

CONSERVATION COMMISSION MINUTES

Date: May 9, 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: Ellen Katz, Norm Richardson, Kathy Cade, Judy Hepburn, Jeff Zabel, Susan Lunin

Staff Present: Jennifer Steel

Members Absent:

Members of the Public: See sign-in sheet

DECISIONS

1. Wabasso CR

- **Owner:** City of Newton, Cons Com **Representative:** Catherine Farrell, Emily Mehan
- **Request:** Signatures from the Commission on the Municipal Certification for the 30 Wabasso Street Conservation Restriction (CR) stating that the Conservation Restriction on 30 Wabasso Street is in the interest of the public and that the site will be maintained as conserved land in perpetuity.
- **Documents Presented:** draft conservation restriction, CR
- **Project Summary:** The City is trying to get CRs placed on all properties that were acquired with CPA funds (as required by the CPA). This ~5,000 s.f. parcel was acquired in 2007 so the CR is overdue. The CR has been drafted, reviewed, and approved by the Executive Office of Energy and Environmental Affairs (EOEEA).
- **Presentation (Catherine Farrell) and Discussion:** Commissioners focused their review on the Purpose, Prohibited Acts, Reserved Rights sections (pages 2-6). No concerns were raised.
- **Vote:** to sign the Conservation Restriction as drafted and the Municipal Certification as requested [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 7:0:0].

I. WETLANDS DECISIONS

2. 687 Watertown St. – Preliminary presentation -- Access and parking changes for NECP

- **Owner/Applicant:** Newton Schools **Representative:** Josh Morse (Public Buildings), Deb Danik (Nitsch Engineering), Jessica Bessette (Arrow Street)
- **Request:** Introduce the proposed project to the Con Com
- **Documents Presented:** colored plan PowerPoint presentation
- **Jurisdiction:** Riverfront Area
- **Project Summary/Presentation (Deb Danik, Jessica Bessette)**
 - Newton Early Childhood Program will be moving into this space (construction due to begin January 2020 and last for one year.
 - To accommodate the growing student population (some with special needs), the schools must modify access, add to the entry plaza.
 - Prior proposed additional parking on Watertown Street has been eliminated.
 - The project will meet the Riverfront Area performance standards
 - To mitigate for construction in the RFA, they will remove the modular classrooms, disconnect stormwater flows, install stormwater treatment, and add native plantings.

3. Norumbega Conservation Area/0 Islington Rd. – Update – Installation of Waterbars

- **Owner:** Newton Conservation Commission **Representative:** David Morefield, Boy Scout
- **Request:** Receive Commission approval for installation of 16 water bars on River Rd trail.
- **Documents Presented:** map, photos, video of test bar in the rain
- **Jurisdiction:** Riverfront Area
- **Project Summary:** Install water bars on the River Road trail to stop erosion and restore footbed.
- **Presentation (David Morefield) and Discussion:**
 - This project is “approved” under the Commission’s generic Trails OOC for work on Commission owned land.
 - This project was approved in concept by the Commission on 2/14/19 with the caveat that David would return to provide more specifics after having installed one test water bar.



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

- David has installed a test bar and modified his materials after observing the test bar before, during, and after the rain we got the week of April 22nd. His test was very successful.
- Commissioners asked that he use 3 pieces of 24” rebar to secure each water bar (rather than two) and that they be installed at angles to limit pull-out. Project will be executed on May 11, 2019.
- Consensus: Allow the project to proceed on 5/11/19 as described.

4. 16 Grace Rd. – RDA – Driveway expansion associated with teardown-rebuild

- Owner/Applicant: Craig Halagian_ Representative: self
- Request: Original communication noted work on existing driveway. Plans show expansion of driveway in RFA.
- Documents Presented: colored plans plans, photos, draft DOA
- Jurisdiction: Riverfront Area
- Project Summary: The overall project is a teardown of an existing single-family home and construction of a new single-family home with an expanded driveway. Within RFA the only proposed work is driveway expansion.
- Presentation (Craig Halagian) and Discussion
 - The RFA line on the plans are based on the City GIS, not field measurements from top of bank, so RFA actually extends 5-8’ further onto the property. Staff have sketched in an estimated RFA line.
 - The proposed driveway is for 3 cars. The existing circular drive c/should be eliminated to reduce total paving in the RFA and enhance the appearance of the site. The applicant was pleased with that suggestion and was willing to withdraw his RDA with the intention of filing an NOI for a modified site plan.
 - Site access, stockpiling, erosion controls, and native plantings should be clarified on the revised plans.
- Consensus: Accept the applicant’s withdrawal of the RDA and accept an NOI for the proposed work.

