

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, January 25, 2021, Remote Participation via Zoom.

Members Present: Via remote participation Chair Dawne Fusco, Wendy Reed, Margaret Hawkins, Tom Atwood. Conservation Agent Bert Comins and Ms. Mizner 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."

Executive Session

By unanimous roll call vote the Commission determined to go into Executive Session to discuss the purchase, exchange, lease or value of real property if the chair decides that an open meeting may have a detrimental effect on the negotiating position of the public body.

At 7:46 pm the Commission determined, by unanimous roll call vote, to exit Executive Session and proceed with the public meeting.

Continued Public Hearing --- Notice of Intent DEP File# 078-0712 --- City of Newburyport Department of Public Services --- Lower Artichoke Spillway --- Construction of stone foundation at lower artichoke spillway

The matter was continued at the applicant's request.

Public Hearing --- Notice of Intent (NOI) DEP File # 078-0724 --- Town of West Newbury - -- Middle Street Artichoke River Bridge --- Reconstruction of bridge

The matter was continued at the applicant's request.

Continued Public Hearing --- Notice of Intent DEP File# 078-0717 --- West Newbury DPW - -- Town Wide --- Management of hazard trees

The matter was continued at the applicant's request.

Continued Public Hearing --- Request for Determination of Applicability --- Pentucket Regional School District --- 22 Farm Lane Parcel A --- Construction of maintenance garage and parking area

The matter was continued at the applicant's request.

Continued Public Hearing --- Notice of Intent --- Deer Run Land Development LLC --- 519 Main Street --- Construction of roadway and stormwater management areas, wetland fill and replication

The matter was continued at the applicant's request.

Discussion: Request for Certificate of Compliance 117 Indian Hill Street DEP File #78-658

Mr. Comins explained that the project with respect to which the applicant had submitted a Notice of Intent had never been commenced. The property remains undisturbed.

Ms. Mizner noted that because no work was done, the Commission has no compliance matters to review.

By unanimous roll call vote, the Commission issued a Certificate of Compliance to close out the docket.

Discussion: Request for Certificate of Compliance 25 Coffin Street DEP File #78-660

Mr. Comins said that he has visited the property and the posts marking the no disturb area have just been installed. The Order of Conditions required that the applicant remove invasive plants and revegetate with 20 bushes and 4 saplings in the buffer area. Mr. Comins said that he was not able to find the vegetation.

The homeowner, Cassandra Tomaz, said that they did purchase and plant the shrubs and trees in 2016, but the trees would not grow in the wet clay soil. She said that they are selling the property and plan to sign a purchase and sale agreement on March 2. She added that they cannot put in replacement plantings during the winter.

Ms. Mizner noted that no as-built plan showing compliance with the Order of Conditions has been submitted to the Commission. This plan would include the grading, the wetlands locations, the posts that have been installed, and the successful plantings. The applicant provided the Commission a plan relating to the septic system submitted to the Board of Health and another relating to garage construction submitted to the Building Inspector. Ms. Mizner observed that the Commission imposed conditions, which have not been shown to have been complied with, and now is being asked to issue a Certificate of Compliance. She suggested a partial Certificate of Compliance for the garage construction and septic system work may be appropriate with a new as-built.

Ms. Reed expressed concern that the buyer should be notified of any outstanding compliance issues that the buyer will be taking on. The Commission has no clear mechanism to address this problem, and new owners being surprised at continuing obligations is a repeat issue. It was noted that the seller has an obligation to disclose. Mr. Atwood stated that a buyer's real estate attorney should (but may not) highlight this and frequently the buyer will require that the seller post an escrow to cover costs of an unresolved compliance issue.

It was generally agreed that Mr. Comins will, as soon as possible, email Ms. Tomaz with an explanation of what remains to be done.

By unanimous roll call vote the Commission determined to issue a Partial Certificate of Compliance certifying compliance with respect to the garage construction and relocation of the septic system, but not including special condition

#4 requiring revegetation and invasives control. The Commission also requires submission of an as-built plan showing the 6 permanent no disturb markers required by special condition #5.

Discussion: Wetlands protection bylaw

Ms. Mizner reported that she had received an email from the Town Manager saying that the Selectmen would like to invite the Commission to their meeting on March 15 to discuss the proposed wetlands bylaw. They would like this discussed at a televised meeting so that the townspeople could be informed.

The Commissioners discussed the fact that they have already scheduled a public hearing on the proposed bylaw for the same date. *The Commission agreed that it would be preferable to have a combined public hearing and meeting with the Selectmen, and Mr. Comins should discuss this with Town Manager Jennings. It was further agreed that if the combined meeting will not work, as many Commissioners as can do so will try to meet with the Selectmen before the scheduled Commission public hearing.*

Ms. Grammer asked if the Commission wanted to put the bylaw and any pertinent announcements on the Commission website, perhaps with an email blast to the Town. She offered to help do that, provided that the Commission give specific directions about what it would like. *Ms. Mizner will get Ms. Grammer a final copy of the proposed bylaw to put on the website and Ms. Grammer will also post the summary of the bylaw, with information about the public hearing. She will then ask the Commission for review and comment before asking the Town to publicize this.*

Discussion: Other business

None

Discussion: Review of minutes

By unanimous roll call vote the Commission approved the minutes of January 25, February 8, and February 22, 2021, as revised.

Next meeting

The next Commission meeting will take place on March 15, 2021.

Adjournment

The Commission adjourned at 8:27 pm.

Meeting Documents

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

Respectfully submitted