

West Newbury Conservation Commission Meeting Minutes

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

Members Present: Via remote participation Chair Dawne Fusco, Margaret Hawkins, Tom Atwood. Conservation Agent Jay Smith and Ms. Mizner present in Town Offices and participating remotely. Members of the public were also present.

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."

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 --- CONTINUED

Continued Public Hearing --- Notice of Intent DEP File# 078-0717 --- West Newbury DPW - -- Town Wide --- Hazard tree management --- CONTINUED

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

Project representative Sara Kreisel, with Micah Morrison, went over the addendum the applicant submitted in response to the Commission's request with regard to the proposed storm water management systems at each side of the bridge, as described in a prior meeting.

Ms. Kreisel also noted that the Massachusetts Department of Environmental Protection (DEP) has corresponded with respect to the possible need for a MEPA filing. Ms. Kreisel explained that the project was below the applicable thresholds that would trigger such a filing. Mr. Morrison said that DEP is awaiting Orders of Conditions from both Newburyport and West Newbury so that it can issue a water quality certification.

In response to Ms. Mizner's inquiry about the lack of the mention of the small berm intended to direct flows to the two storm water management systems, Mr. Morrison agreed that this is not in the plans before the Commission but will be in construction plans. He said that construction was being deferred while funding determinations are made.

It was agreed that Ms. Mizner will prepare a draft Order of Conditions and circulate it for comments next week. The matter was deferred to the next Commission meeting.

Continued Public Hearing --- Notice of Intent DEP File#078-0728 --- Kenneth Cutcliffe --- 64 Bridge Street --- Construction of single family house and associated grading and utilities

Consultant Mike Seekamp said that after the last meeting with the Commission, questions regarding the safety of PVC piping under wetlands and the possibility of a restrictive layer under the brook and wetland proposed to be crossed were outstanding issues.

The Commission consulted with wetlands scientist Matt Schweisberg, who reported no safety issue with PVC. Mr. Seekamp used a 4' long hand augur and discovered 6-8" of muck atop a white fine sand—with no obstruction to the passage of water.

Ms. Mizner said that she did find plans for 70 Bridge Street, noting that their crossing did not trench but rather went underneath the wetland, with jacking pits to each side. Mr. Seekamp said that the applicant is not proposing directional drilling because with two pipes, that technique would be more costly. Commission members noted that now that they have obtained information about directional drilling being less disruptive, they prefer that method. Representatives of the applicant noted that the Town's Boynton Court housing project used trenching (albeit 35 years ago) and a recent authorization was granted on River Road for trenching to cross wetlands.

After discussion, Mr. Seekamp agreed that

- *The trench crossing the wetlands can be limited to 24" wide*
- *The two septic system pipes to the leachfield can be sleeved to protect against leakage in the wetlands*

By unanimous roll call vote the Commission determined to issue an Order of Conditions for construction of a septic system including installation of pipes to the leachfield through the brook at 64 Bridge Street, subject to conditions to be approved at the next meeting, including requirements for use of a 24" bucket for digging the trench and other conditions concerning treatment of spoils and the dewatering basin.

Continued Public Hearing --- Notice of Intent DEP File# 078-0725 --- Gorman Homes LLC --- Middle Street Assessors Map 22 Lot 2 Builders Lot A --- Construction of driveway, wetland fill and replication ---

The applicant's consultant Matthew Steinel discussed, with a shared screen, updated plans (submitted in hard copy format to the Commission on May 12) for directional drilling for a subsurface wetlands crossing to connect a septic system. He referenced the report from the Commission's consultant Matt Schweisberg, which concluded that directional drilling minimizes impacts and that PVC piping does not create risks to the wetlands.

Abutter Richard Baker expressed concern that the proposed design requires 3 wetlands crossings on a lot that does not exist because it has not been approved by the Planning Board. He said that preferable alternatives in siting the home (with access via Archelaus Road) are available with fewer adverse impacts and simpler utility connections. Mr. Steinel replied that while the applicant might

prefer using Archelaus for access, zoning requirements do not allow this because the frontage is only 153'—below the minimum frontage size. It was also clarified that with the current plan (which does not show utility placement), the electric and communication lines would come in from Middle Street with utility poles going up the driveway and then undergrounded adjacent to the driveway up to the house. Mr. Baker also requested that if the Commission issues an Order of Conditions, it include a provision rescinding the order if the Planning Board revises the plan. Mr. Steinell noted that if the Planning Board makes changes that impact wetlands, the applicant would need to return to the Commission.

By 3-1-0 roll call vote (Mr. Atwood dissenting), the Commission voted to issue an Order of Conditions for the wetlands crossings shown on the plan for this project, and for directional drilling under wetlands to connect the septic system, subject to conditions to be approved at the next meeting.

Public Hearing... Request for Determination of Applicability, Angela Palmer... 45 Church St. ... Applicant would like to do minor work on a deck.

Pat Dahn, the applicant's builder, explained that the proposed project is essentially a resurfacing of an existing deck, with the addition of a couple of diamond piers to support a small increase in deck size to square off a currently cut corner. There would be no digging or ground disturbance except for inserting the diamond piers.

Ms. Mizner noted that the plan is hand drawn without a scale shown. Mr. Dahn said that a better plan had been submitted but seemed to have been lost or misplaced, so this is a substitute.

Mr. Smith said that he looked at the site. The plan calls for largely the same deck configuration, plus a couple diamond piers to square off the deck. The project's closest point to the wetlands is 25' and a fence along the stream serves to protect the wetland and stream area in back.

By unanimous roll call vote the Commission issued a negative determination for installation of 2 diamond piers to square off the existing deck configuration.

Discussion: West Newbury Board of Health—Middle St Landfill—COC Request

Health Agent Paul Sevigny was present to discuss the Board of Health's request for a Certificate of Compliance regarding a trenching project to contain methane at the former landfill. Mr. Sevigny noted that the budget for this project has a sunset date of June 30, 2021. Mr. Smith said he examined the site and found it fully vegetated and stable.

By unanimous roll call vote, the Commission determined to issue a Certificate of Compliance for this project.

Discussion: Other business

Sign off sheets Mr. Smith reported that now that Town Offices have reopened, Commission

members will find sign off sheets on the door to the Conservation office.

Commission-Planning Board approvals With respect to the Middle Street/ Archelaus project, Ms. Fusco observed that it would have been highly preferable for this matter to go through the Planning Board first. Ms. Mizner said that it is her understanding that a Land Court decision required a determination from the Commission before the Planning Board could establish the lot.

Ms. Mizner noted that the applicant has appealed to DEP the Commission's denial for Lot B of this project. *The Commission agreed that it will contact DEP to see if that agency wants additional information from the Commission regarding the applicant's request for a superseding DEP order.*

Enforcement Mr. Attwood said that new owners of 192 Main Street have removed wetlands planting and converted the area to grass. *Mr. Smith will look at this.*

Ms. Fusco said that another tree on the riverbank has been cut at 89 River Road. *Mr. Smith will also take a look at this.*

Commission webpage Ms. Grammer noted that the Commission may want to take a look at and revise the webpage announcement about a wetlands bylaw that was to have been (but was not) an item for 2021 Spring Town Meeting.

Discussion: Review of minutes

By unanimous roll call vote, the Commission approved the April 26, 2021 minutes, as amended.

Next meeting

The next Commission meeting will take place on June 21, 2021.

Adjournment

The Commission adjourned at 8:56 pm.

Meeting Documents

Presentations and records associated with each matter identified, as included in the Conservation Agent's files.

Respectfully submitted