

CONSERVATION COMMISSION MINUTES

Date: April 26, 2018
Time: 7:03 – 9:35 pm
Place: City Hall, Room 204

With a quorum present, the meeting opened with Ira Wallach, Chair, presiding
Members Present: Susan Lunin, Ellen Katz, Judy Hepburn, Norm Richardson, Dan Green (7:15), Kathy Cade (Associate, 7:06)
Staff Present: Claire Rundelli
Members Absent: Jeff Zabel
Members of the Public: See sign-in sheet

WETLANDS

1. Enforcement Order Release – 73 Beaconwood Rd

- **Request:** Sign a release for the enforcement order placed on 73 Beaconwood for the original violation in 2011.
- **Owner:** PZ Realty Trust **Applicant:** Bill Haney (PZ Realty Trust)
- **Documents Presented:** release language
- **Discussion:** Maura O’Keefe from the City law department explained the document.
- **Vote:** To appoint Ira as the representative of the Commission to sign the release on behalf of the Commission [Motion: Susan; Second: Judy; Vote 5:0:0] (Note: the signature was notarized by Maura O’Keefe).
- **Vote:** To sign the Enforcement Order Release for recording. [Motion: Susan Lunin; Second: Ellen Katz; Vote 4:1:0] (Note: Norm Richardson voted against, as he also voted against issuing 73 Beaconwood an Order of Conditions.)

2. RDA – City of Newton Annual Roadwork – various locations throughout Newton

- **Request:** Annual roadway maintenance and water main replacement by the City of Newton Department of Public Works at:
 - **Crafts St.** - milling and overlay, sidewalk and curb maintenance
 - **Drew St.** - milling and overlay, sidewalk and curb maintenance
 - **Mill St.** - milling and overlay, sidewalk and curb maintenance
 - **North St.** - milling and overlay, sidewalk and curb maintenance
 - **Louise Rd.** - water main replacement
 - **Webster Pk.** - water main replacement
- **Owner/Applicant:** City of Newton DPW **Representative:** Lou Taverna, PE
- **Jurisdiction:** Buffer Zone and RFA
- **Documents Presented:** Proposed work zones, draft DOA
- **Discussion**
 - **Project Summary:** The proposed roadwork involves the milling and overlay of four streets, a total of 11,170 ft. All catch basins within the work zone are to be protected with all catch basins inspected, and cleaned if necessary, after roadwork is complete. The total proposed water main replacement is 2,300 ft. of cast iron pipes, originally installed in the 1800s. All work that is within the RFA and BZ only is exempt under 310 CMR 10.02 as long as sediment controls are employed, and best management practices are employed.
 - **Impact Summary:** The projects are all within existing roadways and sidewalks. Applicant is proposing to upgrade catch basins within the Buffer Zone if necessary.
 - Staff representative presented the maps of the proposed work areas.
 - Commissioners wanted to know if any sidewalk re-pouring would be occurring. Staff responded that it would not.



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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- Vote: to issue a negative 3 DOA with the following conditions. [Motion: Susan Lunin; Second: N. Richardson; Vote 5:0:0]
 - Install sediment controls as described in the RDA narrative
 - Conditions that were used in previous years

