

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:30 pm, January 27, 2020 Conservation Commission Office, 1910 Building

Members Present: Chair Dawne Fusco, Wendy Reed, Margaret Hawkins, Tom Atwood, Conservation Agent Bert Comins. Ms. Mizner joined by phone.

By 4-0-0 roll call vote, the Commission members physically present accepted Ms. Mizner's request to participate by phone.

Public Hearing—Notice of Intent (NOI) DEP File #078-0702—Terri Lee Spear—142 Moulton Street—For Construction of new sanitary disposal system

Mr. Hochmuth, the property owner's consultant, explained that Ms. Spear inherited the property and would like to sell it, but the septic system will not pass Title V because a part of it is under the water table. He explained that the site has severe limitations: a perennial stream with 200' bordering vegetated wetland (BVW) line in the front, a separate BVW in back, an existing water well, and widespread ledge. The only possible location is located in the buffer zone, 50' from the BVW and on a slope, which will require them to push the grading out. There will also be a small 2' wall by the driveway to limit the extent of grading, and some oak trees will need to come down.

This NOI submittal is strictly for a repair, said Mr. Hochmuth. —The system will merely be a replacement with the same capacity. The project has received a DEP number with no comments from the Department of Environmental Protection (DEP) and after consideration, the state's Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage) determined that an exemption applied to this project. The applicants are proposing 12" silt sock erosion controls along the driveway at the base of the new wall. The plan is to commence work sometime after April.

The Commission determined to conduct a site walk on January 31, 2020 at 8 a.m. and to continue this hearing.

Public Hearing—Notice of Intent DEP File # 078-0703—West Newbury Board of Health—Middle Street—For digging trench at Steele Landfill

West Newbury Health Agent Paul Sevigny said that the Board of Health is submitting the instant NOI for a methane gas interception trench along Middle Street to prevent migration of methane off the Steele landfill site. The project will involve a roughly 320' long trench to be located about 1' away from the Middle Street pavement to allow installation of a 30" square underground wall made of crushed stone that will have 7 candy cane vents that will be angled away from the road, be 6' tall and be protected from snowplows and traffic by bollards. This is designed to have minimum impacts to the stone wall and trees located at the border of the landfill.

About a third of the length of the trench is in the wetlands buffer zone. A description of the work is on the plan itself and there will be a straw-filled 12" silt sock that will surround work in the buffer zone. As the excavation occurs, there will be trucks present to deposit the gravel and there will be trucks present to remove the spoils from the site—there will be no stockpiling of materials at the site. Applicants hope to put this system in in June or July, when it should be drier and the water table should be lower. There is a DEP number: DEP had no comments.

By 5-0-0 roll call vote the Commission determined to issue an Order of Conditions permitting the work proposed with the standard and special conditions and with requirements that applicants will dispose of soil removed for trenching offsite and will install the 12" straw wattle erosion control as described, with applicant's prior notice to and inspection by the Conservation Agent.

Public Hearing—Notice of Intent DEP File #_____—James LeClaire — 6 Waterside Dr — For Installation of a Dock System

Engineer George Zambouras said that the applicant is applying to install a dock system in a flood zone at the riverfront, where there is a sandy beach and some undercutting of the bank has occurred. The plan is to install a 5' x 6' concrete pad at the top of the bank, and then extend a set of aluminum ramps with a series of walkways and floats to an 8' x 20' float at the end. Mr. Zambouras said that DEP's comments indicate a need for a chapter 91 license, but, he said, this project should be exempt from that requirement. Also, DEP proposed compensatory storage of 2.5 cubic yards for the concrete pad—but Mr. Zambouras said that there is a series of logs naturally in the area and if the applicant removes the logs, there will be full compensation. Also, at low tide the first 4-5 floats would bottom out, so the proposal is to install a screw anchor and use pipes to hold the floats away from the river bottom. The proposed site is least disruptive in terms of impacts on the ground and the trees.

Mr. Zambouras did not know of any response from Natural Heritage yet.

The Commission generally advised that additional specifications are needed to describe the means by which light will penetrate under the floats to wetlands plants, that the proposed mulch path may be problematic in view of prior problems with mulch scattering away, and that a site walk should be planned for the middle of March, so the matter was continued to the first meeting in March.

Discussion: Assessor's New Resident Information Packet

Chair Fusco revisited the idea that the Commission would add information _____ sent by the Assessors' Office as an educational source for new property owners in Town. Mr. Comins said that he has spoken with the Assessor's Office about this and learned that the Health Department will be adding information about their operations. But Mr. Comins has not yet obtained a copy of the existing send-out or the proposed Health Department addition.

