

CONSERVATION COMMISSION MINUTES

Date: March 28, 2019
Time: 7:00 pm
Place: City Hall, Room 204

With a quorum present, the meeting opened with Dan Green presiding as Chair

Members Present: Judy Hepburn, Norm Richardson, Jeff Zabel, Susan Lunin, Kathy Cade (Associate)

Staff Present: Claire Rundelli

Members Absent: Ellen Katz

Members of the Public: See sign-in sheet

DECISIONS

I. WETLANDS DECISIONS

1. RDA – various locations in Newton – routine roadwork

- **Request:** The City's Department of Public Works is requesting a DOA regarding their annual roadway maintenance.
- **Owner:** City of Newton **Applicant/Representative:** Louis Taverna, City of Newton DPW
- **Documents Presented:** none
- **Jurisdiction:** Buffer Zone and Riverfront Area
- **Presentation and Discussion:**
 - **Project Summary:** DPW is conducting annual road maintenance for the spring, summer, and fall seasons of 2019. This includes milling and overlaying several asphalt streets, placing bonded wearing course on Nahanton Street, and replacing a water main on Woodcliff Road.
 - **Impacts:** All activities are exempt either under the Act or under Minor Exemptions 10.02(2)(b)2.
- **Consensus:** Commission accepted applicant's request to withdraw RDA because all activities are exempt.

2. RDA – 23 Drew Road – confirmation of wetland jurisdictional areas

- **Request:** Applicant is requesting that the Commission confirm that the entire 23 Drew Road parcel is outside all jurisdictional areas.
- **Owner/Applicant:** City Real Estate Development, Inc. **Representative:** Christopher Lucas, Lucas Environmental, LLC
- **Documents Presented:** colored plans plans, photos, draft DOA
- **Jurisdiction:** none
- **Presentation (Chris Lucas) and Discussion:**
 - No work is being proposed.
 - The wetland on the adjacent site has been confirmed by the applicant to be an Isolated Land Subject to Flooding (ILSF) and a certified vernal pool. Neither an ILSF nor a VP have a 100' buffer zone.
 - The applicant determined (and a staff site visit on 3/15/19 confirmed) that there is no hydrologic connection to the nearby wetland.
 - This means that there is no buffer zone or any wetland jurisdiction on the subject parcel.
 - The applicant clarified that they are not looking for confirmation of the wetland boundaries as they are completely off the lot. Applicant stated that they are only looking for confirmation that there is not wetland jurisdiction on the lot of 23 Drew Rd.
- **Vote:** To issue a negative 1 Determination of Applicability certifying that there is no wetland jurisdiction on the subject parcel. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 5:0:0].

