

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, April 19, 2022, Second Floor Town Offices.

Members Present: Chair Judy Mizner, Molly Hawkins, Kathy Feehery. Also present, Conservation Agent Michelle Greene, Select Board member Rick Parker, residents Nancy Pau and Albert Ting.

1. **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.***
2. **Other Business: Discussion Re: Update from MEPA ENF, EEA#16545 virtual meeting on 4/15/2022 regarding new Lower Artichoke Spillway dam project, City of Newburyport Department of Public Services (NOI Filing not yet received)**

Ms. Greene said that she attended a meeting about this project, which involves installing a stone base in the reservoir near the lower dam to allow use of sandbags to raise the dam level in surge events in order to prevent the Merrimack River from backing into the reservoir. A number of questions about effects in West Newbury were raised. For instance, on the western, West Newbury side of the dam, the plan is to clear all trees with no mitigation, and impacts on wetlands appear not to be accounted for. Elisa Grammer (minute taker) noted that as a Historical Commission member, she inquired about this project's potential impact on the historic Quaker Cemetery, which is adjacent to the reservoir. She said she did not receive a clear answer to the concern that raising the dam, and thus the reservoir level, would flood the cemetery. Ms. Greene said the question of flooding adjacent lands as a result of this project did come up at the meeting, with no clear answer. Comments on the environmental review are due on April 28, but may be extended.

3. **Public Hearing: Notice of Intent (continued): Town Wide, West Newbury DPW, Re: Hazard tree management, DEP# 078-0717 *Applicant requests a continuance.***
4. **Public Hearing: Request to Amend Final Order of Conditions (continued): 87 Main Street, Lot 3, Robert Johnson, Re.: Construction of drainage and stormwater management systems to address runoff and sitework to stabilize site, DEP# 078-688 *Applicant requests a continuance.***
5. **Public Hearing: Notice of Intent (continued): 177 River Road, Marcos Goncalves, Re: Construction of a platform, seasonal dock with float, and a footbridge, DEP# 078-0742 *Applicant requests a continuance.***
6. **Public Hearing: Notice of Intent (continued): 40 Maple Street, Alex & Dorothy Moerlein, Re: Raze existing garage, construct new garage, construct an addition, DEP# 078-0743 *Applicant requests a continuance.***
7. **Public Hearing: Notice of Intent(continued): 0 River Road, Map R24, Lots 8, 8A, 7D, Nancy Pau and Albert Ting, construct a driveway and single-family home with garage, DEP# 078-0745**

It was noted that the Commission held a site walk and did receive a revised plan that includes a separate lot

and relocates the planned home's septic system in order to avoid a stream crossing. Applicants Nancy Pau and Albert Ting were present. Ms. Greene advised that the Town's new storm water bylaw became effective on April 1, 2022, and does appear to impact this property—thus it may be prudent for the applicants to check with the Planning Board about this.

Ms. Mizner asked questions about the applicants' proposal to remove invasive knotweed and replace it with native plantings by the river. Ms. Pau explained that the plan is to have the Department of Public Works mow the roadside area as usual but not successive times (assuming that works in terms of roadway safety). A professional licensed applicator would spray Roundup (which has a short impact in terms of allowing other native plants to come back) in accordance with licensing requirements so that the knotweed would die back and be left to decay. There would be no cutting in the first year; cutting may occur in subsequent years if small amounts of knotweed persist. Planting of native species identified in the Notice of Intent would take place in year two or three.

Ms. Mizner moved, Ms. Hawkins seconded, and the Commission voted unanimously to issue an Order of Conditions with standard and special conditions such as requirements that

- *With respect to the home construction, (1) a 25' natural vegetation area will be established and marked with permanent post markers extending from the plan's "C" line except where narrowed to accommodate the existing driveway, and except in a portion of the sheep pasture, (2) no use of herbicides, pesticides or insecticides and only low nitrogen fertilizers used in moderation within 100 feet of the resource areas, (3) no sodium based deicers on their driveway, (4) provision of 72 hours' advance notice before commencement of site work and inspection and approval of erosion controls consisting of 12" staked wattle or silt sock prior to any other work and (5) incorporation of the eagle protection plan set forth in the NOI;*
- *with respect to the knotweed control, (1) demarcation of the affected area with stakes and string, (2) employment of a licensed herbicide applicator and posting of no entry signs for a period after spraying, (3) use of best practices for disposal of invasive plant material, (4) no disturbance of plant roots, (5) replanting only with native plants identified in the list in the NOI or others approved by the Commission prior to plantings, (6) provision of advanced notice of the spraying to the Conservation Agent so she may respond to inquiries about this.*