3. RDA – 270 Islington Road – hazard tree removal, patio replacement, and dock repairs

- Request: Remove two hazard trees causing property damage, replace impervious patio with drainage issues with pervious patio, and repair failing dock with two new posts.
- Owner/Applicant: Julia and Einer Elhauge Representative: None
- Documents Presented: colored plans aerials, photos, draft DOA
- Jurisdiction: Bordering Vegetative Wetland, Riverfront Area, Buffer Zone, and City and FEMA Floodplain
- Discussion
 - **Project Summary:** Applicant proposes to remove two hazard pine trees (22” and 26/12”) that have caused large amounts of damage to the existing single-family home. The existing bluestone patio on the property has settled and is now not draining water properly and is proposed to be replaced with a smaller, pervious patio. The existing dock onto the Charles River is failing due to tipping of the end posts. Applicant proposes to replace the two failing posts with new ones to bring the dock up to code.
 - **Impact Summary**
 - The tree removal poses no significant impact on the wetland resource areas. The uneven pathway caused by the trees has also created an insurance issue for the owners due to the slip and fall risk.
 - The patio is currently set in a concrete pad and will need to be removed with a jackhammer. However, the overall footprint of the proposed patio is around 50 sf smaller than the existing patio and will be pervious to allow drainage.
 - The applicant is also proposing to plant five (5) eastern white pine 2” saplings as mitigation for the tree removal proposed.
 - **Questions/Concerns:**
 - An email was provided to conservation staff to answer the questions posed in the agenda.
 - How will the trees be removed? Will the stumps be grubbed? *The trees will be removed by a crane in pieces. The tree roots will be grubbed to allow the ground to be leveled.*
 - Soil erosion controls will need to be installed for the patio removal.
 - Need details/specs for the specific posts proposed to be used in the dock repair. *Helical piers are being used as the posts for the proposed dock repair.*
 - The bank area of the lot has accumulated some litter. Would the Commission like to see a trash clean up or natural bed at the back of the lot to provide some buffer to the bank surrounding the dock?
 - Commissioners were concerned about construction vehicle access. Applicant agreed to the condition that all heavy equipment access the site from Islington Rd with no backyard access.
 - The applicant would be happy to clean up the trash present at the site along the river.
- Vote: Issue a Negative 3 Determination with the following special conditions. [Motion: Dan Green; Second: Susan Lunin; Vote 6:0:0]
 - Pre-construction site visit to ensure adequacy of sedimentation controls
 - Heavy equipment used for the removal of the two hazard pines may only access the site from Islington Rd, not the rear of the house.

4. RDA – 2345 Commonwealth Ave – staircase and gazebo replacement

- Request: Replace old, crumbling gazebo in place and replace eroded staircase from the 60’s that leads down to the gazebo from the Boston Marriott Newton parking lot.
- Owner: Chesapeake Lodging Trust Applicant: Chris Allen (Boston Marriott Newton) Representative: None
- Documents Presented: colored plans aerials, photos, draft DOA
- Jurisdiction: Riverfront Area, Buffer Zone, and City and FEMA Floodplain

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- Discussion
 - **Project Summary:** Applicant proposes to replace, in kind, the gazebo and staircase leading down to the gazebo from the parking lot at the Boston Marriott Newton. Applicant is also proposing trash clean-up on the property and is coordinating with DCR to clean up trash and invasives from the state-owned land on either side of the parcel. This work is proposed to happen in advance of a “Family Fun Day” being hosted by the Marriott on July 13th.
 - **Impact Summary**
 - The gazebo replacement will have little to no impact on the wetland resource areas. Only the above-ground structure is to be replaced.
 - The staircase is currently very eroded along the sides and replacing it would improve the safety of the staircase. The footprint is proposed to remain the same.
 - **Questions/Concerns** *(and answers provided at the hearing in italics)*
 - What are the proposed erosion controls? *Applicant clarified that silt fences will be used. The Commission finds this acceptable due to the levelness of the site here.*
 - How will the hillside surrounding the staircase be stabilized during the removal of the existing stair? *No stabilization is currently proposed, if stabilization is needed with the replacement stair it will occur according to best practices.*
 - Will heavy machinery be involved in the gazebo replacement? *The gazebo will be delivered in sections for final assembly in site with no heavy machinery involved.*
 - Should the Commission require some restoration plantings for the area? *The applicant is happy to provide some native plantings along the stairs to prevent erosion.*
 - The gazebo work will be superficial only, the sonotubes under the surface structure will not be replaced.
- **Vote:** Issue a Negative 3 Determination with the following special conditions. [Motion: Judy Hepburn; Second: Ellen Katz; Vote 6:0:0]
 - Provide plans showing erosion control locations and a list of plantings to be added to the site.
 - Pre-construction site visit to ensure adequacy of sedimentation controls.
 - Provide design of replacement staircase once decided for Commission approval.
 - No vegetation to be cut or removed.

