

CONSERVATION COMMISSION MINUTES

Date: October 24, 2019
Time: 7:00 pm
Place: City Hall, Room 204

With a quorum present, the meeting opened at 7:02 with Dan Green presiding as Chair

Members Present: Judy Hepburn, Jeff Zabel, Susan Lunin, Kathy Cade, Leigh Gilligan

Members Absent: Ellen Katz

Staff Present: Claire Rundelli

Members of the Public: See sign-in sheet

DECISIONS

I. WETLANDS DECISIONS

1. Flowed Meadow Conservation Area – Follow-up Presentation – eagle scout project

- Owners: City of Newton Applicant: Henry Loftus
- Documents Presented: Presentation by Henry Loftus
- Jurisdiction: Buffer Zone, RFA
- Presentation (Henry Loftus)
 - Scout presented a very well put-together power point about his project with photos and details about the day. 40 volunteers assisted with the project and they woodchipped almost 600 feet of trail.
 - Commissioners congratulated the scout on his accomplishments, stating that they were incredibly impressed with not only the work completed, but also the presentation.
 - Scout fundraised \$250 dollars, but only required \$168 for project materials. The scout chose to donate the remaining \$82.00 of fundraised money to the Conservation Commission.

2. 20 Forest Grove Road – RDA – restoration of pump house access road

- Owner: MA Department of Conservation and Recreation Applicant: Paul Jahnige, DCR Representatives: self
- Request: Issue Determination of Applicability.
- Documents Presented: aerials photos, aerials, scope of work, draft DOA
- Jurisdiction: Buffer Zone, Riverfront Area
- Project Summary:
 - Restoration of an existing 15' wide gravel path into a 10' stone dust access road with 2' loam and seeded shoulders on either side of the pathway. This section of the path connects the end of Forest Grove Rd with the pump house on site and continues on to make a connection with DCR's Charles River Pathway.
 - This work qualifies as exempt under the regulations 10.02(2)(b)2.p.
 - The proposed project will result in no additional disturbed area within the RFA as all work is occurring within the limits of the existing roadway.
 - Erosion controls are proposed where work will be within 25' of the riverbank.
- Presentation and Discussion
 - DCR representative, Paul Jahnige, could not attend the meeting due to family medical issues, but provided a statement to be read to the Commission. The statement provided details about DCR's involvement in open space and trail management throughout the Commonwealth and described the hoped-for impact of this trail restoration. The statement also addressed the staff concerns about run-on/run-off with details about the final crowning of the trail to prevent these issues.
 - Commissioners asked staff if they felt that the crowning would be enough to deal with the issues and Conservation staff stated that they did feel it enough and that existing site conditions will likely lead to very little run-on and that run-off would only be coming from the area between the trail and the Charles River.
- Public Comment



