

CONSERVATION COMMISSION MINUTES

Date: February 20, 2020

Time: 6:40pm

Place: City Hall, Room 204

With a quorum present, the meeting opened at 6:40 with Susan Lunin presiding as Chair. At 7:05 Dan Green arrived, took over as Chair, and opened the first public hearing.

Members Present: Kathy Cade, Leigh Gilligan, Judy Hepburn, Ellen Katz

Members Absent: Jeff Zabel,

Staff Present: Jennifer Steel

Members of the Public: See sign-in sheet

DECISIONS

1. Wetlands Ordinance Purpose Statement – Discussion

- Discussion purpose: Determine whether the Commission would like to pursue developing a wetlands ordinance by first developing a statement that defines goals, interests, and/or specific areas of protection.
- Documents Presented: MACC model ordinance, MACC model buffer zone regulations, article on the need for performance standards
- Discussion:
 - The intern, CJ Goodfriend, who was going to have assisted with drafting an ordinance now has a job that will preclude him from assisting.
 - J. Steel noted that her perception of the impetus for the discussion was commissioners' frustration with their inability to project more of the integrity and contributions of the buffer zone of sensitive sites such as at 62 Carlton Rd.
 - Commissioners noted their interests in protecting buffer zones (for their integral connectivity with wetland), small isolated areas subject to flooding (for their stormwater values), and vernal pools (for their habitat values).
 - Commissioners noted the complex and time consuming political process of getting an ordinance passed.
 - L. Gilligan noted the benefit of an ordinance that clearly regulates only the additional protections provided by the ordinance (and not all the protections afforded by the state Act and Regs, as well).
 - Commissioners asked J. Steel to provide possible purpose statements (potentially drawing on Framingham's ordinance) for their consideration at a future meeting.
- Staff Recommendations: Bring comments or draft purpose statements to the 3/12/20 meeting.

I. WETLANDS DECISIONS

2. 148 Pine Street – cont'd NOI – demo of existing duplex and construction of 3 single-family homes – DEP File #239-856

- Owner/Applicant: Vincent Mastroianni, 148 Pine Realty Trust Representatives: Verne Porter (engineer), Terry Morris (attorney), John Rockwood, EcoTec, Inc.
- Request: Issue OOC.
- Documents Presented: colored plans, photos, draft OOC
- Jurisdiction: Buffer Zone to bank of an intermittent stream, City Floodplain
- Project Summary
 - Tear-down the existing duplex and detached garage, and remove pavement.
 - Construct three new single-family homes with associated shared driveway, patios, stormwater management, grading, and landscaping, and install a 3,412 s.f. bounded mitigation planting area. The proposed conditions will result in a net increase in impervious area within the buffer zone. Portions of the proposed work fall outside the 100' buffer zone.