5. 243 Park St. – RDA – confirm that the stream is intermittent

- Owner/Applicant: Arman Chitchian Representative: Sarah Stearns, Beals and Thomas
- Request: Confirm that the stream adjacent to the site is intermittent.
- Documents Presented: colored plans StreamStats plans, photos, draft DOA
- Jurisdiction: Buffer Zone to Bank
- Project Summary: No work is proposed. Applicant is asking the Commission to confirm the status of the nearby stream as intermittent, not perennial.
- Presentation (Sarah Stearns) and Discussion: Staff concurs that the stream does not qualify as perennial because:
 - It is NOT shown as perennial on the current USGS topo
 - It does NOT have a watershed size greater than or equal to one square mile
 - It does NOT have a watershed $\geq \frac{1}{2}$ square mile and a predicted flow rate ≥ 0.01 cubic feet per second at the 99% flow duration using Stream Stats method
 - It does NOT have a watershed size of at least $\frac{1}{2}$ (0.50) square mile, and the surficial geology of the contributing drainage area to the stream at the project site contains 75% or more stratified drift
- Vote: Issue a Positive Determination 2a. The boundary delineations of the following resource areas described on the referenced plan(s) documents (cover letter and Stream Stats report #MA20190422134742424000) are confirmed as accurate [Motion: Judy Hepburn; Second: Ellen Katz; Vote: 7:0:0].

6. 2 Thaxter Rd. – after-the-fact RDA – cutting 2 trees

- Owner/Applicant: Ken Thornby Representative: self
- Request: Ex post facto approval of mitigation planting for the unpermitted removal of 2 trees
- Documents Presented: annotated aerials plans, photos, draft DOA
- Jurisdiction: Riverfront Area (possibly)
- Project Summary: Ex post facto filing for the removal of two Norway maple trees in conjunction with the addition of a second story.
- Presentation (Ken Thornby) and Discussion: Applicant removed 2 Norway maples (~22” and ~26”) from his lot in preparation for a second story addition onto the existing single-family home. Newton’s GIS map shows the trees outside the Riverfront Area, however, the GIS line may be inaccurate. To be conservative, the applicant is proposing to plant 2 native saplings (oaks) and 4 shrubs (ilex and viburnum) as mitigation (the land is high above the river).
- Vote: Issue a Negative 2 Determination of Applicability (“The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does

The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities who require 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 or (617) 796-1253. The city’s TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

not require the filing of a Notice of Intent.”) that requires the proposed plantings [Motion: Kathy Cade; Second: Susan Lunin; Vote: 7:0:0].

7. 1 Nonantum Rd. – Request for Minor Plan Change (DEP File #239-745) – Riverside Bike/Ped. Path

- Owner: Martha McMahon DCR/DCAMM) Applic.: Newton Country Day School/Boston Acad. of the Sacred Heart
- Representatives: Daniel J Padien (VHB, Inc.)
- Request: Approval of a reduction in scale and realignment of the prior-approved public access pathway along the Charles River to allow the path to continue further along the river to the Newton Yacht Club entry drive.
- Documents Presented: colored plans colored plans, photos, draft memo
- Jurisdiction: RFA
- Project Summary
 - Eliminate on-site connection to Dudley White Path: The previously approved 120’ long path segment perpendicular to Nonantum Road will be eliminated.
 - Extend path west to lease boundary: The path will be extended approximately 40 feet to the west, parallel to the Charles River and Nonantum Road, terminating at the boundary between the Daly Rink lease parcel and the Newton Yacht Club lease parcel (so-called). MassDCR is designing a new path segment across the Newton Yacht Club lease parcel for construction to coincide with the Daly Rink path project in the coming weeks.
 - Replace mulch shoulders with stabilized stone dust: The 1-foot wide path shoulders, previously approved as mulch, are to be constructed of stabilized stone dust consistent with the main body of the path. This change will have the effect of widening the path for much of its length from 7 feet to 9 feet. At its narrowest point – adjacent to the existing boat shed - the path will be widened from 5 feet to approximately 7 feet.
 - DEP will apply to finish the trail: We expect a filing to complete the trail from the lease line to the bike path near the Yacht Club entry drive.
- Presentation (Daniel Padien) and Discussion
 - These design changes on the Daly Rink project site result in decreased area of disturbance on this lease lot and will allow for a more appropriate trail design.
 - All aspects of restoration planting and fencing in the original approved plans will still occur.
 - DCR is in full support of this proposal and is due to present an NOI at the May 30th meeting seeking permission to construct the connection to the west.
- Vote: to approve this proposal as a minor plan change [Motion: Susan Lunin; Second: Judy Hepburn; Vote: 7:0:0].

