

CONSERVATION COMMISSION MINUTES

Date: May 17, 2018
Time: 7:02 pm
Place: City Hall, Room 204

With a quorum present, the meeting opened with Susan Lunin, Vice-Chair, presiding
Members Present: Judy Hepburn, Norm Richardson, Jeff Zabel, Kathy Cade (Associate) Dan Green (7:10),
Ellen Katz (7:15)
Staff Present: Jennifer Steel
Members Absent: Ira Wallach
Members of the Public: See sign-in sheet

DECISIONS

I. WETLANDS

1. RDA – 47 Kingswood Rd – dock installation

- **Request:** Applicant proposes to install an 8'x4' dock to allow kayak launches onto Ware's Cove of Charles River. The year-round dock will sit on cobbles on the shore and be anchored in the river with two 3-inch galvanized steel posts. 4 native shrubs are proposed as mitigation.
- **Owner/Applicant:** Jerry Wald **Representative:** Jerry Wald
- **Documents Presented:** colored plans photos, draft DOA
- **Jurisdiction:** Bank, Riverfront Area, Buffer Zone, and City and FEMA Floodplain (BLSF)
- **Discussion and Presentation**
 - There is currently very little vegetation and an existing cobble area on the bank where the dock is due to be placed. There is little vegetation under the water. Disturbance would be minimal.
 - Shrubs must be native (e.g., clethra or vaccinium) and at least 3' tall when installed.
 - There was concern about loss of flood storage and being consistent in the requirement for compensatory flood storage. Ultimately, the majority of the Commission decided that since the dock will be elevated above normal river level (i.e., in the highest portion of the flood elevation) and will be only 5 cu ft of materials, and that creation of compensatory storage would be destabilizing, compensatory storage would not be required in this instance.
- **Vote:** Issue a Negative 3 Determination with the following special condition [Motion: Dan Green; Second: Jeff Zabel; Vote 4:1:0]
 - 4 native shrubs of at least 3' in height are to be planted along the bank, two on each side of the proposed dock.

2. Ex Post Facto NOI – 190 Sumner Street – DEP File #239-806

- **Request:** Ex post facto filing for grading changes and the construction of an addition on a duplex, along with proposed driveway changes and landscaping. The applicant is now seeking an OOC for:
 - ex post facto permission for the tiny portion (~36 sf) of the addition in Buffer Zone
 - ex post facto permission for the driveway grading that was done in RFA
 - new permission to pave ~400 sf of expanded driveway in RFA
 - acceptance of plans to plant with grass, trees, and shrubs the remainder of the lot within Commission jurisdiction.
- **Owner/Applicant:** Samuel Roth **Representative:** Samuel Roth
- **Documents Presented:** colored plans photos, draft OOC
- **Jurisdiction:** RFA and Buffer Zone



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
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Alternates**
Kathy Cade

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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.

