

## West Newbury Conservation Commission Meeting Minutes

**Meeting date & place:** 7:30 pm, August 2, 2021, Town Office Building 2d Floor.

**Members Present:** Judy Mizner, Chair, Tom Atwood, Kathy Feehery, and Margaret Hawkins.

The meeting began in the Conservation office then moved to the meeting room

**Discussion: 117 Indian Hill Conservation Restriction review.**

Vanessa Johnson of Essex County Greenbelt (Greenbelt) discussed a conservation restriction proposed by Newburyport near the drinking water reservoir in West Newbury.

In response to Ms. Mizner, Ms. Hall acknowledged that the reservoir located in West Newbury provides drinking water to West Newbury indirectly to the extent that Newburyport sells it to West Newbury. Ms. Hall also said that the baseline documentation report is still in progress, and that Newburyport is reserving the right to permit hunting—an unlikely prospect on the 6 acres involved. Ms. Hall affirmed that if any trail is built that would be under Commission jurisdiction, Wetlands Protection Act requirements would be followed, and an application would be filed with the Commission.

*The Commission voted 3-0-1 (Mr. Atwood, having arrived after the discussion, abstaining) to recommend that the Select Board sign the proposed conservation restriction.*

**Cont. 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 ---Applicant requests a continuance.**

**Cont. Public Hearing --- Notice of Intent DEP File# 078-0717 --- West Newbury DPW --- Town Wide ---Hazard tree management --- Applicant requests a continuance.**

**Cont. Public Hearing --- Notice of Intent DEP File# --- Essex County Greenbelt --- River Road Reservation Conservation Area --- For 2-3 space gravel parking area.**

Mary and David Rimmer appeared on behalf of Greenbelt. They and the Commission discussed wording of a variety of provisions in a draft Order of Conditions that had been circulated. Among the points discussed were:

- Redistribution of sediment at the site at least 15' from the resource area
- Site stabilization after completion of work
- Applicant's provision of construction sequence information to the Commission
- Stockpiling of spoils in a truck or other Commission-approved location, to be reused on site
- Reporting by applicant at the end of the growing season and annually for the following 2 years

*The Commission unanimously voted to issue an Order of Conditions with the standard conditions and the special*

*conditions discussed and agreed upon at this meeting.*

**Cont. Public Hearing --- Notice of Intent DEP # --- Kevin and Joanne Perry, 5 Sullivan's Ct. for an addition**

Engineering consultant Jon Tilton of Williams & Sparages said that as discussed at the prior Commission meeting, the plans have been revised to identify a 10' no-disturb buffer zone, add conservation posts and placards along the no-disturb zone 25' apart, add the placement of riprap to mitigate runoff, and remove the old siltation fence and well line.

*The Commission voted unanimously to issue an Order of Conditions allowing work to be done in accordance with the plans and documents, with standard conditions and special conditions including 1) preservation of natural vegetation 10' from the wetlands; 2) prohibitions on use of chemicals in the wetlands; 3) permanent wetlands markers as shown on the plans; 4) no changes without prior Commission approval; 5) restrictions on use of chemicals in the buffer zone; 6) installation of erosion controls comprising a 12" mulch sock backed with a trenched silt fence; 7) applicant's notice to the Conservation Agent 72 hours before commencement of work; 8) maintenance of erosion controls; 9) use of clean fill only; 10) stockpiling of spoils outside the buffer zone.*

**Cont. Public Hearing --- Request for Determination of Applicability --- James and Brenda Bradley, 53 Ash St. --- For a pool and patio.**

Mr. Tilton said that the applicant submitted revised plans as requested, reflecting relocation of a wetlands flag. He noted that all work is in an existing lawn over 50' from the wetlands.

*Given nature of work and the distance from wetlands, the Commission voted unanimously to issue a negative determination of applicability, conditioned on installation erosion controls comprising a 12" mulch sock backed with a trenched silt fence.*

*The Commission then voted unanimously to 1) reopen the matter and 2) issue a negative determination of applicability, conditioned on installation of erosion controls comprising a 12" mulch sock backed with a trenched silt fence, with an added requirement that the applicant provide 72 hours prior notice to the Conservation Agent before commencement of work to permit inspection of the erosion controls.*

**Public Hearing --- Request for Determination of Applicability --- William Spalding, 96 Crane Neck Street --- For construction of a replacement septic system.**

Mr. Tilton said that as the Commission asked, the applicant will remove pre-existing landscape materials from the wetlands and add conservation markers, spaced 25' apart, along the no-disturb zone.