The Commission generally agreed that it would be good to contribute a short one-page data sheet about wetlands protection. A key point would be to explain that wetlands may be present even if no standing water is visible. Mr. Comins will 1) obtain for the Commission existing West Newbury materials included in the Assessor's send out and 2) will review comparable Conservation Commission materials used by other towns.

Discussion: Brake Hill Article 97 Proposal

Ms. Reed reported that the Open Space Committee and the Board of Water Commissioners had voted in favor of a proposal, to be included as an article in the upcoming Town Meeting, to transfer Town property at Brake Hill (exclusive of the current Water Department easement) from general Town use to status as protected conservation land, in order to protect that property from future development. A draft article has been written up with help from Essex County Greenbelt.

By 5-0-0 roll call vote the Commission determined to support this proposal. Ms. Mizner will draft a letter for the Commission to send expressing its support.

Discussion: Budget & Trail and Open Space Maintenance

Ms. Reed had circulated a proposed budget that included an over 9% increase in Conservation Agent salary and the same amount for expenses as used in past years. The increase in the Conservation Agent salary was based on comparable market rates and additional tasks Mr. Comins is to assume, including inspections of moorings on the Merrimack River and work for the MS 4 storm water management program, evaluating erosion control measures.

The Commission also considered the expectation that extensive Commission resources will be required to monitor the school building project. Overall, the expectation is that consultants will be hired for this job. Also, Mr. Comins has accepted a part time position as Conservation Agent for Hamilton, so he will have finite hours available for West Newbury.

Ms. Reed also noted that Town Manager Angus Jennings

- is working on sorting out the accounting for funds attributable to fees collected by the Commission—there seem to be two funds at the moment, one of which has several thousand dollars and the other has much more. Why there are two accounts and the reason for the different amounts is currently unexplained.
- explained that with respect to Mr. Comin's misunderstanding that he should report hours for meetings, etc., Mr. Comins should be paid in full and he should submit a new timesheet (with dates and hours spent and any other appropriate unpaid costs) to recoup the pay owed to him.

Ms. Reed gave an update (in conjunction with the budget discussion) about the concept of adding hours to the Conservation Agent position for the Agent to assume responsibilities for maintaining

and supervising town trails and open space. The draft budget materials contain addition information about this. This, the Commission noted, will require coordination with the Community Preservation Act Committee, the Mill Pond Committee and the Department of Public Works (DPW), among others.

By 5-0-0 roll call vote, the Commission determined to adopt the budget proposals discussed above, subject to editing refinements and with a separate salary line item for the trail and open space management role.

Discussion: Sullivans Court Lot 6 Culvert

Ms. Reed stated that the question of Developer Tom Neve's compliance with requirements for installation of trails remains unsettled. The Planning Board apparently had agreed that the Town would be the applicant while Mr. Neve was to be held responsible for execution—a situation which DEP has described as troublesome, particularly where the developer's compliance record may not be established. Ms. Reed noted that it was possible that Mr. Neve would forfeit his bond rather than comply. Also, Town Manager Jennings raised the issue whether, inasmuch as some of the trail is on Town land, Americans with Disabilities Act compliance would be required.

Regarding Mr. Neve's culvert that is breaking apart, leaking sediment, and spilling gravel, Planning Board consultants Meridian provided a report identifying various problems, including the determination that the culvert wingwall(s) should be redone with proper foundations and an appropriate engineering design. The Planning Board, however, has expressed uncertainty about its jurisdiction over such matters, as well as the safety question.

The Commission expressed concern that that the current state of affairs could be highly prejudicial to potential purchasers of Lot 6, who—notwithstanding the lack of a Certificate of Compliance and other potential indicia of problems (perhaps as a result of lack of due diligence of realtors and attorneys) may be left to deal with the problems resulting from developer-caused issues. The Commission determined as an initial matter to investigate whether Mr. Neve's as-built culvert complies with the requirements in the Commission-approved plans. This will be addressed at the next Commission meeting.

Discussion: Other business

Mr. Atwood asked for an update about DPW's plans for cutting roadside trees. *Mr. Comins and Ms. Mizner will inquire.*

As an abutter, Mr. Atwood reported that the Comcast matting at Hilltop Circle has been torn up by snow plows. He indicated that additional Comcast work is expected and these experiences may inform future review.

Discussion: Review of minutes

The Commission agreed to defer pending minutes to the next meeting

The next scheduled Con Com meeting is February 3, 2020

Adjournment

The Commission adjourned 9:22 p.m.

Meeting Documents

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

Respectfully submitted