- Discussion and Presentation
 - **Riverfront Area on lot:** The Riverfront Area on this property is oddly configured (because of the sinuous culverted stream) extending 200' from the length of each side of the small, L-shaped length of stream that is daylighted, see map included in packet. This means that only a portion of the lot is RFA. The jurisdictional areas on the lot encompass a small portion of the addition (BZ only), the areas of grading changes (RFA/BZ), proposed driveway changes (RFA/BZ), and proposed landscaping (RFA/BZ).
 - **Project History:** Work on this site was initiated when a detached garage collapsed in 2016. Jennifer gave administrative approval for the demolition of the collapsed garage. Unfortunately, the applicant was not sent to the Con Com for the addition of a two-car garage and extra living space for the duplex units on the back of the existing duplex in 2016. Fortunately, the footprint of the addition was entirely outside RFA and only a tiny bit was in outer Buffer Zone. Unfortunately, grading for the driveway was done in RFA and Buffer Zone and exceeded the originally proposed plans approved by the Building Department.
 - **Filing Requirements**
 - Staff did not feel that an Alternatives Analysis was necessary since:
 - The grading has been done
 - the unpermitted work in RFA done to date was grading (not expansion of impervious area)
 - new proposed work (driveway expansion of ~400 sf) in RFA could be considered "accessory to a residential structure" and therefore exempt from the need to file.
 - the applicant is proposing to "re-green" much of the graded area
 - construction occurred only in outer Buffer Zone
 - The project(s) do result in an increase in impervious area within RFA (but not an overall increase in impervious area on the lot)
 - Staff did feel that an NOI was appropriate to fully document changes on the site (especially within RFA) and to obligate the applicant to a robust planting plan.
 - **Required plan change:** The paved driveway shall be removed along the 14.0' dimension between the garage door and the entry door to the house. Pavers, lawn, or plantings may be installed in this area.
 - **Landscape plantings.** The Commission approved the proposed landscape planting plans and noted their desire to have the MWRA easement area planted with native shrubs and groundcover if the MWRA agrees to the proposed plans.
- Vote: Issue an Order of Conditions with the following special conditions [Motion: Norm Richardson; Second: Jeff Zabel; Vote 6:0:0]
 - Pre-construction site visit to ensure proper erosion and sediment control.
 - The paved driveway shall be removed along the 14.0' dimension between the garage door and the entry door to the house.
 - All plants shown outside of the MWRA easement must be installed as per the approved plans. Desired deviations from the approved plans must be approved by the Conservation office in advance. Plantings must survive over 75% of the planting area for 2 growing seasons for a Certificate of Compliance to be granted. Native shrubs and groundcover shall be planted within the MWRA easement area if the MWRA and the owner agree on plantings.

3. OOC Extension – 777 Dedham Street – DEP File #239-697

- Request: 60-day extension request to finish up drainage work including: pipe overflow from infiltration system to new discharge near edge of pond, install more pervious areas to reduce total runoff, and restore disturbed area behind "maintenance" building. Applicant reports that most of the work was completed last fall, but the weather conditions were too cold to install curbing. Curbing installation is the final portion of the approved work.
- Owner/Applicant: Cheryl St. Pierre-Sleboda (Mt. Ida College) Representative: none
- Documents Presented: [draft OOC extension](#)
- Jurisdiction: Buffer Zone
- Vote: Issue an extension on the Order of Conditions for DEP File #239-697. [Motion: Dan Green; Second: Jeff Zabel; Vote 6:0:0]

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4. COC Request – 95 Albemarle Rd – DEP File #239-464

- Request: Certificate of Compliance for demolition of and construction of a single-family home, in the existing footprint of previous house at 95 Albemarle Rd.
- Owner/Applicant: Frank Antonellis Representative: self
- Documents Presented: photos, draft COC
- Jurisdiction: RFA and Buffer Zone
- Staff Notes: This request is essentially a re-sign, since the project was closed out in 2008, but only one of two COC's was issued.
 - The first application for 95 Albemarle, DEP #239-457, was for an addition on a SFH (January 2003).
 - The applicant then sought to tear down the SFH and rebuild the entire approved footprint (SFH + addition).
 - The Con Com required a new filing so the applicant filed DEP #239-464 (July 2003).
 - The applicant demo-ed the old SFH and built the new house in exactly the same/approved footprint.
 - Bibbo completed an as-built survey and close out letter (Dec. 2, 2004) and the applicant filed for a COC for #239-457 only, which the Con Com issued as "complete" on March 12, 2008. The applicant never filed for a COC for #239-464. [The ConCom should have cited 239-457 "work never initiated" and 239-464 as "complete".]
 - A staff site visit confirmed compliance.
- Vote: Issue a complete Certificate of Compliance. [Motion: Norm Richardson; Second: Judy Hepburn; Vote 6:0:0]

