

# CITY OF NEWTON, MASSACHUSETTS

## Conservation Commission

### AGENDA

**Meeting Date:** November 21, 2024  
**Location:** Zoom  
**Time:** 7:00 pm

This meeting will be a virtual meeting that will take place via Zoom:

<https://newtonma-gov.zoom.us/j/88553215881>

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**NOTE:** The Chair may take items out of order and may limit discussion.

**NOTE:** Packets and full applications are available on [the Commission's website](#).

#### Wetlands Decisions

**1. 528 Boylston St – Public Hearing for a Notice of Intent (continued) -- 40B development multi-family residential building -- DEP File # 239-977 (estimated start 7:00, 60 minutes)**

- Owner/Applicant. Toll Brothers
- Representatives. Bohler Engineering
- Proposed Project Summary.
  - The proposed project (on 5.8 acres) consists of:
    - A residential building with site amenities
    - Underground parking, surface parking, pedestrian walking path
    - Utilities
    - A stormwater management system
    - Landscaping and mitigation grading and plantings.
- Request. Issue OOC.
- Jurisdiction. RFA, BLSF, BVW, Bank (outside of work zone), LUWW (outside of work zone)
- Documents in packets. Revised area of degradation, confirmation of bankfull to determine Riverfront Area boundary, BSC peer review report #1.
- Additional documents presented at meeting. TBD
- Staff Notes.
  - BSC's first Peer Review concluded that:
    - Riverfront Area performance standards have been met in full.
    - Bordering Land Subject to Flooding performance standards have been met in full.
    - The Commission's Flood Zone policy has been met in full.

Ruthanne Fuller  
**Mayor**

Barney Heath,  
**Director, Planning & Development**

Jennifer Steel  
**Chief Environmental Planner**

Ellen Menounos  
**Assistant Environmental Planner**

#### Commission Members

Dan Green, Chair  
Susan Lunin, Vice Chair

Kathy Cade  
Leigh Gilligan  
Ellen Katz  
Jeff Zabel

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- More data was needed to assess the stormwater system and some modifications to the stormwater system were needed.
- Bohler has submitted revised plan sheets, a revised drainage report, and revised O&M plan. Changes include the following.
  - Addition of a new “design point” (stormwater discharge point) at the Hagen Road pipe/Paul Brook confluence and associated modification of subcatchments.
  - Corrections to soil types in the drainage report
  - Modification of Time of Concentrations in the drainage report
  - Details of the Frimpter adjustment calculations made that confirmed estimated seasonal high groundwater elevations
  - Additional test pits were dug, ensuring that sufficient groundwater data is available for each infiltration system and confirming previous estimates of groundwater elevations
  - Confirmation that all infiltration systems will be at least 4 feet above seasonal high groundwater, precluding the need for further mounding analyses
  - Modification of the shape of the rain garden 1P to be fully outside the 50’ buffer zone and to be modeled as an infiltration basin. It has the same storage volume and elevations.
  - Modification of system 2P to be shallower (so mounding won’t be a concern) and to ensure that it encompasses 2 test pits. Added a 24-inch pipe with a weir to increase storage volume.
  - Modification of the shape of system 3P.
  - Modification of system 4P (breaking it into 2 parts) to accommodate the site’s slope.
  - Modification of treatment train #1 so that all stormwater from impervious areas goes through a water quality unit prior to discharge.
  - Ensuring stormwaters outfalls are fully outside the 25’ buffer zone.
  - Minor revisions to the SWPPP and O&M plan
  - 21E study results
- Bohler’s additional test pits and Frimpter calculations confirmed that the proposed stormwater infiltration systems are all more than 4 feet above seasonal high groundwater.
- Bohler’s mounding analyses for 2P and 4P generated favorable results.
- BSC will review the modified plans and drainage analysis and provide a final report in advance of the Commission’s 12/12/2024 meeting.
- Staff Questions/Comments/Requests.
  - Please provide a narrative describing how the proposed work in BVW meets the BVW performance standards.
  - ESC plans should clearly indicate where erosion control mats may be necessary.
  - Consider varying the proposed double row of silt fence plus compost sock based on slope and upgradient disturbance.
  - Consider silt fence only for the interior ESC line during wetland mitigation work.