Mayor
Ruthanne Fuller

**Director
Planning &
Development**
Barney Heath

**Senior
Environmental
Planner**
Jennifer Steel

**Assistant
Environmental
Planner**
Claire Rundelli

**Conservation
Commission
Members**
Kathy Cade
Dan Green
Judy Hepburn
Ellen Katz
Susan Lunin
Jeff Zabel
Leigh Gilligan

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- 10 trees (118 caliper inches) will be removed and 2 trees on site will be protected.
- The 3,412 s.f. mitigation area (in the the 25-foot NVB) with stone bounds will include 20 saplings, 105 shrubs, and a large number of herbaceous grasses and wildflowers. Total plantings within the BZ include 48 saplings and 117 shrubs.
- Presentation (Verne Porter) and Discussion
 - Revised plans were provided with: pervious pavers (with proper underlayment) shown in the parking areas and the appropriate revision dates included.
 - Engineering’s suggestion to install a stormwater treatment unit prior to discharge to the infiltration system was considered by the applicant to be unnecessary. The applicant will install a catch basin with a sump and a hood.
 - Snow storage areas, protective fencing, and “no snow storage” signs have been added to the plans and will be referenced in the Condo Association documents.
 - The application includes a stormwater O&M plan and it will be included in the Condo Association documents.
- Vote to close the hearing and issue an Order of Conditions with the following special conditions. [Motion: S. Lunin; Second: L. Gilligan; Vote: 5:1:0]
 - Findings: The overall project will present an improvement of buffer zone conditions over existing conditions through stormwater management and infiltration and mitigation plantings.
 - Conditions:
 - The secondary compost sock proposed to demarcate the mitigation planting area must be placed immediately after site demo and remain in place as a visual barrier to construction efforts that equipment shall not enter.
 - The 8”-deep grass swale designed to channel runoff from 136 Pine St. around the infiltration area and to the brook must be installed as per the approved plans and must be revised, if needed, to channel flow during high rainfall events. Grading along the property boundary between 148 and 146 Pine Street shall in no way impede the flow of surface runoff from 146 Pine St to Brunnen Brook.
 - At least 18” of poor-quality soil must be removed from the restoration area and replaced in with high quality sub-soil and topsoil prior to installation of any plantings. Similar care must be taken to ensure appropriately high-quality topsoil is installed prior to installation of lawn areas.
 - Dewatering must be undertaken as represented on the approved plans, to limit and control any adverse impact on the wetlands resource area(s).
 - Concrete washout must be undertaken as represented on the approved plans, to limit and control any adverse on the wetlands resource area(s).
 - Stormwater requirements
 - To comply with the state stormwater standards, a minimum of 2-feet of separation to groundwater (observed in this area at 44’ City of Newton Vertical Datum) must be provided for the infiltration system proposed for behind unit 3. A groundwater monitoring well was installed in the infiltration area to better determine ESHGW (it is probably higher than the standing water seen during the August test pits). The whole infiltration area will have to be raised if needed to assure 2 feet of separation to groundwater. Revised plans showing same must be submitted for review and approval to the Conservation Office and Engineering Office. Full Commission approval may be required.
 - A test pit must be dug in front of unit 1 where the smaller recharge system is proposed.
 - Landscape plantings within Commission jurisdiction must:
 - Stabilize all exposed areas;
 - Be installed in compliance with the approved plans (desired changes in species or sizes must be approved by the Conservation office in advance);
 - Be installed on or before June 1, 2021;
 - Have a survival rate of 75 % of total number of trees (after 2 growing seasons);
 - Have a survival rate of 75 % of total number of shrubs (after 2 growing seasons); and
 - Have a survival rate of 75 % aerial coverage of all other plants (after 2 growing seasons).

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- If mulch is applied, applications must diminish over time and eventually cease as ground cover species and shrubs spread.
- If either of the two trees within the buffer shown as “to be protected” die within 2 years of the start of construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches).
- Prohibitions:
 - Grading along the property boundary between 148 and 146 Pine Street shall not impede the flow of surface runoff from 146 Pine St to Brunnen Brook.
 - No net fill can be brought into the City flood zone. Final grades may not exceed existing grades. This must be confirmed on the as-built plan.
 - Snow may not be pushed or stored within the bounded mitigation planting area. Snow may not be pushed or stored in any areas not identified on the snow management plan. Snow signage and fencing shall be maintained in perpetuity.
 - The use of herbicides and other pesticides is prohibited and fertilizers shall be limited to slow-release organic fertilizers to improve water quality in the adjacent wetlands and waterways.
 - In order to protect wildlife and/or vernal pool species, artificial lighting shall be designed to prevent lighting of the wetlands. Any outdoor lights within 200 feet of the wetland shall be directed so as not to radiate light towards those areas. Any such lights shall be limited to no more than 1,800 lumens per fixture and the fixture shall not illuminate any part of the wetland more than 0.2 footcandles. Exterior lights shall not be mounted higher than 25 feet above the ground.
- The required mitigation planting area shall bounded and be maintained in perpetuity in its predominantly natural condition.

