

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, December 6, 2021, Town Office Building 2d Floor.

Members Present: Judy Mizner, Chair, Kathy Feehery, and Margaret Hawkins. Also present, Michelle Greene, Conservation Agent.

1. **New Business: Coffin Street Conservation Project, Map 230 Lot 40, Review Conservation Restriction with Essex County Greenbelt Association, Re: CR for permitting public access and Greenbelt to create and maintain trails and manage the land for wildlife habitat conservation.**
2. **New Business: Coffin Street Conservation Project, Map 230, Parcels 110 and 120, Review Conservation Restriction with Essex County Greenbelt Association, Re: CR for - for the two parcels to be sold to different entities, for public access on existing and future trails, an access easement provision on an adjacent parcel owned by SOW LLC which is not subject to the CR; this access provision allows Greenbelt to create a trail connecting to Coffin Street, and for limited grazing and associated temporary structures on Parcel 110.**

Vanessa Johnson Hall of Essex County Greenbelt described two proposed conservation restrictions associated with land and easements acquired on Coffin Street, which was acquired with a contribution from Town CPA Open Space funds. With respect to some of the property, Greenbelt is buying the land in fee and providing a Conservation Restriction (CR) to the Town. With respect to the other, northernmost parts of the property, the land will remain in private hands but subject to a CR granted to both Greenbelt and the Town. The Commission is the first Town body to review the draft CRs. Select Board review will follow.

CR for Greenbelt-owned property

Ms. Johnson Hall said that the first CR is fairly straightforward, providing for management of habitat and passive recreation on public trails. New provisions, driven largely by state pro forma terms, address such matters as use of the land for cultural practices of indigenous people, adding climate change resiliency as a new conservation value, and management of non-native or invasive species. Ms. Johnson Hall agreed to Ms. Mizner's requests for prior notice to the Commission before certain activities are undertaken and to clarify that the baseline report will be done by Greenbelt as grantor—not the Town.

CR for privately-owned property

The second CR is more complicated, involving lands that are privately held by the Save Our Wetlands LLC consortium of Coffin Street abutters but that will become the private property of certain of the LLC members once the LLC dissolves. These lands will be subject to restrictions that prevent development. Ms. Feehery clarified that other adjacent lands now owned by the LLC will be privately held and will be developed with two houses. The privately held land subject to the CR may be used for grazing and may have certain structures to shelter animals. In response to Ms. Mizner, Ms. Johnson Hall said that if grazing were restricted to 50' from the wetlands, the amount of land available for grazing would be significantly reduced. Additionally, some field expansion would be permitted.

Ms. Johnson Hall discussed a proposed trail to be located across from the existing Coffin Street trail accessing the Riverbend area. A temporary easement would be in place to facilitate locating the new trail. This new trail

is proposed to be located on a narrow tractor lane that features an intermittent stream. Ms. Johnson Hall said that the adjacent property owner (who is still a member of the Save Our Wetlands LLC with ownership interests but has now moved and sold his house) wanted to preserve his privacy and did not want the public to use the trails that he used for his horses, preferring the public trail to be located at the tractor lane with the intermittent stream. Greenbelt is trying to accommodate these concerns.

Ms. Hawkins observed that there appears to be some tension between saving our wetlands and saving their privacy. Commission members noted that this trail siting will have to come before it and the Commission's mission is wetlands protection. Ms. Johnson Hall said that the Save Our Wetlands landowners do not have a veto, but they might appeal the location—though on what grounds is not clear.

As the primary grantee, Ms. Johnson Hall said, Greenbelt (as opposed to the Town) will be responsible for monitoring and enforcing the CR. She said that in the case of Brown Spring Farm, a co-holder agreement was developed, and that this should be done here as well. Ms. Mizner said that she would like to see greater coordination in dealing with permitted uses under the CR and would like to see a drafted co-holder agreement based on the Brown Spring Farm model.

It was agreed that Ms. Johnson Hall will redraft the CRs as discussed and will draft a co-holder agreement. The matter was continued until the Commission receives the revised drafts.