- Consider softening the stream bank slope, now that the infiltration basin shape has changed.
- Sheets L300 and L450 (and other landscape sheets) need a new revision date.
- Is there a plan to minimize browse? (lowbush blueberry is highly susceptible)
- Huckleberry is notoriously hard to establish.
- Willow whips (Zone 2 and 3) will not generate “trees” as indicated in the tables.
- Where can I find revised cut and fill calcs, now that the grading has changed?
- Where can I find the tree cutting table (to compare w/ the tree planting schedule)
- Where will concrete washout occur?
- When can we expect plans for work on the Rt 9 culvert headwall and slope?
- Landscape plans and notes indicate 3” and 6” of topsoil being added. These figures are inconsistent. Has the volume of proposed topsoil been included in the cut and fill calcs?
- Temporary sediment basins and swales are not shown on the phasing plans and should not be located where the infiltration basin will be constructed (as indicated in C-602 #15).
- Staff Recommendation.
  - Review the revised civil plan sheets
  - Review phasing plans.
  - Review the consolidated test pit sheet
  - Review the compensatory flood storage sheets
  - Review the planting plan
  - Discuss the details of the proposed mitigation efforts.
  - Begin to list possible conditions.
    - Conduct additional test pit for 2P once house and gas line have been removed
    - Install monitoring observation ports for all 4 infiltration systems
    - Use 53G to hire an independent on-site environmental monitor
    - Wetland mitigation work shall be initiated before ????
    - Straw bales shall not be used on site
    - A wetland scientist shall be on-site overseeing all wetland mitigation and invasive control work.
    - Foliar applications of herbicides shall not occur.
    - Mitigation plantings and landscape plantings in ConCom jurisdiction shall be monitored (and reported on) annually.
    - In the areas where trees are due to be protected but are within the erosion control line, each must have orange snow fence placed as close to its drip line as possible. Trees that are demonstrably harmed shall be replaced in keeping with the Commission’s replacement policy.
  - Vote to continue the hearing to December 12 to allow for receipt and review of BSC’s comments on or before November 26.

**2. 180-210 Needham – Request for Extension – DEP #239-841 (estimated start 8:00, 15 minutes)**

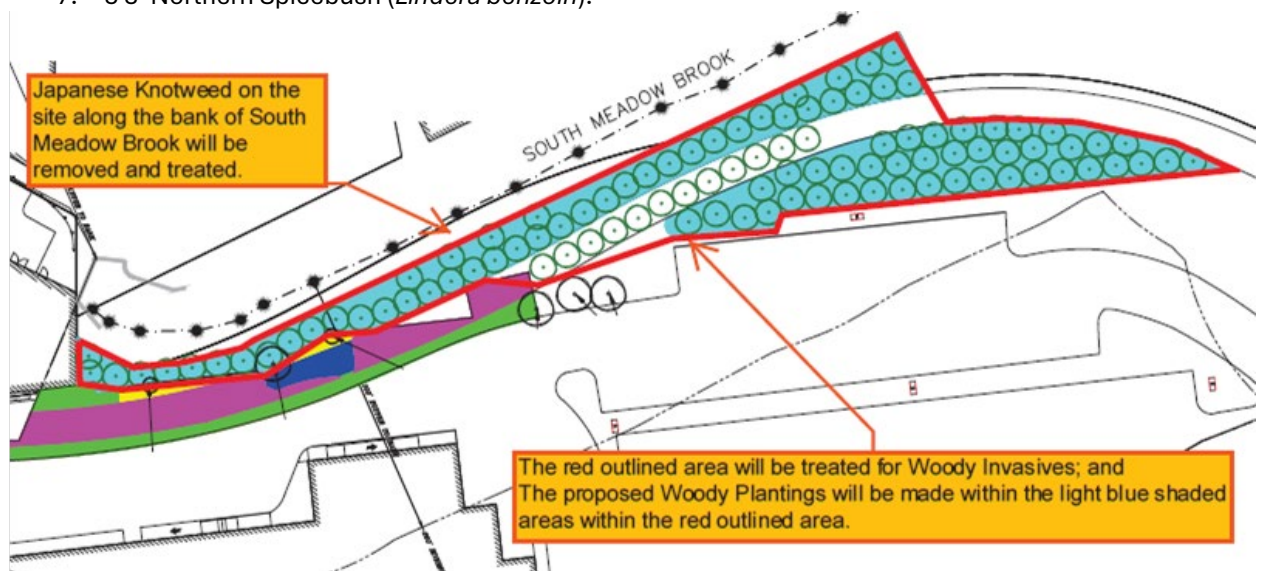
- Owner/Applicant. Kerry McCormack, Crosspoint
- Representatives. Self

- Proposed Project Summary.
- Request. 3-year extension to the OOC.
- Jurisdiction. RFA and FZ
- Additional documents presented at meeting.
- Staff Notes.
  - EO resolution agreement (summary below) appears to have been met to date.
  - John Rockwood sent a letter certifying that all required work has been completed.
  - The request is for a 3-year extension for 18 parking spots (~1500 s.f.) constructed from a structured grass system and a mitigation planting plan of shrubs and ferns within the existing degraded riverfront area. The OOC was issued 5 years ago. Staff feel that if construction is initiated by September 2025 and completed by December 2025 (under a 1-year extension), the OOC could be extended 2 years to allow for plant survival.