Mayor

Ruthanne Fuller

**Director
Planning &
Development**

Barney Heath

**Chief
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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- Hobart Nichols, 10 Forest Grove Rd: As an abutter to the trail, he wanted to show his support for the restoration of this section of the trail. He expressed dumping concerns should the safety gate be removed as part of this restoration, but staff assured him that the swing arm gate is to remain.
 - Vote: To issue a Negative 5 Determination, referencing the 10.02(2)(b)2.p. exemption and noting that the location of erosion controls will be finalized in the field during a pre-construction site visit. [Motion: Kathy Cade; Second: Leigh Gilligan; Vote: 6:0:0].
- 3. 194 Dedham St – cont’d NOI – ex post facto vegetation removal and mitigation plantings – DEP File #239-846**
- Owner/Applicant: Ritchie and Denitsa Brown Representative: self
 - Request: Issue an OOC.
 - Documents Presented: plans plans, photos, draft OOC
 - Jurisdiction: BLSF (~113.6 NAVD88), City Flood Plain
 - Project Summary
 - As new owners, the applicants cut mature vegetation (from within the 100-year FEMA flood plain) to create a larger lawn. Conservation staff were informed of the cutting by a neighbor. The applicants cut on their own parcel and on the adjacent 176 Dedham St. parcel.
 - The applicant removed 5 large trees, 9 smaller trees or large multi-stem shrubs, and a number of smaller multi- or single stem shrubs. The caliper inches that are relevant for replacement calculations is roughly ~90”.
 - The applicant is proposing to install 7 saplings at 1-2” installation size and 8 shrubs. Applicant is also proposing to install a drywell and remove some existing soil to be replaced with fresh loam for a lawn.
 - The applicant is proposing some plantings on the 176 Dedham St. The owner of 176 Dedham St. has signed off on the NOI application and has requested re-planting occur on her lot.
 - The proposed drywell is being reviewed by Engineering, but as it is a voluntary system, no other permit will be required for it aside from a sidewalk crossing permit for the equipment.
 - Presentation (Denitsa and Ritchie Brown) and Discussion
 - Applicants provided a brief summary of the changes that they made to the plan, in conjunction with the abutting neighbors at 176 Dedham, since the last Commission meeting. The revised plan takes into account Commission comments regarding the density of the proposed plantings and the creation of a 15’ wide planted bed.
 - Applicant accepted the staff annotated planting plan and the added 5 shrubs within the 15’ mitigation area.
 - Commissioners felt that only 75% survival should be required for the restoration plantings.
 - Public Comment
 - Kaitlin Spiegel, 176 Dedham St: The plan is sufficient for her interests in seeing her lot replanted.
 - Vote: To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Jeff Zabel; Second: Susan Lunin; Vote: 6:0:0].
 - To ensure that no net fill is brought into the flood plain, the applicant shall submit to the Commission proof of soil removal and installation (bills of lading will suffice).
 - Plantings must have a survival rate of 75% of total number of trees and shrubs (after 2 growing seasons) for a Certificate of Compliance to be issued.
- 4. 12 Cross St – NOI – demo existing single-family home and construction of new duplex – DEP File #239-847**
- Owner/Applicant: Andrea and Vincent Forsythe, 12 Cross LLC Representatives: John Rockwood, EcoTec, Inc.
 - Request: Issue Order of Conditions.
 - Documents Presented: colored plans colored plans, photos, draft OOC
 - Jurisdiction: Riverfront Area
 - Project Summary:
 - Demolition of an existing single-family home and removal of the associated site features. Construction of a new duplex with associated driveways, patios, drainage, and fences. Roughly 850 s.f. of restoration area is proposed.
 - The proposed duplex will result in a roughly 456 s.f. increase in non-exempt impervious area on the site.
 - The proposed duplex will be accompanied by a driveway for each unit, small covered front porches, concrete front walkways and steps, rear patios, and some retaining walls. The patios, proposed bulkheads, A/C pads, and fencing is all considered exempt due to the distance from the wetland resource area.

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.

- The applicant is not proposing any tree removal as a part of the demolition/construction process.
 - The applicant is proposing a roughly 850 s.f. bounded restoration area as part of the project. This area is proposed to include 36 shrubs, 3 to 4 ft at installation, of a variety of native species.
 - The proposed restoration area will renaturalize the entire inner riparian zone on the site and provide a 10' buffer along the rear property line.
 - Applicant is proposing to monitor the restoration area at the end of each growing season with reports provided to the Commission about the status of the planting area leading up to the 2-year growing season survival requirement.
- Presentation:
 - Applicant requested a continuation to the 11/14/19 hearing in order to prepare revised materials.
 - Vote: To continue the hearing to 11/14/19 to allow the applicant to make all necessary changes. The revised material deadline for this meeting is 10/31/19. [Motion: Kathy Cade; Second: Leigh Gilligan; Vote: 6:0:0].