*The Commission voted unanimously to issue a negative determination of applicability for this project, on the conditions that the applicant 1) remove the landscaping materials from the wetlands, disposing of them outside of the buffer zone; 2) install no-disturb posts and placards as shown on the plan; 3) install erosion controls comprising a 12" mulch sock backed with a trenched silt fence; and 4) provide 72 hours prior notice with a construction schedule to the Conservation Agent before commencement of work to permit inspection of the erosion controls.*

**Public Hearing --- Notice of Intent DEP # --- Parker River Realty Co, 326 Main St. --- For construction of a replacement septic system.**

Consultant engineer Robert Grasso said that this septic replacement project for Pearson Auto has received DEP number 078-0706 and has received a letter from the Board of Health approving the septic project. The plan is to put in a new tank and install a Presby system, 50' from the wetlands. Because the site had once been used by an oil company, a Licensed Site Professional has been consulted: applicant James Pearson said that he was told verbally that the site is clean of oil contaminants. He will be receiving a written report shortly. Work will include removal of a concrete pad and some grading. A 12" silt sock is proposed for erosion control.

*The Commission scheduled a site walk for 6:30 pm on August 13, 2021, and continued this matter to August 16.*

**Public Hearing --- Notice of Intent DEP # --- Lucy Adolphson, 196 Main St. --- For construction of a replacement septic system.**

Consultant engineer Jim Scanlon described the project as involving a small, challenging lot whose existing cesspool is in failure. The entire lot is within the 100' buffer zone. The Board of Health has approved the septic proposal and its DEP number is 078-0735. DEP provided no comments.

Initial test pits for the site revealed old foundations and various kinds of buried trash. A feasible site was identified at the end of the slope, which was closer to the wetlands. The new system will include a tank, biofilter, and pressurized leach field located 21' from the wetlands at its nearest point. A berm and wall will be installed and excavated soil will be reused for that.

*The Commission scheduled a site walk for 7:00 pm on August 13, 2021, and continued this matter to August 16.*

**Public Hearing --- Request for Determination of Applicability --- Victor Gangi, 51 Prospect St. --- For the installation of a gazebo.**

Mr. Smith described this project as a simple gazebo adjacent to wetlands, with the closest point 70' away. The gazebo will involve 4 sonotubes to support a 12' x 14' platform in an existing lawn.

*Based on the Conservation Agent's inspection and report, the Commission voted unanimously to issue a negative determination of applicability, conditioned on stockpiling any spoils more than 50' from the wetlands.*

**Cont. Discussion: Grant Stoffel, 14 Dole Place --- COC Request.**

Mr. Smith reported that he spoke with the applicant and informed him of this meeting—but the homeowner has not come to the meeting. *Mr. Smith will follow up to see if the no-disturb area posts and markers have been relocated as required and will report back to the Commission.*

**Cont. Discussion: Elisha Camp, 83 River Rd. --- COC Request.**

Mr. Smith shared that the DEP said it would largely defer to the Commission concerning this installation of a dock that did not comply with approved plans, which showed a midway flexible rode mooring system (which was not installed) and a terminal flexible rode mooring system (which was replaced with chains). Mr. Smith said that he spoke with Tom Goodwin and was told that the flexible

rodes at the end of the dock broke because the dock extended so far into the river.

*It was agreed that Mr. Smith will ask the applicant to provide the Commission with a written explanation as to why no mooring systems were installed in the middle section of the dock and why chains were used at the end.*

**Discussion: Arthur and Susan Demattia, 192 Main St. --- violation.**

New homeowner Susan Demattia expressed surprise and dismay that the prior owner had, in violation of Commission Orders of Conditions and without disclosing this to her, filled in wetlands, removed wetlands plantings, and installed a lawn in a resource area in her backyard.

Ms. Mizner explained that the homeowners will need to remove the fill and scrape off sod and replace it with approved wetland plants. Mr. Smith said that he has a list of native wetlands plants, which includes blueberries and other plantings. He also said that he can auger down to determine the extent of fill that needs to be removed.

*It was agreed that Ms. Demattia will contact Mr. Smith to determine the amount of fill removal required, will review appropriate plants for the 5 plantings required, and will replace the wetland marker posts and placards.*

**Discussion: Sullivan's Ct. --- Trail Easement**

Town Planner Leah Zambernardi and Planning Board members Tim Cronin and Ray Cook discussed the proposed Sullivan's Court trail easement, which will allow a trail (Trail A) on some private development land and a larger amount of Town land. The easement also references Trail B, which is proposed as an easement for the Town but for which no trail is currently planned.