3. 42 Parsons Street – NOI – demo of existing single-family home and construction of a duplex – DEP File #239-859

- Owner/Applicant: Arto Dermovsesian Representative: John Rockwood, EcoTec, Inc.
- Request: Issue OOC.
- Documents Presented: colored plans, photos, draft OOC
- Jurisdiction: Riverfront Area
- Project Summary
 - Demo single-family home with front porch, side stairs, driveway, front walk, fire pit, and retaining walls.
 - Construct duplex with porches, rear stairs, 2 paved driveways, walkways, and retaining walls. Undertake grading.
 - The proposed increase in impervious area on site within jurisdiction is 155 s.f.
 - A 315 s.f. mitigation planting area including 1 sapling and 12 shrubs is proposed.
- Presentation (John Rockwood) and Discussion
 - The 3 trees proposed to remain are all badly injured and in decline. The tree removal plan and planting plan will be revised to include removal of the 3 trees and installation of 3 replacement native saplings.
 - 4 trees that were on 42 Parsons (and on 36 Parsons but outside the approved limit of work on 36 Parsons) and were not permitted for removal, have been removed. This unpermitted cutting will be addressed with the addition of 4 more native saplings.
 - The applicant will provide a revised site plan with revised planting schedule and location to include 3 additional native trees must be added to the mitigation area and 4 native trees along the side and rear property lines prior to the issuance of this permit
 - The owner of this parcel also owns 36 Parsons and is obligated to rectify an Enforcement Order for unpermitted fill in flood zone on 36 Parsons under a separate OOC. The rectification work on 36 Parsons is due to be complete by June 15, 2020. The applicant will be using 42 Parsons for access to rectify 36 Parsons. The Commission discussed how best to ensure compliance on 36 Parsons and determined that strictly monitoring the E.O. was the best way forward.
 - As a duplex project, the project is exempt from state stormwater standards under the Wetlands Protection Act but is complying with city stormwater policy by installing trench drains in the driveways and two sets of infiltration chambers. Engineering Comments: Deep Hole Test Pit #2 must be excavated to an elevation of 40.85 (2' below the bottom of the recharge system proposed for the front yard).

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- J. Steel asked about the recently paved driveway on 42 Parsons, as it contributed to the existing impervious area. The owner claimed no knowledge of the date of paving.
- The Commission asked J. Steel to develop a 1-page summary suggestion for planting plans so that the Commission need not take so long in determining appropriate mitigation planting plans.
- Vote to close the hearing and issue an Order of Conditions with the following special conditions. [Motion: S. Lunin; Second: K. Cade; Vote: 6:0:0]
 - The pre-construction site visit shall address access through 42 Parsons to 36 Parsons.
 - Engineering requirement: Deep Hole Test Pit #2 must be excavated to an elevation of 40.85 (2' below the bottom of the recharge system proposed for the front yard).
 - Should it be determined, through final Engineering review, that the infiltration system proposed for the front yard does not have sufficient distance to ESHGW, revised drainage plans must be presented to the Conservation Commission for approval.
 - Landscape plantings within Commission jurisdiction must:
 - Stabilize all exposed areas
 - Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance)
 - Be installed on or before 6/15/21
 - Have a survival rate of 100% of the 4 trees planted near the property lines and outside the mitigation area (after 2 growing seasons)
 - Have the oak in the mitigation area survive
 - Have a survival rate of 75% of the 3 non-oak trees in the mitigation area (after 2 growing seasons)
 - Have a survival rate of 75 % of total number of shrubs (after 2 growing seasons)
 - Mulch applications shall diminish over time and eventually cease as ground cover species and shrubs spread.
 - Perpetual: The bounded mitigation shall be maintained in its native and natural state in perpetuity.

4. 31 Williams St – COC – driveway enlargement, bulkhead relocation, and landing installation – DEP File #239-739

- Owner/Applicant: Ellen Katz and Jay Werb Representative: none
- Request: Issue COC.
- Documents Presented: photos, draft COC
- Jurisdiction: Riverfront Area, Buffer Zone
- Discussion: Ellen Katz recused herself because she is the applicant. E. Katz described many of the native species she has planted and some of the successes and challenges each has posed and noted that her house will be on the May 17 historic house tour. Staff confirmed that the site is in substantial compliance with the approved plans and Order.
- Vote to issue a complete Certificate of Compliance. [Motion: S. Lunin; Second: K. Cade; Vote: 5:0:0]