Date	Return Period	Action
March	quarterly	Q1 Parking Lot Sweeping and CB cleaning
April	<b>once</b>	<b>Rain garden rebuilding and replanting</b>
May	<b>once</b>	<b>Woody Plantings (50 trees and shrubs) and watering 2x/wk</b>
June	quarterly	Q2 Parking Lot Sweeping and CB cleaning
July	1x/yr for 3 years	Japanese Knotweed Treatment
Sept	1x/yr for 3 years	Woody Invasive Treatment
Sept	quarterly	Q3 Parking Lot Sweeping and CB cleaning
Oct	quarterly	Q4 Parking Lot Sweeping and CB cleaning

**Fifty (50) native woody trees and shrubs**

1. 7 3' Eastern White Pine (*Pinus strobus*);
2. 8 3' Northern Red Oak (*Quercus rubra*);
3. 8 3' Alternate-leaved Dogwood (*Cornus alternifolia*);
4. 7 3' Eastern Red Cedar (*Juniperus virginiana*);
5. 7 3' Black Chokeberry (*Photinia melanocarpa*);
6. 8 3' Bayberry (*Morella pensylvanica*); and
7. 5 3' Northern Spicebush (*Lindera benzoin*).



### **Rain Garden reconstruction**

1. Remove small rip-rap and pea stone, remove accumulated sediment
2. Excavate a 2' wide, 2' deep trench along the pavement edges and backfill with 1" crushed stone and line with granite cobbles along the pavement edge
3. Install an expanded area of 6" rip-rap within the cobble edge to help stabilize the edge of the area and help limit damage to the rain garden associated with runoff from the pavement.
4. Remove dead plants, protect living plants, and install:
  1. 2 4-5' robust Sweet Pepperbush (*Clethra alnifolia*)
  2. 2 4-5' robust Silky Dogwood (*Cornus amomum*)
  3. 4 1-quart Golden Alexanders, Smooth Aster, or Columbine; 2 spp must be represented
  4. Existing grass split into six sections
5. Lightly mulch with rotted pine chips and spray with a tackifier
6. Replace flat grate with a bee-hive grate.

- Staff Recommendation. Issue a 1-year extension (from 12-12-2024 to 12-12-2025).

### **3. 158 Otis St – Enforcement Order closeout – unpermitted tree removal in Buffer Zone (estimated start 8:15, 15 minutes)**

- Owner/Applicant. Gregg Nagel
- Project Summary. Trees were cut without a permit. The owner has installed mitigation plantings (3 white pines, 12 deciduous canopy trees, and 36 native shrubs)
- Request. Issue a memo closing the Enforcement Order
- Jurisdiction. Buffer Zone to BVW
- Documents in packets. Approved restoration plan
- Additional documents presented at meeting. Site photos
- Staff Notes.
  - A final site inspection report has been received. Staff will confirm compliance.
- Staff Recommendation. If the staff site visit confirms compliance, vote to issue a memo closing the Enforcement Order.

### **4. 70 Kingswood – informal discussion – unpermitted changes -- DEP #239-952 (estimated start 8:30, 15 minutes)**

- Owner/Applicant. Larry Smith
- Project Summary. Addition, new driveway, tree removals, mitigation plantings
- Request. Staff are wondering how the Commission would like to respond
- Jurisdiction. Riverfront Area
- Documents in packets. Staff highlights on the owner's sketch of extant conditions; Staff highlights on the consultant's letter noting compliance.
- Additional documents presented at meeting. Site photos
- Staff Notes.
  - On a recent site visit staff noted unpermitted activities on the site: extra stones where the mitigation area was to have been, extended retaining wall, unplanned terracing, modified grading and deck layout at the back wall of the house.
  - The owner has provided a sketch plan showing extant conditions.
  - Staff seek Commission input on how to proceed.