**3. Public Hearing: Notice of Intent (continued): Lower Artichoke Spillway, City of Newburyport
Department of Public Services Re: Construction of stone foundation at lower artichoke spillway
DEP# 078-0712 *Applicant requests a continuance.***

**4. Public Hearing: Notice of Intent (continued): Town Wide, West Newbury DPW, Re: Hazard
tree management, DEP# 078-0717 *Applicant requests a continuance.***

**5. Public Hearing: Notice of Intent (continued): Off Church Street (Parcel R13-341), Kenneth
Cutcliffe, Re: Construction of a dock on the bank of Merrimack River, DEP# 078-0XXX
*Applicant requests a continuance***

**6. Public Hearing: Request for Determination: 159 Main Street, Dylan Randall – OP Real Estate,
LLC, Re: Construction & installation of a tight tank to replace failing septic system**

Consultant Robert Grasso, Engineering Land Services, said that this septic system upgrade project has Board of Health approval, but does not yet have a Department of Environmental Protection (DEP) number. He stated that the existing system has failed and tests revealed that the site has the worst possible soils. The plan is to install a 3,000 gallon tight tank located 69' from the wetland. There is one tree, which will be saved, and silt socks are proposed for erosion control. Mr. Grasso said that disturbance will be minimal: they will dig a trench and a hole for the tank in the lawn and drop it in. The owner would like to move as soon as possible to do this to be able to move in.

The Commission scheduled a site walk for next Sunday at 8 a.m. and continued the matter to its December 20th meeting.

**7. Request for Insignificant Change: 16 Bachelor Street, Rose Yates, Re: Continuance of site work
after stop date of October 15th, DEP# 078-0731**

8. Request for Insignificant Change: 16 Bachelor Street, Rose Yates, Re: Conversion of existing stone wall to retention wall blocks, DEP# 078-0731

Engineer Jim Scanlon appeared with homeowner Rose Yates. He noted that the Commission had issued an Order of Conditions for a septic upgrade and an addition in the back. The septic system has been installed along with a retaining wall, with work going beyond the October 15th cutoff date. Ms. Mizner said that a problem arose because an extension of the wall had already been built without Commission approval, the site has not been stabilized, and an existing stone wall had been removed. The Conservation Agent had contacted Ms. Yates about this.

Mr. Scanlon said that the applicant would like Commission approval for the extension of the construction period beyond the October 15th winter deadline. He said that a variety of problems delayed completion of the septic system and proposed spreading hay as a means of stabilizing the site. Ms. Mizner pointed out that hay alone will just blow away. She suggested netting combined with a thick hay layer or matting. Ms. Yates said that she is looking for a cheaper solution, inasmuch as the septic installation had been costly.

Mr. Scanlon agreed to submit to the Commission a plan for site stabilization within the coming week.

As to the construction of the extended retaining wall without prior Commission approval, Ms. Yates explained that she is a visual person and the existing home-made wall appeared very unattractive. Once the mason got started, he moved very quickly. The mason dug a trench, which became a safety hazard that needed to be filled in with blocks for the new wall. She noted that no cement has been used and the blocks can be removed. Ms. Yates clarified that she put in the existing wall that she removed—it was not a historic stone wall. The plan now is for this to sit that way until spring. Mr. Scanlon asked if the Commission would permit construction on the wall to start before the April 15 date when the winter construction ban ends. The Commission said that Ms. Yates can apply for a waiver when the time comes.

Ms. Yates raised a concern that the silt sock at the end of her driveway could interfere with her snow plowing. She asked if she could remove it. The Commission suggested that she mark the silt sock with a vividly colored stake and discuss this with her snow plow operator.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission unanimously voted to accept the changes discussed above as insignificant changes, provided that no further work shall be done until after April 15, 2022, with the exception of stabilization of the septic site, for which the applicant will submit a plan to the Conservation Agent within a week.

9. Request for Certificate of Compliance (continued): 83 River Rd., Elisha Camp, Re: Update from Tom Goodwin, request being continued to spring, DEP# 078-0664 Continued

Ms. Greene said that she spoke with dock installer Tom Goodwin, who told her that in the spring the applicant will replace the current impermissible chain mooring system with the elastic rode the Commission approved. The chain mooring tackle now remains on the river bottom for the winter.

10. Request for Certificate of Compliance: 87 River Road, Timothy Thomas, Re: Addition, DEP# 078-0518

Ms. Greene noted that some discrepancies arose concerning compliance with the Order of Conditions issued in connection with an addition and patio, which now includes some patio blocks. Also, an abutter raised concerns with the Conservation Agent about a trailer and dock gangway located near wetlands resources. Ms.