5. **NOI (cont'd) – 56 Farwell Street – DEP File #239-793**

- **Request:** Construct six single-family homes & driveways. Construct private road. Increase flood storage capacity. Implement restoration planting plan along river.
- **Owner:** Turtle Lane, LLC **Applicant:** Stephen Vona (Turtle Lane, LLC) **Rep.:** Joe Porter (VTP Associates), Corey vanWyhe (MetroWest Engineering, Inc.)
- **Documents Presented:** peer review comments #3 site photos, draft OOC
- **Jurisdiction:** Riverfront Area, Flood Zone, Bordering Vegetated Wetlands
- **Discussion and Presentation (Joe Porter, Corey Van Wyhe, Stephen Vona)**
 - **Project Summary:** This project involves the demolition of a SFH and accessory structures and the construction of a new roadway, partially crossing an MWRA sewer easement, to provide frontage for a 6-lot subdivision and the construction of 6 single family homes with associated grading, driveways, utilities, stormwater management, and landscaping. The applicant is also proposing a permanently bounded 10,000 sf mitigation area along the Charles River and a public pathway along the Charles.
 - **Impact Summary:**
 - RFA numbers:
 - Lot area = 102,726
 - Total RFA = 96,871
 - 10% of RFA = 9,687
 - Already legally degraded = 22,181
 - Proposed total degraded = 26,360
 - Proposed new degraded = 4,179

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- Minimum required mitigation = 8,358
- Proposed permanently protected mitigation = 10,700 sf native plantings along the Charles River.
- RFA plant plan:
 - Removing: 433” of (13) healthy trees and 124” of (3) “unhealthy” trees.
 - Planting: 400” of (160) canopy trees and (320) shrubs and understory trees.
- Flood Zone: Proposed alteration within the flood zone is now limited to permissible activities, including tree removal, grading (provision of compensatory storage), crawl spaces beneath three of the six houses and a retaining wall, and mitigation planting.
- **Discussion:**
 - The applicant stated their intentions to go before the Planning Board acting as Board of Survey on May 7th.
 - We did receive revised materials based on the staff comments sent out before the 4/5/18 ConCom meeting, including:
 - Revised materials with dates
 - Revised plans showing a shortened retaining wall on Lot 1
 - Revised planting plans showing additional species and materials
 - Revised narrative with the appropriate changes to the questioned tables and timelines
 - These materials were reviewed and meet the requirements set by the Commission and Conservation Staff.
 - Commissioners still had issues with the Alternatives Analysis submitted 4/17/18 but staff made it clear that the hired peer reviewer and staff believed the analysis met all regulatory requirements.
 - According to the applicant, two critical MWRA staff members were on vacation and that was why no approval had been issued.
 - The peer review comments have been included in the meeting packet and there are no further outstanding materials needed from the applicant.
 - The Commissioners requested another letter from the hired peer reviewer to explicitly state that he found all materials submitted to be in full compliance with the Wetland Protection regulations.
 - Applicant stated concerns about requiring weekly monitoring reports for the full period of demo and construction because internal work does not need the presence of an environmental monitor.
 - The Chair proposed an alteration to the staff recommended special condition to allow for the Commission or Senior Environmental Planner to determine when the weekly monitoring reports are necessary.
- Public Comment
 - JoAnne Polci (71 North St.)– Wanted to express her desire to have the Commission enforce the weekly monitoring and repeated her concerns from previous meetings about the number of houses.
 - Josephine Bryantt (65 Anthony Rd.) – Voiced her concerns about traffic increases, building in the floodplain, and the destruction of the existing site conditions.
 - Mia Jepsen (43 Anthony Rd.) – Echoed the concerns voiced by the other members of the public.
 - Sally Malloy (1 Albemarle Rd.) - Wanted to discuss her historical dealings with flooding on that site and concerns about how the development may increase flooding on her property.
 - Sonja Lun (31 Anthony Rd.) – Wanted clarification about the public access easement. Commissioners explained that the reservation for the path is on the plan but they need to connect it through all of the properties for it to be useful.
- Vote: Issue an Order of Conditions with the following special conditions. [Motion: Susan Lunin; Second: Dan Green; Vote 4:2:0]
 - Require an environmental monitor for the project to report to the Commission on:
 - Overall project construction with weekly reports, except as otherwise determined by the Commission based on the level and nature of construction on site for any period of time.
 - Mitigation area planting, to ensure substrate is consistent with test pits
 - Spring and fall monitoring of mitigation area survival over 3 years, reports submitted within 30 days
 - If Engineering review of observed test pits requires changes to the infiltration systems, the applicant will file for an amended OOC.