5. Greenwood St Lot 1 – NOI – construction of new single-family on existing undeveloped land – DEP File #239-848

- Owner/Applicant: Greenwood Street LLC Representatives: David LaPointe, Beals and Thomas
- Request: Issue Order of Conditions.
- Documents Presented: colored plans colored plans, photos, draft OOC
- Jurisdiction: Buffer Zone, City Floodplain
- Project Summary:
 - Construction of a new single-family home with associated driveway, terraces, stormwater management, and landscaping on a previously undeveloped lot.
 - All work is occurring outside of the City floodplain elevation.
 - The proposed project will result in an increase of roughly 5400 s.f. of impervious area including driveways and terraces.
 - The applicant is proposing stormwater infiltration with an overflow drain directed towards the wetland.
 - The applicant is proposing to remove 24 matures trees (roughly 327 caliper inches) in the 100' BZ as part of the project. Tree protection is proposed for 8 trees on site. Applicant has proposed a restoration planting area within the inner 25' of the buffer zone.
- Presentation (David LaPointe and Nathaniel Bautz) and Discussion:
 - Applicant's representatives provided an introduction to all three parcels and the location. These lots have recently undergone an ANRAD filing to confirm delineations for the bordering vegetative wetlands. The ORAD issued confirmed the majority of the wetland flagging except for the boundaries on the western most side of Lot 1. There is also a "Wetlands Protection Area" within the boundaries of the confirmed bordering vegetative wetland in the area. The Greenwood Street lots are being renovated/developed in order to improve upon existing conditions and provide housing that matches the existing historic nature of the buildings.
 - Applicant's representatives stated that they are working to address all staff concerns but can provide an update on a few things.
 - Applicant's representatives have revised soil conditions for this lot to by "B" soils with the cover type being "trees and shrubs" for the existing conditions. Soil quality testing has occurred as part of the stormwater analysis.
 - Applicant's representatives are reducing the size of the infiltration chambers in order to appropriately manage run-off per the revised soil conditions and also allow more room on the lot to pull grading changes back from the wetland boundary. They are considering the installation of an impervious barrier for the system.
 - Applicant's representatives stated that the sites were designed as shown in order to hide the garage facades from the street view in order to keep with the historic facades currently existing. The Historic Commission does support this decision. The applicant's representatives are pursuing a DRT for these lots because of the need for a special permit on Lot 4, which may result in a lot redesign, but at this point they are not proposing to revise the site design.
 - Applicant's representatives have acknowledged that the planting plan is not appropriate and that they were simply trying to display the caliper inches match being proposed on site. They will be providing revised planting plans showing improved distribution and a mix of trees and shrubs.
 - With the proposed grading being pulled back with the reduction of the number of infiltration chambers, applicant's representatives are hopeful that these trees marked as "to be protected" will no longer be impacted by the proposed grading.

- Commissioners had concerns about snow storage given the proposed driveway design and proximity to the wetland boundary. Commission would like to see snow storage marked on the revised plans and see a planting and grading plan that provides a level area for snow to be pushed into.
- Vote: To continue the hearing to 12/5/19 to allow the applicant to make the changes to the proposed plans. [Motion: Judy Hepburn; Second: Jeff Zabel; Vote: 6:0:0].

6. Greenwood St Lot 2A – NOI – renovation of existing barn structure into single-family – DEP File #239-849

- Owner/Applicant: Greenwood Street LLC Representatives: David LaPointe, Beals and Thomas
- Request: Issue Order of Conditions.
- Documents Presented: colored plans colored plans, photos, draft OOC
- Jurisdiction: Buffer Zone, City Floodplain
- Presentation (David LaPointe and Nathaniel Bautz):
 - Demolition and reconstruction of an existing barn structure, converting it into a single-family home with associated driveway, terrace, stormwater management, and landscaping.
 - All work will be outside of the City floodplain and the majority of the work will occur outside of the 100' BZ.
 - The proposed project will result in a slight increase in impervious area within the 100' BZ as a portion of the proposed driveway will fall within the BZ. The other impervious area increase is the stone terrace proposed for the rear of the house, though this is exempt due to its distance from the wetland resource area.
 - The applicant is proposing stormwater infiltration for the site with two overflow drains (for the two infiltration systems) to the wetland area.
 - Applicant has proposed a restoration planting area around the lot that details the number of caliper inches required to be replaced and shows locations for trees to be planted.
- Presentation (David LaPointe and Nathaniel Bautz) and Discussion:
 - Applicant's representatives provided an introduction to all three parcels and the location. These lots have recently undergone an ANRAD filing to confirm delineations for the bordering vegetative wetlands. The ORAD issued confirmed the majority of the wetland flagging except for the boundaries on the western most side of Lot 1. There is also a "Wetlands Protection Area" within the boundaries of the confirmed bordering vegetative wetland in the area. The Greenwood Street lots are being renovated/developed in order to improve upon existing conditions and provide housing that matches the existing historic nature of the buildings.
 - Applicant's representatives stated that they are working to address all staff concerns but can provide an update on a few things.
 - Applicant's representatives have revised soil conditions for this lot to by "B" soils with the cover type being "trees and shrubs" for the existing conditions. Soil quality testing has occurred as part of the stormwater analysis.
 - Applicant's representatives stated that the sites were designed as shown in order to hide the garage facades from the street view in order to keep with the historic facades currently existing. The Historic Commission does support this decision.
 - Applicant's representatives have acknowledged that the planting plan is not appropriate and that they were simply trying to display the caliper inches match being proposed on site. They will be providing revised planting plans showing improved distribution and a mix of trees and shrubs.
 - Commissioners again had concerns about snow storage and the current proposed conditions. Snow storage should be shown on the proposed plans. The Chair suggested creating a level area off of the driveway to store snow.
- Vote: To continue the hearing to 12/5/19 to allow the applicant to make the changes to the proposed plans. [Motion: Susan Lunin; Second: Leigh Gilligan; Vote: 6:0:0].