3. NOI – 45 Puddingstone Lane – addition onto existing temple building – DEP File #239-XXX



Mayor
Ruthanne Fuller

**Director
Planning &
Development**
Barney Heath

**Senior
Environmental
Planner**
Jennifer Steel

**Assistant
Environmental
Planner**
Claire Rundelli

**Conservation
Commission
Members**
Dan Green
Judy Hepburn
Susan Lunin
Norm Richardson
Ira Wallach
Jeff Zabel
Ellen Katz

**Conservation
Commission
Alternates**
Kathy Cade

1000 Comm. Ave.
Newton, MA 02459
T 617/796-1120
F 617/796-1142

www.newtonma.gov

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- Request: Applicant is requesting approval for a chapel addition to the rear of the existing temple, along with site improvements, removal and regrading of the existing outdoor amphitheater, tree cutting & restoration plantings.
- Owner/Applicant: Elyse Hyman, Temple Beth Avodah Representative: Frank Holmes, Stantec
- Documents Presented: colored plans plans, photos, draft OOC
- Jurisdiction: Riverfront Area
- Presentation (Christopher Fee, Stantec) and Discussion
 - **Project Summary**
 - Applicant is proposing to construct a 1280 s.f. addition onto the rear of the exiting temple. The majority of this addition is outside the 200-foot RFA.
 - The rear courtyards will be renovated and reduced in size. A portion of this work is outside the RFA.
 - The existing wood amphitheater will be removed and the area being regraded as a natural slope vegetated with native species. All of this work is within outer riparian zone.
 - Applicant will bury an electric cable, install a new transformer, and install a new utility pole.
 - Stockpiling and access will occur in the small parking area and driveway off of Grace Road.
 - **Impact Summary**
 - All new construction is occurring within existing impervious areas. Impervious area will be reduced overall. All proposed work is within outer riparian zone.
 - The project will improve stormwater with the installation of 2 infiltrating drywells in the improved rear courtyard.
 - Plans propose low bollard lighting.
 - To allow for the proposed project, the applicant is proposing to remove 11 trees over 8 inches, some of which are in poor health or dead. The proposal calls for the installation of 8 native canopy trees, 18 native understory trees, 78 native shrubs, and a variety of native grasses, perennials, and groundcovers.
 - **Discussion**
 - Commissioners confirmed that Eversource provided the location of the new transformer box.
 - Commissioners asked for clarification about why the amphitheater is being removed. The applicant clarified that the area was never used and is currently not up to code.
 - Dan Green suggested to the applicant that a second spray of the seed mix (to be hydroseeded) may be necessary to get a fully vegetated hillside. Applicant's representatives suggested that they have no issue doing a second spray on site.
 - Dan Green asked that the applicant be sure that all installed lighting meets dark sky requirements.
 - Norm Richardson expressed concern about the non-native cultivars present on the proposed planting schedule. Applicant's representatives said it would be no issue to revise the schedule to include more native cultivars.
 - Applicant will submit a revised planting plan/schedule to the Conservation Office by the standard two weeks before the meeting deadline.
 - Applicant agreed to erosion control modifications proposed by Conservation staff.
 - **Public Comment**
 - Howard Steiman (132 Wayne Road) had questions about the stormwater drainage for the project, expressing concerns about increased water being put out onto Wayne Road. He also expressed concerns about the lighting that is being installed, construction timing, and parking/site access.
 - Applicant's representatives clarified that they are reducing the runoff that is coming off the site with these improvements and that all overflow is being directed back towards the stream.
 - They stated that all lighting being installed is 4 ft high bollards which will serve only to illuminate the patio area. And that they will be complying with the City ordinance that prohibits light spilling over their property lines.
 - Representative's confirmed that they hope to begin construction in June of 2019.
- Vote: To accept applicant's request for a continuation to the 4/18/19 Commission meeting while they await the issuance of a DEP file number and provide a revised planting plan to the Conservation Office. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 5:0:0].

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4. NOI – Cold Spring Park – filming movie scene w/ associated crew and actors – DEP File #239-XXX

- Request: Permission to allow ~25 “extras” and ~25 film crew members to film for one day alongside Cold Spring Brook.
- Owner/Applicant: Ryan Cook, Paramount Pictures Representative: Ryan Cook
- Documents Presented: colored plans plans, photos, draft OOC
- Jurisdiction: Riverfront Area, Bordering Vegetative Wetlands, and City Floodplain
- Presentation (Victoria Virtue and Carol Stapleton) and Discussion:
 - **Project Summary**:
 - Roughly half a day of filming is anticipated. Crew and equipment will be brought in on golf carts on the established walking path. Extras and crew will access the film “set” area on foot. Activity will be limited to foot traffic in the woods and shall remain at least 3 feet from the bank of the stream.
 - Filming is due to take place April 16th (rain or shine).
 - Reasons project is approvable
 - Avoid -- by getting ahead of leaf-out, thereby reducing the need to cut, staying at least 3 feet from the bank, prohibiting access to the stream itself, and establishing “no touch” zones around particularly sensitive areas ahead of time with professional assistance.
 - Minimize – by having established points of access, having an on-site environmental monitor, and banning cutting
 - Mitigate – by ensuring that any damage to the paths or natural areas will be repaired (or allowed to regenerate) as appropriate.
 - **Impact Summary**
 - The area is comprised of soft organic soils and a predominance of non-native plant species. It is vulnerable to trampling, but a local biological expert has determined that the set area does not contain sensitive species.
 - The local biological expert (Bruce Wenning) shall be present on-site during the filming to ensure that the concepts of “avoid, minimize, mitigate” are exercised.
 - The applicant has agreed to site restoration as required, once filming has ended and an assessment of impacts has been made.
 - **Discussion**
 - Norm Richardson expressed concerns about soil compaction and trampling of emerging herbaceous species in the areas of off-trail activity. He expressed an interest in having the hired Environmental Monitor survey the site beforehand to establish pre- and post-filming site conditions.
 - Kathy Cade believes that additional conditions may not be necessary because the Commission is putting its trust in the Environmental Monitor.
 - Applicant agreed to the addition of a condition stating that remediation plantings may require seed mix or plugs to restore areas and plants damaged by trampling.
 - Commissioners agreed that this request is a unique and one-time exception to general procedures. They will agree to approve the Order of Conditions to be released upon the issuance of DEP File Number, acknowledging the uniqueness of this situation.
 - **Public Comment**
 - Alan Noguee (Friends of Cold Spring Park) stated that he sent out word about the filming to the entire Friends of Cold Spring Park email list and received no complaints or concerns.
- Vote: To close the hearing and issue an Order of Conditions, to be released upon the issuance of a DEP File Number, with the following special conditions. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 5:0:0].
 - The applicant must provide to the Conservation Office at least one week in advance of filming:
 - a. Photographic proof of a DEP File number sign (minimum size 2’x2’, clearly visible from the street)
 - b. Proof of Recording of the Order at the Registry of Deeds
 - c. Contact information for those responsible for filming, biological monitoring, and site remediation
 - d. Anticipated timeline
 - The Environmental Monitor, paid for by the Applicant, shall:

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- a. Be provided with contact information of those responsible for filming activities and site management.
- b. Be present during all on-site activities to ensure that the code of “avoid, minimize, mitigate” is adhered to. Specifically, he shall ensure that all crew and cast remain in the approved off-trail area, remain 3 feet or more from the bank of the stream, refrain from any vegetation cutting, and minimize trampling of the off-trail areas.
- c. Evaluate, after filming is complete, the site for “satisfactory site health” which shall be defined as no damage to trees, minimized damage to emerging ground cover and herbaceous species, a shrub layer with shrubs on average every 5 feet on center, and stable soils.
- d. Make note of the condition of the “main” stone dust trail and side secondary trail on the south side of the main stream after filming is complete.
- e. Submit a brief written report to the Commission:
 - a. Noting any successes and challenges of the filming process.
 - b. Characterizing any damage done to the site (of the off-trail natural areas and the trails themselves)
 - c. Detailing any remediation necessary (e.g., plantings, trail restoration, repair of eroded or trampled areas).
- Remediation within Commission jurisdiction must:
 - a. Be conducted promptly after filming by a qualified landscaper hired by the applicant.
 - b. If remedial plantings are required, the applicant shall install a sufficient number of *clethra alnifolia* (sweet pepperbush) to achieve “satisfactory site health” a shrub layer with shrubs on average every 5 feet on center).
 - c. If the on-site Environmental Monitor deems it necessary, remedial plantings may also include an approved wetland seed mix and/or plugs of herbaceous plants and ground cover species to compensate for damage to the emerging herbaceous plant materials.
 - d. The main stone dust trail must be restored, as necessary, to a stable and accessible state.
 - e. The secondary trail must be restored, as necessary, to a stable condition (with planks, wood chips, or other natural materials).
- Photographs of the site must be submitted showing site compliance.

5. NOI – cont’d 11 David Road – teardown/rebuild single family home – DEP File #239-830

- Request: Continue hearing until 4/18/19.
- Owner/Applicant: Nataniel Ustayev Representative: Michael Kosmo, Everett M. Brooks Co.
- Documents Presented: colored plans plans, photos, draft OOC
- Jurisdiction: Riverfront Area, Bordering Land Subject to Flooding (121.52’ CNVD), and City Floodplain
- Presentation and Discussion:
 - **Project Summary:** Demolish the existing single-family home and driveway and rebuild a new single-family home with driveway and porch.
 - **Impact Summary**
 - Jennifer Steel clarified that the Riverfront Area was drawn incorrectly on the plans due to the culvert. The Applicant will fix the plans.
 - The applicant will craft new plans, new calculations, and new presentation of how the project meets all the pertinent performance standards under Flood Zone and Riverfront Area.
 - One large (30”) deciduous tree appears to be due to be removed (it is within the limit of work) but the mitigation planting area is shown as a 6’ border along the sidewalk. The applicant team will consider saving as many trees as possible and will provide a more robust planting plan.
 - **Notes**
 - Proposed house and driveway represent an expansion of impervious area and alteration in the RFA. The applicant team is planning to provide revised plans showing a reduced footprint of the house, deck, and driveway and a “softened” swale.
 - Test pits for the proposed infiltration system will be conducted after the utilities have been cut and capped.

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- No revised materials for this project were received by the Conservation Office before the publishing of this agenda. The Applicant was told that revised materials needed to be submitted by 3/15/19.
- Vote: To accept the applicant's request for a continuation to 4/18/19. [Motion: Judy Hepburn; Second: Susan Lunin; Vote: 5:0:0].