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- Require a plan by an LSP for addressing the soil contamination prior to any work on the site
- Require written proof of MWRA approval prior to any work on the site

6. NOI – 79 Staniford Street – DEP File #239-805

- Request: Demolition of a single-family home with removal associated accessory uses and utilities and construction of a new single-family home and associated grading, drainage, utilities, driveway, stormwater, and landscaping.
- Owner: Gerald McDade, Jr. Applicant: Kane Built, Inc Representative: Robert Bibbo (Bibbo Brothers & Associates)
- Documents Presented: colored plans photos, draft OOC
- Jurisdiction: Buffer Zone and City/FEMA Floodplain
- Discussion and Presentation (Robert Bibbo and Michael Quinn)
 - **Project Summary**: The proposed project calls for the demolition of an existing single-family home, separated garage, and driveway and the construction of a larger single-family home, driveway, septic system, and landscaping.
 - **Impact Summary**:
 - Proposed work does not involve the removal of any trees.
 - The proposed project does result in an increase in impervious area within the Buffer Zone.
 - Applicant is proposing native plantings along the side of the house
 - Applicant proposes to manage stormwater on site with a driveway trench drain and two leaching galleys.
 - **Discussion**:
 - Based on a site visit 4-11-18, the current unattached garage is encroaching on the neighboring conservation land. There are 2 concrete footings supporting an equipment rack also on conservation land.
 - Applicant clarified that they will abandon the existing septic system per Board of Health requirements. Commissioners stated that this proof of BOH approval should be submitted for our files.
 - Applicant stated they would provide us with updated plans showing the shifted leaching galley (per Engineering comments), a planting schedule, and the marker along the property line.
 - The Commissioners stated that they would feel more comfortable if a staff member were on site for the removal of the garage to ensure no damage occurs. Applicant agreed to the special condition.
 - Staff recommended a clean up of the encroached area. Applicant reassured staff and the Commissioners that they would restore the encroached area to more natural conditions.
- Vote: Issue an Order of Conditions with the following special conditions:
 - Pre-construction site visit to ensure proper erosion and sediment control and staff must be contacted to schedule the removal of the garage to ensure that work occurring on conservation land is monitored.
 - City engineer must inspect the stormwater infiltration system and applicant must submit proof of inspection.
 - Provide a planting schedule with planting mix for restoration of encroachment area to the Commission for review and approval
 - 2-year plant survival requirements
 - Permanently maintained marker along the shared property line with the Conservation land (e.g. fence, bounded planting area, or simply bounds) to ensure there is no future encroachment.
 - Proof of the Board of Health’s approval of the plan to abandon the existing septic system must be submitted to the Commission prior to commencing construction.
 - [Motion: Ellen Katz; Second: Norm Richardson; Vote 6:0:0]

7. Order of Conditions Amendment – 96 Suffolk Road – DEP File #239-781

- Request: Amendments to the Order of Conditions issued to Chris Dallmus in March 2017 under DEP File #239-781.
- Owner: Elizabeth Dowd/Allison and Earl Henry Applicant: Christopher Dallmus (Design Associates, Inc)
- Documents Presented: colored plans photos, draft amended OOC
- Jurisdiction: Riverfront Area, Buffer Zone, BVW
- Discussion:
 - **Project Summary**: The approved project consisted of a 460-sf addition onto a single-family home in RFA and BZ. The owner of the home when the Order was issued, never initiated work beyond installing erosion controls (per

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the approved plans). The owner is currently trying to sell the house to a couple that also wishes to put a smaller addition in the same locations with a terrace. The new addition will be comprised of a 208 sf structure including a small covered porch and a ~400 sf masonry terrace.