5. 55 Wayne Road – COC Re-Sign – 1-story addition and deck enlargement – DEP File #239-632

- Owner: Mort Fogel Applicant/Representative: David Cowell (Hancock Associates)
- Request: Re-sign COC.
- Documents Presented: COC for re-signing
- Staff Notes: A COC was signed on February 2, 2018. The owner cannot find the original signed copy.
- Vote to re-sign COC for recording at the Registry of Deeds. [Motion: K. Cade; Second: L. Gilligan; Vote: 6:0:0]

II. CONSERVATION AREA DECISIONS

6. Webster Woods Celebration – Discussion

- Staff Notes: There is interest in having a celebration for the newly acquired Webster Woods. As the custodians, the Conservation Commission will work with the Conservators to plan an event – effectively a “ribbon cutting”. L. Gilligan and J. Hepburn volunteered to assist with coordinating with the Conservators for a May 23 or May 24th event – likely a picnic with walks led by local naturalists.

7. Invasive Species Policy – Discussion of Addition of Black Swallowwort

- Documents Presented: edited invasive species policy
- Staff Notes: Information regarding black swallow wort was added to the invasive species policy.

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- Vote to accept edits to policy. [Motion: E. Katz; Second: K. Cade; Vote: 6:0:0]

8. Bicycles in Conservation Areas Policy – Discussion of Policy

- Staff Notes: Currently, under the Commission’s Land Use Regulations, bicycles are prohibited. Is this what the Commission would like to maintain?
- Discussion: After discussion about some residents’ interest in being able to traverse some Conservation parcels by bicycle, there was discussion about the importance of dedicating some parcels to the preservation of tranquility for the sake of native wildlife and human visitors. It was determined to be important to maintain a distinction between Parks and Recreation lands and Conservation lands, the later of which have been protected primarily for their natural habitat qualities, functions, and values.
- Consensus: The prohibition on bicycles is appropriate and will be maintained.

9. Tracking Research/Education in Conservation Areas - Discussion of Possible Policy

- Documents Presented: list of known researchers
- Discussion:
 - A number of professors and educational leaders have been undertaking research or hosting educational events in Newton’s conservation areas, specifically the Webster Conservation Area. We want to continue to promote such uses of the area (as required in the deed restriction) and should track such uses.
 - The Commission added that having researchers contribute articles to the Conservators newsletter (and other outlets) would be beneficial.
 - It was determined that staff should send out a very simple approval/information solicitation form (e.g., name, activity to be undertaken, timeframe, equipment to be used) in early September and In early January to get feedback on proposed uses each semester.

III. ADMINISTRATIVE DECISIONS

10. Minutes of 1/30/20 to be approved

- Documents Presented: draft minutes
- Vote to accept the 1/30/20 minutes. [Motion: L. Gilligan; Second: K. Cade; Vote: 4:0:2]

IV. ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES

V. WETLANDS UPDATES

VI. CONSERVATION AREA UPDATES

- Eagle Scout: plans to install stairs at Norumbega.

VII. ISSUES AROUND TOWN UPDATES

- Open Space and Recreation Plan: The first public meeting was on Feb. 6th and was well attended. The committee met on 1/12/20 to discuss ways of presenting priorities in the new plan. Second public meeting will be March 4th at the Barry Price Center.

VIII. ADMINISTRATIVE MATTER UPDATES

- MACC Annual Environmental Conference: is scheduled for 2/29/20. Commissioners were encouraged to attend.
- ConCom 101 and Social Evening: J. Steel offered to host a casual evening get-together to discuss basics of the Wetlands Protection Act framed in local examples (essentially a local training). K. Cade offered to host in May. L. Gilligan will look into the legal requirements for posting.

OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING

- Public Lands Preservation Act: Advocates have asked Commissions to contact their state representatives J. Steel will forward the solicitation and fact sheet.
- Web domain: E. Katz suggested that “WalkNewton.org” be secured for hosting a city-wide trail website.

ADJOURN Vote to adjourn at 9:10pm. [Motion: S. Lunin; Second: L. Gilligan e; Vote: 6:0:0]

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