8. 212 Kenrick Street – continued NOI (DEP File #239-834) – vegetation management in golf course ponds

- Owner: Steven Meyer, Newton Commonwealth Foundation Applicant: David Stowe, Newton Comm. Golf Course
- Representative: Matthew Salem, SOLitude Lake Management
- Request: Ecological Restoration Order of Conditions
- Documents Presented: colored plan, 3-5 year plans, nutrient management summary, review of recent work plans, photos, draft OOC
- Jurisdiction: Bank, Land Under Waterbodies and Waterways (LUWW), City Floodplain
- Project Summary: Five ponds (three connected by an intermittent stream, 2 isolated) are contained within the played portion of the golf course. All are suffering overgrowth of weeds and algae. Management of nuisance and non-native species by chemical and mechanical control is proposed.
- Discussion (no representative was present)
 - Staff spoke with SOLitude’s Matt Salem and expected to receive revised materials addressing the following.
 - It is still not clear what ecological restoration is being sought/proposed. It seems to be a project designed for aesthetics and golf playability.
 - It is still not clear what herbicide treatments are being proposed for what plants in what locations.
 - It is still not clear what thresholds for treatments (or Commission review) are being proposed.
 - It is still not clear how nutrients on site are being managed/minimized.
 - The Commission had asked for a plan with real watershed improvements such: as the installation of vegetated buffers (to discourage geese, take up nutrients, stabilize banks, etc.), no mow areas around water features, drawdowns, dredging, etc.
 - Norm Richardson (Board member), noted that this application has not been discussed by the Board.
- Vote: to accept Norm Richardson’s request (on behalf of the golf course) for a continuation to May 30, 2019 to allow for: (1) distinction between Ecological Restoration and work under 10.56 and 10.54; (2) clearer maps of herbiciding; (3) a clearer explanation for proposed nutrient management activities over time; (4) thresholds for different management activities; and (5) proposals for watershed enhancements to address the causes of weed over-growth [Motion: Kathy Cade; Second: Jeff Zabel; Vote: 7:0:0].

- 9. 33 Wayne Road – OOC Minor Plan Change (DEP File #239-811) – addition of retaining wall in rear yard**
- Owner/Applicant: Carmine Petruziello Representative: Carmine Petruziello
 - Request: Approval as a minor plan change the addition of a ~1.3-foot tall and ~45’ long retaining wall in the rear of the lawn.
 - Documents Presented: colored plans plans, photos
 - Jurisdiction: Riverfront Area
 - Project Summary: Required restoration and mitigation area was disturbed in the anticipation of a new wall. The owner sought permission to install the wall in exchange for enhanced native plantings
 - Presentation (Carmine Petruziello) and Discussion
 - The applicant was still not certain about exactly what he wanted or intended to do
 - Staff sketched in assumed grading changes around the wall, since they were missing from the plans
 - Plans did not include increased plantings, as discussed at the last meeting.
 - Commissioners need clarity about grading changes and plantings on a professionally engineered plan.
 - Consensus: Await clearer plans and then, in all likelihood, accept the changes as “minor”.
- 10. 790 Centre Street – informal discussion – add gravel to existing gravel road**
- Owner/Applicant: Mt. Alvernia Academy Representative: none
 - Request: Conservation staff would like the Commission’s thoughts about how the land owner should seek approval for adding gravel to the road near the stream crossing.
 - Documents Presented: colored plan, annotated aerial colored plan, annotated aerial, photos
 - Project Summary: The school’s would like to facilitate their landscaper’s access their site without having to cross the (wet) playing fields. The City’s DPW also use the road to clear the storm grate. The road has become soft and muddy over the years. The school would like permission to add gravel to the road.
 - Jurisdiction: Buffer Zone, City Floodplain
 - Discussion: The Commission sees no problem with the request.
 - Consensus: This low-impact maintenance activity may be administratively approved.
- 11. 2401 Commonwealth Ave Boathouse – Informal discussion – after-the-fact approval and new ADA-compliant docks**
- Owner: DCR Applicant/Representative: Larry Smith
 - Request: Applicant would like to know how best to bring the site into compliance and how to seek approval for proposed ADA improvements to one of the docks.
 - Documents Presented: historic plans historic plans, aerial photo
 - Project Summary: The applicant has been approached by a donor/resident about upgrading a dock to be ADA compliant, but the site is not currently in compliance with an old OOC.
 - Discussion:
 - Some docks were approved in 2000.
 - Installation did not comport with the plans (unpermitted expansion occurred).
 - The current conditions have existed for years.
 - Mitigation has been provided by the applicant through aquatic weed management (water chestnut removal).
 - Additional mitigation could include stormwater improvements, invasive removal, rack formalization, and native plantings.
 - Chapter 91 licensing should be current before a new OOC is issued.
 - Consensus: The applicant should apply for a new OOC. Once that is completed, it and the old OOC could be closed.
- 12. Hammond Brook Culvert – OOC Extension (DEP File #239-751) – replace and reline stormdrain culvert**
- Owner/Applicant: City of Newton, DPW Representative: none
 - Request: Extend Order of Conditions by 3 years to allow for work to be completed.
 - Documents Presented: photos, draft OOC extension
 - Project Summary: The City has to replace some and reline some of a culverted stream (Hammond Brook). The collapse of the culvert causes flooding upstream (and a huge flood in 2010 that damaged the Green Line tracks).
 - Jurisdiction: Riverfront Area, BVW
 - Discussion: Dan Green disclosed that his office is across the street from this site. Work on the project was held up in the planning stages. The Order of Conditions is soon to expire. Work started at the beginning of 2019 and all

