Reed said that she learned from the Town Manager that a new contract will be needed for the Merrimack Valley Planning Council's work reviewing conservation restrictions. Because of the COVID 19 emergency, planned work did not occur. *Ms. Reed will develop a new contract that will run from July 1 to the end of this fiscal year.*

Use of Dropbox as a Repository for Shared Files Ms. Reed suggested using Dropbox to store and to give Commission members ready access to Commission files. *The Commission generally agreed to do this and Ms. Grammer agreed to resend the invitation to Commission members to view and edit Dropbox files in the ConCom folder.*

Discussion: Review of Minutes

By unanimous roll call vote, the Commission approved the minutes of May 4 and 18, and June 3 and 15, as amended.

Next Scheduled Meeting

July 20, 2020

Adjournment

The Commission adjourned at 8:49 pm.

Meeting Documents

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

Respectfully submitted