8. Certificate of Compliance Request: 196 Main Street, DEP# 078-0735

Ms. Greene explained that the applicants installed a new septic system last year, have submitted photos showing how much the area has revegetated, and seek a Certificate of Compliance. She reported that the vegetation is more robust than before, but still patchy, particularly relating to bare spots at the slope near the retaining wall. *The Commission advised that Ms. Greene inform the applicants that they should revegetate bare and patchy spots and return to the Commission once the vegetation has grown in.*

9. Old Business: 15 Norino Drive, Re.: houseboat, update from Coast Guard and Salisbury Harbormaster

Ms. Greene said that she has no update from the Coast Guard or the Salisbury Harbormaster. She did note that in connection with efforts to revise Town procedures to ensure that the Commission is informed when new or changed moorings are sought and can review the proposals, she had occasion to review pertinent Town bylaws. Ms. Greene identified a bylaw providing that the Harbormaster is empowered to enforce a requirement to remove derelict vessels from the riverbanks. *It was generally agreed that Ms. Greene will reach out to the Salisbury Harbormaster about this.*

Ms. Greene also reported that in discussing this matter with the Department of Environmental Protection (DEP) enforcement official, she was told that a new, updated enforcement order would be advisable. *Ms. Greene will draft for Commission review a new enforcement order requiring removal of the boat and dock, or the filing of an application for storage of such items, within 30 days of the order's issuance.*

10. Old Business: Review updated local filing instructions for RDA and NOI

No update

11. Other Business: Discussion Re: National Grid ROW maintenance notice

Ms. Greene summarized her discussion with National Grid about what is planned. They intend to conduct vegetation and tree removal (with no herbicides) in the fall or winter. They will give the Commission a better idea of the timing once plans are firmed up. It was noted that these activities are exempt from Commission regulation.

12. Other Business: Schedule a site visit date for 1 Follinsbee Lane Re: RDA on 5/2/2022 agenda

The Commission scheduled a site walk at 7:30 am on April 30th

13. Other Business: Discussion Re: updating resource list of engineers, surveyors, and wetlands scientists who have done work in West Newbury

Ms. Greene suggested that the lists required some updating. *It was agreed that the Norse firm would be added.*

14. Other Business:

Scheduling Commission review of the demonstration garden proposal at Maplecrest: *It was decided that this matter will be taken up at the start of the Commission's public hearing about the wetlands bylaw—the target time and place is the Annex at 7:30 pm on April 25.*

87 Main Street enforcement order: Ms. Greene gave an update on the storm water and groundwater issues at 87 Main Street. Areas of the property look green but this is not actually grass or vegetation but rather seed spray. Problems persist and it is very evident that they include groundwater seepage as well as storm water management issues. Ms. Greene said DEP enforcement personnel have provided a long list of potential remedial actions to be taken. Also, calculations essential to design groundwater and storm water management solutions still have not been provided.

15. Wetlands Bylaw Update: Review draft wetlands bylaw; determine new date for public outreach meeting for bylaw

Ms. Greene, noting keen interest in the implementing regulations for the bylaws, asked if there were any developments in this regard. Ms. Mizner said not yet. Ms. Mizner and Ms. Greene committed to reviewing the draft bylaw one more time. It was reported that the Select Board voted 2-1 to include the draft bylaws in the final Town Meeting warrant.

16. Informal Discussion:

17. Community Input:

18. Approval of Minutes: *Ms. Feebery moved, Ms. Mizner seconded, and the Commission voted unanimously to approve the minutes of March 21, 2022.*

19. Approval of Minutes: April 4, 2022—*deferred*

20. Correspondence:

21. DEP Comments:

22. Land Agent Update:

23. Next Meeting: May 2, 2022

Adjournment 9:01 pm

Meeting Documents

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

Respectfully submitted