The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities who require 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 or (617) 796-1253. The city’s TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

work should be completed within the 3-year extension. Another extension may be necessary to encompass the required growing seasons for the mitigation plantings.

- Vote: to approve request to extend Order of Conditions 239-751 for three years [Motion: Susan Lunin; Second: Kathy Cade; Vote: 7:0:0].

13. 56 North St. – OOC Extension (DEP File #239-760) – tear-down/re-build SFH

- Owner/Applicant: Tramy and Sinclair Lao Representative: self
- Request: Extend OOC by 3 years to allow for growing season requirement to be met for mitigation plantings.
- Documents Presented: photos, draft OOC extension
- Project Summary: Tear-down/re-build of a single family home. Mitigation plantings were required in the RFA.
- Jurisdiction: Riverfront Area
- Staff notes: Plantings were installed in spring of 2018 and additional plants are to be planted this spring as many of the plantings did not survive winter. A Commissioner wondered whether the artificially colored mulch may be precluding survival.
- Vote: to approve request to extend Order of Conditions 239-760 for three years [Motion: Ellen Katz; Second: Susan Lunin; Vote: 7:0:0].

14. 30 Beethoven Rd. – COC Request (DEP File #239-714) – Zervas School construction

- Owner/Applicant: City of Newton, Public Buildings Representative: Paul Ferolito, City of Newton
- Request: Close out Order of Conditions 239-714 permitting the construction of a new school (Zervas School).
- Documents Presented: plans, photos, draft COC
- Project Summary: Tear-down/re-build of an elementary school.
- Jurisdiction: Bordering Vegetative Wetlands, Buffer Zone, Riverfront Area, City Floodplain
- Discussion: A site visit on 5/1/19 confirmed that the site is in substantial compliance with the approved plans and order. Most everything is functioning well. The issues of concern are: as-built plans are “thin”, staff regularly park on the emergency access (porous pavement) road, the swale along the playing field was converted from shrubs to grass to facilitate maintenance but is bare soil, the playing field is not well grassed, and the level spreader is heavily silted in. Jennifer Steel spoke with Josh Morse and he supported delaying a COC until all concerns were addressed.
- Vote: to decline to issue a Certificate of Compliance for OOC 239-714 until proper as-builts have been received and the site is fully stable [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 7:0:0].