CONSERVATION AREA DECISIONS – none at this time

III. ADMINISTRATIVE DECISIONS

6. ConCom Leadership – Issues to consider Issues to consider

- Discussion
 - The Commission will discuss the terms for different roles within the Commission and methods of voting and decision making.
 - The Commission discussed the downsides of candidate self-selection. If no one selects themselves, who becomes chair?
 - It was determined that the method of candidate selection should be self-selection, unless no members self-select, then the vice-chair will automatically ascend to chair.
 - The Commission agreed that elections should occur biennially (every other year) at the first meeting in June, starting in 2021.
 - The Commission agreed that ballots should be written.
 - The Commission determined that the discussion of term limits and cooling off periods should be tabled for the time being, until a better understanding of the group dynamics with the new leadership is established.
- Vote: To formally record the details of Commission leadership and elections agreed upon at this meeting. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 4:0:1].

7. Minutes of 3/7/19 to be approved.

- Documents Presented: draft minutes draft minutes
- Vote: To approve the 3/7/19 minutes as edited at the 3/28/19 meeting. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 5:0:0].

IV. ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES

V. WETLANDS UPDATES

- Hammond Brook Culvert Project: Underway.
- Horace Mann School to be redeveloped soon

VI. CONSERVATION AREA UPDATES

- Norumbega Dog Park: The design contract for the dog park has been released to BETA group.
- Land Management: Bid for Annual contract due out soon.
- Norumbega slope restoration: Staff received \$47,000 estimate from potential contractor. Await Purchasing feedback.
- Kessler Woods Wetland Trail: Staff are working to put together an Invitation for Bids for the Purchasing Dept.
- Kennard invasives corner: Met with two contractors to get estimates for conversion to meadow. One rough estimate has been received.
- Old Deer Park: Met with contractor to get an estimate for invasive control on 3/15/19.
- Charles River Pathway stairs: Will seek permission from land owners and go out to bid without grant support.
- Summer help: Seek summer interns for 10-15 hr/wk through Mayor's summer program, MSMCP and tax-write-off.

VII. ISSUES AROUND TOWN UPDATES

- Open Space and Recreation Plan: Jennifer Steel met with Parks and Rec on 2/15/19 to begin planning.
- Climate Action Plan: Public workshop #2 happened on 3/21/19.
- Webster Woods Protection: Executive Committee met on 3/4/19. Full advisory panel will meet mid-March.

VIII. ADMINISTRATIVE MATTER UPDATES

- ConCom Membership: Kathy sought appointment to full member. 2 new alternates needed. Suggestions welcome.

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

8. 1 Nonantum Road – question regarding potential changes to approved (DEP #239-745) trail alignment

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- Request: City staff would like to know the Commission's thoughts on potential changes to the trail alignment approved at 1 Nonantum Road under Order #239-745.
 - Documents Presented: aerial showing existing approved alignment and potential new alignment of trail
 - Presentation (Claire Rundelli) and Discussion:
 - The 1 Nonantum Road lot is owned by the Department of Conservation and Recreation (DCR) and leased by Newton Country Day School (NCDS), who use the Daly Rink and boathouse.
 - NCDS was required to put in a trail by Order 239-745 to allow access to the Charles River after a violation occurred on site.
 - The trail alignment was approved in an Amendment to Order 239-745. The current approved alignment was approved due to a lack of interest from DCR to continue the trail further on their property.
 - In a site meeting on 3/28/19, city staff met with Dan Driscoll from DCR about the trail alignment. Dan expressed interest in continuing the trail further with the new access point being directly east of the Newton Yacht Club's driveway (note: the Yacht Club also leases their land from DCR).
 - City staff would like to know the Commission's thoughts on allowing a minor plan change to rotate the roughly 120' of currently approved trail to be constructed onto DCR land rather than exiting onto the bike path along Nonantum Road.
 - City staff would like to know the Commission's thoughts on allowing administrative approval to construct the small portion of trail that would remain on the NCDS leased land to allow the trail to continue west onto DCR land rather than turning south and exiting onto the bike path along Nonantum Road.
 - Consensus:
 - The Commission agreed that administrative approval would be appropriate to allow for the small portion of trail to be constructed on NCDS land to allow for the connection to a continued trail on DCR land.
 - The Commission agreed that they would allow for a minor plan change to remove the existing section of trail that exits onto Nonantum Road on NCDS leased land, but not until DCR proposes construction of the rest of the trail connection, which would then exit on their land, adjacent to the Yacht Club drive.
 - The Commission agreed that they would be amenable to DCR continuing the trail on their land.
-

ADJOURN Vote to adjourn at 8:30pm [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 5:0:0].

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