7. 29 Greenwood St (Lot 4) – NOI – renovation and expansion of existing single-family – DEP File #239-850

- Owner/Applicant: Greenwood Street LLC Representatives: David LaPointe, Beals and Thomas
- Request: Issue Order of Conditions.
- Documents Presented: colored plans colored plans, photos, draft OOC
- Jurisdiction: Buffer Zone
- Project Summary:

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- Expansion of an existing single-family home with new driveway, terrace, stormwater management, and landscaping.
 - Project also involves the removal of an existing pool and pump house from the lot.
 - All work is occurring outside of the City floodplain elevation and almost all construction will occur outside of the 100' Buffer Zone.
 - The only work proposed within the 100' BZ is a small section of the proposed driveway, grading changes, and landscaping.
 - The applicant is proposing stormwater infiltration for the site with two overflow drains (for the two infiltration systems) to the wetland area.
- Presentation (David LaPointe and Nathaniel Bautz) and Discussion:
- Applicant's representatives provided an introduction to all three parcels and the location. These lots have recently undergone an ANRAD filing to confirm delineations for the bordering vegetative wetlands. The ORAD issued confirmed the majority of the wetland flagging except for the boundaries on the western most side of Lot 1. There is also a "Wetlands Protection Area" within the boundaries of the confirmed bordering vegetative wetland in the area. The Greenwood Street lots are being renovated/developed in order to improve upon existing conditions and provide housing that matches the existing historic nature of the buildings.
 - Applicant's representatives stated that they are working to address all staff concerns but can provide an update on a few things.
 - Applicant's representatives stated that the sites were designed as shown in order to hide the garage facades from the street view in order to keep with the historic facades currently existing. The Historic Commission does support this decision.
 - Applicant's representatives are considering the installation of an impervious barrier for the system.
 - Applicant's representatives have acknowledged that the planting plan is not appropriate and that they were simply trying to display the caliper inches match being proposed on site. They will be providing revised planting plans showing improved distribution and a mix of trees and shrubs.
 - Applicant's representatives state that they have not revised soil conditions on this lot as it does not have the same existing dumping concerns as Lots 1 and 2A and there is more grass cover. Conservation staff do feel this is appropriate.
 - Commissioners repeated snow storage concerns for this lot.
 - Commissioners discussed potentially allowing for planting mitigation to be spread across all three lots to compensate for tree removal on lot 1. Consensus would be that this may be allowed under wetlands regulations, the tree ordinance would likely not allow this because the lots have been separated and recorded at the Registry as separate lots.
- Vote: To continue the hearing to 12/5/19 to allow the applicant to make the changes to the proposed plans. [Motion: Jeff Zabel; Second: Leigh Gilligan; Vote: 6:0:0].

8. 36 Parsons St – E.O. Ratification – excess fill in floodplain

- Owner/Applicant: Arto Dermovsesian Representative: John Rockwood, EcoTec, Inc.
- Request: Ratify E.O. issued by Conservation staff on 10/10/19.
- Documents Presented: photos, E.O.
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF
- Presentation: Owner is working to develop a restoration plan and NOI to be submitted on 11/19/19, to be heard at the 12/5/19 meeting.
- Vote: To ratify the Enforcement Order issued to 36 Parsons St for excess fill in floodplain. [Motion: Susan Lunin; Second: Kathy Cade; Vote: 6:0:0].

9. 55 Grace Road – informal discussion about mitigation compliance

- Owner/Applicant: Joel Sable Representative: none
- Documents Presented: photos, draft OOC extension
- Project Summary: Approved work included the removal of a large number of mature hemlocks along the side yard of the single-family home. Because a large hemlock hedge (planted by the neighbor on the subject lot over 15 years ago) was removed and replaced by 15 small inkberry shrubs, the Commission required 100% survival.
- Jurisdiction: Buffer Zone, Riverfront Area, City Floodplain
- Discussion:
 - Conservation staff detailed the concerns made by the reporting neighbor that 3 more inkberry shrubs have died (three had died previously and were replaced by the owner).