Mizner reviewed the Order of Conditions, noting that they prohibit dock equipment (such as the gangway) located within 200' of the river—although the trailer is not prohibited.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission unanimously voted to issue a Certificate of Compliance for the deck and addition, with issuance to be contingent upon removal of the dock component from the river front area.

Mr. Thomas will inform the Conservation Agent of the removal, receive the Certificate of Compliance, and should record that document.

11. Old Business: 48-56 Stewart Street Emergency Certificate & PFAS Update from Fire Chief

Ms. Greene reported on subsequent environmental testing in the aftermath of an accident whose fire call involved the release of per- and polyfluoroalkyl substances (PFAS). She said that soil samples tested below the level of concern and liquid samples tested slightly above. No further cleanup is needed at this time, however. Ms. Greene is working with Fire Chief Dwyer about testing materials in the fire department equipment and decontamination as needed.

12. Old Business: Open Spot on Conservation Commission

No new developments have occurred, although the opening is now posted on the Commission website.

13. Other Business: Letter from West Newbury Wild and Native seeking West Newbury Conservation Commission support for native plant landscaping at Pentucket Regional Middle-High School

Ms. Greene reported that the West Newbury Wild & Native group contacted the developers of the new high/middle school building about changing the landscape planting plan to emphasize native plants. The response did not indicate a willingness to revise the plan.

The Commission members agreed that they would need to study the correspondence in greater detail.

14. Other Business:

--Update on lots A & B Middle St. Ms. Greene reported that the developer is going to the Planning Board for a subdivision with a shared driveway coming in from Archelaus Road. The developer wants a letter of support from the Commission. Ms. Mizner explained that the Planning Board will likely notify the Commission of this plan and the Commission will likely support a proposal with far fewer wetlands impacts.

--87 Main Street flooding—Ms. Greene said that the developer has installed check dams and stony swales to address stormwater flooding. She said that the stone swales appear to be catching silt, and silt does not seem to be going into the roadway anymore. Ms. Mizner noted that some of the check dams need to be built up. Also, the collapsed silt fence is now acting as a conduit to send stormwater toward the wetland. *The silt fence will need to be repaired.*

--326 Main St Pearson Automotive Ms. Greene said that this property is for sale and the buyer would like the Conservation Commission to issue a Certificate of Compliance for septic work (which has not yet begun) subject to a bond arrangement with the Commission. *The Commission noted that it cannot issue a Certificate of Compliance for work that has not been done.*

--2023 Commission Budget *The Commission generally agreed that the only expected cost increases include 1) an increase in*

MAAC fees and 2) additional training, for which members will submit cost estimates to Ms. Greene.

--Annual report for FY 2021 This is due by January 6. *Ms. Mizner will work on the Annual Report.*

15. Wetlands Bylaw Update:

Ms. Mizner had circulated a revised draft. Ms. Greene has comments which she will provide, other members have not yet had an opportunity to review. *This will be put on the next meeting's agenda.*

Informal Discussion:

None

16. Community Input:

None

17. Approval of Minutes: November 1, 2021

Deferred

18. Approval of Minutes: November 15, 2021

Deferred

19. Correspondence: Letter from MACC Re: Increase in membership dues

20. DEP Comments: Delay in DEP Numbers

Ms. Greene said that DEP has told her that they are overwhelmed by the volume of requests and it is now taking four weeks or so for a DEP number to be issued. The system also has glitches, so checking on status is advised.

21. DEP Comments: Ensuring complete alternative analysis

Ms. Greene said that DEP has said that it expects more complete alternatives analyses than a conclusory approach saying that the alternatives are the applicant's preference or no project. Ms. Mizner noted that this has not been an issue for the analyses required in West Newbury.

22. Land Agent Update:

Ms. Greene will be meeting with the chair of the Open Space Committee and the Director of the Department of Public Works.

23. Next Meeting: December 20, 2021

Because the second scheduled meeting in January is Martin Luther King day, that meeting will occur on Tuesday, January 18, 2022.

Adjournment

The Commission adjourned at 9:27 pm.

Meeting Documents

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

Respectfully submitted