The Commission and Planning Board representatives engaged in a detailed discussion of the language of the proposed easement, agreeing to various changes that largely removed the developer's proposed imposition of obligations on the Commission and/or the Town. *It was agreed that the Town Planner would make the revisions in the MS Word document and circulate it to the developer, the Commission and the Select Board.*

Mr. Cook said that Trail A will be built by the Town and will be very costly because it will meet ADA standards. Community Preservation Act funds are proposed for use to help with these costs. The Commission suggested that in the future, the Planning Board stipulate more than \$10,000 in developer contributions to fund such trails.

The Commission will await the Town's application concerning construction of the trail.

**Discussion: MS4 Stormwater Bylaw Review**

The Commission, led by Ms. Mizner, reviewed the draft stormwater bylaw to be proposed at Fall Town Meeting.

*It was agreed, after discussion, that Ms. Mizner will draft a memo to the Town Manager with the following recommendations:*

- *Define what “PGA” stands for*
- *Revise the exemption in the definition of regulated stockpiled materials from 10 cubic yards to 3 cubic yards*
- *Make it clear that the bylaw’s requirements cannot be less stringent than those of the Wetlands Protection Act*
- *Define the stormwater authority as comprising representatives of the Department of Public Works, Board of Health, Planning Board, Conservation Commission*

**Discussion: Dogs on municipal property under the control of the Conservation Commission.**

Ms. Feehery reported that this issue was discussed at Open Space Committee (OSC), where she is a member. The question has arisen because of a dog bite incident at Mill Pond that required a student cross-country runner to get rabies shots. Ms. Feehery said that the OSC could not identify a ready solution.

Ms. Mizner said that a consistent Town-wide leash policy should apply to Town lands, with an ability to designate specific areas as allowing off-leash dogs. Ms. Hawkins and Ms. Feehery noted that this is a complicated issue, perhaps made worse at Mill Pond by professional dog walkers and by the intensity of use at Mill Pond.

*The Commission voted 2-0-2 (Ms. Feehery and Ms. Hawkins abstaining) to request that the Select Board consider expanding a leash law requirement to all public properties.*

**Discussion: Conservation Bylaw review**

*Ms. Mizner said that she will work on revisions to the Wetlands Protection Bylaw with the intent of presenting it for discussion at the next meeting.*

**Discussion: Trail issue concerning pallets**

Ms. Feehery described the OSC discussion of the situation at the Dunn property portion of the Mill Pond complex, where painted bridges in wetland areas were installed without Commission review and approval. Park & Recreation Commission member Brad Buschur had previously approached the Commission about installing compliant crossings in essentially the same place. Ms. Feehery indicated that the OSC wondered if a solution could be to use unpainted stringers to raise the newly installed bog crossings.

Ms. Mizner said that the current bridges were never reviewed or approved by the Commission: someone needs to come to the Commission with a proposal for Commission review. Ms. Hawkins added that it appears that the ad hoc crossings may be too short and thus inadequate for the intended purpose of protecting the wetland resource areas.

*It was noted that the ad hoc bridges are not impeding the flow of water, even in recent wet periods, and the Commission generally agreed to ask the OSC for a proposal about this.*

**Discussion: Election of Clerk**

*By unanimous vote, Ms. Hawkins was elected clerk of the Commission.*

**Discussion: Review of minutes**

*By 3-0-1 vote, Ms. Freebery, not present, abstaining, the Commission approved the draft minutes of May 17, June 2, and June 7, 2021, as revised.*

**Next Scheduled Conservation Commission Meeting is Monday, August 16, 2021****Discussion: Other business**

Removing invasive plants in resource areas Ms. Hawkins noted that the West Newbury Wild & Native (WN2) group is seeking an efficient means of obtaining Commission review and approval of removal of invasive plants, such as Japanese knotweed, in resource areas. One idea was to have WN2 draft a Request for Determination of Applicability and send it to the state's Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program (Natural Heritage) for their guidance, which in turn could inform the Commission.

Ms. Mizner noted that the Commission needs to develop procedures to be applied to all applicants. She said that it would be good to hear from Natural Heritage, but the Commission is responsible for the decisionmaking.

*The Commission generally agreed that the Conservation Agent will raise this question with the Department of Environmental Protection (DEP) circuit rider.*

93 Main Street silt flowing into Main Street Mr. Smith reported that he looked at this a while ago. Erosion controls and vegetation were adequately in place and wetlands were being protected as development construction is ongoing. Silt does get into Main Street but has been cleaned up.

15 Norino Drive houseboat parking at riverbank Mr. Smith reported that he sent a notice of violation but the owner, Colin Hodgson, is still in South Africa. He needs a permit if he stores the houseboat beyond one season. This has been an [ongoing issue](#).

**Adjournment**

The Commission adjourned at 10:01pm.

**Meeting Documents**

*Materials pertaining to each item, as maintained in Conservation Agent files.*

Respectfully submitted