II. CONSERVATION AREAS

5. Norumbega Conservation Area – Parks and Recreation Off-Leash Dog Park Proposal

- Request: Parks and Recreation would like Commission approval of a scope of work and preliminary sketch to accompany an RFP for the design and construction of an off-leash dog park at the Norumbega Conservation Area.
- Documents Presented: sketch plan, City ordinance excerpt, draft scope of work
- Discussion:
 - The plans comport with what the Commission agreed to in concept at the May 4, 2017 meeting when Bob DeReubis presented the overall concept.
 - This portion of Norumbega Conservation Area is significantly degraded: asphalted, fenced, and overrun with an invasive understory.
 - The proposal would result in:
 - Removal of asphalt, fallen trees, and some of the invasives
 - Better enforcement of off-leash dogs in the remainder of the Conservation Area
 - Enhanced parking on and entry from Comm. Ave.
 - Parks and Rec being responsible for maintenance
 - Maintained pedestrian access outside the fenced dog park area.
 - The Commission would like to see:
 - Plans
 - Continued attractive access/connectivity for pedestrians must be a priority (coming off Comm Ave. and coming from the end of Woodbine). Perhaps the trail off Comm Ave could go across the wooded hillside close to the vet's office?
 - The Marriott fence along the parking lot is collapsing and could possibly be re-installed by them but be used by the dog park ...
 - In general, the Commission does not support lighting in natural areas because of the detrimental effects on nocturnal creatures. Please clarify the need/intentions in this regard.
 - Management
 - One member noted his concern that inviting dog owners/walkers to the area would actually put more off-leash dog pressure on the Conservation Area, with no more ability to enforce the leash law than we now (do not) have. Can you describe your experience at Cold Spring Park or anywhere else with regard to that and to any plans for expanded enforcement at the off-leash sites?
 - Leashes will have to be employed between Woodbine and the off-leash area.

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- Apparently the dog waste bags (the Mutt Mitt bags) are not being refilled at the pet waste station at Norumbega, so there is concern that management, including waste management, in the new area be clearly identified and agreed to in advance of a “transfer of custody”
- Overall
 - The Commission would like to review the RFP before it goes out for bids
 - P&R needs to figure out how, from a legal perspective, the Con Com can “surrender” lands that were set aside for conservation purposes. (with regard to Ch 40 Sec 8c protection and the Massachusetts Recreational Use Statute, G.L. ch. 21, § 17C)
- Consensus: review the RFP before it goes out for bids

III. ADMINISTRATIVE

6. **Discussion of Commission Roles** – discussion postponed to next meeting when Ira Wallach (chair) will be present.

7. **Minutes of 4/26/18 to be approved.**

- Documents Presented: draft minutes draft minutes
- Vote: To approve 4/26/18 minutes with Dan Green’s edits incorporated. [Motion: Dan Green; Second: Ellen Katz; Vote 6:0:0]

IV. **ISSUES AROUND TOWN** – nothing to vote on

UPDATES

V. WETLANDS

- 56 Farwell abutters appealed. Jennifer Steel submitted a response to DEP.
- MBTA Greenline tree cutting has concluded. Some clean-up remains.
- MBTA Positive Train Control project. Big communications infrastructure improvement project. DEP has declared it exempt from the need to file.
- Vernal Pool Taskforce has been quiet. Jennifer Steel will submit comments on recent draft. Taskforce will submit draft for pro bono legal review.

VI. **CONSERVATION AREAS** – no updates

VII. ISSUES AROUND TOWN

- Newton Serves occurred on 4/29/18 and was very successful! There were four invasive pulls scheduled for the day and the turn out was fantastic.
- Climate Action Plan being developed by Energy Committee representatives, Sustainability Office, and Planning Department.
- Staff submitted a grant application for the Municipal Vulnerability Preparedness Program on 5/11/18 and will hear about funding distribution by early June.

VIII. **ADMINISTRATIVE MATTERS** - no updates

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

ADJOURN Vote to Adjourn at 9:30pm [Motion: Dan Green; Second: Jeff Zabel; Vote 6:0:0]

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