### **5. 27 Cross – informal discussion – proposed minor plan changes -- DEP #239-939 (estimated start 8:45, 15 minutes)**

- Owner/Applicant. Gabriel Askinaram

- Project Summary. Applicant has a current Order of Conditions to build two residential units, expiration date 10/13/25
  - Request. The applicant wants to add a landing, stairs, and patio for each unit
  - Jurisdiction. Flood Zone, Riverfront Area
  - Documents in packets. Desired modifications on the civil site plan
  - Additional documents presented at meeting. Site photos
  - Staff Notes.
    - Patios less than 50 feet from MAHW are not exemptable.
    - Closer patio would be 11 feet from the stream.
    - The new degraded area in Riverfront should be mitigated for at least 2:1. The mitigation planting area in the current (amended) approved plans is 278 sf more than the bare minimum 3,482 sf required under 10.58(5).
  - Staff Recommendation. If the patio is allowed within the 25-foot NVBZ and if the second patio is allowed, determine if additional mitigation is required.
- 6. 69 Kingswood – informal discussion re removal of dead tree (estimated start 9:00, 5 minutes)**
- Owner/Applicant. Jan Freeman
  - Project Summary. Remove a dead tree from near Ware’s Cove
  - Request. Allow removal without a permit
  - Jurisdiction. Riverfront Area
  - Documents in packets. Aerial photo
  - Additional documents presented at meeting. Site photos
  - Staff Notes.
    - Staff didn’t feel there was an imminent threat, so did not issue administrative approval for removal
    - The tree, if it falls, is not likely to damage any structures; it would fall at edge of Ware’s Cove
    - Options: remove the tree or trim the dead upper limbs and leave the trunk “as a woodpecker condo”.
    - Is mitigation planting necessary? The owners note their extensive efforts to renaturalize and maintain the steep slope.
  - Staff Recommendation. Allow owners to cut dead limbs or top the tree at 20 feet without requiring any mitigation. Consider allowing full removal.
- 7. 164 Quinobequin Rd -- Request for Certificate of Compliance – bulkhead and grading -- DEP #239-968 (estimated start 9:05, 5 minutes)**
- Owner/Applicant. Jeff Tumpowsky
  - Project Summary. Excavate for a new bulkhead, regrade, reseed.
  - Request. Issue COC.
  - Jurisdiction. Riverfront Area
  - Documents in packets. As-built sketch plan
  - Additional documents presented at meeting. Site photos
  - Staff Notes.
    - Work was in outer RFA, was exclusively in lawn, and involved no tree cutting.
    - A staff site visit confirmed substantial compliance.

- Staff Recommendation. Vote to issue a complete COC.
- 8. 17 Brandeis Rd -- Request for Certificate of Compliance – DEP #239-917 (estimated start 9:10, 5 minutes)**
- Owner/Applicant. Sameh Kanan
  - Project Summary. Tear down/rebuild SFH, enhancement planting area
  - Request. Issue a complete COC.
  - Jurisdiction. Buffer Zone to BVW
  - Documents in packets. As-built plan
  - Additional documents presented at meeting. Site photos
  - Staff Notes.
    - Initial staff assessment is that the site is in substantial compliance. Further assessment will be undertaken.
  - Staff Recommendation. If staff confirm compliance, vote to issue a COC.
- 9. 25 Moorfield Rd -- Request for Certificate of Compliance – DEP #239-916 (estimated start 9:15, 5 minutes)**
- Owner/Applicant. David and Donna Frieze
  - Project Summary. Construct pool between house and Hammond Pond
  - Request. Issue COC for work never initiated.
  - Jurisdiction. Buffer Zone to Pond
  - Documents in packets.
  - Additional documents presented at meeting. Site photos
  - Staff Notes.
    - Staff will conduct a site visit to confirm that no alterations have occurred within Conservation Commission jurisdiction.
  - Staff Recommendation. If the site visit confirms on-going compliance, vote to issue a complete COC.

#### **Administrative Decisions**

**10. Minutes to be approved (estimated start 9:25, 5 minutes)**

- Documents in packets. Draft 10/30/2024 minutes
- Vote to approve the 10/30/2024 minutes.
- Volunteer. Who will volunteer to review the 11/21/2024 minutes?

**Conservation Area Decisions** – none at this time

**Issues Around Town Decisions** – none at this time

**Updates / Discussion**

**Public Comment**

**Other Topics Not Reasonably Anticipated by the Chair 48 Hours before the Meeting**

**Adjournment (estimated time 9:20)**

The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities requiring assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA/Sec.504 Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. For Telecommunications Relay Service, please dial 711 or call City Hall's TTY/TDD line at 617-796-1089.