- The Commission discussed why they had required 100% survival during the original filing. Commissioners came to the conclusion that no condition has changed (i.e., the owner is not trying to sell) and that they stand by the original condition of 100% survival after two growing seasons.
- The Commission requested that staff recommend that the owner overplant in order to have 100% survival of 15 shrubs, even if a couple more should die.
- Consensus: No vote taken as all conditions are being upheld. Conservation staff will contact owner about replanting.

II. CONSERVATION AREA DECISIONS

10. Webster Woods Eminent Domain Letter

- Request: Review and sign a letter that is being prepared by the City's Law Office regarding the Conservation Commission's request to take Webster Woods in keeping with Ch. 40 Sec.8C "For the purposes of this section a city or town may, upon the written request of the commission, take by eminent domain under chapter seventy-nine, the fee or any lesser interest in any land or waters located in such city or town, provided such taking has first been approved by a two-thirds vote of the city council or a two-thirds vote of an annual or special town meeting, which land and waters shall thereupon be under the jurisdiction and control of the commission." A draft will be circulated in advance of the meeting for your review.
- Presentation (Ouida Young) and Discussion
 - Former City Solicitor, Ouida Young, thanked the Commission for taking this agenda item out of order. She detailed that while the Commission discussed the taking of the land at its previous (10/3/19) meeting, per Ch. 40 Sec. 8c, the Commission may submit a written request for the taking. She asked that the Commission vote to do this in order to create a clear request process for not only the CPC application, but also for any future response from Boston College.
 - Motion language was provided to the Commissioners as follows, "Move to request that the City of Newton take by eminent domain under chapter seventy-nine the fee in approximately 17.4 acres of wooded land commonly referred to as Webster Woods and located at 300 Hammond Park Way for conservation and open space purposes; and further move to authorize the Chairman of the Commission to sign a written request for such taking to be sent to the Mayor and City Council in accordance with the provisions of M.G.L. c. 40, sec. 8C."
- Vote: To authorize the Chairman to sign a written request for the taking of the "Webster Woods" area detailed above and to sign the request. [Motion: Dan Green; Second: Susan Lunin; Vote: 5:1:0].

III. ADMINISTRATIVE DECISIONS

11. Earth Moving Ordinance – Discussion

- Discussion:
 - Conservation staff opened the discussion with a statement about needing to understand what an earth moving ordinance would protect. Staff followed this up with a question about whether that protection would fall under the Commission's jurisdiction, or if there is a more appropriate body within the City structure regulate this issue.
 - Commissioners discussed how a wetlands ordinance may better serve to protect buffer zone areas better and would fall more within their wheelhouse.
 - Commissioners asked that Conservation staff send examples of wetland ordinances/bylaws from peer communities for them to review.

12. Minutes of 10/3/19 to be approved

- Documents Presented: draft minutes draft minutes
- Vote: To accept the 10/3/19 minutes as edited. [Motion: Leigh Gilligan; Second: Kathy Cade; Vote: 6:0:0].

IV. ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES

V. WETLANDS UPDATES

- 56 Farwell: Initial site preparation has begun.
- 73 Beaconwood: Plan revisions are still underway.
- 87 Boulder: Potential excess fill in floodplain. In conversations with ISD and developer regarding compliance.

VI. CONSERVATION AREA UPDATES

- Norumbega Slope Restoration: SumCo has completed the majority of the slope restoration project. Photographs
- Restoration of encroachment 261 Parker Street: Update to be provided at meeting once date is finalized.

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- Webster Woods eminent domain acquisition: CPC public hearing scheduled for 11/6/19.

VII. ISSUES AROUND TOWN UPDATES

- New, Large Developments in the pipeline: Northland and Riverside are still going through the Special Permitting process; Washington Place and Austin Street are being constructed; the City just received 40B applications for two new developments, Dunstan East and Riverdale.
- Aqueducts: Jennifer Steel will take the next steps toward licensing public use of a portion of Sudbury Aqueduct.
- Ticketing: Staff will continue working with the Law Department towards the goal of being able to issue tickets against off-leash dog offenders.
- Open Space and Recreation Plan: In January we will be starting to work with the Conway School of Landscape Design to create our update.
- Climate Action Plan: The current draft of the Climate Action Plan was discussed by ZAP and Public Facilities on 10/16/19. The next discussion will be 10/28/19.

VIII. ADMINISTRATIVE MATTER UPDATES

- MACC Fall Conference: MACC Fall Conference was 10/19/19.
- ConCom Applicants: Three applications have been received for potential alternate members.

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

ADJOURN [8:45pm; Motion: Jeff Zabel; Second: Kathy Cade; Vote: 6:0:0].