CONSERVATION AREA DECISIONS – none at this time

15. 230 Dudley Road/Hahn Brook Conservation Area restoration – informal feedback

- Owner/Applicant: Fred Bennett Representative: Dan Gordon, Dan Gordon Landscape Architects
- Request: Homeowner and their representative would like feedback from the Commission on their proposed restoration plan for the historic encroachment of the 230 Dudley Road lot onto the Hahn Brook Conservation Area.
- Documents Presented: plans plans, photos of encroachment area
- Project Summary: The “encroachment” is historic, but the current owner is willing to help rectify the situation prior to selling the property. The owner proposes to install bounds (bird boxes?) to delineate the conservation/meadow area, seed with a meadow mix, and mow only twice per year. They seek permission to continue to maintain the wall.
- Discussion: Staff crafted a draft MOU to memorialize and agreement. The Commission noted its interest in securing a right of access from Dudley Road (i.e., across the owner’s driveway) that is otherwise precluded by the stone wall.
- Consensus: Kathy Cade will review the draft on behalf of the Commission.

III. ADMINISTRATIVE DECISIONS

16. Administrative Approval. Staff seek permission to give residents administrative approval to remove up to two (2) invasive but non-hazardous trees (or shrubs).

- Documents Presented: existing admin approval form existing admin approval form
- Discussion: Commissioners decided to allow staff to determine, on a case-by-case basis, what native mitigation plantings should be required.
- Vote: to allow staff to give residents administrative approval to remove up to two (2) invasive but non-hazardous trees (or shrubs) with required native mitigation plantings to be determined by staff on a case-by-case basis [Motion: Norm Richardson; Second: Susan Lunin; Vote: 6:0:1].

17. Minutes of 4/18/19 to be approved.

- Documents Presented: draft minutes draft minutes

- Vote: to approve the 4/18/19 minutes as edited [Motion: Susan Lunin; Second: Kathy Cade; Vote: 7:0:0].

IV. ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES

V. WETLANDS UPDATES

- DPW annual report **report**

VI. CONSERVATION AREA UPDATES

- Norumbega Dog Park: Site being surveyed.
- Land Management: Bid for annual contract has been released.
- Kennard invasives corner: Privately funded work is due to begin soon.
- Norumbega slope restoration: Work under “emergency” purchasing provisions due to begin soon.
- Encroachments 261 Parker St and 70 Wayne Road: due to be planted by John Menard soon.
- Old Deer Park: Met with contractor to get a proposed scope for invasive control.
- Summer help: Seeking summer interns for 10-15 hr/wk through Mayor’s program, MSMCP and tax-write-off.
- Charles River Pathway stairs: Found contact for land owners.
- Kessler Woods Upland Trail: Staff need to re-start talks with Chestnut Hill Realty re public access easement.
- Kessler Woods Wetland Trail: One upland trail access is clarified, staff will put together an Invitation for Bids.

VII. ISSUES AROUND TOWN UPDATES

- Climate Action Plan: Due to go to ZAP on 4/29/19
- Webster Woods Protection: Executive Committee continues to meet.
- Open Space and Recreation Plan: Staff need to jump-start the revision.
- Northland, Riverside, Washington Street:
- Christina Street Bridge: Planning staff due to meet with Barry Price Center board May 23
- Upper Falls Greenway: City is working to get safe connection to Easy Street and Curtis St.
- DCR Hammond Pond Parkway redesign: Staff are working to ensure that trail access and pedestrian crossings are taken into consideration.
- Comm Ave. Carriageway redesign: Underway in conjunction with rebuilding the Rt 30 bridge and Rt 30.

VIII. ADMINISTRATIVE MATTER UPDATES

- Conservation Commission membership.
 - Norm Richardson in not planning to reapply for full membership (7/10/19).
 - Kathy Cade has vacated the Associate member position.
 - 4 potential applicants have come forward. Applications are being accepted by the Mayor’s office.
-

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

18. **56 Farwell St. – violation** – stockpiling fill on site prior to pre-construction requirements and erosion controls. Jennifer Steel has emailed the owner, Stephen Vona and DEP. Jennifer will call Jill Provencal of DEP to request an Enforcement Order.
 19. **Public Lands Preservation Act – request to formally endorsed** – the merits of the bill were discussed.
 - Vote: to formally endorse the PLPA as a Commission [Motion: Judy Hepburn; Second: Norm Richardson; Vote: 7:0:0].
 20. **5 Harwich Road – request to cut 1 dead hazard tree on the abutting Conservation Land** – photos of the trees in question were shown.
 - Vote: to approve this request [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 7:0:0].
-

ADJOURN Vote: to adjourn at 10:17 [Motion: Ellen Katz; Second: Jeff Zabel; Vote: 7:0:0].

The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities who require 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 or (617) 796-1253. The city’s TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.