- **Impact Summary**

- The site is fairly level.
- All work is being conducted within wetlands jurisdiction, however the majority of the proposed impervious area is porch and terrace.
- A site visit by staff confirmed that the erosion controls are still in place from the original proposed work.

- **Questions/Concerns**

- One tree was to be removed on the original approved plans. Is it still to be removed? It is unclear on the amended plans. Applicant clarified that this tree will not need to be removed.
- The special condition regarding the planting to replace the originally proposed removed tree should be removed.
- Vote: to issue an amendment to the Order of Conditions for project 239-781 to approve the proposed plan changes and require a secondary pre-construction site visit before work is to begin to confirm DEP sign and site controls. [Motion: Susan Lunin; Second: Dan Green; Vote 6:0:0]

8. Certificate of Compliance – 100 Upland Ave – DEP File #239-655

- Request: Issue a complete Certificate of Compliance for the deck constructed at 100 Upland Ave.
- Owner/Applicant: Michael Brodney
- Documents Presented: photos, draft COC
- Jurisdiction: FEMA/City Floodplain
- Vote: to issue a complete Certificate of Compliance. [Motion: Ellen Katz; Second: Susan Lunin; Vote 6:0:0]

II. CONSERVATION AREAS – no discussions or decisions

III. ADMINISTRATIVE

9. Discussion of Commission Roles.

- Staff Notes:
 - There is an interest in codifying roles based on discussion at prior Commission meetings.
 - Staff asked several colleagues and were provided with this information:
 - Newton Historic Committee (NHC): Elections occur for a new Chair every January with no term limits. There is no Vice Chair position for this Commission.
 - Newton Community Preservation Committee (CPC): Newton Ordinance requires officers to be elected annually and imposes a limit of two consecutive 3-year terms for all (not just officers) CPC members. Early fall the Vice Chair takes the place of the Chair and the Committee elects a new Vice Chair. Most members only serve as an officer after being on the Committee for a full 3-year term.
- Consensus: Commissioners chose to pass on this issue until the full Conservation Commission and Jennifer Steel are present.

10. Minutes of 4/5/18 to be approved.

- Documents Presented: draft minutes draft minutes
- Vote: Approve 4/5/18 minutes. [Motion: Susan Lunin; Second: Ellen Katz; Vote 6:0:0]

IV. ISSUES AROUND TOWN – no discussions or decisions

UPDATES

V. WETLANDS

- 47 Kingswood Rd would like to put an 8'x4' dock on their property to be able to launch their kayaks onto the Charles River. The dock would consist of two posts anchored on land with two posts anchored in the water. Would the Commission like to see them come in for an RDA/NOI? Or can Conservation Staff administratively approve the installation? The Commission has decided to set the precedent that dock work requires an RDA filing. They would like to see 47 Kingswood come in with a filing.

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VI. CONSERVATION AREAS

- A Boston University Professor would like to conduct some environmental monitoring in the Webster Conservation Area. The hope is to leave samplers/sampling equipment in the field to measure soil decomposition, air pollution, ozone levels, and NOX levels. She is looking for permission to leave this equipment there beginning in mid-May this year. The equipment would be unobtrusive, and signs can be placed to inform open space users what it is. A map of the potential study areas has been included in the packet. The Commissioners would like to see a formal letter describing the project and its goals. They would also like to see the results of the study once completed

VII. ISSUES AROUND TOWN

- Charles River Watershed Association is having their annual Charles River Earth Day clean-up on 4/28/18 from 9-12.
- Newton Serves will be on 4/29/18.

VIII. ADMINISTRATIVE MATTERS

- Climate Action Plan being developed by Energy Committee representatives, Sustainability Office, and Planning Department.
- Staff attended a meeting on 4/18/18 about the Municipal Vulnerability Program (MVP) grants that are now available from the state for MVP registered communities.

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

ADJOURN Vote: to adjourn at 9:35. [Motion: Dan Green; Second: Susan Lunin; Vote 6:0:0]

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